

**ZONING BOARD OF APPEALS**

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ZBA 2004-82
Petition of Ira and Nancy Foss
3 Claflin Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 18, 2004 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of IRA AND NANCY FOSS, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 4 foot by 6 foot bathroom in an existing 4 foot by 6 foot enclosed entryway, with less than required left side yard setback, on a 6,000 square foot lot, in a district in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 8, 2004, 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 was John Caffrey, who said that the Fosses would like to convert an entryway into a first floor bathroom.

The Board asked if the work was to be done within the existing structure, without any changes to dimensions. Mr. Caffrey said that an entry door will be removed. He said that there will be front and rear doors remaining.

The Board noted that the Planning Board had no objection to granting the request.

Statement of Facts

The subject property is located at 3 Claflin Road, on a 6,000 square foot lot, in a district in which the minimum lot size is 10,000 square feet, and has a minimum left side yard setback of 18.9 feet.

The petitioner is requesting a Special Permit/Finding that construction of a 4 foot by 6 foot bathroom in an existing 4 foot by 6 foot entryway, with a minimum left side yard setback of 18.9 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 9/16/04, stamped by John Caffrey, Registered Land Surveyor, Existing and Proposed Floor Plans, dated 9/10/04, prepared by Winters Company, and photographs were submitted.

On November 16, 2004, the Planning Board reviewed the petition and had no objection to granting the request.

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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 24 foot by 30.5 foot garage, with a minimum right side yard setback of 5.5 feet, and construction of a 24 foot by 30.5 foot garage, with a minimum right side yard setback of 6.5 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as the construction of the garage shall neither intensify the existing nonconformance, nor shall it create new nonconformity, as the right side yard setback shall be increased.

Therefore, a Special Permit is granted, as voted unanimously by this Authority, for the demolition of the 24 foot by 30.5 foot garage and construction of the 24 foot by 30.5 foot garage, subject to the following conditions:

1. that there be no plumbing in the garage
2. submittal of revised floor plans that show the use of the areas
3. submittal of a plot plan that meets current Board of Appeals requirements.

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.

ZBA 2004-80
Petition of Debra and Theodore Takacs
26 Rice Street

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

Cynthia S. Hibbard, Acting Chairman

Robert A. Bastille

THE OFFICE OF THE TOWN CLERK.

Cc: Planning Board
Inspector of Buildings
lrm

Robert W. Levy