

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-38

Andrew and Mary Mitchell
46 Riverdale Road

Petition of ANDREW AND MARY MITCHELL requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing porch and nonconforming garage and construction of a 21 foot by 23 foot one-story garage with less than required right side yard setback, in a 10,000 square foot Single Residence District, at 46 RIVERDALE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 1, 2006, 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 Andrew Mitchell, who said that they have an 80 year old garage that they would like to replace in addition to constructing a two-story addition connected to the house. He said that the new construction will be handicapped accessible to the house. The two-story addition will have an elevator that is accessible to both floors.

Mr. Mitchell said that they have tried to keep the size of the addition as small as possible.

Mary Mitchell said that they have been living in the home for 15 years.

The Board said that the right side setback is very close at 6.8 feet and that will only be improved slightly to 7.2 feet. Mr. Mitchell said that they spoke with the neighbor on that side and she supports their proposal.

Mr. Mitchell said that most of the neighbors signed a petition in support of the project. The Board read the signed petition into the record. The Board read a letter of support dated April 16, 2006 and signed by Ben & Shelly Chigier, 48 Riverdale Road, into the record. The Chigiers are the direct abutters on the right side of 46 Riverdale Road.

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Statement of Facts

The subject property is located at 46 Riverdale Road, in a 10,000 square foot Single Residence District, with a minimum right side yard setback of 6.8 feet.

The petitioner is requesting a Special Permit/Finding that demolition of an existing porch and nonconforming garage and construction of a 21 foot by 23 foot one-story garage with a minimum right side yard setback of 7.2 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated 3/21/06, stamped by John Hamel, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by Rappaport Design, and photographs were submitted.

On May 9, 2006 the Planning Board reviewed the petition and had no objection to granting the request.

The Planning Board acknowledges that there are special circumstances concerning the needs of the family. The board offers no objection to this petition, however, it does feel that a conforming addition could be designed. Furthermore, some board members feel that additional encroachments of this sort into required side yards should not be allowed under (40A Section 6) findings.

The applicants purchased an abutting parcel of land in 2005. The parcel was held separately due to compliance with frontage requirements (Table 3). The applicants propose to merge the lots. The Planning Board has no objection to the merger of the lots.

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.

It is the finding of this Authority that although construction of a 21 foot by 23 foot one-story garage with a minimum right side yard setback of 7.2 feet is increasing a 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 a 21 foot by 23 foot one-story garage, in accordance with the submitted plot plan and construction drawings.

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