

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-60

Petition of Raymond and Amy Butler
20 Bryn Mawr Road

Petition of RAYMOND AND AMY BUTLER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming two-story structure with less than required front and side yard setbacks and construction of a two-story structure at the existing nonconforming side yard setbacks and with a conforming front yard setback, on a 5,000 square foot lot, in a district in which the minimum lot size is 10,000 square feet, at 20 BRYN MAWR ROAD, 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 Raymond Butler, who said that it is their desire to knock down the current house that is nonconforming on the sides and the front and build a new one that will be conforming in front. He said that the house has run its course and has safety issues. There are high, steep stairs. The refrigerator is in the hallway to the basement. They have tried to maintain the character of the neighborhood with their design. They wanted to keep a good sized backyard for their children.

The Board asked where the house is situated on the lot. Mr. Butler displayed on the plot plan where the existing house is. He said that the front setback is a 28.4 feet. The proposed setback will be at 30 feet.

The Board asked about proposed changes to the foundation. Charles Hillier said that he is the designer/builder. He said that the existing foundation will be removed completely.

Mr. Hillier said that the existing basement is inadequate. He said that it is a very small house on a very small lot. They will install a new slab and foundation to give them more living space.

The Board said that it is a tough lot.

A Board member said that she spoke with the neighbor at 12 Bryn Mawr Road. The neighbor said that she and several other neighbors were delighted that the garage was going to be removed.

The Board asked why there are so few windows in the design on the side facing 22 Bryn Mawr Road. Mr. Butler said that the neighbors' driveway and main entrance was on that side. He said that the yard and house are not maintained. He said that his wife was adamant about not looking out onto that.

ZBA 2006-60
Petition of Raymond and Amy Butler
20 Bryn Mawr Road

Mr. Hillier talked about the rooms on that side of the house. He said that there is a dining room with a double window, a galley style kitchen, and a family room and breakfast area. There will be a double window at the back and a full glass slider. He said that there should be sufficient light coming in.

The Board said that it was not as concerned about light coming in as the blank wall that the neighbor would face.

The Board said that it is only 10 feet from the left side lot line. It is the longest dimension and it is being carried straight back. There is no visual relief. They will be building a huge blank wall. The house next door will not be there forever. The petitioners could use curtains to screen the view.

Mr. Butler said that they planned to deal with the side wall issue with plantings. He said that his wife wanted to have large cabinets in the kitchen.

Mr. Hillier said that they have designed a small roof area to break up the view. The view is also broken up with a window, an eaveline roof, and the lower space with roofing.

The Board said that there should be something to break up the horizontal mass, not necessarily windows. The windows and the triangular element at the front give it a different feel. It does not seem as massive because it is broken up with architectural elements.

Mr. Hillier said that there is one small window on that side. He said that the previous owner put that in but it is blocked by the tree.

The Board said that the length of the proposed wall is roughly double that of the existing one. There would be a doubling of the mass only 10 feet away from the lot line.

The Board said that normally when a house is torn down it requires that the new house meet all of the setback requirements as that is the intent of the Zoning Bylaw. The Board said that in this case the lot is only 5,000 square feet. It would be hardship to require that all of the setbacks be met. The Zoning Bylaw does not specifically say that if the house is knocked down that the replacement has to conform.

The Board said that there has to be finding that the change or alteration shall not be substantially more detrimental to the neighborhood. The Board said that reconstruction is discussed. The reconstruction cannot increase the nonconforming nature of the structure. The Board said that the term "alter" includes rebuilt, reconstructed, restored, removed and demolished.

The Board said that it could find that although this is a teardown, the nonconformities will not be increased. A nonconformity will be diminished in the front yard.

The Board strongly suggested that the petitioner consider putting windows on the left side.

ZBA 2006-60
Petition of Raymond and Amy Butler
20 Bryn Mawr Road

Statement of Facts

The subject property is located at 20 Bryn Mawr Road, with a minimum frontage of 50 feet, a minimum left side yard setback of 10.2 feet, and a minimum right side yard setback of 13.5 feet, on a 5,000 square foot lot, in a district in which the minimum lot size is 10,000 square feet.

The petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming two-story structure with less than required front and side yard setbacks and construction of a two-story structure at the existing nonconforming side yard setbacks and with a conforming front yard setback shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 6/13/06, stamped by Timothy R. Bennett, Registered Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 6/5/06, drawn by Hillier Design Company, and photographs were submitted.

On June 20, 2006, the Planning Board reviewed the petition and had no objection to the granting of the request.

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 demolition of an existing nonconforming two-story structure with less than required front and side yard setbacks and construction of a two-story structure at the existing nonconforming side yard setbacks and with a conforming front yard setback 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 demolition of the existing nonconforming two-story structure with less than required front and side yard setbacks and construction of a two-story structure at the existing nonconforming side yard setbacks and with a conforming front yard setback, 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.

ZBA 2006-60
Petition of Raymond and Amy Butler
20 Bryn Mawr Road

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