

**ZONING BOARD OF APPEALS**

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ZBA 2008-72

Petition of Christopher & Donna Wargo
45 Brook Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 2, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of CHRISTOPHER & DONNA WARGO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that reconstruction and expansion of an existing nonconforming garage, construction of a second story addition above the garage, and construction of an addition that will be 4 feet by 36.4 feet on the first floor and 3 feet by 14.4 feet on the second floor, with less than required side yard setbacks, on an 11,480 square foot corner lot, at 45 BROOK STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 15, 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 Michael Hally, who said that he was representing Christopher and Donna Wargo (the "Petitioner"). He said that it is a corner lot and the existing garage is within the side setback. He said that the right hand side of the house is also in the setback area.

Mr. Hally said that the petitioner would like to increase the size of the existing garage. He said that it barely fits one car. The proposal is to make it two feet deeper at the front and join it to the house.

Mr. Hally said that they would like to add a second level to the garage for a bedroom and a bathroom. Mr. Wargo is a long time Wellesley resident. He would like to be able to accommodate his parents at this location.

Mr. Hally said that they had been very careful that the new construction be consistent with the existing structure as well as fit in with the neighborhood. They kept the roofline as close to the ground as possible. There will be a small dormer facing Brook Street. The existing house has a hip roof.

Mr. Hally said that they would like to get four more feet off of the back of the house to make the downstairs area more liveable and take better advantage of the lot. The back corner will go into the setback on the side that is already in the setback area.

Mr. Hally said that the four foot extension will come back with a shed roof. He said that there will be a second story bumpout on the right side that will go out three feet instead of four feet.

Mr. Hally submitted pictures of other homes on Brook Street, Solon Street and Hampden Street.

Mr. Hally said that the Wargos had shown the plans to their neighbors. Mr. Hally submitted a map of the neighbors who were spoken to. He submitted a letter of support that was signed by neighbors.

The Board asked if the neighbor at 3 Solon Street had signed the letter of support. Mr. Wargo said that he had spoken with that neighbor earlier in the day. She said that she planned to attend the Public Hearing.

The Board said that the neighbor at 3 Solon Street is very close. The Board asked if the trees along the driveway will remain. Mr. Wargo said that the neighbor wants the trees removed. He said that they are old pine trees.

The Board said that there are many Victorian houses in the neighborhood, similar to the Petitioner's but smaller. The lots are tight.

The Board said that the existing house is 17.2 feet from the right side line looking from Brook Street. The proposed plan places the addition 16.6 feet from the right side line.

The Board asked if the existing garage will be torn down. Mr. Hally said that it will be. The garage is old and is in disrepair. There are insects and water coming in around the edges. The plan is to push the proposed garage at least two feet into the ground to reduce the mass and make it easier to get into the house.

The Board asked if rotating the garage to make it conforming had been considered. Mr. Hally said that there is a mudroom entry at the side of the house. He said that pulling the garage towards the house would create a situation where access to the house would be directly from the garage or by going around. The Board said that the garage could be canted at the corner of the house. Mr. Hally said that they had hoped to keep the driveway in its present location to preserve greenspace.

Mr. Hally said that if the garage is rotated, there will be a full dormer facing the Brook Street side and a smaller dormer at the back. The Board said that a conforming garage would not be subject to Zoning Board of Appeals review. Mr. Hally said that the position of the garage is critical to how the inside works because it is the point of entry into the house.

Mr. Hally asked if 8 foot high walls on the proposed garage would be allowed instead of the 7 foot walls on the existing garage.

The Board asked if the cupola is functional. It increases the height of the garage significantly. Mr. Hally said that it is decorative and can be removed.

The Board said that the right elevation looks like a blank wall. Mr. Wargo said that is where the kitchen will be and they have not finalized the layout. They would like to have a few windows on that side.

Mr. Wargo said that there is no foundation under the porches. He said that they would add crawl space or foundation. Mr. Hally said that foundation would be preferable with water lines and other utilities in the kitchen. He said that small windows could be added on that side of the kitchen. He said that upstairs is where the bathroom will be. He said that windows could be added at the far end. He said that they would need to balance the inside with the outside design.

There was no one present at the Public Hearing who wished to speak to the petition.

The Board said that the Petitioner should come back with another design for the garage that is less of an intensification. The recommendations of the Planning Board should be taken into consideration. Work should be done to make the right rear corner of the house more visually pleasing.

The Board voted unanimously to continue the hearing to November 6, 2008.

November 6, 2008

Presenting the case at the hearing was Michael Hally, who said that they had previously asked for relief in two areas. The proposed construction in the far right corner of the house has been cut 45 degrees so that it will not protrude any further into the setback. The proposed second floor will have a bay like cut to it in the master bathroom. A lot of siding was eliminated from the original proposal.

Mr. Hally said that the previous proposal was to take down the garage, build up 8 foot walls and put another story on top. He said that the revised proposal is to take down the garage and reconstruct it in a conforming location. No part of the garage other than the soffits will go into the setback area. The design was changed to a gambrel roof. There are other houses in the neighborhood with a gambrel roofline. The ridge of the new garage will hit the bottom of the soffit of the existing house.

The Board said that its concerns had been addressed. It noted for the record that there are four nonconformities, two in the front yard on Brook Street and two on the right side on Brook Street. None of those change.

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 45 Brook Street, on an 11,480 square foot lot, with a minimum front yard setback of 21.9 feet, a minimum side yard setback of 16.8 feet, and a minimum rear yard setback of 16.3 feet.

The Petitioner is requesting a Special Permit/Finding that construction of an addition that will be 4 feet by 33.2 feet on the first floor and construction of a bumpout of 2.5 feet on the second floor, with less than required side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 9/9/08, revised 10/28/08, stamped by Thomas P. DiPersio, Registered Professional Land Surveyor, Existing & Proposed Floor Plans & Elevation Drawings, dated 9/5/08, revised 10/22/08, drawn by Michael Hally Design Inc., and photographs were submitted.

September 22, 2008, the Planning Board reviewed the petition and

recommended that the second floor for the garage meet the 20 foot setback requirement -- in other words stepped back to the 20 foot line. Further it is recommended that the project be modified to maintain the existing 17.2 foot setback on the southerly side.

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 construction of an addition that will be 4 feet by 33.2 feet on the first floor and construction of a bumpout of 2.5 feet on the second floor, with less than required side yard setbacks 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 construction of an addition that will be 4 feet by 33.2 feet on the first floor and construction of a bumpout of 2.5 feet on the second floor, in accordance with the submitted plot plan and construction drawings.

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

Cynthia S. Hibbard

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm

