

**ZONING BOARD OF APPEALS**

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ZBA 2007-81  
Petition of L. Grignaffini & Sons Inc.  
49 Oak Street

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Petition of L. GRIGNAFFINI & SONS INC. requesting a Variance pursuant to the provisions of Section XIXB and Section XXIVD of the Zoning Bylaw for construction of a 2,403 square foot two-story structure that will meet setback requirements on a 12,957 square foot lot with less than required frontage and front yard width, in a 10,000 square foot Single Residence District, at 49 OAK STREET.

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 were Attorney, Leslie Shea and C. Joseph Grignaffini (the "Petitioner"). Mr. Shea said that he was representing the Grignaffini brothers in their request for a Variance. He said that the shape of the lot is different from most other lots in the Zoning District. He said that granting a Variance to allow them to build a single family house would not be detrimental to the purpose or intent of the Zoning Bylaw.

Mr. Shea said that the Grignaffini's parents bought the lot on Oak Street in 1948. Their father, who was a local builder, subdivided the lot in 1950. Mr. Grignaffini sold 51 Oak Street to one sister and 53 Oak Street to another sister. Both sisters and their husbands built single family residences on the two lots.

Joseph Grignaffini now owns the lot at 49 Oak Street. He has used the lot for storage of building materials and equipment.

Mr. Shea said that the use of the lot for storage was continued until recently. The Building Inspector determined that storage was not an allowed use and told Mr. Grignaffini to discontinue the use.

Mr. Shea said that, at the time of subdivision, all three lots were buildable. In 1976, Annual Town Meeting voted to raise the frontage requirement to 50 feet. Lots that were held in separate ownership before 1956 were entitled to a building permit. For a period of three or four years after the 1976 vote, Mr. Grignaffini could have built a house.

Mr. Shea said that the Petitioner would like to construct a residence on what is otherwise, an unusable piece of land.

Mr. Shea said that there is 10 feet of frontage with a 10 foot right of way next to it. Mr. Shea submitted copies of deeds showing the 10 foot right of way.

Mr. Shea submitted a copy of the Town Plans showing a lot across the street at 52 Oak Street that was subdivided with 25 feet of frontage.

Mr. Shea said that literal enforcement of the Zoning Bylaw would be substantially detrimental to the use of the land. Mr. Grignaffini said that the proposed structure would be an improvement to the area.

Mr. Shea submitted a letter of support signed by all but one of the abutters.

Mr. Shea said that the issue of accessibility for emergency vehicles was discussed with the Fire Department. The Fire Department said that they were comfortable with the proposal as long as there was an 18 foot strip of asphalt leading to the back. Mr. Grignaffini is willing to construct that strip. The Board said that it would require documentation of the verbal agreement with the Fire Department.

The Board said that the proposed lot coverage will be very close to 20 percent. The Board said that the scale of the house would be a consideration.

The Board voted unanimously to find that the shape of the lot created sufficient hardship to allow for granting a Variance.

The Board said that the proposed height of the structure was close to the maximum at 32 feet. Mr. Grignaffini said that the grade could be raised to shorten the height by two feet.

The Board said that raising the garage along with the house would require fewer steps. The structure would appear to have less bulk.

The Board said that the dimension to the deck at the back of the structure should be shown on the plot plan.

The Board said that the proposed structure should be harmonious with its environment. The design has been softened with the different rooflines and the mass is broken up. There are other houses close to the property that are of similar size to the proposed structure.

John Maccini said that he is the son of the owner of 51 Oak Street. He said that the property is in trust and that his father is in a rehabilitation facility.

Mr. Maccini said that he was concerned about the driveway to his father's house. He displayed on the plan where they have been parking for the past 57 years. He displayed pictures of the driveway following a snowstorm. He said that there should be some place for snow storage.

Mr. Maccini said that he is not concerned about the height of the proposed house. He said that he is concerned that emergency vehicles were not able to access his father's house.

Mr. Grignaffini displayed an area on the plan that he is proposing to blacktop for use as a turnaround.

Mr. Maccini said that the right of way goes from the street all the way back the rear of the properties. Mr. Grignaffini said that a wall could be taken down to widen the area at the back for snow storage.

The Board said that removing the wall in the right of way would provide parking spaces and would fulfill the Fire Department's 18 foot wide access requirement.

The Board said that if the house was moved southwest by approximately eight feet, it would increase the snow storage area and not impact the neighbors. Moving the house closer to Oak Street will improve the height issue because of the change in topography.

The Board said that a revised site plan should be submitted.

Francesca Wier, 39C Oak Street, said that having a home on the lot would be an improvement to the neighborhood and would increase abutting property values. She said that the Grignaffini family has a history of thoughtfulness and care in protecting the integrity of the neighborhoods in Wellesley.

The Board said that careful thought had been put into addressing the drainage issues.

The Board voted unanimously to continue the petition to the January 3, 2008 Public Hearing.

#### January 3, 2008

Presenting the case at the hearing were C. Joseph Grignaffini and Attorney, Leslie Shea. Mr. Grignaffini said that the Board's recommendations had been incorporated into the new plans. He said that the grade was raised on the building, the deck was eliminated and replaced with a patio at grade, and a letter was submitted by the Fire Chief stating that Fire Department requirements had been satisfied.

The Board said that the plan revisions were appropriate. The wall was extended along the right of way, allowing for space for the neighbor to park on the east side of their driveway.

The Board questioned whether the proposed turnaround would be necessary where the existing shed is. Elimination of the turnaround would provide more greenspace.

The Board questioned the need to extend the asphalt drive all the way back to the rear property line as opposed to up to the turnaround area for the garage. Mr. Grignaffini said that he could put gravel at the back area instead of asphalt.

The Board said that a cross section of the elevations of the building should be submitted.

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 49 Oak Street, on a 12,957 square foot lot, with 10 feet of frontage and front yard width.

The Petitioner is requesting a Variance for construction of a 2,403 square foot two-story structure that will meet setback requirements on a 12,957 square foot lot with less than required frontage and front yard width.

A Plot Plan dated 11/17/07, revised 12/19/07, stamped by George Giunta, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, stamped by John Staniunas Architects, and photographs were submitted.

On December 3, 2007 the Planning Board reviewed the petition and had no objection to granting the petition.

### 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 opinion of this Authority that due to the hardship created by the shape of the lot, literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners. The shape of the lot is unique and other parcels in the zoning district do not suffer from this problem.

Furthermore, the grant of a Variance would not affect the Zoning District in which it is located nor nullify or derogate from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted to allow for construction of a 2,403 square foot two-story structure that will meet setback requirements, subject to the following condition:

- Revised Elevation Drawings shall be submitted.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

This Variance shall expire one year 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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Cynthia S. Hibbard, Acting Chairman

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David G. Sheffield

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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