

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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LENORE R. MAHONEY
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TELEPHONE
(781) 431-1019 EXT. 208

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ZBA 2006-35
Richard Govoni
37 Beechwood Road

Petition of RICHARD GOVONI requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw for demolition of an existing nonconforming dwelling with less than required front yard setback, and construction of a two-story dwelling on the existing nonconforming foundation, on a corner lot at 37 BEECHWOOD ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling.

On March 22, 2006, 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 Govoni, who said that he purchased the property in October with the intent of rehabbing the house. He said that it has to be rebuilt because there is a lot of damage to the house that he was not aware of when he purchased it. He said that the major damage is on the first floor level. He said that there is no sill. He said that the floor joists sit directly on the foundation. Many of the joists are rotted. Mr. Govoni said that he has pictures showing the damage.

The Board asked if this will be Mr. Govoni's residence. Mr. Govoni said that it may or not be.

The Board asked when the house was built. Mr. Govoni said that it was built around 1939. He said that the foundation is sound. He said that there is a cement porch that comes out on the front that was built above the level of the foundation. He said that when it rains the water gets inside.

The Board said that there is a setback from Meadow Lane that is 47.9 feet from Beechwood Road. If the house were to be moved to within 30 feet of Beechwood Road, they could get a 20 foot side yard setback. Mr. Govoni said that the Meadow Lane right of way is questionable. He assumed that there would be a 30 foot front setback there. The Board said that it was aware that the Building Inspector was calling this a corner lot.

The Board said that it looks to have structures built that meet Zoning requirements when there is a teardown. A reasonable compromise would be that the Board treat the setback from Meadow Lane as a 20 foot setback and Mr. Govoni could demolish the existing foundation and build a structure that is otherwise conforming.

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The Board that the new construction must have a 20 foot side yard setback and a 30 foot front yard setback.

Mr. Govoni said that he would try to consider that. He said that he did not know if it would fit into the planned use of the house. He said that it could affect resale value. He said that the back of the structure might be affected.

Mr. Govoni asked if the house can be at 30 feet from Beechwood Road if the houses within 500 feet are set back further.

The Board said that the proposed height of the structure exceeds that which is allowed in the Zoning Bylaw. It is 5 feet 5 inches from the grade to the first floor. Most houses in the neighborhood would be somewhere around 24 inches, 30 inches at the most. Mr. Govoni said that might have something to do with the existing foundation.

The Board said that the proposal should be for a two-story house with an attic rather than a three-story house. They should not come back with something that is massive. The Board said that they should use all of the scaling tricks that the architect can come up with.

The Board said that a driveway is not shown on the plan. The Board asked where cars would be parked. Mr. Govoni said that the driveway would run off of Meadow Lane.

Don Kaiser, 43 Beechwood Road, said that he knew the person involved in construction and is surprised to see the house still standing. He said that he was concerned when he saw the proposed plan.

Lynn McCrudden, 2 Berkeley Road, said that the neighborhood has been subjected to mini-mansionalization lately.

Mr. Govoni said that he does not want to put in anything that is detrimental to the neighborhood. He said that he had spoken with two of the neighbors.

Mr. Govoni asked if the Board would consider a farmer's porch detrimental. The Board said that it would not.

The Board voted unanimously to continue the petition to the May 11, 2006 Public Hearing.

May 11, 2006 Public Hearing

Presenting the case at the hearing was Richard Govoni, who said that the dormers were left on the plans by mistake.

Mr. Govoni said that Plan A is the one that the Board requested for moving the house forward. He said that his concern is that the abutting houses are in line with the existing house. He said that pushing the house forward to the 30 foot limit will make it stick out about 20 feet from the other houses. He submitted pictures and a portion of the Assessor's Map.

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The Board said that it appears that the abutter on the right has a tall fence. That house sits sideways on the lot and looks to be substantially closer. Mr. Govoni said that he went to the Building Department and looked up permits. He said that that abutter is 30 feet away even though it appears to be closer.

The Board said that it looks like the existing house at 37 Beechwood Road is set further back than the abutting houses. Drawing a straight line on the plan from 41 Beechwood Road to 33 Beechwood Road shows that is the case. There is not a strong visual line because of the fence. There is a lot of shrubbery and trees on Mr. Govoni's lot.

The Board said that one advantage of moving the house forward is that they will not be using the existing foundation that is set so high. That will help to address the height issue. It will be at a similar elevation to the other homes on the street. Mr. Govoni said that the height was adjusted.

The Board said that although the plans are labeled as renovation and addition, it is really a tear down. When a house is torn down, the Board wants to see something built that conforms to the setbacks.

Mr. Govoni said that the alternative plans had been suggested by the Building Inspector.

The Board confirmed that the dormers that are shown on pages 2.1-2.4 have been eliminated.

Statement of Facts

The subject property is located at 37 Beechwood Road, in a 10,000 square foot Single Residence District, consisting of a garage that extends over the right side yard lot line, and a dwelling with a minimum right side yard setback of 14.4 feet.

The petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming dwelling and garage with less than required right side yard setback, and construction of a two-story dwelling that will meet all Zoning requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling.

A plot plan dated 9/9/05, revised 5/1/06, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by Dymaxaeon, and photographs were submitted.

Decision

This Authority has made a careful study of the material 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.

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It is the finding of this Authority that demolition of an existing nonconforming garage and dwelling with less than required right side yard setbacks and construction of two-story structure with attic that meets all Zoning requirements shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it will neither intensify the existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for Plan A for demolition of an existing nonconforming garage and dwelling and construction of a two-story structure with attic, subject to the following condition:

1. The dormers shown on Plan A shall be removed.

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.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm