

**ZONING BOARD OF APPEALS**

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RICHARD L. SEEGEL, CHAIRMAN
CYNTHIA S. HIBBARD
DAVID G. SHEFFIELDLENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208
web: www.wellesleyma.govJ. RANDOLPH BECKER, VICE CHAIRMAN
ROBERT W. LEVY
DAVID L. GRISSINO

ZBA 2008-77

Petition of Peter & Olga Paar
19 Madison Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 6, 2008 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PETER & OLGA PAAR requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing structure with a footprint of 1,739 square feet and construction of a new structure with a footprint of 2,402 square feet that will meet all setback requirements, on a 13,324 square foot lot in a district in which the minimum lot size is 15,000 square feet, at 19 MADISON ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 20, 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 were Peter Paar (the "Petitioner") and Sean Sweeney, Heritage Design. Mr. Sweeney said that there was a good amount of neighbors' interest in this project. The previous petition was withdrawn without prejudice.

Mr. Sweeney said that Mr. Paar has attempted to address the neighbors' concerns with the new design. He said that Mr. Paar and his family want to live in the neighborhood. He said that they have tried to design a home that meets their needs as well as fit in with the 1940's neighborhood.

Mr. Sweeney said that the initial design was a tudor with a hip roof, which was out of style with the capes and colonials in the neighborhood. Mr. Paar changed the style of the house to a colonial with reverse gables to Madison Road. The house will have cedar clapboard siding.

Mr. Sweeney said that the property is located in a 15,000 square foot Single Residence District. This lot, as well as many others in the neighborhood, contains less than 15,000 square feet. He said that most of the houses in the neighborhood tend to be between 1,600 and 2,000 square feet. Many of the properties have put additions on. He said that the average house size in Wellesley is 4000 square feet.

Mr. Sweeney said that Mr. Owens talked about the neighborhood consisting of Madison Road, Sheridan Road and Hastings Street.

Mr. Sweeney said that he did a comparison of the size of the houses to the size of the lots. Mr. Paar's total living area compared to the lot size is 28%, which is larger than the majority of houses on the street. He said that the houses on Madison Road range between 9% for a 2,068 square foot house on a 22,000 square foot lot and 28% for a 3,004 square foot house on a 10,500 square foot lot. He said that the mean coverage is 15-16%. He said that the proposed house will be the same size as the largest existing house on Madison Road.

Mr. Sweeney said that the neighbors had concerns with the height of the roof, the distance to adjoining properties, and the setback from the street.

The Board said that the proposed house will be at the high end of size and coverage that is allowed. The Board said that it looks at the configuration on the lot and its impact to the neighbors. The Board said that although the proposed house would meet the criteria for the 500 foot rule, the reality is that the house will stick out beyond the line of the existing houses, which goes against the intention of the bylaw.

The Board said that the garage is still a primary feature of the house. The Board said that there had a been a lot of discussion about the flexibility of a stick built home to address the Board and the neighbors' concerns. Mr. Sweeney said that a typical colonial home is 2.5 stories.

Mr. Sweeney said that the petition is before the Board because the lot is nonconforming. He said that many of the homes on Madison Road were built in the 1940's and are smaller. Mr. Paar would need at least two stories because of his family's needs.

Mr. Sweeney said that they looked at the design of a house that was approved by the Board on Hastings Street. The Board said that there is a much smaller presence of the garage due to the roof configuration.

The Board said that many houses in the neighborhood have put additions on the back.

Mr. Sweeney said that they can change the design by softening and lowering the eave edges to eight feet in the front of the house so that they comply more with the adjacent houses. He said that they could move the house back by narrowing the backside of the house.

The Board said that there is a discrepancy in the plans for the garage. Mr. Sweeney said that the stairs in the garage are not shown in the plans. He said that the new code requires six inches for the foundation above grade. He said that the first floor elevation at finished exterior grade would be approximately two feet.

Mr. Sweeney said that Mr. Paar wanted to know what concerns the Board had so that they could be addressed in a new design that will be shared with the neighbors.

Marian Pruslin, 20 Madison Road, said that Mr. Paar has not previously shared his plans with the neighbors prior to the public hearings.

Susan Crawford, 22 Madison Road, said that her house is one of the smallest on the street. She said that the proposed house will tower over hers. She said that she had not spoken with Mr. Paar. Mr. Paar had said that he is unable to live in the existing house because of the condition that it is in.

Dennis Pruslin, 20 Madison Road, said that the primary problems have been identified three times. He said that it would be good if the back of the house could be narrowed and the whole house be pushed back.

Robert Owen, 8 Madison Road, said that the exposed foundation will be higher and the height of the house at the front will be close to 35 feet. He questioned whether the 36 foot limitation would be exceeded. He said that his letter to the Board, dated 10/30/08, stated that the neighborhood was originally zoned for 10,000 square foot lots. That was changed to 15,000 square feet in the 1950's. All of the houses were designed and built prior to that changeover. The trigger for Large House Review for a 10,000 square foot lot is 3600 feet. He said that the proposed house would trigger Large House Review under the original zoning.

