

TOWN OF WELLESLEY



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2003 JUL 23 A 8: 21

ZONING BOARD OF APPEALS

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ZBA 2003-51

Petition of James Cusack and Julia Shivers
44 Bay State Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 10, 2003 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of JAMES CUSACK AND JULIA SHIVERS requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a third floor 12 foot by 12.4 foot by 4 foot dormer with less than the required rear yard setback, at their nonconforming dwelling with less than the required rear yard setback, at 44 BAY STATE ROAD, in a 10,000 square foot Single Residence District shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There will be no change in the footprint.

On June 23, 2003, the petitioners filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were James Cusack and Julia Shivers. Mr. Cusack said they would like to expand the living space in a third floor bedroom by constructing a dormer at the rear of the house.

The Board asked where one particular photograph had been taken. Mr. Cusack said it had been taken from the neighbor's front yard. That neighbor would be the only one who would see the dormer. None of their neighbors had any objection to the petition.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 44 Bay State Road, in a 10,000 square foot Single Residence District, on a 7,518 square foot lot, and has a minimum rear yard clearance of approximately two feet.

The petitioners are requesting a Special Permit/Finding that the construction of a 12 foot by 12.4 foot by 4 foot third floor dormer, at the rear of the dwelling, with a minimum rear yard clearance of 14.1 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There shall be no change in the footprint.

A Plot Plan dated June 3, 2003, stamped by Frank Iebba, Professional Land Surveyor; Floor Plans and Elevations dated June, 2003, drawn by James Cusack; and photographs were submitted.

The Planning Board reviewed the petition and had no objection to granting the request.

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Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

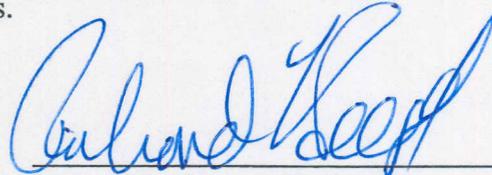
It is the finding of this Authority that the construction of the 12 foot by 12.4 foot by 4 foot third floor dormer with a minimum rear yard clearance of 14.1 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the dormer shall neither intensify the existing nonconformance, nor shall it create new nonconformity, as there shall be no change in the footprint.

Therefore, a Special Permit for construction of the dormer is granted, as voted unanimously by this Authority at the Public Hearing, in accordance with the submitted plot plan and construction drawings.

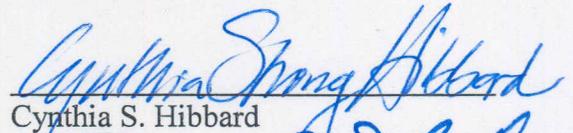
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

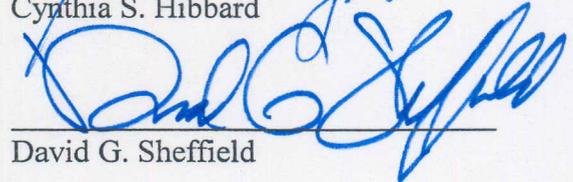
Cc: Planning Board
Inspector of Buildings
edg



Richard L. Seegel, Chairman



Cynthia S. Hibbard



David G. Sheffield

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