

**ZONING BOARD OF APPEALS**

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ZBA 2008-78
Petition of 46 Denton Road LLC
46 Denton 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 46 DENTON ROAD LLC requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing structure with a footprint of 2,051 square feet and construction of a new dwelling and detached garage with a total footprint of 3,043 square feet that will meet all setback requirements, on a 19,667 square foot lot with less than required frontage, in a 10,000 square foot Single Residence District, at 46 DENTON 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 was Logan Huffman (the "Petitioner"), who said that the proposal is to demolish the existing home and replace it with a shingle style craftsmen home with a two-car detached garage. He said that the property backs up to Fuller Brook. An Order of Conditions was approved by the Wetlands Protection Committee (WPC) because the property is located within the 200 foot buffer area.

Mr. Huffman said that the proposal will meet all Zoning requirements except for frontage. He said that the lot was conforming when it was created in the 1940's.

The Board said that having the bathroom upstairs in the garage creates the possibility of having a detached dwelling. Mr. Huffman said that they were hoping to use the upstairs garage space as office space and that there is no intent that it be an accessory apartment. The bathroom was added purely for convenience.

The Board stated that it typically requires that there be no plumbing in detached garages. Mr. Huffman said that the plumbing can be removed from the plan but they would still plan to finish the space to be used as a work area.

The Board said that it received a letter from Jens Kruse and Susan Kunk stating that their concerns had been addressed and that they now support the project.

The Board asked about the location of trees. Mr. Huffman said that Mr. Kruse and Ms. Kunk had expressed concerns about the trees during the WPC process. He said that there is extensive tree cover along the property line that they share with 46 Denton Road. He said that after learning of their concerns, he further laid out the property line so that they could see where the actual boundary is. He installed orange construction fencing along the edge of the groundcover that is at the drip line of the existing tree cover. He said that the goal is to save that. He said that after meeting with Mr. Kruse and Ms. Kunk, there was a greater understanding of the proposal.

The Board asked if any trees larger than six inch calipers will be removed. Mr. Huffman said that seven trees will be removed and will be replaced with 12 new trees. He said that 100-120 new groundcover and understory plantings were proposed in the landscape plan submitted for the Order of Conditions.

Mr. Huffman said that he discussed placement of air conditioning units with Mr. Kruse and Ms. Kunk. He said that the closest compressor will be approximately 70 feet around the corner from their home, behind the garage. The air conditioning units for the home will be approximately 85-90 feet from their home.

The Board said that the Planning Board discussed Large House Review (LHR) in their comments. The Board asked what was included in the calculation of 3,043 square feet. Mr. Huffman said that calculation is for the footprint. He said that the total living area will be approximately 4,000 square feet with the garage. He said that if the house was subject to LHR in a 10,000 square foot zone, it would be a problem. He said that the land area is actually 20,000 square feet.

The Board said that LHR is not based on lot size but on the district in which it is located. Mr. Huffman said that his understanding of LHR is that a larger home would not be prohibited, but would be required to go through review. He said that plans that are similar to those required under LHR had been submitted to the WPC.

The Board said that although the threshold for LHR has been exceeded, the massing and location on the the property is appropriate.

The Board said that conditions of the decision would be that there be no plumbing in the garage, the air conditioner units be located on the plan, as represented by the applicant, and calculations be provided to the Board showing that TLAG will be 4,000 square feet or less.

The Board said that it would like to see that the actual calculations are close to what Mr. Huffman had suggested. Mr. Huffman said that he could come back before the Board with the calculations for TLAG.

The Board voted unanimously to continue the public hearing to November 25, 2008.

November 25, 2008

Presenting the case at the hearing was Logan Huffman, 93 Wellesley Avenue. He said that the Board had asked him to come back with calculations of the size of the proposed home as it relates to Large House Review.

Mr. Huffman said that he spoke with the Building Inspector, Michael Grant, and the calculations for TLAG were just under 4,000 square feet. He said that the calculations may change slightly by a few feet on the final construction drawings.

The Board said that the turning radius in the driveway turnaround will require a three-point turn. The Board asked if the pavers that are shown on the plan are necessary. Mr. Huffman said that the WPC had asked for the pavers at that location.

The Board said that this is a 19,000 square foot lot in a 10,000 square foot district. The only nonconformity is less than required frontage.

Statement of Facts

The subject property is located at 46 Denton Road, on a 19,667 square lot in a 10,000 square foot Single Residence District, with 39.99 feet of frontage.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing structure with a footprint of 2,051 square feet and construction of a new dwelling and detached garage with a total footprint of 3,043 square feet that will meet all setback requirements, on a 19,667 square foot lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/9/08, stamped by Bruce Bradford, Professional Land Surveyor, Proposed Floor Plans & Elevation Drawings, dated 4/29/08, revised 6/15/08 & 7/7/08, drawn by Scott Lewis Home Design, and photographs were submitted.

On October 10, 2008, the Wetlands Protection Committee issued an Order of Conditions, subject to special conditions.

On November 3, 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 structure with a footprint of 2,051 square feet and construction of a new dwelling and detached garage with a total footprint of 3,043 square feet that will meet all setback requirements, on a 19,667 square foot lot with less than required frontage, 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 2,051 square feet and construction of a new dwelling and detached garage with a total footprint of 3,043 square feet, subject to the following conditions:

1. There shall be no plumbing in the garage.
2. The final plans shall include the location of the air conditioning units.
3. The air conditioning units shall be located at the rear of the garage and on the west side of the house.
4. TLAG calculations shall be no greater than 4,000 square feet.

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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