

**ZONING BOARD OF APPEALS**

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RICHARD L. SEEGEL, CHAIRMAN
CYNTHIA S. HIBBARD
DAVID G. SHEFFIELDLENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN
ROBERT W. LEVY
DAVID L. GRISSINO

ZBA 2011-01
Petition of Matt Sacher
8 Kirkland Circle

Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, January 6, 2010 on the petition of MATT SACHER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing 10.1 foot by 16.4 foot screened porch and reconstruction as enclosed living space on the same footprint with less than required left side yard setbacks, at 8 KIRKLAND CIRCLE, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 20, 2010, 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 Matt Sacher (the "Petitioner") and Michael Hally, Architect.

Mr. Hally said that they had come before the Board in September for an addition off of the rear of the house and to enclose a porch. He said that intention had always been to take the existing porch down. He said that a tree grows through the screened porch. He said that the floor boards are rotted. He said that it has a fake foundation wall. He said that the foundation probably would be inadequate to meet Building Code today.

Mr. Hally said that the new structure is going to be on the same footprint. He said that it will have a frost wall foundation, new structure and roof. He said that instead of screens, there will be siding and windows.

The Board said that the porch is already gone. Mr. Sacher said that it was an oversight. He said that when they came before the Board previously, they did not effectively communicate the state of the existing porch. He said that the porch was the first thing to come down in the project due to its poor state of condition. Mr. Hally said that it also made it possible to access the back of the house for the rear addition. He said that they pulled a Building Permit. He said that it got through the Building Department without them catching the mistake. He said that it was caught before they did any foundation work or digging.

The Board said that the proposed porch will be an improvement. The Board said that it had approved enclosure of the porch on the same footprint.

The Board said that the Planning Board recommended that the petition be approved.

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

The Board said that a condition will be that there shall be no second floor allowed on the porch.

Statement of Facts

The subject property is located at 8 Kirkland Circle, in a 10,000 square foot Single Residence District, with a minimum left side yard setback of 12.1 feet, a minimum right side yard setback of 13.6 feet and a minimum front yard setback of 27.5 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing 10.1 foot by 16.4 foot screened porch and reconstruction as enclosed living space on the same footprint 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 11/16/10, stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/9/10, revised 8/16/10 and 11/10/10, prepared by Michael Hally, Architect, and photographs were submitted.

On December 5, 2010, the Planning Board reviewed the petition and recommended that the Special Permit be granted with conditions.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that demolition of an existing 10.1 foot by 16.4 foot screened porch and reconstruction as enclosed living space on the same footprint with less than required left side yard setbacks, 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 for demolition of an existing 10.1 foot by 16.4 foot screened porch and reconstruction as enclosed living space on the same footprint with less than required left side yard setbacks, subject to the following condition:

- There shall be no second story allowed on the porch.

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.

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

