

**ZONING BOARD OF APPEALS**

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RICHARD L. SEEGEL, CHAIRMAN
CYNTHIA S. HIBBARD
DAVID G. SHEFFIELDLENORE R. MAHONEY
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TELEPHONE
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN
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ZBA 2007-78

Petition of John & Jane Thompson
10 Vista Road

Petition of JOHN & JANE THOMPSON requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 14.2 foot by 20.5 foot second story addition over an existing nonconforming structure with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 10 VISTA ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 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.

Presenting the case at the hearing was Jane Thompson (the "Petitioner"), who said that the proposal is to add a second story over an existing garage to accommodate a second bath and closet space.

The Board said that the property is located on a circle and that the neighbor to the left is close. The broadest face of the structure does not face the neighbor directly.

The Board said that the rear of the structure will be visible from Wellesley Avenue.

The Board said that the proposal is reasonable because the proposed addition overlooks the neighbor's backyard.

Karen Leeds, 8 Vista Road, said that she is concerned about the proposal. She said that her driveway meets the driveway at 10 Vista Road at the street. She said that the Thompson's side yard setback is 14.4 feet and her side yard setback is 13.2 feet, which is very close.

Ms. Leeds said that she is concerned with the size of the addition, which she said includes a hallway. She said that the addition will be 26 feet high. She said that the use will be changed and a great deal of space will be added that will block sunlight.

The Board asked Ms. Leeds to display on the plot plan where the driveways are located. Ms. Leeds said that there is a five foot strip of grass that drops off between the driveways. She said that her house appears to be close in one of the photographs submitted by the Thompsons.

Ms. Thompson said that there will not be a hallway in the proposed addition. She said that there is a closet in the existing house that will be converted to a hallway.

The Board said that, due to the orientation of the structure on the property, the only time that the proposed addition would cast a shadow would be at sunset on June 21st and that the addition will not be adding much to the shadow.

The Board said that 8 and 10 Vista Road, with the addition, will be the most similar in scale of the houses in the neighborhood.

The Board said that the proposed design is very straight forward. The usable area on the interior is very limited. The addition will be secondary to the main volume of the house.

Ms. Leeds said that because of the hill the house at 10 Vista Road looks like it is farther back than it really is. She said that the distance between her house and the Thompson's house appears greater than it actually is.

Statement of Facts

The subject property is located at 10 Vista Road, on a 13,746 square foot lot, with a minimum front yard setback of 26.8 feet and a minimum left side yard setback of 14.4 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 14.2 foot by 20.5 foot second story addition over an existing nonconforming structure 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 9/27/07, stamped by Patrick J. Roseingrave, Registered Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/20/07, drawn by Wheelock Assoc. Architects, and photographs were submitted.

On December 3, 2007, the Planning Board reviewed the petition and had no objection to 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 14.2 foot by 20.5 foot second story addition over an existing nonconforming structure 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 14.2 foot by 20.5 foot second story addition over an existing nonconforming structure, in accordance with the submitted Plot Plan and Construction Drawings.

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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.

Cynthia S. Hibbard, Acting Chairman

David G. Sheffield

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm