

**ZONING BOARD OF APPEALS**

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ZBA 2007-37

Petition of Mark and Karen Wolfson
31 Pine Plain Road

Petition of MARK AND KAREN WOLFSON (the "Petitioner") requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 16.56 foot by 24.2 foot second story addition and construction of a 15 foot by 15 foot third floor addition with dormers, over an existing 16.56 foot by 24.2 foot one-story structure with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 31 PINE PLAIN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 23, 2007, 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 Karen and Mark Wolfson, who said that they are requesting that the Board grant a Special Permit for an addition over an existing nonconforming structure. Ms. Wolfson said that the Petitioner had come before the Board at the previous Public Hearing. She said that they tried to incorporate the Board's recommendations in this proposal.

The Board said that one of the recommendations was to set the addition in. Ms. Wolfson said that the addition was set in on one side. She said that they were unable to set the addition in on the west side because of structural issues with pipes and a beam. Vin Trubiani said that he is the builder. He said that setting the addition in on the west side would create a load on the beam from the second floor and the roof.

The Board said that there was no setback change shown on the plot plan.

The Board said that the proposed lot coverage should be shown as 15.2% on the plot plan.

The Board said that the windows were changed from the previous plan, based on Board comments. Ms. Wolfson said that they would like to change the bathroom window from a full window in the shower to a window that is half that size to address privacy issues.

The Board noted that the dormer has been moved over to comply with the previous Board's recommendations.

There was no member of the public present who wished to speak to the petition.

Statement of Facts

The subject property is located at 31 Pine Plain Road, in 10,000 square foot Single Residence District, with a minimum left side yard setback of 9.7 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 16.56 foot by 24.2 foot second story addition and construction of a 15 foot by 15 foot third floor addition with dormers, over an existing 16.56 foot by 24.2 foot one-story structure with less than required left side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/10/07, stamped by Robert E. Devlin, Registered Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/20/07, drawn by Vin Trubiani, and photographs were submitted.

On June 4, 2007, 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 16.56 foot by 24.2 foot second story addition and construction of a 15 foot by 15 foot third floor addition with dormers, over an existing 16.56 foot by 24.2 foot one-story structure 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 16.56 foot by 24.2 foot second story addition and construction of a 15 foot by 15 foot third floor addition with dormers, subject to the following conditions:

- A revised plot plan shall be submitted that shows the proposed lot coverage at 15.2%
- Elevation drawings shall be submitted that show the windows as proposed except for the bathroom window.

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.

Richard L. Seegel, Chairman

David G. Sheffield

J. Randolph Becker

cc: Planning Board
Inspector of Buildings
lrm
cc: Planning Board