

**ZONING BOARD OF APPEALS**

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TELEPHONE
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN
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ZBA 2008-33
Petition of Wheeler Lane Realty LLC
24 Audubon Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 8 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of WHEELER LANE REALTY LLC requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing 1,535.5 square foot two-story structure, and construction of a 4,223 square foot two-story structure with attic, on an 18,000 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 24 AUDUBON ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 23, 2008 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 Laurence Shind, Esquire, who said that he was representing Wheeler Lane Realty LLC, (the "Petitioner"). He said that present with him were Brendan Carr and Meredith Coakley, principals in the LLC , and Charles Haskins, Architect, Level Nine Design.

Mr. Shind said that the lot is undersized. He said that the existing house was built in 1940 and has not been updated. He said that the layout and condition of the existing house make it not feasible to renovate or expand. He said that the proposed house will meet all Zoning requirements and will have 4,223 square feet of living area on two floors. He said that if the house was calculated pursuant to the new Large House Review criteria, the house would contain 5,024 square feet of living space with the garage. He said that is well below the 5,900 square foot threshold. The Board asked if the 4,223 square feet of living space excluded the basement and the attic. Mr. Shind said that it did exclude them.

Mr. Shind said that careful consideration was given to the design and siting of the new home. He said that the design is consistent with new homes in the neighborhood. He said that existing trees will be maintained where possible. The driveway entrance will be maintained to minimize disturbance to the existing lot.

Mr. Shind said that the petitioner spoke with neighbors. He submitted a letter signed by neighbors who support the project.

Mr. Haskins said that the shape of the lot was an issue. He said that many new houses in the neighborhood have three car garages.

The Board said that the Planning Board objected to granting the Special Permit because the proposed house and garage would be too large for the neighborhood and would be more detrimental based on the excessive bulk.

Mr. Haskins said that there are projects close by that are similar in scale, size and architectural detail. He said that the house directly behind this one, which appears to have been built recently, has a three-car garage with a slightly different configuration.

Mr. Haskins said that there are many houses in the neighborhood of similar style but with a full gable roof. He said that the proposed house will have a hip style roof system with dormers to minimize the bulk. The roof will have a 12/12 pitch and will be clipped at 35 feet.

The Board said that this property will be viewed from above by people coming down the hill. The roof will be prominent. Mr. Haskins said that the intention is to keep the existing foliage at the side. He said that the lot slopes up. The trees at the sides of the property should help to block the view. He said that he nestled the house as far back into the building envelope as possible.

The Board asked about the height calculation from average grade at 35 feet. Mr. Haskins said that he calculated average grade based on information from the surveyor. He said that the fill will be high on the right rear corner of the house and will slope down across the right rear to the front left. He said that he pulled the average height from the middle of the structure.

The Board asked what the average elevation would be without the garage wing. Mr. Haskins said that it would probably be 36 feet. The Board said that the house should be surveyed from average grade without the garage.

The Board said that the proposed house will have approximately 2.8 times more square footage of living space than the existing house. The Board asked about stormwater runoff due to the size of the roof. Mr. Haskins said that with this type of roof design, water will shed in all areas and be collected in a permanent gutter system and brought out to the street.

The Board said that there will be more water coming at a faster rate. Mr. Carr said that the grade around the proposed house will be similar to the grade around the existing house. He said that roof leaders may be put into underground leaching pits or the water may go directly into the soil. The Board said that drywells will be needed.

The Board said that the property is located in Wellesley Hills, where there is a lot of ledge.

The Board said that a topographical survey should be submitted so that it can understand the impact of runoff with the large proposed driveway.

The Board said that it received a letter from six neighbors. A condition of the decision would restrict parking during construction to address traffic concerns.

The Board asked about the construction schedule and the number of workers who will be on the site. Mr. Carr said that the framing crew consists of four workers and the demolition crew consists of four or five workers. The demolition truck is a 100-yard truck. He said that there will be more room to park on the site when the house is demolished.

Mr. Shind said that the Petitioner is willing to comply with any recommendations by the Board to mitigate traffic concerns during construction. He said that six vehicles can park on the site. The Petitioner will ensure that construction workers do not block any areas or park on the street and is willing to engage a police detail, if necessary.

