

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-56

Petition of William and Janet Maynard
53 Woodlawn Avenue

Petition of WILLIAM AND JANET MAYNARD requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of 6.8 foot by 51 foot porch, on a corner lot, with less than required front yard setback from SQUIRREL ROAD AND WOODLAWN AVENUE, at their nonconforming dwelling at 53 WOODLAWN AVENUE, in a Single Residence District.

A Special Permit/Finding is requested pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that expansion and enclosure of an existing nonconforming porch with less than required front yard setback, at 53 WOODLAWN AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 19, 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 Patrick Ahearn, who said that he lives at 47 Hundreds Road. He said that he is a neighbor of the Maynards and is also their architect.

Mr. Ahearn submitted an updated survey and plans, and a petition that was signed by the abutters.

The Board said that plans should be submitted prior to the hearing so that Board members have time to review them.

Mr. Ahearn reviewed the revised plans. He said that there were no architectural changes. There was an updated survey, dated June 29th. Mr. Ahearn said that it appears that the house is set back further from Woodlawn Avenue. The Board said that it is closer to Squirrel Road.

The Board asked about the square shown on the revised survey at the northwest corner. Mr. Ahearn said that is an existing porch that was approved in 1994 by the Zoning Board.

Mr. Ahearn said that one issue at this hearing concerns reconstruction of an original piece of architecture along Woodlawn Avenue. They obtained a photograph showing the original porch. He said that the second issue is an existing porch that they would like to enclose as living space.

Mr. Ahearn said that the site has significant topography issues. He said that the character of the building and its visual impact to the public would be improved. He said that there is an opportunity to restore the house in a manner that all of the neighbors are looking forward to.

The Board asked if Mr. Ahearn had the dimensions of the original porch. Mr. Ahearn said that they were only able to obtain the photograph. He said that the proposed porch has been kept minimal but in proportion to the scale and character of the front façade of the house. They propose to extend 4.5 feet beyond the existing bay at the front to give an overall dimension of 8 feet, including the overhang. The actual structure will be just over 7 feet. He said that anything smaller than that would not be architecturally appropriate to the scale of the house.

The Board said that the screened porch is not shown in the photograph. The proposed porch will extend beyond the screened porch. The proposed porch does not have a sloping roof. Mr. Ahearn said that it is a flat roof with a decorative baluster.

The Board asked about the dimension from the existing screened porch to the property line on Woodlawn Avenue. Mr. Ahearn said that the setback is 23.5 plus 7.1 for 30.5 feet, which is in excess of the setback requirement. The existing porch is conforming.

The Board asked about the proposed enclosure of the porch. Mr. Ahearn said that it will have the same dimensions. He said that the house itself is closer than 30 feet to Woodlawn Avenue and Squirrel Road. Mr. Ahearn said that he thought that they would need a special permit because the porch is attached to a nonconforming house. The Board asked if the dimension where the existing porch meets the easterly corner of the house is greater than 30 feet. Mr. Ahearn said that it is. The Board said that if the proposed change meets all of the setback requirements, a special permit is not needed.

Mr. Ahearn said that in the 1994 decision for the family room addition the Board found that due to the topography and location of the house on the lot, a literal enforcement of the Zoning Bylaw would involve a substantial hardship to the petitioners, the same petitioners who are bringing this request. He said that desirable relief could be granted without derogating from the intent and purpose of the bylaw.

The Board said that the topography issue is at the back and on the right side. The only place where they could have put that addition was on the left where there was flat space. Mr. Ahearn said that the only place that they can restore the porch that was original to the house is at the front of the house.

The Board asked why restoring the house is justified under the bylaw. There are three conditions under which the Board can grant a variance: soil condition, shape of the lot, and topography. Architectural consistency is not a consideration.

Mr. Ahearn said that shape of the lot is clearly an issue because of where the house is situated on the lot. It does not allow them to put the porch anywhere else.

Mr. Ahearn said that the public good should be considered. He said that it is an older house in a neighborhood of older houses. They are proposing to restore the house rather than tear it down and build something further back in the lot. They have the support of all of the immediate abutters.

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The Board said that it holds very high standards for variances. The Board does not grant variances to improve appearances of a house. The area where they are proposing to put the porch is flat and is not affected by topography. The proposed porch appears to be larger than what was originally on the house.

Mr. Ahearn said that in the 1994 decision, the location of the addition was on a flat area. The Board said that the overall site was looked at with respect to topography. There were limited options for placing the family room and garage on the site. The Board said that this petition is different. There are options for construction of a smaller porch that will conform.

Mr. Ahearn asked if they could request a special permit if they found the original footings of the porch. The Board said that the original porch was abandoned for more than two years.

Mr. Ahearn said that, on behalf of the Maynards, he would like to withdraw the petition for the variance for the front porch without prejudice.

Statement of Facts

The subject property is located on a corner lot at 53 Woodlawn Avenue, with a minimum front yard setback of 27.9 feet from Woodlawn Avenue and a minimum front yard setback of 11.4 feet from Squirrel Road, in a 15,000 square foot Single Residence District.

The petitioner is requesting that a petition for a Variance for construction of 6.8 foot by 51 foot porch be allowed to be withdrawn without prejudice. The Board voted unanimously to allow the petition for the Variance to be withdrawn without prejudice.

The petitioner is requesting a Special Permit/Finding that expansion and enclosure of an existing porch shall not be substantially more detrimental to the neighborhood.

A Plot Plan dated 1/16/01, revised 2/05/04, 3/11/04, 5/18/06, 6/29/06, stamped by Todd P. Chapin, Registered Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/5/06, drawn by Ahearn – Schopfer and Associates P.C., and photographs were submitted.

On June 20, 2006, the Planning Board reviewed the petition and was opposed to the granting of the Variance for the front porch. The Planning Board had no objection to the granting of the Special Permit.

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 expansion and enclosure of an existing porch shall not be substantially more detrimental to the neighborhood as it will neither intensify the existing nonconformity nor create a new nonconformity.

Therefore, the Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for expansion and enclosure of an existing porch with a front yard setback of 30.6 feet from Woodlawn Avenue, subject to the condition that a new plot plan be submitted that shows the dimensions to the existing structure without the proposed front porch.

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.

J. Randolph Becker, Acting Chairman

Cynthia S. Hibbard

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm