

**ZONING BOARD OF APPEALS**

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ZBA 2005-35

Petition of David Himmelberger
387 Linden Street

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 DAVID HIMMELBERGER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a one story 7 foot by 14.3 foot addition with less than required left side yard setback, construction of a 12.5 foot by 7.7 foot second story addition that meets required setbacks, at the nonconforming dwelling with less than required left side yard, rear yard, and front yard setbacks, at 387 LINDEN STREET, 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 David Himmelberger, who said that he had grown up in the house. They would like to put a small addition on out back. There is a 5.5 foot by 27 foot bump out at the back. They are proposing to push out 7 feet and close off the existing mudroom. They will gain an entry hallway and space in the family room. The 7 foot bump out will contain a laundry and a half bath. They will extend the kitchen eat-in area. The existing and proposed bump outs will give them enough space on the second floor for a fourth bedroom.

The Board asked if they will be relocating the basement access. Mr. Himmelberger said that they will be relocating the basement access. He said that the plans should show that there is a bulkhead beneath the relocated deck.

The Board asked if they will be preserving the existing footprint of the deck. The bump out will move into some of the area where the deck is now. Mr. Himmelberger said that the deck will extend to the edge of the new bump out, which would push it out about another foot or two.

The Board noted that there is a large garage between the Himmelbergers and their neighbor. Mr. Himmelberger said that the roof on the one story bump out will have a 45° angle, which will look better than what is there now.

The Board asked about the area between the house and the garage. Mr. Himmelberger said that distance would be about 5 feet. He will have to fireproof the garage because it will be within 10 feet of the house. He said that is the one area that they use the very least. They did not want to move into the backyard area and block the light to the living room. They did not want to enclose the porch.

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Mr. Himmelberger said that he was advised by his architect not to make the space between the garage and the house any smaller. He said that they are not allowed to attach the house to the garage due to Zoning regulations.

The Board said that the petitioner should submit a revised plot plan showing the dimensions between the garage and the house or the garage and the addition.

The Board asked about the one-car garage. Mr. Himmelberger said that they are able to park one car in there. When the Town changed the rear setbacks for corner lots, the garage became nonconforming. They have a two-car pad at the approach to the garage that they use.

The Board noted that some of the plans are mislabeled. The Board said that the petitioner should submit plans that are labeled correctly.

The Board asked if Mr. Himmelberger had a record of the renovations that have been done over the years. Mr. Himmelberger said that some of the records were lost in a flood in Town Hall. He said that a portion of the bump out dates from 1918. The house was stuccoed at the turn of the century. In 1997, when they moved in, they did some internal renovation.

Statement of Facts

The subject property is located at 387 Linden Street, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 21.1 feet, a minimum left side yard setback of 12 feet, and a minimum 14.5 foot rear setback on a corner lot.

The petitioner is requesting a Special Permit/Finding that construction of a one story 7 foot by 14.3 foot addition with a minimum left side yard setback of 12 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/21/05, stamped by Joyce E. Hastings, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by D. Michael Collins Architects, and photographs were submitted.

On April 5, 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 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, although construction of a one story 7 foot by 14.3 foot addition with a minimum left side yard setback is increasing the nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the 12 foot by 16 foot one story addition, subject to the following conditions:

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1. Submittal of a revised plot plan showing the dimension between the garage and the house or the garage and the addition.
2. Submittal of floor plans and elevation drawings that are labeled correctly.

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