

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2003-69  
Petition of Gary Lesanto/Hugh and Pamela Haggett  
30 Shore Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 18, 2003, 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 GARY LESANTO/HUGH AND PAMELA HAGGETT requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the demolition of the existing nonconforming house and garage, and construction of a two-story 58 foot by 34 foot dwelling with a 10 foot by 16.5 foot rear deck, with less than the required front and left side yard setbacks, on their nonconforming property at 30 SHORE ROAD, on a 9,247 square foot lot in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures.

On August 19, 2003, the petitioners 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 George Giunta, Jr., attorney representing both Mr. Lesanto and the Haggetts, who were also present. Mr. Giunta said the lot contains 9,247 square feet in a 10,000 square foot district. Presently, the lot is occupied by an existing single family house and a detached garage. Mr. Lesanto is proposing to demolish both and build a new single family dwelling on the property.

The existing dwelling is nonconforming in respect to the front and left side yard setbacks as it encroaches across both of the property lines. The structures were built on or before 1926, and the lot was created on or before 1919.

The proposed house, although a significant improvement over the existing situation, would not conform to current zoning requirements as to the left and front yard setbacks. The front yard setback would be about 9 feet and the left side yard setback just over 12 feet, rather than the required 30 feet and 20 feet. The new house would conform to the percentage of lot coverage, the rear and right side yard setbacks and the allowed height.

In 1996, the owners sought and obtained a variance to demolish and rebuild their home, which would have been larger than the current proposal and would have created a new dimensional violation on the right side. By keeping the proposed house within the required right side yard setback, the petition does not require a variance, but a Special Permit.

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This is the third time the petition has appeared before the Board.\* The first time was a request for a variance. The second time, the size of the house had been reduced, but the height was in question. This time, the house does not have a full second story, has no attic, and is more in keeping with the neighborhood.

Mr. Giunta submitted letters of support from the neighbors at 31 and 36 Shore Road.

The Board noted that the Planning Board expressed concern about the application. While acknowledging that the lot is constrained, the Board felt there should have been a greater left side yard setback. The Planning Board further noted that the plan would have to come before it for review as to the adequacy of the way, as Shore Road is an unaccepted street.

The Board was of the opinion that this iteration was a substantial improvement over the previous proposals. Due to the 20 foot sewer easement on the right side, the left side yard encroachment is acceptable. The applicants have done a good job in maintaining the scale of the house in relation to others in the neighborhood.

No other person present had any comment on the petition.

\*The two prior petitions were withdrawn without prejudice.

#### Statement of Facts

The subject property is located at 30 Shore Road, in a 10,000 square foot Single Residence District, on a 9,247 square foot lot abutting Morses Pond, and contains a detached garage and a nonconforming dwelling, which encroaches onto Town owned land on the front and left side lot lines. A 20 foot sewer easement diagonally crosses the right side of the lot. The property is currently owned by Pamela and Hugh Haggett, but under agreement, pending the grant of the Special Permit, with Gary Lesanto.

The petitioners are requesting a Special Permit/Finding that the demolition of the existing nonconforming dwelling and garage, and construction of a two-story 58 foot by 34 foot dwelling with a 10 foot by 16.5 foot rear deck, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The new dwelling will have a minimum front setback of 8.8 feet and a minimum left side yard setback of 12.1 feet.

A Plot Plan dated February 3, 2003, revised March 11, 2003, stamped by George Giunta, Professional Land Surveyor; Existing Floor Plans and Elevations dated March 23, 2003, drawn by Hugh Haggett; Proposed Floor Plans and Elevations dated June 12, 2003, prepared by Costa Architects; and photographs were submitted.

On April 24, 2003, the Wetlands Protection Committee issued an Order of Conditions (DEP 324-427) for the project.

The Planning Board reviewed the petition and stated that the project will need to come before the Planning Board for review of adequacy of the way since Shore Road is an unaccepted street. Furthermore, the Board was of the opinion that although the proposed location of the house has not changed, the new design addresses the concerns relative to the view of the pond by the neighbors.

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30 Shore Road

Letters in support of the petition were received from Simon Haidar, 31 Shore Road, and from Frances Nadreau, 36 Shore Road.

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.

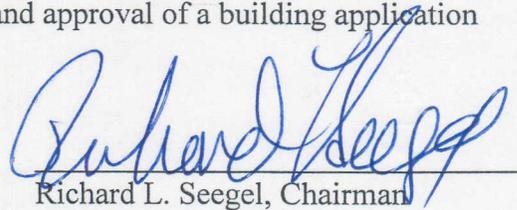
It is the finding of this Authority that the proposed demolition of the existing nonconforming dwelling and garage and construction of a two-story 58 foot by 34 foot dwelling with a minimum front setback of 8.8 feet and a minimum left side yard setback of 12.1 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures as the new structure shall neither intensify the existing nonconformance, nor shall it create new nonconformity.

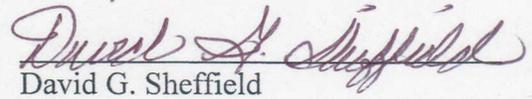
Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the demolition of the existing dwelling and garage and construction of the new dwelling in accordance with the submitted plot plan and construction drawings, as well as all conditions in the Order of Conditions (DEP 324-427) issued by the Wetlands Protection Committee.

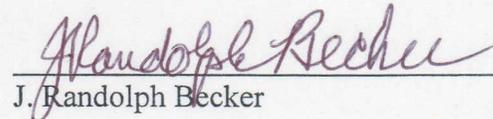
The Inspector of Buildings is hereby authorized to issue a permit for construction, subsequent to a review of the adequacy of the way by the Planning Board, upon receipt and approval of a building application and detailed construction plans.

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.

Cc: Planning Board  
Wetlands Protection Committee  
Inspector of Buildings  
edg

  
Richard L. Seegel, Chairman

  
David G. Sheffield

  
J. Randolph Becker

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