

**ZONING BOARD OF APPEALS**

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ZBA 2005-14
Petition of Susan Westmoreland
25 Martin 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 SUSAN WESTMORELAND, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a second story addition over an existing nonconforming structure with less than required left side yard setback, on a 7,219 square foot lot, in a district in which the minimum lot size is 10,000 square feet, at 25 MARTIN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 25, 2005, 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 Susan Westmoreland, who said that she has lived there for four years. She said that they are looking to expand a bedroom on top of an existing garage. They are proposing to bump out the kitchen so that it will be in line with the back wall of the garage. They want to add 44 square feet on the first floor, replacing an area of existing deck.

The Board asked if the footprint will change. Ms. Westmoreland said that the footprint would only change at the back of the kitchen into the deck area. The Board said that the proposed second floor addition over the den that used to be a garage would be 10.2 feet from the left side lot line. The required setback is 20 feet. Ms. Westmoreland said that they are proposing to build on the existing footprint.

Ms. Westmoreland said that she has spoken with the neighbors on both sides and they support the proposal.

The Board said that most of the additions in this neighborhood have been made to the rear of the properties. Ms. Westmoreland acknowledged that was true. She said that their backyard is much shorter than many of the neighboring properties.

Statement of Facts

The subject property is located at 25 Martin Road, with a minimum left side yard setback of 10.2 feet, a minimum right side yard setback of 13.7 feet, on a 7,219 square foot lot, in a district in which the minimum lot size is 10,000 square feet.

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The petitioner is requesting a Special Permit/Finding that construction of a second story addition over an existing nonconforming structure with a minimum left side yard setback of 10.2 feet, on a 7,219 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 5/22/03, stamped by Henry E. Thomas, Jr., Professional Land Surveyor, Proposed and Existing Floor Plans and Elevation Drawings, dated July, 2001, drawn by Taylor and Burns 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 construction of a second story addition over an existing nonconforming structure with a minimum left side yard setback of 10.2 feet, on a 7,219 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 the construction of the second story addition over the existing nonconforming structure, in accordance with the submitted plot plan and construction drawings.

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.

Cynthia S. Hibbard, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings

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