

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2006-19

Petition of Richard Gilbert and Lauren Oliver  
45 Pine Plain Road

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Petition of RICHARD GILBERT & LAUREN OLIVER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 338.5 square foot deck with less than required left side yard setback, at 45 PINE PLAIN ROAD, on a 7,044 square foot lot in a district in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 24, 2006, the petitioner 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 Richard Gilbert and Lauren Oliver, who said that the proposed deck goes in line precisely with the edge of the porch.

The Board said that there is a pre-existing nonconforming setback on the same side as the proposed deck.

The Board asked if the application is for the deck only. Mr. Gilbert said that it is. He said that they have already enclosed and renovated the porch and that it has been inspected.

The Board said that it appears that the petitioners share their backyard with a neighbor. Ms. Oliver said that when they bought the house there was a fence there that went at an odd angle. She said that a small house was knocked down on the lot behind them. She said a large house was constructed and they installed a new fence. She said that the lot line was not what they thought it was and that it does have an odd angle.

The Board asked about the optional benches that are labeled on the plan. Ms. Oliver said that there will be a railing there.

The Board said that the lot is under 10,000 square feet.

No other person present had any comment on the petition.

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

ZBA 2006-19  
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45 Pine Plain Road

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### Statement of Facts

The subject property is located at 45 Pine Plain Road, on a 7,044 square foot lot with a minimum left side yard setback of 8.2 feet.

The petitioner is requesting a Special Permit/Finding that construction of a 338.5 square foot deck with a minimum left side yard setback of 14 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated 1/31/06, stamped by Chester Redmond, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by I.S. Hernandez Design Services, Inc., and photographs were submitted.

On February 28, 2006, the Planning Board reviewed the petition and had no objection to granting the request.

### 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 although construction of a 338.5 square foot deck with a minimum left side yard setback of 14 feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a 338.5 square foot deck with less than required left side yard setback, in accordance with the submitted plot plan and construction drawings.

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

ZBA 2006-19  
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45 Pine Plain Road

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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.

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Cynthia S. Hibbard, Acting Chairman

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David G. Sheffield

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Robert W. Levy

cc: Planning Board  
Inspector of Buildings  
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