

**ZONING BOARD OF APPEALS**

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

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ZBA 2008-67

Petition of Richard & Jane McNulty
179 Oakland Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 11, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of RICHARD & JANE McNULTY requesting a Special Permit/Finding pursuant to the provisions of Section XVII, Section XIVE and Section XXV of the Zoning Bylaw that demolition of an existing 1,850 square foot structure and construction of a 3,916 square foot structure that will meet Zoning requirements, on a 20,009 square foot lot in a district in which the minimum lot size is 30,000 square feet, and a Water Supply Protection District, at 179 OAKLAND STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 25, 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 Stanley Brooks, Esquire, who said that he was representing Richard and Jane McNulty (the "Petitioner"). He submitted a compilation of the Town Plans, Map 31 and Map 38 and a table of Existing, Required and Proposed Zoning requirements. Also present at the hearing was Vincent Codispoti, Architect.

Mr. Brooks said that it is an undersized lot in a 30,000 square foot district. He said that it is bounded on the west by a lot that is just over 30,000 square feet, bounded to the south by the Wellesley Country Club, and to the east by the Brookside Gardens. He said that 10,000 square feet would be needed to bring the lot into compliance.

Mr. Brooks said that the existing structure is conforming, as is the proposed structure. The lot area is the only nonconformity. He said that the petition is for a finding that the proposed structure will not be more detrimental to the neighborhood.

Mr. Brooks said that the lot slopes down at the rear to the golf course. He said that the appearance of the proposed structure will not be imposing from the street because most of the bulk will be at the back. He said that there are a number of significantly large new houses in the neighborhood. He said that the proposed structure will not be out of character with the neighborhood.

The Board asked about the total square footage of the house. Mr. Brooks said that the total square footage will be 6,900. He said that it would not be subject to Large House Review.

The Board said that the height of the proposed structure is shown on the architectural plans as 35.5 feet. The topographical plan only shows the existing structure. The Board asked how the proposed house will fit in the topography and how the height was calculated from average grade. Mr. Codispoti said that the proposal is to use the existing topography with the exception of the addition of a retaining wall where the existing driveway is located. He said that the proposed house will sit in approximately the same location as the existing house. He said that there is a 1 foot grade change overall. He said that there will be more fill than cut because they will keep the backyard the same and fill in at the existing driveway area. He said that the existing grade is approximately 129.5. The proposed changes will bring the grade to 130.5.

The Board said that the location can support a house of this size and it is well designed.

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 179 Oakland Street, on a 20,009 square foot lot in a district in which the minimum lot size is 30,000 square feet, and a Water Supply Protection District.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing 1,850 square foot structure and construction of a 3,916 square foot structure that will meet Zoning requirements, on a 20,009 square foot lot in a district in which the minimum lot size is 30,000 square feet, and a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 8/14/08, stamped by James J. Abely, Professional Land Surveyor, Proposed Floor Plans & Elevation Drawings, dated 8/14/08, drawn by Vincent Codispoti, Jr., and photographs were submitted.

September 8, 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 an existing 1,850 square foot structure and construction of a 3,916 square foot structure that will meet Zoning requirements, on a 20,009 square foot lot in a district in which the minimum lot size is 30,000 square feet, and a Water Supply Protection District shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it will neither increase a 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 1,850 square foot structure and construction of a 3,916 square foot structure, in accordance with the submitted plot plan and construction drawings.

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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.

J. Randolph Becker, Acting Chairman

David G. Sheffield

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm