

**ZONING BOARD OF APPEALS**

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RICHARD L. SEEGEL, CHAIRMAN
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DAVID G. SHEFFIELDLENORE R. MAHONEY
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TELEPHONE
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN
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DAVID GRISSINO

ZBA 2007-47
Petition of Bayard Read
7 Fenmere Avenue

Petition of BAYARD READ requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning bylaw that demolition of existing nonconforming structures and construction of a 1,549.7 square foot two-story structure with a two-car garage underneath that will meet all setback requirements, on a 7,312.5 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 7 FENMERE AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures.

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 Barry Green, Esquire, who said that he was representing Bayard Read (the "Petitioner"). Also present were Bayard Read and Jeff Howland, Graves Engineering, Inc.

The Board said that petitions for 7 Fenmere Avenue had come before the Board several times. There had been an unresolved issue regarding the creation of the undersized lot. Mr. Green said that a Variance was granted on August 3, 1948, ZBA 48-19, that allowed for the creation of the undersized lot.

Mr. Green said that the proposed new structure will meet the Zoning setback requirements. The Board confirmed that the only nonconformity will be the lot size.

The Board asked if the house has been sold yet. Mr. Green said that the house has not been sold yet.

The Board asked if the submitted plans were for the actual structure to be built. Mr. Green said that they are. Mr. Read said that he and his family will occupy the house.

The Board asked if there had been any discussion with the neighbors. Mr. Green said that the neighbors had been concerned about the height of previously proposed structures.

Peter Shor, 47 Manor Avenue, said that his property abuts the rear of 7 Fenmere Avenue. He asked about retaining walls along the driveway as it slopes down. Mr. Howland said that the Building Inspector had expressed concern about the possibility of new Zoning Bylaws regulating retaining walls in the setback area. Mr. Howland said that the original plans for the retaining walls were revised after the bylaw changes did not go through.

Mr. Shor asked if there will be substantial grading of the lot. Mr. Howland said that the height of the building will be maintained at approximately 29 feet 10 inches. He said that if the grade is raised, it may be by a foot or two from Fenmere Avenue.

Mr. Shor said that he and his wife had objected to the proposed 36 foot structure, which would be less than 14 feet from their property line. He said that this plan is an improvement and they no longer have objections.

Statement of Facts

The subject property is located at 7 Fenmere Avenue, on a 7,312.5 square foot lot in a district in which the minimum lot size is 10,000 square feet, with minimum front yard setback of 20 feet, a minimum left side yard setback of 5.6 feet, a minimum rear yard setback of 7.7 feet, and a minimum right side yard setback of 14.8 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of existing nonconforming structures and construction of a 1,549.7 square foot two-story structure with a two-car garage underneath that will meet all setback requirements, on a 7,312.5 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 structures.

A Plot Plan dated 6/19/07, stamped by Robert J. Smith, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 3/07, drawn by Shane Structures, 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 demolition of existing nonconforming structures and construction of a 1,549.7 square foot two-story structure with a two-car garage underneath that will meet all setback requirements, on a 7,312.5 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 structures as it will neither increase an existing nonconformity nor will it create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of existing nonconforming structures and construction of a 1,549.7 square foot two-story structure with a two-car garage underneath, 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.

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