

**ZONING BOARD OF APPEALS**

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TELEPHONE
(781) 431-1019 EXT. 208

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ZBA 2004-87

Petition of Fardad Farahmand
183 Walnut Street

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 FARDAD FARAHMAND, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 35.9 foot by 30.4 foot second story addition, with less than required left side yard setback, in a 10,000 square foot Single Residence District, 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 Fardad Farahmand, who said that they have lived at 183 Walnut Street for 10 years. They have two children and would like to create more living space. Their plan is to put a second story on one side of the house to add living space and create a better flow within the entire building.

The Board noted that the house has an interesting history, where two houses were joined as one. The dwelling sits on an unusual lot. The lot line on the left appears to go down to a very deep gorge. The Board asked who the abutter is on the left. Mr. Farahmand said that the Town is the owner. The Board asked if the land is unbuildable.

Bradley Boyd, 4 Damien Road, said that he lives across the street. He said that on the Town's Comprehensive Plans, the land abutting the Farahmand's is shown as a potential site for Affordable Housing. Mr. Boyd said that the land there is very steep. Any building would require mass tree removal and regrading.

Mr. Boyd said that when the houses were joined together in the 1980's, there were some conditions issued. The Board summarized those conditions stating that, the property would function as one house, with one waste disposal system, single water and electric service, one address, and an oil tank and concrete pad be removed. The Board's decision was made in September 1993. Mr. Boyd asked if there was a condition for one kitchen. Mr. Farahmand said that when the two houses were joined together, all of the conditions were met. The houses were connected by a single room. The proposed plan will add a second story. The kitchen will remain where it is.

The Board noted that the submitted floor plans were not completely labeled for uses. Mr. Farahmand submitted a floor plan that described the uses of the rooms.

Mr. Boyd said that he was concerned about the mass of the structure. He was also concerned that additional people would be occupying the structure. Mr. Farahmand said that the house does not appear tall from the street. His 90 year old mother-in-law may have to come live with them in the future.

The Board was concerned with the height of the building, being so close to the lot line. The Board confirmed that there are three floors and an attic. Mr. Farahmand said that the issue is that two houses were joined together and the second story is needed for better flow throughout. The Board said that if the abutting Town owned land is going to stay permanently unused and open, the issue of height is not as important.

The Board noted that the Planning Board opposes granting the request due to concerns regarding mass and bulk.

The Board said that, as there is no immediate abutter at the back, and there will not be a lot more mass visible from the street, the proposal would not be substantially more detrimental to the neighborhood.

Statement of Facts

The subject property is located at 183 Walnut Street, in a 10,000 square foot Single Residence District, and has a minimum right side yard setback of 12.8 feet, a minimum left side yard setback of 1.1 feet, and a minimum front yard setback of 8.6 feet.

The petitioner is requesting a Special Permit/Finding that construction of a 35.9 foot by 30.4 foot second story addition, with a minimum of 1.1 foot left side yard setback, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/03/04, stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Plans dated 4/09/04, prepared by John G. Danielson Inc., Floor Plans dated 9/18/94, prepared by J.M. Byrne Computer Graphics, and photographs were submitted.

On November 16, 2004, the Planning Board reviewed the petition and objected to granting the request.

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 construction of a 35.9 foot by 30.4 foot second story addition, with a minimum left side setback of 1.1 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as the addition shall neither intensify the existing nonconformance, nor shall it create new nonconformity, as the left side yard setback shall remain the same.

Therefore, a Special Permit is granted, as voted unanimously by this Authority, for the construction of a 35.9 foot by 30.4 foot second story addition in accordance with the submitted plot plan and construction drawings.

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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.

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
Inspector of Buildings
lrm

Cynthia S. Hibbard, Acting Chairman

Robert A. Bastille

Robert W. Levy