

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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2000 JUN 28 A 8:17

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ZBA 2000-46
Petition of Thomas W. and Joanne Sheppard
28 Orchard Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 25, 2000 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of THOMAS W. AND JOANNE SHEPPARD requesting an extension of a Special Permit (ZBA 98-42) for good cause, pursuant to the provisions of Section XXV-C of the Zoning Bylaw. On June 23, 1998, the Board of Appeals found that the demolition of an existing nonconforming detached one-car garage with less than the required left side yard setback, and construction of a 15.5 foot by 20.4 foot expanded detached one-car garage with less than the required left side yard setback, at their property at 28 ORCHARD STREET, in a Single Residence District, would not be substantially more detrimental to the neighborhood than the existing nonconforming structure, and granted a Special Permit for the construction of said garage. As construction on said garage has not commenced within two years of the date of grant of the Special Permit, an extension of the Special Permit is required or it will be null and void on June 23, 2000.

As the petitioners did not appear at the hearing, it was continued to June 15, 2000.

On May 8, 2000, the petitioners requested a hearing before this Authority, and thereafter due notice of both hearings was given by mailing and publication.

Presenting the case at the Public Hearing on June 15, 2000 was Joanne Sheppard, who said she was requesting a one-year extension of the Special Permit. Initially, they had a contractor to whom they had given a deposit for the construction. The contractor requested a two to three month delay in beginning the project. After several months, they attempted to contact the contractor, who had disappeared. They then obtained proposals from three other contractors, all of which were in excess of \$100,000, which they felt was more than they wanted to pay for a one-car garage. They now have an investment in the project and request an extension to enable them to find a contractor who will construct the garage at a more reasonable price.

The Board explained that the original contractor is licensed by the State, and suggested that Mrs. Sheppard call the Licensing Board to trace him, and file a complaint to have his license revoked.

No other person present had any comment on the petition.

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Statement of Facts

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On June 2, 1998, the Board of Appeals granted a Special Permit (ZBA 98-42) to the petitioners to demolish an existing nonconforming detached one-car garage with a minimum left side yard clearance of 18 feet and to construct a 15.5 foot by 20.4 foot expanded one-car garage with a minimum left side yard clearance of 18 feet, as the Board found that the new construction would not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Due to the reasons stated at the Public Hearing, the petitioners were unable to begin construction of the allowed garage. The petitioners are requesting a one year extension of the Special Permit previously granted.

The petitioners submitted a letter of explanation, a copy of the decision of the Board of Appeals granting the Special Permit, a Plot Plan dated April 27, 1998, drawn by Bruce Bradford, Registered Land Surveyor, and Floor Plans and Elevation drawings.

Section XXV-C of the Zoning Bylaw states:

“A special Permit shall lapse within two (2) years of the effective date of grant of such special permit, if a substantial use thereof has not sooner commenced except of good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.”

On June 6, 2000, the Planning Board reviewed the petition and had no objection to the granting of an extension of the Special Permit.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject Special Permit will be null and void on June 23, 2000, if the Board of Appeals does not grant the requested extension.

It is the opinion of this Authority that the construction allowed by the Special Permit has not begun due to reasons sufficient to be deemed “good cause” as required by Section XXV-D of the Zoning Bylaw.

Therefore, the Special Permit is extended for one year from the date of grant of the original Special Permit, as voted unanimously by this Authority at the Public Hearing, and shall expire on June 23, 2001.

The Inspector of Building is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

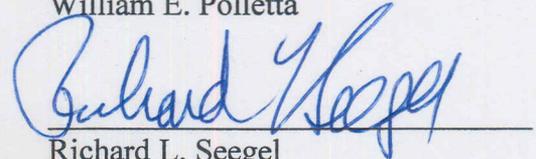
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.



Kendall P. Bates, Chairman



William E. Polletta



Richard L. Seegel

Cc: Planning Board
edg Inspector of Buildings