The Board said that the site is on a hill. There should be a substantial amount of crushed stone to prevent mud from getting onto the roads. Mr. Carr said that they will have crushed stone and haybales, where necessary.

Mr. Carr said that the flat roof located 2.5 feet above the dormer ridgeline at the front of the house could be lowered by six inches without disturbing the design.

The Board asked about the elevation of the first floor above grade. Mr. Carr said that the sub-floor is at approximately 2.6 feet. The Board said that removing one of the steps would lower the floor level of the house closer to the floor level of the garage.

The Board asked about the height of the proposed retaining wall. Mr. Carr said that it will be less than four feet high.

The Board said that a Construction Management Plan should be submitted. Control of water off of the site should be addressed. A new plan showing a roof that is reduced in height should be submitted.

Ralph Norwood, 56 Foxhill Road, said that his home is located approximately 200 yards from the property. He said that he had an opportunity to look at the plans in April. He said that the proposed house is big. He said that very few houses in the neighborhood have three-car garages. He said that the proposed design does not fit with the neighborhood.

Mr. Norwood said that the neighbors were under the impression that the proposed construction would be built by right. The Board said that the lot is undersized. Because the house will be built on a nonconforming lot, the project does not trigger Large House Review.

Mr. Norwood asked what trees will be maintained. Mr. Carr said that they are going to try to keep the trees at the front. He said that the hemlocks on the left will need to be pruned. He said that they will try to keep the trees at the right side front. He said that the pines at the back will have to come out. The Board said that the trees that will remain should be marked on the topographical survey.

Mr. Norwood said that his main concern is for pedestrian safety. He said that his concerns about traffic in the area were addressed in the letter to the Board.

Geraldine Malt, 25 Audubon Road, said that her house is located directly across from the property. She said that there are small houses in the neighborhood. She said that she did not think that the proposed house will fit in with the neighborhood.

The Board voted unanimously to continue the petition to May 22, 2008.

May 22, 2008

Presenting the case at the hearing were Laurence Shind, Brendan Carr, Meredith Coakley, and Charles Haskins.

Mr. Shind said that the Petitioner completed the purchase of the property.

Mr. Shind said that the Board had expressed concerns at the May 8, 2008 Public Hearing related to the house and site, stormwater management, and construction parking and traffic management.

Mr. Shind said that revised plans were submitted to the Board. He said that the house height has been reduced from 35 feet to 33.5 feet. He said that the differential between the garage and the main house has been reduced. The lot has been regraded to lessen the amount of exposed foundation. Trees that are intended to be saved are shown on the Site Plan.

Mr. Shind submitted photographs of trees that they intend to save.

Mr. Shind said that two pre-cast concrete leaching basins were added for stormwater management. He said that the leaching basins will collect rainwater runoff from the roof and gutter system.

Mr. Shind said that perimeter controls will be put in place during construction to control erosion. He said that the details were included in the Best Management Practices that was submitted to the Board.

Mr. Shind said that contractor parking will be prohibited on the street in front of and adjacent to the property. He said that contractors will be asked to park on the site. He said that if any large trucks are needed for excavation or demolition, the owner will employ a police detail.

The Board asked about the sufficiency of the size of the proposed leaching basins and if the soil will accept the water in the basins. Mr. Carr said that that an engineer calculated how many gallons the basins would hold. He said that they have not had the ability to get onto the site to do any soil testing.

The Board said that information had been submitted for the storage capacity of the basins but not for the amount of runoff coming off of the roof. Mr. Carr said that the basins could handle a two-inch storm, with the presumption that all soils will leach. He said that off-site runoff should be reduced.

The Board asked about roof drainage from the existing house. Mr. Carr said that runoff goes onto the splash block and then onto the driveway or the lawn.

The Board said that the paved area of the driveway will be significantly larger. It appears that runoff goes out to the street. The rate of runoff has not been calculated. Mr. Carr said that installing the leaching basins should make the runoff equal to or less than existing conditions.

The Board asked about the location of the nearest existing catch basins. Mr. Carr said that there is one located up-gradient but he was not sure where a second one is located. He said that this site does handle some runoff from adjacent property. He said that the flow of the water will not be changed.

