

**ZONING BOARD OF APPEALS**

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ZBA 2007-85
Petition of Kerim & Alyssa Akgonul
5 Durant Road

Petition of KERIM & ALYSSA AKGONUL requesting a Special Permit/Finding pursuant to the provisions of the Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing 10.7 foot by 19.5 foot garage and construction of a 13 foot by 23.3 foot garage, with less than required left side and rear yard setbacks, on a 7,168 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 5 DURANT 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 were Michael Hally, Architect, and Kerim Akgonul (the "Petitioner"). Mr. Hally said that there is an existing detached garage with less than required side and rear yard setbacks. He said that the proposal is to take the seriously deteriorated garage down and rebuild a larger garage on a slab foundation that will be more useful to the homeowners. He said that there is a conforming addition under construction at the back of the house.

Mr. Hally said that the proposed lot coverage will be 25 percent.

The Board said that the neighbor on the left is well set back but the neighbor at the rear is close. Mr. Hally displayed a street map from the Assessor's Office and discussed the impact of the proposal on the neighbors.

Mr. Hally submitted signatures from the neighbors in support of the petition. Mr. Akgonul said that the neighbor next door is elderly and did not want to sign anything even though he did not oppose the petition.

The Board said that because the proposed lot coverage will be 25 percent, documentation of how the calculations for lot coverage were done should be submitted.

Mr. Hally said that plans for the area that connects the house and the garage has not been determined yet. He said that it is currently very close to grade. He said that there is a landing on the portico at the side of the house where there is not much differential from the landing to the driveway. He said that they could pour a pad outside of the door and continue it to the garage.

Mr. Hally said that the wooden landing from the mudroom will be approximately 6 to 7 inches high.

Mr. Hally said that the garage slab will probably be raised. He said that, as you exit the garage, the area may be at the same level or at a slight step down. The driveway will be sloped to handle runoff.

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 5 Durant Road, on 7,168 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 28.3 feet, a minimum left side yard setback of 3.3 feet, and a minimum rear yard setback of 3 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing 10.7 foot by 19.5 foot garage and construction of a 13 foot by 23.3 foot garage, with less than required left side and rear yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/17/07, revised 9/19/07, 10/16/07 & 11/16/07, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 6/4/07 & 11/15/07, drawn by Michael Hally Design, Inc., 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 demolition of an existing 10.7 foot by 19.5 foot garage and construction of a 13 foot by 23.3 foot garage 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 demolition of an existing 10.7 foot by 19.5 foot garage and construction of a 13 foot by 23.3 foot garage, in accordance with the submitted Plot Plan and Construction Drawings, subject to the following condition:

- A plan shall be submitted showing how the calculations were done for lot coverage.

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