

**ZONING BOARD OF APPEALS**

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ZBA 2006-77
Petition of Mark Sawyer
33 Cavanagh Road

Petition of MARK SAWYER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing 8 foot by 14.3 foot screened porch with less than required right side yard setback, on a 9,000 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 33 CAVANAGH ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 16, 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 Mark Sawyer (the "Petitioner"), who said that he wanted to convert a screened-in porch into a mudroom. He said that there would be no change in the size of the overhang.

Mr. Sawyer said that the plan is to replace the floor joists and build a new deck that will be framed. The roof will not be replaced because it is in good condition. There will be lattice around the bottom of the structure. Mr. Sawyer said that he will insulate under the deck.

Mr. Sawyer said that there is approximately eight feet between the bulkhead and the steps at the back. He said that he will pour a cement pad for a landing at the steps.

Mr. Sawyer asked the Board if he would be allowed to change the design of the windows slightly from what was shown on the plans. The Board said that would be allowed.

Mr. Sawyer said that the well established rhododendron at the edge of the porch will remain. He said that they will trim back the large bush at the front of the porch.

Statement of Facts

The subject property is located at 33 Cavanagh Road, with a minimum right side yard setback of 13.1 feet, on a 9,000 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 enclosure of an existing 8 foot by 14.3 foot screened porch with less than required right side yard setback, on a 9,000 square foot lot in a district in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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A Plot Plan dated 9/15/06, stamped by Bruce Bradford, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 10/10/06, drawn by Mark Sawyer, and photographs were submitted.

On October 24, 2006, the Planning Board reviewed the petition and had no objection to granting 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 enclosure of an existing 8 foot by 14.3 foot screened porch with less than required right side yard setback shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as the construction shall neither intensify the existing nonconformance, nor shall it create a new nonconformity, as the right side yard setback shall remain the same.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for enclosure of the existing screened porch, in accordance with the submitted plot plan. The design of the windows may be changed slightly from what is shown on the construction drawings that were submitted.

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