

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2006-63
Petition of Guy and Maya Yehiav
1 Pickerel Road

Petition of GUY AND MAYA YEHIIV (collectively, the "Petitioner") requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a second story addition over an existing nonconforming structure with less than required left side, right side and front yard setbacks, on a 4,019 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 1 PICKEREL ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 25, 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.

August 10, 2006

Presenting the case at the hearing were Guy Yehiav and Joel Lunger.

Mr. Yehiav said that he and his wife own the subject property at 1 Pickerel Road, a three-bedroom house. Mr. Lunger said that the Petitioner is proposing to construct a fourth bedroom and an office. He said that there have been a number of similar renovations done at other neighboring houses on Pickerel Road.

The Board said that it is concerned that the area not be overbuilt.

The Board said that on Pickerel Road there is a mixture of single story ranch homes that are longer rather than taller, and houses that have recently been renovated that are much taller rather than longer. The house at 1 Pickerel Road is narrow and tall and the proposal is to make it taller.

The Board said that the small windows make the addition look more massive. Mr. Lunger said that they worked with an architect to try to pull the massing back as much as possible. He said that putting larger windows on the front elevation of the addition would have a negative effect on the visual impact because the windows on the first floor need to be visually balanced.

The Board said that the proposed right elevation will face the property at 2 Pickerel Road. Mr. Yehiav said that the house next door is located uphill. Mr. Lunger said that they could provide vegetative screening to help reduce the mass and bulk on the right side of the dwelling.

Mr. Lunger said that, when viewed from Pickerel Road, the height of the house is concealed at the front because Pickerel Road is four feet higher than the base of the house.

Mr. Lunger said that the height of the house was measured from the highest ridge at the back of the house to average grade around the perimeter of the house. He said that it was measured directly off of the house. He displayed to the Board a topographic plan that had not been submitted as part of the application for Special Permit.

The Board said that the existing left elevation is shown on Sheet A1a and that the same elevation is shown as the proposed right elevation on Sheet A3. Mr. Lunger said that the existing elevation drawings, A1 and A1a, are labeled incorrectly.

The Board asked about the difference in elevation between Pickerel Road and both the existing access to the front of the house and the proposed concrete parking area at the right front of the house. Mr. Lunger said that currently there is access to the front of the house via the stairs that lead down to the backyard. The Petitioner is proposing to block off that access. He said that the proposed concrete parking area at the right front of the house will be leveled to provide traffic access from Pickerel Road, as well as space for the parking of a single vehicle.

The Board asked about the existing driveway on the left hand side of the house. There is pavement over the cesspool. Mr. Lunger said that the plan is to keep it paved. Mr. Yehiav said that this paved area will allow space for parking one car there, with the second car parked in the proposed space at the right front of the house.

Donald Eburne, 4 Pickerel Road, said that he and his wife have seen the plans and have no issues with them.

Deadra Doku-Gardner, 3 Pickerel Road, said that she had seen the plans and has no issues with them. She said that she is concerned about where the cars would be parked. She said that she lives across the street and it is difficult to back out of her driveway when cars are parallel parked on Pickerel Road on the side nearest to 1 Pickerel Road.

Mr. Yehiav said that the proposed parking area will result in cars parked further away from the edge of Pickerel Road, out of the right of way, providing more room for Ms. Doku-Gardner to exit her driveway.

The Board said that, despite the assertion of the cover letter from the Wetlands Protection Committee that it had made a determination of non-applicability, the Wetlands Protection Determination Form (the "WPA Form 2") was incomplete in the section on applicability of the Wetlands Protection Act to the proposed project.

The Board said that it had concerns about bulk and parking that encroaches into the right of way.

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The Board said that a revised WPA Form 2 with the appropriate indications of non-applicability checked off, the topographic plan displayed to the Board but not submitted with the original application for Special Permit, and materials addressing issues related to the parking such as fall protection at the top of the retaining wall should be submitted.

The Board voted unanimously to continue the petition to September 7, 2006.

September 7, 2006

Presenting the case at the hearing was Joel Lunger, who said that the construction plans were revised to include two additional windows with one by four bands around each window on the right side elevation, and windows at the stairwell. The shutters at the front of the house were removed. The fence is shown on Plan A2.

The Board said that the retaining wall was added on Plan A3.

Mr. Lunger said that the parking space is shown on Plan S6. He said that it is set back from the property line and from the front wall of the house. The Board said that the modified parking space does not encroach onto Pickerel Road.

The Board asked about the space between the new wall and the street, between the end of the front wall on the right hand side of Plan S6 and the edge of the parking lot. Mr. Lunger said that they are holding the grade at the property line and then pitching up slightly to the top of the retaining wall. There will be a new stone wall to match the existing driveway wall. It will be sloped to meet existing grade.

The Board said that it received a revised document from the Wetlands Protection Committee that showed that there was a negative determination, and a plot plan showing topography had been submitted.

Statement of Facts

The subject property is located at 1 Pickerel Road, on a 4,019 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 11.5 feet, a minimum left side yard setback of 7.5 feet, and a minimum right side yard setback of 10.7 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a second story addition over an existing nonconforming structure with less than required left side, right side and front yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 6/1/06, Wetlands Plan of Land dated 6/1/06, stamped by Joseph R. Sullivan, Registered Professional Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/17/06, revised 8/22/06, and photographs were submitted.

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On August 8, 2006 the Planning Board reviewed the petition and was opposed to the granting of the request stating that,

although the addition does not further reduce setback distances the Board believes the scale is out of proportion and incompatible with the house and other houses in the area. Mass and bulk are issues.

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 although construction of a second story addition over an existing nonconforming structure with less than required left side, right side and front yard setbacks, on a 4,019 square foot lot in a district in which the minimum lot size is 10,000 square 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 second story addition over an existing nonconforming structure subject to the condition that the certified plot plan shall be revised by the surveyor to show the *Plan of Parking and Wall at Front of Residence*, as shown on Plan S6, revised 8/22/06. The revised plot plan shall be submitted to the Zoning Board prior to the issuance of a building permit.

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

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm