

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-20

Petition of David and Jane Neilson
32 Cottage Street

Petition of DAVID AND JANE NEILSON requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that replacement of an existing nonconforming 182.9 square foot garage with a 280 square foot garage with less than required right side and rear yard setbacks, at 32 COTTAGE STREET, in an Historic District, on a 6,822 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 was David Neilson, who said that currently there is a metal garage that is dilapidated. He said that he would like to replace it with a single car garage in the same location and expand it 2 feet in length and 4 feet in width to accommodate a modern car. He said that proposed garage would be a wood frame structure with cedar clapboards, wood windows and the roofline will match the existing house. He said that the nonconformities are on the right side and at the back.

The Board asked if the new garage would be pulled back from the rear lot line. The back of the garage and rear lot line are not parallel.

The Board read a letter from Betsy Wise, 56 Denton Road, who said that she opposes the granting of the Special Permit. The Board asked if Mr. Neilson had spoken to Ms. Wise. Mr. Neilson said that he has not.

The Board asked if the height of the new garage is 13'. Mr. Neilson said that it is. The Board asked about the height of the existing garage. Mr. Neilson said that he did not measure the height of the existing garage. He said that the new one will be higher. One of the Board Members commented that the existing garage looks to be around 11.5 feet tall. The Board asked if there is a poured concrete foundation. Mr. Neilson said that there is.

The Board said that it is concerned that the garage is so close to the fence line. It would be difficult to get back there to clean debris out. Mr. Neilson said that there are two stockade fences there. He said that the fence that he had installed is a couple of feet on his side of the lot line. He said that the neighbor's fence is approximately 1 foot on her property. He said there is about 3 feet of space between the two fences. He said that he stopped the fence at the back corner of the garage. He said that he will install a gate in the fence for access to the space when the new garage is installed.

ZBA 2006-20
Petition of David and Jane Neilson
32 Cottage Street

The Board asked if the garage could be pulled forward by 2 feet. Increasing the mass and bulk so close to the lot line could be considered more detrimental to the neighborhood. There is space there to pull it forward.

Mr. Neilson said that problem is with the shared driveway with the neighbor. He said that there is a multi-family unit with four cars there. He said that pulling the garage forward might impede cars getting in and out.

The Board said that it is extremely close and they will be adding to the bulk of the garage. Mr. Neilson said that he could move the garage forward one foot.

Sandra Roberts said that she is an abutter. She said that she agreed, because of the car situation, that the garage needs to be farther back.

The Board said that there looks to be at least 10 to 20 feet between the garage and the shared driveway.

The Board said that the Denton Road neighbor could move the fence to the property line.

No other person present had any comment on the petition.

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

Statement of Facts

The subject property is located at 32 Cottage Street, on 6,822 square foot lot, in a Historic District, with a minimum rear yard setback of 1.8 feet, a minimum left side yard setback of 11.9 feet, a minimum front yard setback of 18.3 feet, and a minimum right side yard setback of 2.8 feet.

The petitioner is requesting a Special Permit/Finding that replacement of an existing nonconforming 182.9 square foot garage with a 280 square foot garage with a minimum rear yard setback of 3.1 feet and a minimum right side yard setback of 3.3 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 2/9/06, stamped by James P. Troupes, Professional Land Surveyor, Proposed Elevation Drawings, drawn by David Neilson, and photographs were submitted.

On December 13, 2005, the Historic District Commission voted to

Approve the issuance of a Certificate of Appropriateness for the proposed garage to be located at 32 Cottage Street as presented.

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

ZBA 2006-20
Petition of David and Jane Neilson
32 Cottage Street

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 replacement of an existing nonconforming 182.9 square foot garage with a 280 square foot garage with less than required rear yard and side yard setbacks 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 replacement of an existing nonconforming 182.9 square foot garage with a 280 square foot garage subject to the following conditions:

1. That the garage be moved to 3.3 feet from the rear lot line on the right hand side and to 3.1 feet from the rear lot line on the left hand side.
2. That a revised plot plan be submitted.

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 2006-20
Petition of David and Jane Neilson
32 Cottage Street

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.

Cynthia S. Hibbard, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm