

**ZONING BOARD OF APPEALS**

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ZBA 2008-43  
Petition of Patricia Murphy  
48 Parker 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 PATRICIA MURPHY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of existing structures and construction of a two-story structure that will meet Zoning requirements, on a lot that has no frontage, in a 10,000 square foot Single Residence District, at 48 PARKER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures.

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 Mark Heavner, who said that he was representing Patricia Murphy (the "Petitioner"). He said that the existing lot is 28,058 square feet. There are currently two structures on the lot. The Building Inspector considers this lot to have no legal frontage.

Mr. Heavner said that he submitted Land Court plans that show the extension of Durant Road out to Parker Road. He said that the road does not exist.

Mr. Heavner said that both houses are accessed from the driveway off of Parker Road. The garage blocks access to the rear building. There is a footpath along the side of the property to Bryn Mawr Road.

Mr. Heavner said that the proposal is to raze the existing structures and construct a 5,100 square foot structure. He said lot coverage will be 11 percent. The height of the proposed structure will be approximately 32.5 to 33 feet.

The Board said that reducing the number of houses on the lot will decrease the nonconformity. The Board said that attention was given to the design of the house to keep the appearance of mass and bulk down.

The Board said that the property owner owns to the center of the paper street for frontage. The problem is that the road was never built. There are many dead end streets in the neighborhood because subdivision was done piecemeal.

Mr. Heavner said that the existing driveway will be used for emergency access.

The Board said that a condition of the Special Permit will be that the Town of Wellesley footpath shall not be interfered with and that there shall be clear access for emergency vehicles from Parker Road.

Margo Hines, 24 Durant Road, asked about setbacks for the proposed house. Mr. Heavner said that the new house will sit at the same front lines as the existing main house. He said that the proposed house will be 18 feet closer to the left side property line. The Board said that the design of the house and the choice of the gambrel roof will help to mitigate the fact that the house is closer to the lot line.

Ms. Hines asked if there were any plans for tree removal. Mr. Heavner said that most of the trees will remain. He said that there will be some trimming done. He said that there is one tree that does need to be removed.

Stephen Bresnahan, 26 Bryn Mawr Road, asked about the tree that will be taken down. Mr. Heavner said that the tree that suffered damage over the winter will be taken down. He said that all of the trees along the footpath will remain.

The Board said that a condition of the decision will be that a Landscape Plan be submitted showing the location of the existing trees. All mature trees must remain on the lot with the exception of the damaged tree. The main concern is the major landscaping elements along the east side of the property.

Mr. Heavner said that there may be substantial trimming of the dead branches at the bottom of the trees. The Board said that if the bottom branches are currently acting as a screen, tree replacement may have to be considered.

The Board said that screening from Parker Road should be provided. Mr. Heavner said that he has not developed the landscape plans for the front of the house yet.

Mr. Heavner said that he will not be changing the entrance to the driveway.

Mr. Bresnahan asked about air conditioner compressors. Mr. Heavner said that, in compliance with the bylaw, the compressors must meet setback requirements. He said that it is his practice to use the quietest air conditioners that are available.

The Board said that the distance from the back of the house to the rear lot line is over 100 feet. Mr. Heavner said that putting the air conditioner in the worst possible location for Mr. Bresnahan would be at least 50 feet away from him.

#### Statement of Facts

The subject premises is located at 48 Parker Road, in a 10,000 Square Foot Single Residence District, on a lot with frontage on a paper street.

The Petitioner is requesting a Special Permit/Finding that demolition of existing structures and construction of a two-story structure that will meet Zoning requirements, on a lot that has frontage on a paper street shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures.

A Plot Plan dated 2/6/08, stamped by Francis X. DeSimone, Proposed Floor Plans and Elevation Drawings, dated 5/15/08, drawn by Heavner Construction, Inc., and photographs were submitted.

On June 2, 2008 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 demolition of existing structures and construction of a two-story structure that will meet Zoning requirements, on a lot that has frontage on a paper street shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures, as it will neither create a new nonconformity nor increase an existing nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of existing structures and construction of a two-story structure that will meet Zoning requirements, on a lot that has frontage on a paper street, subject to the following conditions:

- A Landscape Plan showing the major features shall be submitted.
- All mature trees except for the one that suffered winter damage shall remain on the property.
- Screening shall be installed between the front of the house and Parker Road.
- The Town of Wellesley footpath easement along the eastern property line to Bryn Mawr Road shall not be impeded.
- There shall be sufficient emergency vehicle access from Parker Road.

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.

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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  
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