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BOARD OF APPEALS

Hearing #26-1

**DECISION ON PETITION FOR A GRANT OF A VARIANCE
WITH RESPECT TO
263 Main Street, Kelly's Corner**

A public hearing of the Acton Board of Appeals was held via video/phone conference on Tuesday, March 3rd, 2026 at 7:03 PM on the petition of the Applicant, Owner, Christopher Starr, Kelley's Corner LLC, requesting relief from Sections 5.6.3.3, 5.6.3.4(f) and 3.9.2 of the Zoning Bylaws through two variances under Section 10.5 to redevelop an existing building and add a small addition for stairwell or elevator. The property is located on (Map/Parcel F3-113) also known as Kelley's Corner.

Present at the video/phone hearing were R. Scott Robb, Chairman, David Schena, Member, Stephen Spirou, Associate Member, Matthew Curley, Assistant Planner, Nathaniel Ryan, Assistant Planner II, and Ed Mullen, Building Commissioner/ZEO. Also, present was guest party, Patricia Costa, the Town of Acton Economic Development Director.

Mr. Robb opened the hearing, explained how the Board procedurally operates and explained that in making a determination for variance relief, the Board must make the mandatory findings found under Zoning Bylaw section 10.5.5.1 and 10.5.5.2, reproduced below for the convenience of the reader.

10.5.5.1 That owing to circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES in question and especially affecting such LOT or STRUCTURES but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Petitioner.

10.5.5.2 That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. In deciding whether the requested variance nullifies or substantially derogates from the intent or purpose of this Bylaw, the Board of Appeals shall consider whether the granting of such variance is consistent with the Master Plan.

Mr. Robb asked the Applicant to begin.

The petitioner, Chris Starr, owner of Kelley's Corner LLC, began his appeal by providing the background of the previous owner entering into an Agreement for Judgement with the Town of Acton back in 1993. The agreement prohibited the owner from using any portion of the second floor of the building at 263 Main Street unless the owner obtains the required permits or variances from the Board of Appeals.

Section 5.6.3.3 of the Zoning Bylaw prohibits parking lots from being located in front of a building when the buildings FAR exceeds 0.20 within the Kelley's Corner District. The previous building Agreement in 1993 only allows for the use of the first floor and the building's FAR is currently 0.15. The Applicant is requesting the variance from Section 5.6.3.3 to allow continued use of the current parking configuration while using the upper floors, which have been in existence since 1993 with a small addition for a stairwell or elevator. This would bring the FAR to approximately 0.37, which exceeds the 0.20 threshold but remain the maximum permitted FAR 0.40.

Also, Section 5.6.3.4. (f) and 3.9.2 of the Zoning Bylaw require the ground-floor space facing the street be limited to commercial uses.

The Applicant's proposal is to redevelop the existing building for mixed-use of both commercial and residential purposes. The variance allows two residential units to be located on the ground floor facing the street along with two units to be developed on the second floor. Without the variance, the Applicant would only be able to place residential units on the second floor and the rear portion of the ground floor. The Applicant states that the shape of the lot, and the placement of the building on the lot, has forced the existing building to have a shallow footprint which would be the basis for their hardship argument.

The board chair, Scott Robb, requested Mr. Starr to explain the variance criteria concerning hardship created by shape, topography, and/or soil conditions. Mr. Starr stated that 263 Main Street has unique conditions related primarily to the lot's shape and the placement of the building on the lot, which would cause a substantial financial hardship if 5.6.3.3., 5.6.3.4(f) and 3.9.2 would be strictly enforced. The lot's frontage along both Main Street and Mass Avenue creates a setback area which covers nearly 40% of the lot, making the current layout the only feasible form of development. The other lots in the same Zoning Districts do not have the same characteristics.

Additional questions led by Board Members, David Schena and Stephen Spirou, focused their questions to the Applicant to better articulate his issues around shape, especially as it pertains to the parking lot. During the hearing, Scott Robb asked the Planning Division to bring up the map of the Town's plot plans of the property as well the map showing the comparison and the differences in shape of nearby lots in the area, with the conclusion that the diamond shape of his corner lot is substantially different to the traditional rectangular shapes. There were follow-up questions directed to the Architect Peter Quinn on the design of the proposed residential lot layouts vs. the commercial plans.

The questioning then focused on the validity on the Applicant's written application concerning Section 5.6.3.4 (f) of the Zoning Bylaw which requires that lots in the KC District where the FAR exceed 0.20, the ground floor of building fronts shall be occupied,

or designed to be available for occupancy, by certain enumerated business uses. Finally, Scott Robb asked Chris Starr to provide documentation with detailed calculations that demonstrate financial hardship caused by the physical shape of the lot and its pre-existing structure.

After Mr. Chris Starr was done with his presentation and the Board asked their questions and specifically viewed the map of the parcel of land, Chairman, Scott Robb asked for public comments. There were no public comments with the exception of Patricia Costa, the Town's Economic Director, who provided her thought and support of the Applicant's proposal as being a significant component in the overall economic development of Kelley's Corner.

With no further input, Mr. Schena made a motion to close the public hearing. Mr. Spriou seconded the motion. The Board unanimously voted to close the hearing.

The Board of Appeals, after reviewing the materials submitted with the Petition, together with the information developed at the hearing, voted unanimously to **APPROVE** the **VARIANCES**, as the applicant met the requirements of Sections 10.5.5.1 and 10.5.5.2. Granting these variances will permit the continuation of the pre-existing non-conforming FAR of 0.37, to permit the continuation of the pre-existing front-yard parking configuration, and to permit residential dwelling units on the south-west half of the first floor of the building as shown in the Applicant's exhibits.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS



R. Scott Robb, Chairman

David Schena



Stephen Spirou