

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2008-39  
Petition of James & Jacqueline Brooks  
16 Mellon Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 12, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of JAMES & JACQUELINE BROOKS requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a 23 foot by 30 foot side-facing garage with an attached 6 foot by 13 foot bathroom with less than required left side and right side yard setbacks, in a 10,000 square foot Single Residence District at 16 MELLON ROAD.

On May 27, 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 James Brooks (the "Petitioner"), who said that the lot is long and narrow. He said that they are in the process of installing a pool for their handicapped daughter. Medical advisors suggested that it would be beneficial for their daughter to have an outside bathroom because she slips and falls frequently. He said that the proposed garage will give them easy access to the cars in the wintertime as well as providing space for storage of equipment for their daughter. He said that they are proposing a side-facing garage to allow for vehicle turnaround. The Board said that the Bylaw requires 30 feet for a side-facing garage. A second Variance would be required for that.

Mr. Brooks said that the neighbors are supportive of the plans.

Mr. Brooks said that the shed will be removed if the proposed structure is approved.

The Board said that a concern is that the garage with a bathroom could potentially be converted to an in-law apartment. Mr. Brooks said that is not their intention. The Board said that plumbing would be limited to the bathroom space and not allowed in the garage. Mr. Brooks said that there will be no heating in the bathroom.

The Board asked why the garage was not placed closer to the house. Mr. Brooks said that they wanted to have the pool closer to the house for safety reasons.

The Board said that there is a large amount of pavement proposed for the driveway. Mr. Brooks said that the entire driveway will not be paved. He said that they plan to install pavers with lawn in between. He said that the land is flat and the sandy soil drains well.

The Board said that the lot is an unusual shape. It does not appear that a garage could be put on the lot without requiring Zoning relief. The lot is only 50 feet wide where the proposed garage would be located.

Mr. Brooks said that the garage is larger than average because they need extra space on the sides so that their daughter is able to get in and out. He said that they are planning to purchase an adult-sized tricycle for their daughter that will require more storage space.

Pamela Lofblad, 3 Mellon Road, said that she has lived there for seven years. She said that everything that the Brooks have done to their property has always been in good taste. She said that she was not concerned about the proposed work.

#### Statement of Facts

The subject premises is located at 16 Mellon Road, in a 10,000 Square Foot Single Residence District, with a minimum right side yard setback of 12.4 feet.

The petitioners are requesting a Variance for construction of a 23 foot by 30 foot side-facing garage with an attached 6 foot by 13 foot bathroom with less than required left side and right side yard setbacks.

A Plot Plan dated 5/22/08, stamped by Stephen P. DesRoche, Registered Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 5/08, drawn by Michael Williams, Architect, and photographs were submitted.

On June 2, 2008, the Planning Board reviewed the petition and stated,

The Planning Board is uncomfortable with the application and expressed concern that the proposed project seems inconsistent with the needs stated by the applicant.

If your Board is inclined to favorably consider the request the Planning Board suggests that the use of the garage building be limited to storage purposes.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public 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 the hardship created by the shape of the lot, with a maximum width of 65 feet at the front, narrowing to 48 feet at the rear of the lot, with a portion of the Town of Wellesley playing field located on the rear of the lot, is not self-created. Literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners. 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 23 foot by 30 foot side-facing garage with an attached 6 foot by 13 foot bathroom with a 9 foot left side yard setback and a less than 30 feet backout turning are on the right side, as shown on the Plot Plan that was submitted with the Petition. This decision is subject to the following conditions:

- There shall be no heat or plumbing inside the garage.
- There shall be no heat in the proposed bathroom.
- The bathroom shall be for seasonal use only.
- The proposed driveway, as constructed, shall have as little asphalt as possible. The use of pavers shall be required.
- The pitch of the driveway shall be away from the property to the east of this property.

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.

If the rights authorized by this Variance are not exercised within one year of the date time-stamped on this decision, they shall lapse and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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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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Cynthia S. Hibbard

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
lrm