

**ZONING BOARD OF APPEALS**

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

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ZBA 2005-11

Petition of Stephen Foley

6 Northgate Road

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 STEPHEN FOLEY, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming 21 foot by 24.1 foot garage with less than required right side and front yard setbacks, construction of a garage on the same footprint with a second story addition, at 6 NORTHGATE ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 23, 2005, 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 were Stephen and Lisa Foley, who said that it would be more economical for them to build above the garage. Their architect and contractor felt that, given the grade of the land on the sides of the garage, tearing down and rebuilding on the same footprint would be a better solution. The Board said that the sloping grades provide a buffer between the Foleys and their neighbors.

The Board asked if the petitioners had considered locating the shed at the rear of the garage. Ms. Foley said that they are proposing to bump the shed out from within the garage to provide space for trash cans. It will not be a separate shed that opens from the outside. She said that, given the slope that they have there, they would not be able to open doors. Ms. Foley submitted a picture that shows the grade to the right side of the garage.

The Board asked if the bump out at the back that was shown on the Site Plan was included in the lot coverage calculations. Mr. Foley said that the proposed lot coverage would be 17.7%, including that bay window.

Mr. Foley said that the lot is located at the corner of Northgate and Weston Roads. The Board said that the bump out at the back is at 19.2 feet. Because it is a corner lot, the setback at the rear of the structure would be 20 feet. The Board said that the bump out would be allowed to be up to two feet into the setback if it is cantilevered. Ms. Foley said that they believe that there is no foundation there.

The Board said that the petitioners should submit corrected plans that show the doors on the shed and that the bump out at the back is cantilevered.

Statement of Facts

The subject property is located at 6 Northgate Road with a minimum right side yard setback of 19.6 feet and a minimum front yard setback of 28.4 feet, in a 10,000 square foot Single Residence District.

The petitioners are requesting a Special Permit/Finding that demolition of an existing nonconforming 24.1 foot by 21 foot garage and construction of a 24.1 foot by 21 foot garage with a second story addition with a minimum right side yard setback of 19.6 feet and a minimum front yard setback of 28.4 feet, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/4/04, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 12/22/04, drawn by D. Michael Collins Architects, and photographs were submitted.

On February 1, 2005 the Planning Board reviewed the petition and had no objection to granting the request.

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 demolition of an existing nonconforming 24.1 foot by 21 foot garage and construction of a 24.1 foot by 21 foot garage with a second story addition with a minimum right side yard setback of 19.6 feet and a minimum front yard setback of 28.4 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 the demolition of the 24.1 foot by 21 foot garage and construction of the 24.1 foot by 21 foot garage with a second story addition, subject to the following conditions:

1. corrected plans that show the doors on the shed and that the bump out at the back is cantilevered be submitted.

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.

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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.

Cynthia S. Hibbard, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm