



ZONING BOARD OF APPEALS

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ZBA 2004-20
 Petition of Janet L. Campbell
 63 Fairbanks Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 15, 2004, at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of JANET L. CAMPBELL requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of the existing one-story 20.3 foot by 18.3 foot nonconforming detached garage and construction of a two-story 26.2 foot by 18.3 foot nonconforming detached garage with less than the required right side yard setback, at her property at 63 FAIRBANKS AVENUE, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. This petition has been continued from the Public Hearings on April 15, 2004 and May 27, 2004.

On March 29, 2004, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

The original petition submitted on March 29, 2004 read as follows:

1. Demolition of the existing one-story 20.3 foot by 18.2 foot nonconforming detached garage and construction of a two story 20.3 foot by 18.2 foot nonconforming detached garage with a 9.5 foot by 8.3 foot landing and stair, with less than the required right side yard setback.
2. Construction of an 18.2 foot by 31.2 foot underground garage with less than the required right side yard setback."

At the hearing on April 15, 2004, the Board expressed serious concerns about the construction of the underground garage regarding fire safety and the possibility of future expansion above ground. The Board decided to continue the hearing to the May 27, 2004 Public Hearing in order to give the petitioner more time to submit information regarding safety of the underground garage and the lift.

On April 30, 2004, the petitioner requested that the Board allow the petition to be continued to the Public Hearing on July 15, 2004 to give her architect additional time to develop plans that fully addressed the concerns raised by the Board. At the Public Hearing on May 27, 2004, the Board voted unanimously to continue the petition to July 15, 2004.

The new petition involves construction of an above ground lift in a two-story garage, rather than an underground garage with a lift, and the original landing and stair have been eliminated.

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Presenting the case at the hearing was David Hornstein, project architect, who accompanied Janet and Ian Campbell. Mr. Hornstein said the original petition was for an underground structure. This petition is for an above ground structure. In order to accomplish the goal of having parking for three vehicles, they used the same lift idea, except the proposed lift now goes up rather than down. In order to accommodate the lift, the first floor ceiling of the garage had to be raised. The garage would be extended 6 feet to the rear.

The Board noticed that the plans show a dormer facing into the lot. Mr. Hornstein explained they wanted to make some storage available on the second floor of the garage. Due to the steepness of the pitch, a dormer was needed to raise the 6 foot headroom. The dormer is inset 3 feet from the eaves and is hardly visible from the street. The existing house is 21 inches above grade level. The garage would be at grade. The eave level of the garage would be slightly under the first floor ceiling level of the house.

The Board stated that if the reason to increase is the size of the lift, there is no commitment to install the lift, and the space that would be created could be made livable. Mr. Hornstein said the driving force of the design was to accommodate the lift. All of the dimensions are driven by the size and height needed to install the lift. The only access to the second floor is by a pull-down stair. Without the lift, the height of the ceiling would make the garage very inefficient. The clearance between the roof of the top car and the ceiling is about 4 inches. No plumbing or heating would be installed.

The Board asked if the neighbors had been consulted. Mr. Campbell said he had spoken to the neighbors and no one had voiced any concern. He submitted a letter in support of the petition from his neighbors across the street.

The Board noted that the Planning Board had no objection to the granting of the request.

No other person present had any comment on the petition. As there was no further discussion, the Board decided that the following conditions would be included in the decision:

1. The only access to the garage shall be through the garage itself.
2. The only access to the second floor shall be through the pull-down stair.
3. There shall be no hearing or plumbing installed in the garage, and the garage shall never be used as livable space.

Statement of Facts

The subject property is located at 63 Fairbanks Avenue, in a 15,000 square foot Single Residence District, on a 14,000 square foot lot, containing an existing dwelling and a nonconforming detached one story 18.3 foot by 20.3 foot garage with a minimum right side yard clearance of 8.1 feet.

The petitioner is requesting a Special Permit/Finding that the demolition of the existing nonconforming detached garage and construction of a two story 26.3 foot by 18.3 foot detached garage, with a minimum right side yard clearance of 8.1 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated June 24, 2004, stamped by George N. Giunta, Professional Land Surveyor; Existing and Proposed floor plans and elevations dated 6/14/04, prepared by David Hornstein; Technical Information regarding the "Phantom Park" SS parking lift, prepared by American Custom Lifts; and photographs were submitted.

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ZBA 2004-20
Petition of Janet L. Campbell
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A letter in support of the petition from William J. Eisen, 64 Fairbanks Avenue, was submitted at the Public Hearing.

On July 13, 2004, the Planning Board reviewed the petition and had no objection to the granting of the request.

Decision

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

It is the finding of this Authority that the demolition of the existing nonconforming garage and construction of a two-story 26.2 foot by 18.3 foot detached garage containing an above ground lift, with a minimum right side yard setback of 8.1 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as the proposed garage shall neither intensify the existing nonconformance, nor shall it create new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of the existing nonconforming garage and construction of the new two-story detached garage in accordance with the submitted plot plan and construction drawings, subject to the following conditions:

1. The original petition to construct an underground garage is hereby determined to be null and void.
2. The only access to the approved garage shall be through the garage itself.
3. The only access to the second floor of the approved garage shall be through a pull-down stair.
4. No heating or plumbing shall ever be installed in the approved garage. Said garage shall never be used as livable space.

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


Cynthia S. Hibbard, Acting Chairman


J. Randolph Becker


Robert W. Levy

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