The Board asked if the water that comes the hill goes into a swale at either side of the house. Mr. Carr said that the existing house a flat backyard where the water flows to and then goes around the house. The Board confirmed that that water is not intended to go to the leaching basins. The Board said that it was not clear that there would not be more water leaving the site due to the proposed changes.

Mr. Carr said that the water at the front of the driveway will shed towards the grassy areas. He said that they will not be regrading the existing driveway.

The Board asked about the areas of the site covered by the Best Management Practices Plan. Mr. Carr said that the site slopes down to the street. He said that the area involved is the whole site. He said that silt fences will be placed down-gradient to capture everything.

The Board asked if the parking controls listed in the Best Management Practices Plan are enforceable. Mr. Carr said that any sub-contractor coming to the site will know to not park on the street. He said that the Petitioner is the contractor and will enforce the regulations.

The Board said that the three-car garage overpowers the house. A two-car garage would be better because there would be less roof area and less pavement in front of it. Mr. Carr said that currently three-car garages are sought after. The Board confirmed that the house would be built for sale.

The Board asked about the change in differential between the height of the house and garage. Mr. Carr said that it had been suggested at the previous hearing that adjusting the differential could put the house into better scale. The Board said that the garage is closest to the houses across the street. The Board asked why that part of the house was not lowered. Mr. Carr said that they only had to add one foot of fill at the foundation to improve the look of the house.

Mr. Haskins said that it appeared that lowering the roof on the main house would help to tie the house and garage together horizontally. The Board said that the mass and bulk of the house facing across the street is an issue.

Mr. Carr said that the grade will be increased at the garage and in the front of the house. He said that site conditions determined where the proposed house will be placed.

The Board said that reducing the number of steps and flattening the roof improved the scale. Mr. Haskins said that the garage was brought up one foot and the main house was lowered one foot. He said that two steps were removed. There will be no more than one foot of concrete showing.

Eugene Cashman, 19 Audubon Road, said that although he is concerned about the mass, a good effort was made to bring the house into compliance. He said that he had offered to pay for pruning of the large oak tree in front of the house.

Mr. Cashman said that there was a history of basement flooding at the property. He said that the water was pumped onto the driveway, which then ran into the streets. The Board asked if the plan is to put a sump pump in the basement. Mr. Carr said that they have added a foundation drain that goes over to the drainage system.

The Board asked about the difference in elevation of the existing and proposed basements. Mr. Carr said that the existing basement is at 146' and the proposed basement is at 148'.

The Board asked if there was any way to put a drain structure in the driveway that would go to the four inch line. Mr. Carr said that they could capture runoff with a slotted grate located part way up the driveway in order to pipe it's outlet to an adjacent drain line and miss some tree roots

Mr. Carr said that, with access to the site, they can proceed with soil testing.

The Board said that the scale of the neighborhood changes with all of the ups and downs. The existing trees should be kept to maintain the effect.

Statement of Facts

The subject property is located at 24 Audubon Road, on an 18,000 square foot lot in a district in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing 1,535.5 square foot two-story structure, and construction of a 4,223 square foot two-story structure with attic, on an 18,000 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/14/08, revised 5/15/08, stamped by Joseph R. Sullivan, Registered Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 4/9/08, revised 5/12/08, drawn by Level Nine Design, Best Management Practices, prepared by Wheeler Lane Realty LLC, and photographs were submitted.

On May 5, 2008, the Planning Board reviewed the petition and objected 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 demolition of an existing 1,535.5 square foot two-story structure, and construction of a 4,223 square foot two-story structure with attic, on an 18,000 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it will neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing 1,535.5 square foot two-story structure, and construction of a 4,223 square foot two-story structure with attic, subject to the following conditions:

1. A slotted drain shall be added to the driveway in a location to be determined by design.
2. The slotted drain will accept runoff from the driveway and direct water to the planned four-inch underground pipe that connects to the catch basin.
3. Percolation tests must prove the design assumptions for the proposed leaching basins. If the percolation tests do not prove the design assumptions, the proponent shall submit data showing that the revised designs do meet the design assumptions.
4. The trees shown on Plan 27,395 shall remain as shown on the plan.
5. Pruning of trees at the edge of the property shall be done after consultation with the neighbors.

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.

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

David G. Sheffield

cc: Planning Board
Inspector of Buildings
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