



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

RICHARD L. SEEGEL, CHAIRMAN
CYNTHIA S. HIBBARD
DAVID G. SHEFFIELD

LENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208

J. RANDOLPH BECKER, VICE CHAIRMAN
ROBERT W. LEVY
DAVID GRISSINO

ZBA 2007-50
Petition of Kristen Roberts
133 Walnut Street

Petition of KRISTEN ROBERTS requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that reconstruction of a roof on an existing nonconforming structure with less than required front and rear yard setbacks and reconstruction of an existing nonconforming deck with less than required rear yard setbacks, on a 6,383 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 133 WALNUT STREET, 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 David Tobin, Esquire, who said that he was representing Kristen Roberts (the "Petitioner"). He said that the request is for a Special Permit to repair and renovate the house at 133 Walnut Street. Mr. Tobin said that Ms. Roberts has a permit from the Building Department for renovation work and the addition of a dormer on the second floor.

Mr. Tobin said that the lot is nonconforming. The Board said that Mr. Tobin stated on Page 3 of his brief that, "Presently, only one structure stands on the lot made up of the original two lots." Mr. Tobin said that two lots that each had a structure on them are shown on a 1936 Assessor's Map. In 1943 the lots went into single ownership. At some time thereafter, the second structure was torn down. The existing house and deck are shown on the 1936 Assessor's Map. The existing deck crosses over the lot line.

The Board asked if the lots are assessed separately. Ms. Roberts said that she receives only one tax bill.

Mr. Tobin said that, after discovering substantial fire damage in the rafters of the roof, the building contractor removed the roof. The Assistant Building Inspector said that was beyond the scope of the Building Permit.

Mr. Tobin said that the all work will be done within the footprint of the building. The dormer will not project into the 10 foot rear yard setback. He said that the Building Inspector may allow construction of dormers on pre-existing nonconforming structures as long as the dormers do not exceed the existing roof elevation.

Mr. Tobin said that the lot slopes down at least 50 feet at the rear.

The Board said that the deck that is shown on the Plot Plan does not appear on the Architectural Plans. Mr. Tobin said that the Petitioner is requesting a Special Permit to reconstruct the deck that is shown on the Plot Plan.

The Board said that the dimensions of the deck are not shown on the Plot Plan. It is unclear if the deck is conforming to the right side setback requirement. The Board said that the surveyor should measure the distance from the side lot line to the corners of the deck. Mr. Tobin said that the distance from the house to the side lot line is 36.9 feet. The deck appears to be 10 feet wide.

Ms. Roberts said that the deck sits on the ground. David Nielsen, builder, said that it is approximately 12 inches from the top of the deck to the ground.

The Board confirmed that there are no landings for the two exterior stairways that are referred to in the documentation.

Neal Glick, 89 River Street, said that he had looked at the plans at Town Hall. He said that he lives at the rear side of 133 Walnut Street, which at the bottom of the steep slope. He asked about the deck on the right hand side of the house. The deck has a nonconforming rear yard setback.

Mr. Glick said that, for seven months of the year, the structure at 133 Walnut Street is visible from his property. He asked that the Board add a condition to the Special Permit prohibiting construction of a deck at the rear of the house. The Board said that there were no plans submitted with the Special Permit application for a deck at the rear of the house.

Mr. Glick said that it appears from the plans that the height of the structure has been raised. Mr. Tobin said that the height of the existing structure at 33 feet 6 inches will be maintained.

Statement of Facts

The subject property is located at 133 Walnut Street, on a 6,383 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 9.6 feet and a minimum rear yard setback of 8.9 feet.

The Petitioner is requesting a Special Permit/Finding that reconstruction of a roof on an existing nonconforming structure with less than required front and rear yard setbacks and reconstruction of an existing nonconforming deck with less than required rear yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/30/06, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 12/06, drawn by David Tonis, Architect, and photographs were submitted.

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 reconstruction of a roof on an existing nonconforming structure with less than required front and rear yard setbacks and reconstruction of an existing nonconforming deck with less than required rear yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it will neither increase a 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 reconstruction of a roof on an existing nonconforming structure and reconstruction of an existing nonconforming deck, 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.

ZBA 2007-50
Petition of Kristen Roberts
133 Walnut Street

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