

**ZONING BOARD OF APPEALS**

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

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ZBA 2005-41

Petition of Steven and Heather Cowley
84 Dover Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 12, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of STEVEN AND HEATHER COWLEY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of the existing garage, and construction of a two-story addition, at their nonconforming dwelling with less than required right side and front yard setbacks, on a 7,874 square foot lot, in a district in which the minimum lot size is 10,000 square feet, at 84 DOVER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 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 were Heather and Steven Cowley, who said that they had come before the Board in February with a different design. Mr. Cowley said that they would like to have a two-car garage. They have four children. It is not easy juggling cars and the road is busy. They would like to make that situation safer. They would also like to add more living space.

Mr. Cowley said that they want to take down the existing nonconforming garage and open up that space. Ms. Cowley said that the new garage would go off of the back of house, have a full 30 foot turning radius from the side lot line, and have a full basement.

The Board said that the dimension from the side lot line to the garage is not shown on the plot plan.

The Board said that the structure is not parallel with the lot line. Ms. Cowley said that the back wall of the garage is angled in 6 inches to maintain the 10 foot rear setback.

The Board said that there is a dimension on the plan of 17.1 feet to a cantilever. Because the cantilever is only 1.6 feet, it should not be used for setback calculation. The surveyor should measure to the structure.

Ms. Cowley clarified that the cantilever at the back of the structure is one-story.

The Board said that a porch is shown on Plan A6, Existing First Floor Plan. The Board asked if the foundation tucks in at that corner. Ms. Cowley said that it did. The Board said that it is not shown as tucked in on Plan A4. Ms. Cowley said that the plan is to build new foundation there. She said that there is a porch that steps down about 5 steps. They plan to square that off. She said that there will a door

there and the way that the yard will be graded, it will be two steps down from the door. The Board said that is where the side lot encroachment is. The existing right side setback is 17.8 feet.

The Board said that a new plot plan should be submitted showing the distance to the structure and a corrected note regarding the second story cantilever at the back.

The Board said that the arrow on the plot plan does not touch anything at the proposed 10 foot rear setback. The Board said that should be corrected on the plot plan.

The Board said that the Planning Board expressed concerns over the cantilevered two-story addition further encroaching on the side setback. The Board said that because the cantilever is less than two feet, it will be considered diminimus.

The Board said that it would allow the petition with the conditions that a revised plot plan showing the distance between the proposed garage and the right side lot line, the rear setback, the distance between the structure and the right side lot line, and a dimension showing that the side facing garage doors are 30 feet or more from the right side lot line be submitted.

Statement of Facts

The subject property is located at 84 Dover, on a 7,874 square foot lot, in a district in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 29.7 feet and a minimum right side yard setback of 17.8 feet.

The petitioner is requesting a Special Permit/Finding that demolition of the existing garage, and construction of a two-story addition, at their nonconforming dwelling with a minimum right side yard setback of 19.1 feet, on a 7,874 square foot lot, in a district in which the minimum lot size is 10,000 square feet, at 84 DOVER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/12/05, stamped by Terrence M. Ryan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 4/5/05, drawn by Dave Magnuson, and photographs were submitted.

On May 10, 2005 the Planning Board reviewed the petition and said,

Although the majority of the proposed addition meets the setback requirements the Board expressed concerns over the cantilevered two story addition further encroaching on the side setback.

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.

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It is the finding of this Authority that although demolition of the existing garage, and construction of a two-story addition, at their nonconforming dwelling with a minimum right side yard setback of 19.1 feet, on a 7,874 square foot lot, in a district in which the minimum lot size is 10,000 square feet 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 demolition of the existing garage, and construction of a two-story addition, subject to the following condition:

1. A revised plot plan be submitted showing the distance between the proposed garage and the right side lot line, the rear setback, the distance between the structure and the right side lot line, and a dimension showing that the side facing garage doors are 30 feet or more from the right side lot line.

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