

**ZONING BOARD OF APPEALS**

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TELEPHONE
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN
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ZBA 2007-41
Petition of Robert and Linda Warner
24 Shadow Lane

Petition of ROBERT AND LINDA WARNER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 12 foot by 14.7 foot second story addition over an existing nonconforming structure with less than required side yard setbacks, on a corner lot at 24 SHADOW LANE, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 25, 2007, 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 Robert Warner ("the Petitioner"), who said that the proposal is to construct a second floor addition over the existing dining room at the back of the house that was built approximately 16 years ago. He said that the construction will not change the footprint of the house. He said that the ridgeline of the new construction will be no higher than the ridgeline of the existing house.

Mr. Warner said that he spoke with Neal and Jennifer Goldman, 18 Shadow Lane. The Goldmans are the neighbors who would be most affected by the proposed construction. Mr. Warner said that the Goldmans had no objection to the proposal.

The Board said that there is a discrepancy between the first and second floor plans. The Board said that the construction drawings should be revised to show the correct dimensions.

Mr. Warner said that the existing garage has less than required front yard setback to Bay View Road. He said that a Variance was granted by the Zoning Board of Appeals in 1991 to attach the house to the nonconforming garage. The proposed second story will be over an existing nonconforming structure that has a 12.6 foot side yard setback.

There was no member of the public present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 24 Shadow Lane, on an 11,350 square foot corner lot, with a minimum front yard setback of 27.3 feet, and a minimum side yard setback of 12.6 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 12 foot by 14.7 foot second story addition over an existing nonconforming structure with less than required side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 5/17/07, stamped by Peter M. Ditto, Registered Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/22/07, revised 3/30/07, drawn by John Staniunas, and photographs were submitted.

On July 12, 2007, the Planning Department reviewed the petition and did not oppose 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 although construction of a 12 foot by 14.7 foot second story addition with less than required side yard setbacks 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 12 foot by 14.7 second story addition, subject to the following condition:

- Revised construction drawings shall be submitted showing the correct dimensions for the first and second floors at the site of the proposed construction.

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.

This Special Permit shall expire two years after the date time stamped on this decision.

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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

Robert W. Levy

David Grissino

cc: Planning Board
Inspector of Buildings
lrm
cc: Planning Board