Mr. Owen said that the main issues of concern for this project are the height, the setback from the street and the total massing. He said that his rear yard view and the side views of the neighbors will be affected by the proposed house. He said that the new house could be stepped down.

Steve Ellenwood, 15 Madison Road, said that his two main concerns are position and proportionality. He said that the proposed structure is too far forward. He said that the mass of the structure with respect to height remains a concern.

Todd Hibbard, 16 Madison Road, said that the standard is that the proposed structure not be substantially more detrimental than the existing nonconforming use. He said that the proposed house will be much taller than the existing house and the neighboring houses. He said that it will come 11 feet closer to the street than the existing house. He said that the proposed house is much larger than the existing house and the neighboring houses.

Mr. Sweeney said that the initial thought was to keep the house in line with the road. He said that the road curves and the intention was to move the house up along that curve. He said that the house could be moved back. Mr. Hibbard said that the pushed over fence out front is an eyesore. He asked if the lot could be tidied up while the plans are being worked on.

Ilija Jarostchuk, 4 MacArthur Road, said that he has known Mr. Paar for approximately 20 years. He said that Mr. Paar will be a wonderful neighbor. He said that Mr. Paar wanted to invite the neighbors to see the plans but it is not possible at the existing house. He asked that the neighbors leave contact information so that a meeting could be arranged elsewhere.

The Board voted unanimously to continue the hearing to January 8, 2009.

January 8, 2009

Presenting the case at the hearing was Sean Sweeney, Heritage Design. He said that also present were Rob Diatolevi and Peter Paar (the "Petitioner").

Mr. Sweeney said that they re-designed the home and then met with the neighbors to discuss the plans.

Mr. Diatolevi said that the garage was moved to the back and was put under the house. He said that the house was moved back to 43 feet from the street to align with the houses on either side. He said that the height was reduced from 35 feet to 29 feet.

Mr. Sweeney said that by moving the garage down, because of the topography, a portion of the basement will be exposed. He said that he met with the Building Inspectors to do the calculations for Large House Review. The Board said that this will not be subject to Large House Review because it has come before the Board for a Special Permit.

The Board said that the new design is a dramatic improvement over the previous plans because the front of the building will now be back in line with the rest of the neighborhood and the garage was brought to the back.

The Board asked if the grading will be different from what is shown on the plans. Mr. Diatolevi said that the existing grade is shown on the plans. He said that there is an issue with the neighbor regarding his septic system. He said that they may have to put in a small retaining wall.

The Board said that it is not clear on the plans what the conditions are at the property line with 15 Madison Road. Mr. Paar said that the neighbor has a four foot cinder block retaining wall that is failing. He said that he spoke with the neighbor about working together to tie any new wall together with the existing wall. The Board confirmed that the grade for the property owner at 15 Madison Road will not be changed.

The Board said that changing the grade will change the calculations for average height of the structure. Mr. Diatolevi said that the highest part at the rear of the structure will be 36 feet 11 inches.

The Board said that there could be safety issues at the basement window shown on the left side elevation drawing shown on Sheet 4. Mr. Sweeney said that there will have to be steps outside the window into the well.

Mr. Diatolevi said that there will have to be stairs from the porch down to grade. The Board said that an amended plot plan should be submitted to the Board showing the stairs down to grade.

The Board said that it received comments from neighbors regarding the retaining wall and reduced privacy on the street with the farmers porch.

Dennis Pruslin, 20 Madison Road, said that he had been concerned about privacy on the street. He asked if the porch structure is critical. The Board said that the porch structure creates a lower scale with respect to bulk and massing.

Mr. Pruslin asked how deep the porch will be. The Board said that it will be 3 feet wide by 28 feet long. Mr. Paar said that the porch was there for aesthetic reasons. He said that it will not be used as a porch.

The Board said that there is no step shown going off of the porch.

Robert Owen, 8 Madison Road, said that his concerns regarding the mass of the house, the height of the house, and the garage at the front have been addressed.

Mr. Pruslin said that he and his wife submitted letters to the Board expressing their support.

The Board said that a revised plot plan should be submitted showing the stairs at the back, the basement window stairs and any steps related to the deck.

Statement of Facts

The subject property is located at 19 Madison Road, on a 13,324 square foot lot in a district in which the minimum lot size is 15,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing structure with a footprint of 1,739 square feet and construction of a new structure with a footprint of 2,610 square feet that will meet all Zoning setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/9/08, revised 1/5/09, stamped by Kevin J. Jarvis, Professional Land Surveyor, and Proposed Floor Plans and Elevation Drawings, dated 12/30/08, drawn by Heritage Design, were submitted.

On November 3, 2008, the Planning Board reviewed the petition and had no objections 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 structure with a footprint of 1,739 square feet and construction of a new structure with a footprint of 2,610 square feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it shall 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 structure with a footprint of 1,739 square feet and construction of a new structure with a footprint of 2,610 square, subject to the following condition:

- A revised plot plan shall be submitted to the Board that shows the stairs at the back, the basement window stairs and stairs for the deck.

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.

David G. Sheffield, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
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