

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2006-42  
Denise Rufo  
5 Clifton Road

Petition of DENISE RUFO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming garage, construction of a 589 square foot two-story addition, and construction of a 27.7 foot by 11.3 foot two-story garage with less than required right side yard setback, on a 9,300 square foot lot, in a district in which the minimum lot size is 10,000 square feet, at 5 CLIFTON ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 1, 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 David and Denise Rufo, who said that they are requesting a Special Permit to relocate their existing garage. Mr. Rufo said that the garage is a pre-existing nonconforming structure that will be located to a more conforming position.

Ms. Rufo said that they took into account the Board's recommendation that the two structures could not touch. Mr. Rufo said that the Architect came up with a plan to put the two structures next to each other with a four foot walkway between them. He said they would add a decorative trellis to give the illusion of the garages being connected.

Ms. Rufo said that the walkway will allow them access to the backyard.

Ms. Rufo said that their previous petition proposed to attach a two-bay garage to a conforming house. She said that would have created a new nonconformity, which would have required a Variance. She said that they are now requesting a Special Permit to move the garage to a more conforming location without attaching it to the conforming structure.

The Board said that the Planning Board had no objection to the proposed addition other than the proposed full bath on the second floor of the detached garage, saying that it was inconsistent with the neighborhood as well as the Zoning Bylaws.

Mr. Rufo said that they wanted to keep the height of the two garages the same. He said that the Architect proposed the second floor bath for the children to use when they are out playing. The Board said that the Planning Board may have been concerned about the creation of an-in-law apartment.

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The Board said that the applicants are trying to create the illusion that there is one garage. The petitioners could construct a two-story addition with a one-story detached garage. Ms. Rufo said that they were trying to keep everything in the same scale from an aesthetic standpoint. They thought that dwarfing the second garage would not look as nice.

Mr. Rufo said that no one would be living in the upper story of the garage. He said that they can use the space for storage. He said that had they not been excavating the area anyway, they would not have considered putting water in there.

The Board said that it would condition the Special Permit to prohibit plumbing in the detached garage. Mr. Rufo asked if the Board could condition that it not be living space instead. The Board said that there was no way to enforce that.

Ms. Rufo said that the neighbors have seen the new design and are pleased that the garage is being moved. The Board said that things are improved spacially by moving the garage forward.

#### Statement of Facts

The subject property is located at 5 Clifton Road, on a 9,300 square foot lot, in a district in which the minimum lot size is 10,000 square feet, with a minimum right side yard setback of 4.2 feet and a minimum rear yard setback of 1.5 feet.

The petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming garage, construction of a 589 square foot two-story addition, and construction of a 27.7 foot by 11.3 foot two-story garage with a minimum right side yard setback of 4.5 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated 7/8/04, revised 4/13/06, stamped by James Bougioukas, Registered Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by DS Design Architects, and photographs were submitted.

On May 9, 2006 the Planning Board reviewed the petition and had no objection to the proposed addition but did object to the proposed two-story garage. The board felt that the addition of a second floor, containing a full bath, over the proposed garage is inconsistent with the neighborhood as well as the Zoning Bylaw.

#### Decision

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

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It is the finding of this Authority that although demolition of an existing nonconforming garage, construction of a 589 square foot two-story addition, and construction of a 27.7 foot by 11.3 foot two-story garage with a minimum right side yard setback of 4.5 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 demolition of an existing nonconforming garage, construction of a 589 square foot two-story addition, and construction of a 27.7 foot by 11.3 foot two-story garage, subject to the following conditions:

1. That there be no water service on the second floor of the free-standing garage
2. A new plan should be submitted showing that the bathroom has been removed.

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.

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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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