

**ZONING BOARD OF APPEALS**

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ZBA 2007-76

Petition of Jonathan & Allexe Flood  
7 Cavanagh Road

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Petition of JONATHAN & ALLEXE FLOOD requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw for reconstruction of an existing 10.2 foot by 18.8 foot nonconforming garage with less than required left side yard setbacks, and reconstruction and enlargement of an existing nonconforming shed from 6 feet by 19.7 feet to 16 feet by 19.7 feet with less than required right side yard setbacks, in a 10,000 square foot Single Residence District, at 7 CAVANAGH ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 23, 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 Jon Flood (the "Petitioner"). He said that the original house was a two-story structure and that a one-story addition was built in the 1960's. He said that the current proposal is to raze the roof on the garage and replace it with a flat roof. He said that they would like to enlarge the existing shed and improve the look of it from the neighbor's view. He said that he met with the neighbors and there was no opposition to his proposal.

Mr. Flood displayed photographs of the existing shed. He said that he is currently using the garage for storage of tools. He said that enlarging the shed would allow him to move the tools from the garage to the shed.

Mr. Flood said that the shed was existing when they purchased the property. He said that the shed is on the ground and has no footings. He said that the proposed shed will be 14 feet high and the existing shed is 10 feet high.

The Board asked what the rationale for the proposed porch on the shed was. Mr. Flood said that it was for aesthetic purposes.

The Board said that the Planning Board did not discuss the shed in its recommendations.

The Board said that granting a Special Permit for a larger shed could set a precedent in the neighborhood, as there would be three houses in a row with large sheds.

The Board asked if the proposal is to tear down the existing shed. Mr. Flood said that it is. The Board said that Special Permits for teardowns of nonconforming structures are granted for reconstruction of conforming structures.

The Board asked about moving the shed. Mr. Flood said that there is a small boat stored behind the shed.

The Board said that the shed should be no larger than 100 square feet or be moved to conform to setback requirements. The Board said that a Special Permit would not be required if the shed was moved to meet setback requirements.

The Board said that no plumbing shall be allowed in the shed.

Mr. Flood requested that the Board allow him to withdraw the proposal for the shed. The Board voted unanimously to allow the shed portion of the petition to be withdrawn without prejudice.

Mr. Flood said that there is a landing with a roof that is shown on the construction plans that he is asking to have approved in addition to the roof on the garage.

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 7 Cavanagh Road, with a minimum left side yard setback of 14.5 feet, with an accessory building with a minimum right side yard setback of 2.5 feet.

The Petitioner is requesting a Special Permit/Finding that reconstruction of an existing 10.2 foot by 18.8 foot nonconforming garage and construction of a landing with a roof overhead with less than required left side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/16/07, stamped by Robert F. Drake, Registered Professional Land Surveyor, Existing Floor Plans and Elevation Drawings, dated 11/20/00, and Proposed Floor Plans and Elevation Drawings, dated 8/1/07, drawn by Allen Pavlides Architects, 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 reconstruction of an existing 10.2 foot by 18.8 foot nonconforming garage and construction of a landing with a roof overhead with less than required left side yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure

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Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for reconstruction of an existing 10.2 foot by 18.8 foot nonconforming garage in accordance with the submitted Plot Plan and Construction Drawings and for a landing with a roof overhead in accordance with the Construction Drawings.

The petition for reconstruction and enlargement of an existing nonconforming shed from 6 feet by 19.7 feet to 16 feet by 19.7 feet has been withdrawn without prejudice, as voted unanimously by this Authority at the Public Hearing.

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.

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Richard L. Seegel, Chairman

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J. Randolph Becker

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Robert W. Levy

cc: Planning Board  
Inspector of Buildings  
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