

**ZONING BOARD OF APPEALS**

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

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ZBA 2005-16  
Petition of John and Lisa Phillips  
51 Curve Street

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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 JOHN AND LISA PHILLIPS, 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 garage with less than required left side and rear yard setbacks, construction of a 13 foot by 33 foot by 24 foot two story addition with less than required left side yard setback, in a 10,000 square foot Single Residence District, at 51 CURVE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 25, 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 was Jan Heyde, who said that she is the designer for the Phillips. She said that the Phillips had previously come before the Board with a different proposal. She said that they are proposing to construct a 26 foot by 24 foot two car garage with a small master bedroom and a study. She said that the existing nonconformity is at the back and that will be moved in from 7.8 feet to 10 feet. The left side yard setback at 8.2 feet will be moved in to 17 feet. She said that the height of the structure will be under 25 feet. They will be moving the driveway so that it will no longer have to be shared with the neighbor. The Board confirmed that the driveway will now come onto Curve Street.

The Board asked about the small deck off of the master bedroom on the second floor. Ms. Heyde said that was optional. The Board said that the distance to the lot line would be 8.5 feet. Ms. Heyde said that she was hoping to reduce the size of that balcony. The Board said that the balcony could not be wider than 2 feet.

The Board said that it would grant the Special Permit with the condition that the balcony extend no more than two feet from the structure or no closer than 10 feet to the lot line.

The Board said that revised plot and construction plans must be submitted showing the balcony.

Statement of Facts

The subject property is located at 51 Curve Street, with a minimum left side yard setback of 8.2 feet, a minimum rear yard setback of 7.8 feet, in 10,000 square foot Single Residence District.

The petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming garage with a minimum left side yard setback of 8.2 feet and a minimum rear yard setback of 7.8 feet, construction of a 13 foot by 33 foot by 24 foot two story addition with a minimum left side yard setback of 17 feet and a minimum rear yard setback of 10 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 1/12/05, stamped by Joseph R. Sullivan, Professional Land Surveyor, Proposed and Existing Floor Plans and Elevation Drawings, dated 1/5/05, drawn by Jan Heyde, 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 the existing garage with a minimum left side yard setback of 8.2 feet and a minimum rear yard setback of 7.8 feet, construction of a 13 foot by 33 foot by 24 foot two story addition with a minimum left side yard setback of 17 feet and a minimum rear yard setback of 10 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 existing garage and construction of the 13 foot by 33 foot by 24 foot two story addition, subject to the following conditions:

1. the balcony extends no more than two feet from the structure or no closer than 10 feet to the lot line
2. revised plot and construction plans be submitted showing the balcony.

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.

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Cynthia S. Hibbard, Acting Chairman

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David G. Sheffield

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Robert W. Levy

cc: Planning Board  
Inspector of Buildings  
lrm