

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2005-78

Appeal of James Krasner
33 Edgemoor Avenue

Appeal of JAMES KRASNER pursuant to the provisions of Section XXIV-C of the Zoning Bylaw of the decision of the Inspector of Buildings to issue a building permit for work on 33 EDGEMOOR AVENUE to "rebuild, renovate existing structure; add 30.25 x 10.25 x 20.25 two story rear and side additions; four bedrooms; three and one half baths; new kitchen; baths; new foundation; finished attic; two-car garage."

On October 17, 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 James Krasner, 32 Edgemoor Avenue, who said that he had sent a letter to the Board explaining his argument. He said that his appeal is based on comments made by the Board at the June 9, 2005 Public Hearing that a second story built on a nonconforming structure would require a special permit.

Mr. Krasner said that a special permit had been granted at the June 9, 2005 Public Hearing to replace the foundation in the same location. He said that alterations to the foundation granted in the building permit are in violation of the special permit.

Mr. Krasner said that, in order to put a front garage door in the front wall of the foundation that is in the setback, it would be necessary to construct sidewalls that would extend further into the setback, which would intensify the nonconformity.

Michael Grant, Inspector of Buildings, said that, in his opinion, the building permit that was issued was not in violation of the special permit. He said that he was at the site and it appears that the changes to the foundation are on the conforming portions of the foundation. He said that he will confirm that when he visits the site with as-built plans that are certified by a land surveyor.

The Board said that any action that it takes at the Public Hearing will be subject to receipt of the as-built plans.

Mr. Grant said that the bylaw allows for any changes that within themselves comply with the bylaw. He said that there is a dotted line on the plot plan that shows that the proposed second story of the house will conform to the setback requirements.

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Mr. Krasner said that the Board had said that a special permit would be required for a second story at the June 9, 2005 Public Hearing. The Board said that it would consider granting a special permit for a second floor on top of the first floor footprint.

Mr. Krasner said that the Board had disagreed with Mr. Grant's opinion at the June 9, 2005 Public Hearing that a special permit would be not required for a conforming addition. The Board said that its position has changed on that. The Board adopted Mr. Grant's position at a business meeting held on June 22, 2005.

Mr. Grant said that the bump out on the right side at 16.4 feet will remain there during construction.

The Board asked about the existing patio on foundation. Mr. Grant said that has been removed. He said that there was no structure on it.

The Board asked about the front wall that runs parallel to Edgemoor Avenue. Mr. Grant said that wall was left there for stabilization. He said that Mr. Singh is in the process of removing that wall, excavating and putting in a new wall.

The Board said that reference was made to an underground garage but there does not appear to be any holes in the foundation that would allow for that.

Statement of Facts

The subject property is located at 33 Edgemoor Avenue, on an 8,000 square foot lot, in a district in which the minimum lot size is 10,000 square feet, and has a minimum right side yard setback of 16.4 feet, a minimum left side yard setback of 16.3 feet, and a minimum front yard setback of 21.4 feet.

On November 3, 2005, the Board of Appeals heard the Appeal of James Krasner, filed on October 17, 2005, of the September 20, 2005 decision of the Building Inspector to issue a building permit to Falguni V. Singh for work on 33 Edgemoor Avenue to "rebuild, renovate existing structure; add 30.25 by 10.25 by 20.25 by 20.25 two story rear side additions, four bedrooms; three and one half baths; new kitchen; baths; new foundation; finished attic; two-car garage."

The following information was submitted by the Inspector of Buildings pursuant to Section XXIV-C.3 of the Zoning Bylaw:

1. Building Permit #36979, granted September 20, 2005 to Falguni Singh, 33 Edgemoor Avenue.

On October 25, 2005, the Planning Board reviewed the petition and stated:

The Board understands that information has been received that indicates the foundation has been altered. The Board feels, if in fact the foundation has been altered, a special permit review would be triggered.

The Board voted unanimously to uphold the decision of the Inspector of Buildings and to recommend that the appeal be denied.

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Decision

This Authority has made a careful study of all the materials submitted and the information provided by all parties at the public hearing.

The appeal is denied.

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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.

Richard L. Seegel, Chairman

David G. Sheffield

J. Randolph Becker

cc: Planning Board
Inspector of Buildings
lrm