

**ZONING BOARD OF APPEALS**

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TELEPHONE
(781) 431-1019 EXT. 208

ROBERT A BASTILLE
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ZBA 2005-30

Petition of Richard Broberg and Susan Tomasino
5 High Ledge Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 14, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of RICHARD BROBERG AND SUSAN TOMASINO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that raising the roofline of a detached garage 6 feet to accommodate a second story with less than required front yard setback, at their nonconforming dwelling with less than required right side yard and front yard setbacks, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 30, 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 Richard Broberg, who said that he had come before the Board with a petition in May of 2004 for a free standing two-car garage. They would like to add storage space over the garage by raising the ridgeline.

The Board said that floor plans had not been submitted. The Board asked what the use of the area would be. Mr. Broberg said that it would be for storage. The Board asked about access. Mr. Broberg said that they would install a pull down staircase.

The Board said that it discourages construction of separate detached units that could become apartments. The Board said that if the petition is approved, it will attach conditions that there not be plumbing or heating to prevent the use of human occupation.

Mr. Broberg asked if they would have to come back before the Board if they wished to alter the use. The Board said that they would have to come back.

The Board said that the Planning Board expressed concern about proposed living space. They were concerned that there would be limited ability to control conversion of the space to an apartment in the future. They said that the elevation drawing is not consistent with the plot plan. The elevation drawing shows that the house and garage are attached. The plot plan shows that they are clearly detached. The Planning Board said that the project would exceed allowable lot coverage if the house and garage are attached.

Mr. Broberg said that the breezeway was on the original plan that was approved by the Board last May. The Board asked if the 3,057 square feet of proposed lot coverage includes the breezeway, as the maximum lot coverage should be 3,053 square feet.

The Board expressed concern that the garage would be the tallest part of the house. It would be the first thing seen when coming down the road. Mr. Broberg said that it is difficult to see it in the drawings but the ridgeline of the garage will not be higher than that of the house. The roofline of the garage will be slightly lower than the roof of the house. The floor of the garage will be about three to four feet lower than the first floor of the house.

The Board said that the attractive windows shown on the plan seem elaborate for storage space. Mr. Broberg said that they are there as an architectural detail.

The Board said that the petitioner should submit a floor plan that shows where the stairs come up into the room and a revised plot plan that shows the breezeway so that it is clear that it is included in the lot coverage calculations.

Statement of Facts

The subject property is located at 5 High Ledge Avenue, an unaccepted road, in a 10,000 square foot Single Residence District, on a 15,265 square foot lot, and has a minimum front yard setback of 25 feet and a minimum right side yard setback of 14.7 feet. The lot contains a nonconforming two-story dwelling and a nonconforming one-story detached garage.

In October, 2003, the petitioners requested and received a Special Permit (ZBA 2003-76) to construct a one-story 9 foot by 12 foot addition and a 3 foot by 12 foot porch, both having less than required front yard setback; and raising the ridgeline of the roof above the existing nonconforming dwelling to accommodate a 40 foot by 24 foot second story addition with less than required front and right side yard setbacks.

In July, 2004, the petitioners requested and received a Special Permit (ZBA 2004-41) to demolish the existing garage and construct a 22 foot by 20 foot detached garage with less than required front yard setback; to construct a one-story 23 foot by 12 foot entry area with a 5 foot by 6 foot porch/stair totaling 306 square feet, with less than required front yard setback; and to construct a one-story 35 foot by 19 foot addition with less than required right side yard setback.

A Plot Plan dated 5/18/04, stamped by James Bougioukas, Registered Land Surveyor, and Elevation Drawings, dated 3/24/04, drawn by Greg Rapp were submitted.

On April 5, 2005 the Planning Board reviewed the petition and said,

Although mass and bulk do not appear to be an issue the Board expressed concern about the proposed living space over the detached garage. The Board believes that there would be limited ability to control conversion of this space to an apartment in the future. The Board noted that the elevation drawing is not consistent with the plan view. The elevation shows that the house and garage are attached. The plan view shows that they are clearly detached. If they are attached, as with a breezeway, it would appear that the project would exceed the allowed lot coverage.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structures do not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that raising the roofline of a detached garage 6 feet to accommodate a second story 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 raising the roofline of the detached garage 6 feet, subject to the following conditions:

1. No heating or plumbing shall be installed in the approved garage. Said garage shall never be used as livable space.
2. Submittal of a floor plan showing the access to the room.
3. Submittal of a revised plot plan showing the breezeway and correct lot calculations.

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

Robert A. Bastille

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm