

**ZONING BOARD OF APPEALS**

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

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ZBA 2005-04
Petition of William Moynihan
9 Waban Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 13, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of WILLIAM MOYNIHAN, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 22.6 foot by 45 foot one story addition with a 2 car garage, with less than required left side yard setback, at their nonconforming dwelling, with less than required left side yard setback, on a 8,587 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.

December 28, 2004, 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 Jeffrey Bump, who said that William and Terry Moynihan have lived in the house since 1971. The Moynihans would like to move the master bedroom and bathroom to the first floor. Mrs. Moynihan has recently been diagnosed with a nerve disorder that affects her balance and has been told to be prepared to spend some of her later years in a wheelchair.

Mr. Bump said that they tried to keep the design as tight as possible but the proposed plan would exceed the allowable lot coverage. The Board said that it is their policy in granting special permits to not allow for the creation of new nonconformities.

The Board said that the project would have to be scaled back 1 ½%, or 120 square feet, to be eligible for a special permit. The Board said that changing the plan from a two car to one car garage would reduce lot coverage by 220 square feet, which would be bring the project below the 25% requirement.

The Board said that the required step between the garage and the house is not shown on the plans.

The Board said that extending the façade along the property line without windows creates a blank wall for the neighbors to see.

Ed Hand said that he is a neighbor. He said that most of the houses in the neighborhood are close to the lot lines, making it difficult to make changes. He felt that a special permit should be granted for this project.

The Board voted unanimously to continue the hearing until February 10, 2005.

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 10, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of WILLIAM MOYNIHAN, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 20.8 foot by 44.2 foot one story addition with a 2 car garage, with less than required left side yard setback, at their nonconforming dwelling, with less than required left side yard setback, on a 8,587 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.

Presenting the case at the hearing was Jeffrey Bump, who said that the new floor plan meets the 25% lot coverage requirement. He said that windows were added to the addition on the sides that face the neighbors.

The Board said that the issues raised at the January 10, 2005 hearing had been resolved.

Statement of Facts

The subject property is located at 9 Waban Street with a minimum left side yard setback of 10.6 feet, a minimum right side yard setback of 15.1 feet, and a minimum front yard setback of 27.6 feet, on an 8,585 square foot lot in a district in which the minimum lot size is 10,000 square feet.

The petitioners are requesting a Special Permit/Finding that construction of a 20.8 foot by 44.2 foot one story addition with a 2 car garage, with a minimum left side yard setback of 10.8 feet, at their nonconforming dwelling, on an 8,587 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.

A Plot Plan dated 12/15/04, revised 1/18/05, stamped by George N. Giunta, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/3/05, drawn by Jeffrey Bump Design, and photographs were submitted.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public 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 20.8 foot by 44.2 foot one story addition with a 2 car garage, with a minimum left side yard setback of 10.8 feet, at their nonconforming dwelling, on an 8,587 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, as it will neither intensify the existing nonconformance nor will it create new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the 20.8 foot by 44.2 foot one story addition with a 2 car garage, 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.

David G. Sheffield, Acting Chairman

Randy Becker

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm