

**ZONING BOARD OF APPEALS**

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

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ZBA 2008-42
Petition of Paul & Pamela Tormey
8 Bird Hill Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 12, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PAUL & PAMELA TORMEY, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that reconstruction of an existing deck with less than required side yard setbacks, in a 15,000 square foot Single Residence District, at 8 BIRD HILL AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 27, 2008, 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 Rachelle Greayer, who said that she was representing Paul and Pamela Tormey (the "Petitioner").

Ms. Greayer said that there is an existing walkway with two access doors to the house, one from the living room and one from the kitchen. The walkway is an existing nonconforming structure. The floor of the walkway is rotting and is becoming dangerous. The railing is not up to code.

Ms. Greayer said that the plan is to replace the floor to give it more of a decking look. The railing will be replaced with cable railing.

Ms. Greayer said that the 6 foot by 8 foot shed will be rotated 90 degrees and moved closer to the property line.

Ms. Greayer said that safety railings may be added at the set of stairs that runs perpendicular to the street. There is a concrete wall there that is a part of the foundation that extends beyond the house.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject premises is located at 8 Bird Hill Avenue, on a corner lot with a minimum frontage of 20 feet on Bird Hill Avenue and a minimum frontage of 40 feet on Washington Street, and a minimum side yard setback of 17.5 feet.

The Petitioner is requesting a Special Permit/Finding that reconstruction of an existing deck with less than required side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 5/21/08, stamped by Susan E. Sullivan, Professional Land Surveyor, Existing and Proposed Floor Plans, dated 5/19/08, drawn by Greayer Design Associates, Elevation Drawing, and photographs were submitted.

On June 2, 2008 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 reconstruction of an existing deck with less than required side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it will neither create a new nonconformity nor increase an existing nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for reconstruction of an existing deck with less than required side yard setbacks, in accordance with the submitted Plot Plan and Construction Drawings.

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.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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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

Cynthia S. Hibbard

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm