

**ZONING BOARD OF APPEALS**

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ZBA 2009-56

Petition of David & Lori Silverstein
78 Sheridan Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 10, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of DAVID & LORI SILVERSTEIN 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 structure with a footprint of 1,324 square feet and construction of a new structure with a footprint of 1,996 square feet that will meet all setback requirements, on a 12,126 square foot lot in a district in which the minimum lot size is 15,000 square feet, at 78 SHERIDAN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 25, 2009 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 Lori Silverstein (the "Petitioner"), who said that the proposal is to build a new house at 78 Sheridan Road. Mr. Silverstein said that they currently live at 75 Sheridan Road, which is across the street. He said that they have worked over the past five months to design a house at the corner of Sheridan Road and Hastings Street that they hope will address many of the concerns for similar projects that the neighbors have raised.

Mr. Silverstein said that they reduced the overall height of the house, reduced the roof profile, and positioned the house as far back from the street as the neighboring houses.

Mr. Silverstein displayed pictures of houses in the neighborhood. He said that they tried to pick up some of the better examples of design elements in the neighborhood.

Mr. Silverstein said that there will be a shed dormer in the front so that there will not be a gabled peak. He said that will bring the roofline down.

Mr. Silverstein said that they spoke with a number of the neighbors. He said that he had received letters of support. He read a letter from George Lawson, 19 Hastings Street.

Mr. Silverstein said that they are planning to build the house according to the LEED standards for environmental and energy design. He said that there are a number of Norway Maples on the lot, which are considered to be invasive. He said that they are proposing to remove all of the Norway Maples except for possibly one or two.

Mr. Silverstein said that there are two Sugar Maples on the lot. He said that they want to keep the 36 inch caliper tree. He said that they have plans for during construction to maintain the tree in terms of mulching over the roots and fencing. He said that they are working with an excavator who is conscious of their concerns. He said that there is another 24 inch caliper Sugar Maple located two-thirds back in the lot.

Mr. Silverstein said that because of the 36 inch Sugar Maple, they had to move some things around in the house design. He said that he hoped that the new plan addresses the neighbors' past concerns. He said that their intent was to design a house that does not overwhelm the lot or the neighborhood.

The Board said that the proposed house will be located at the gateway to the neighborhood. The Board said that the dominant feature of the house will be the garage and that will be the first thing that people see when they come into the neighborhood.

Ms. Silverstein said that they had discussed painting the garage doors darker to minimize the appearance. She said that landscaping between the road and the driveway should buffer some of the sight line to the garage.

Mr. Silverstein discussed landscape plans to soften the look at the front. He said that the house at 65 Sheridan Road has a garage at the front.

Ms. Silverstein said that the curb cut for the driveway cannot be moved.

The Board said that the design of the house on the right side is flat. The Board said that there are some things that could be done there architecturally to break up the façade. The Board said that the Zoning Bylaw allows for a covered porch in the setback area. Mr. Silverstein said that he would be willing to add that.

Todd Hibbard, 16 Madison Road, said that the height and mass of the proposed house is good. He said that the right side of the house will be a blank wall. He asked if that could be broken up somehow. He said that the garage forward design is not in keeping with the character of the neighborhood. He said that it presents a great wall to the street instead of a welcoming entrance. He said that he understood that because of the crosswalk, the curb cut would have to be moved. He said that if the curb cut could be moved, there could be an opportunity to change the design. The Board said that the curb cut cannot be moved. The Board said that the Petitioner has proposed some landscaping solutions so that the garage doors are not going to be very visible from the street.

Dennis Pruslin, 20 Madison Road, said that he had no objection to the proposal. He said that Mr. Silverstein discussed the plans with him. He said that the proposed 27 foot height is reasonable and there will be substantial distance from the proposed house to the back of the lot. He said that he was not concerned about the proposed garage at the front. He said that the right elevation is probably the least attractive element of the design. He said that he is supportive of the project. He said that Norway Maples are good shade trees. He said that he would favor not cutting down all of the Norway Maples.

Mary Jane Schiffer, 72 Sheridan Road, said that she lives in one of the smaller houses in the neighborhood. She said that there are a lot of tall buildings around, which are very different from the

neighborhood that they moved into 30 years ago. She said that the Petitioner is invested in the neighborhood. She said that the Petitioner's current home is very tasteful. She said that the Petitioners have been thoughtful neighbors. She said that she always enters the neighborhood from Hastings Street and turns left onto Sheridan Road. She said that she has always felt intrusive because her headlights shine into the living room at 78 Sheridan Road. She said that she supports the proposed garage design.

David Kenney, 79 Sheridan Road, said that the Petitioners spoke with the neighbors well in advance of the Public Hearing. He said that they have done a good job with the design. He said that it will be a good house for the neighborhood and will fit in well.

Statement of Facts

The subject property is located at 78 Sheridan Road, on a 12,126 square foot lot in a district in which the minimum lot size is 15,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming structure with a footprint of 1,324 square feet and construction of a new structure with a footprint of 1,996 square feet that will meet all setback requirements, on a 12,126 square foot lot in a district in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/14/09, stamped by Malcolm N. Johnston, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 7/10/09, prepared by Preferred Building Systems, and photographs were submitted.

On August 31, 2009, 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 demolition of an existing nonconforming structure with a footprint of 1,324 square feet and construction of a new structure with a footprint of 1,996 square feet that will meet all setback requirements, on a 12,126 square foot lot in a district in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure with a footprint of 1,324 square feet and construction of a new structure with a footprint of 1,996 square feet, in accordance with the submitted plot plan and construction drawings.

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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

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm