

**ZONING BOARD OF APPEALS**

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ZBA 2007-59
Petition of Brita Heimarck & Victor Coelho
24 Burke Lane

Petition of BRITA HEIMARCK AND VICTOR COELHO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a one-story addition with less than required front yard setbacks, on a 9,970.8 square foot lot in a district in which the minimum lot size is 15,000, at 24 BURKE LANE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 26, 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.

This petition was continued from July 26, 2007 to August 9, 2007 and then to September 6, 2007. The petition was heard de novo on November 8, 2007 at the Public Hearing.

Presenting the case at the hearing was Brita Heimarck (the "Petitioner") and Alex Wajsfelner, who said that he was representing Deane Rykerson, the Architect. Mr. Wajsfelner said that the edge of the proposed addition closest to Burke Lane will be 13.1 feet from the lot line. He said that the height of the roofline on the proposed addition was lowered to reduce the appearance of mass.

Mr. Wajsfelner said that the rear portion of the addition was pushed back onto the deck six inches. Ms. Heimarck said that the size of the addition was reduced by one foot three inches. Both of these changes reduced the overall footprint of the addition.

Ms. Heimarck said that the windows on the new plan were changed to match the windows on the existing house.

The Board said that its concerns regarding setbacks, mass, and establishment of lot size, as expressed in the prior public hearings, have been addressed.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 24 Burke Lane on a 9,970.8 square foot lot in a district in which the minimum lot size is 15,000 square feet, with a minimum front yard setback of 9.4 feet, a minimum rear yard setback of 9.2 feet and a minimum left side yard setback of 19.1 feet.

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The Petitioner is requesting a Special Permit/Finding that construction of a 948 square foot one-story addition with less than required front yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/13/07, revised 8/24/07, 10/24/07 & 10/31/07, stamped by David Gosselin, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 10/25/07, drawn by Deane Rykerson, 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 although construction of a 948 square foot one-story addition with less than required front 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 948 square foot one-story addition, 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.

If construction has not commenced, except for good cause, 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.

Richard L. Seegel, Chairman

J. Randolph Becker

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm