



ZONING BOARD OF APPEALS

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ZBA 2012-07
Petition of Peter Sachs
21 Cypress Road

Record Owner of Property: Joseph & Katherine Canavan

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 5, 2012, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PETER SACHS requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure of existing conforming front porches, reconstruction of an existing nonconforming garage, construction of a 4.2 foot by 32 foot one-story addition and construction of a 30.3 foot by 35.6 foot two-story addition with less than required left side yard setbacks, on an 18,809 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 21 CYPRESS ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 19, 2011, 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 Joseph and Katherine Canavan. Also present was Peter Sachs, Architect (the "Petitioner").

Mr. Canavan said that the request is for a Special Permit for an addition on the back side of the house for a mudroom and bathroom downstairs and a master bedroom upstairs. He said that, in addition to that, there is a pre-existing nonconforming garage that they would like to rebuild because it is structurally unsound.

Mr. Canavan said that the lot is nonconforming.

Mr. Canavan said that they had shown the drawings to the neighbors. He said that three of them sent letters of support. He said that the neighbors across the street looked at the plans just before the holidays and said that they thought that the plans looked good but they did not have time to write a letter.

Mr. Canavan said that the plan is to take the garage down and rebuild it on the same footprint. He said that currently there is a single two by four that holds the structure together.

Mr. Sachs said that the garage is a one-story structure. He said that the plan is to do a slab on grade so that there is no damage to the root structure of the hemlock trees.

The Board said that part of the addition will be curved and the roof will be faceted. The Board asked if Mr. Sachs would consider changing the roofline that faces the property line so that it is not a gable that faces the side lot line. The Board said that, in keeping with the way the roof turns and makes that 90 degree corner, it might be more consistent to have a slope facing the lot line rather than a gable. Mr. Sachs confirmed that the Board was referring to the roofline of the garage as well as the one at the attic level. Mr. Sachs said that he had looked at that and did not think that it was consistent with the architecture of the house. The Board said that as the house goes around the corner, it does get to be more consistent. The Board said that it would soften the impact to the house that is closest to the side lot line. The Board said that the main body of the house has a hip roof with dormers. The Board said that the addition is not following that configuration.

Ms. Canavan said that the abutters on the side reviewed and liked the plans.

The Board discussed Section 6 findings under Chapter 40A of M.G.L. The Board said that Chapter 40A does contain the word, "reconstruct." The Board said that it has traditionally granted reconstruction as long as a Special Permit is obtained prior to demolition.

Linda Somerville, 37 Cypress Road, said that her house is located two houses away from 21 Cypress Road. She said that she had not seen the plans. She said that her house is located downhill from 21 Cypress Road. She asked about drainage.

Mr. Sachs said that on the Site Plan submitted by the Jillson Company, there are three proposed recharge areas, one at the back, one at the front and one under the existing driveway.

Ms. Somerville said that the garage is in sad shape. She said that it leans.

The Board said that by attaching the house to the nonconforming garage, the entire structure becomes nonconforming. The Board said that would call into question whether the proposed addition would be substantially more detrimental to the neighborhood than the existing nonconformity.

Mr. Sachs said that he had reviewed the proposed plans with the Planning Department and the Inspector of Buildings extensively prior to submission. He said that if it is important to maintain some of the existing structure in order to resolve the issue of demolishing the garage, he said that a portion of the existing garage could be incorporated into a new structure.

Mr. Sachs said that Total Living Area plus Garage (TLAG) calculations are located on the front page of the plans. The Board said that the calculations are below the threshold for Large House Review (LHR). Mr. Sachs said that a good deal of the 550 square feet of the basement that is actually out of the ground counted toward square footage in the TLAG calculations. He said that subtracting the square footage for the basement would lower the square footage down to 4,300 square feet. He said that it is really not useable basement because of ledge there. He said that water collects in a portion of the basement that would prevent finishing the basement.

The Board confirmed that there will not be a second story over the garage. Mr. Sachs said that there is nothing above the garage within the setback.

Statement of Facts

The subject property is located at 21 Cypress Road, on an 18,809 square foot lot in a district in which the minimum lot size is 20,000 square feet, with a minimum left side yard setback of 5.5 feet on the garage.

The Petitioner is requesting a Special Permit/Finding that enclosure of existing conforming front porches, reconstruction of an existing nonconforming garage, construction of a 4.2 foot by 32 foot one-story addition and construction of a 30.3 foot by 35.6 foot two-story addition with less than required left side yard setbacks, on an 18,809 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 12/14/11, Sheets 1 & 2, stamped by Todd P. Chapin, Registered Land Surveyor, existing and proposed Floor Plans and Elevation Drawings, dated 12/12/11, prepared by Peter Sachs, Architect, and photographs were submitted.

On January 4, 2012, the Planning Board reviewed the petition and recommended that the Special Permit be denied.

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 enclosure of existing conforming front porches, reconstruction of an existing nonconforming garage, construction of a 4.2 foot by 32 foot one-story addition and construction of a 30.3 foot by 35.6 foot two-story addition with less than required left side yard setbacks, on an 18,809 square foot lot in a district in which the minimum lot size is 20,000 square 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 enclosure of existing conforming front porches, reconstruction of an existing nonconforming garage, construction of a 4.2 foot by 32 foot one-story addition and construction of a 30.3 foot by 35.6 foot two-story addition with less than required left 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.

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.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm