



Planning Department

TOWN OF ACTON
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MEMORANDUM

To: Zoning Board of Appeals **Date:** July 28, 2016

From: Kristen Guichard, AICP, Assistant Town Planner *KGB*

Subject: Amendment#1 to Special Permit #15-09 (or #16-07)
19 Henley Road – Construction of Addition on Nonconforming Lot in Excess of 15%
(Bylaw Section 8.1.5)

Location: 19 Henley Road

Map/Parcel: B4-24

Petitioner/Owner: Tim and Maria Membrino

Zoning: Residence 2 (R-2)

Gross Floor Area of Dwelling as of May 2015: 2,656 ft²

15% Permitted by-right: 398.4 ft²

Square Feet of New Construction Granted by Decision #15-09: +/- 1,008 ft²

Additional Square Feet of New Construction Requested: +/- 250 ft²

Hearing Date: August 1, 2016

Decision Due: October 30, 2016

Mr. and Mrs. Membrino are requesting a Special Permit Amendment under Section 8.1.5 of the Zoning Bylaw to allow for the construction and expansion of an existing single family residential dwelling located on a non-conforming lot. The subject property is classified as a nonconforming lot due to insufficient frontage.

Background

In the spring of 2015 the applicant requested, and was granted, a special permit for an expansion totaling in +/- 1,008 ft² for a one car garage, a master bedroom above the garage, and a 14' x 24' expansion of a screened in porch. The Applicant is now in front of the Board to seek an additional expansion to accommodate a 10 x 25 foot deck for an additional 250 ft² increase to the size of the structure. The Applicant also proposes to reconstruct an 8 x 14 portion of the existing deck to match the proposed 10 x 25 deck which was not foreseen at the time of the original application.

The existing Gross Floor Area noted above, is based on information from the Town of Acton's Assessors property field card (see attached) and was in existence as of April 1, 2012. Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall size of the structure by more than 15% of the existing Gross Floor Area. The overall requested expansion in total is an additional 1,258 ft². Therefore, the proposed expansion requires a special permit under Section 8.1.5.

In all other respects, the proposed addition meets rear, side and front yard setbacks as required under the Zoning Bylaw for the R-2 Zoning District. The Planning Department has no objection to the issuance and granting of the requested special permit. Please be sure to read other comments submitted by the Health Department which can be conditioned in a decision. The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5. The decision should include a condition that the Petitioner record the decision at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site. The Planning Department has attached a draft decision for the Board's consideration.

Amendment# 1 Special Permit #15-09
19 Henley Road
August 1, 2016



Board of Appeals

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FIRST AMENDMENT OF DECISION

#15-09

19 Henley Road

Special Permit Amendment

August 1, 2016

GRANTED with CONDITIONS

Decision of the Acton Board of Appeals (hereinafter the Board) on the request of owners Tim and Maria Membrino, of 19 Henley Road, Acton, MA 01720 (hereinafter the Applicant), received July 7, 2016 for an amendment of Special Permit #15-09, dated July 7, 2015 (the Original Decision). The subject property is located at 19 Henley Road (hereinafter the Site). The Board considered the request at a duly noticed public meeting on August 1, 2016. Board members Jonathan Wagner (Chair), Adam Hoffman, and Kenneth Kozik were present. The minutes of the hearing and submissions on which this decision is based on may be found in the Planning Department or in the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Cover letter by Tim and Maria Membrino, dated 7/6/16;
- 1.2 Supplemental information as follows:
 - Appendix B: Application for Special Permit, received 7/7/16;
 - Elevation and Floor Plans consisting of 5 sheets, dated 6/22/16;
 - Septic Plan showing layout of lot;

- From Original Application: Acton Planning Department Memorandum, dated 5/1/15 and updated 5/21/15;
- From Original Application: Acton Board of Health Comments, dated 5/19/15;
- From Original Application: Elevation and Floor Plans consisting of 5 sheets, dated 5/13/15;
- Certified Abutters List;
- Locus Map;
- Original Application Permit and Cover letter, dated 4/2/15;

1.3 Additional Correspondence:

- Health Department, dated 7/12/16;
- Planning Department, dated 7/28/16.

Exhibit 1.1 through 1.2 is referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Amendment request is for a 10 x 25 foot deck for an additional 250 ft² increase to the size of the structure.
- 2.2 The overall requested expansion in total, including the addition permitted by the Original Decision, is 1,258 ft² or a 47.36% increase.
- 2.3 The Applicant also proposes to reconstruct an 8 x 14 portion of the existing deck to match the proposed 10 x 25 deck.
- 2.4 The requested amendment as approved herein is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw; will not be detrimental or injurious to the neighborhood where it is proposed, and complies in all respects to the applicable requirements of the Bylaw and the Rules.
- 2.5 The requested amendment of the special permit granted in the Original Decision is minor in nature, does not trigger a new Special Permit.

3 BOARD ACTION

Therefore, the Board voted [unanimously] on August 1, 2016 in favor of - [granting/denying] the special permit amendment as the applicant had requested and as delineated in the Exhibits listed herein, subjected to the following conditions.

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the special permit amendment granted with this decision null or void, and shall constitute grounds for the revocation of any or all building or occupancy permits issued hereunder. The Town of Acton may elect to enforce compliance with the special permit using any and all power available to it under the law.

- 3.1.2 All requirements of the Board of Health shall be met.

- 3.1.3 The applicant shall record this decision at the Middlesex South District Registry of Deeds prior to issuance of a building permit.
- 3.1.4 The foregoing required conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.1.5 This Special Permit applies only to the Site identified in this Decision.
- 3.1.6 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 3.1.7 The Board hereby reserves its right and power to modify or amend the terms and conditions of this Special Permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

4 EFFECT OF THIS DECISION

This Amendment only responds and decides on the limited matter before the Board pertaining to the Special Permit, First Amendment. Except as herein specified, the Original Decision shall remain in full force and effect.

5 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Board of Appeals

Jonathan Wagner, Chair

Adam Hoffman, Member

Kenneth Kozik, Member

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant	Building Commissioner	Health Director	Town Manager
Owner	Fire Chief		
Town Engineer	Assistant Assessor	Town Clerk	Natural Resource Director