

**ZONING BOARD OF APPEALS**

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ZBA 2009-11

Petition of Marjorie Suisman, Trustee  
4 Great Plain Avenue

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 5, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MARJORIE SUISMAN, TRUSTEE requesting an extension of the Special Permit, 2007-25 that was granted on May 14, 2007, pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw for demolition of an existing structure and construction of a two-story structure that will meet all Zoning requirements, on a 19,433 square foot lot in a district in which the minimum lot size is 30,000 square feet, at 4 GREAT PLAIN AVENUE.

On February 17, 2009 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 David Himmelberger, Esq., who said that he was representing Marjorie Suisman, Trustee of the Jillian E. O'Donoghue 2005 Irrevocable Trust, (the "Petitioner"). He said that he had submitted a letter of support to the Board that set forth the hardship for which the extension is sought as well as the issue that the purported registered land surveyor has not been registered with the Commonwealth since 1991.

Mr. Himmelberger said that the Petitioner retained a registered surveyor. He said that the new certified plot plan is similar to the original with the exception of corrections to setback dimensions and the addition of a drain that runs beneath the property from 10 Great Plain Avenue to the catch basin on the corner of Great Plain Avenue and Wellesley Avenue. He said that the corrections do not impact the proposed new structure with respect to conformity.

Mr. Himmelberger said that between the time that the Special Permit was issued and the dissolution of the association between the Mr. Elwell and Ms. O'Donoghue, the house was razed, which is why it is not shown on the new plot plan. He said that the location of the proposed house is close to where the previous house was located.

The Board asked if the footprint that is shown on the plot plan is the intended footprint for the proposed building. Mr. Himmelberger said that it is. He said that the footprint is for the architectural plans that were approved in 2007.

Mr. Himmelberger said that his client has been attempting to sell the property. He said that a prospective buyer entered into a Purchase & Sale agreement that did not go forward. He said that the property is currently being marketed.

The Board said that it received a letter from Linda Chery Valentin that addressed the issue of the non-registered land surveyor.

Linda Chery Valentin asked if the building must be shown on the plot plan for the Board to approve the petition. The Board said that the original permit application contained architectural drawings for the proposed structure. The Board said that the petition before it at this hearing was to extend the original Special Permit for the previously approved plans for a one year period.

Ms. Valentin said that the Town requires that the plot plan be stamped by a registered land surveyor. She asked if the Special Permit that was issued would be invalid. The Board said that the plot plan shows that the house will meet the setback requirements. The Board said that when the Building Permit is issued, an as-built certification must be submitted showing the location of the house on the lot. If the foundation does not meet the setback requirements, a Building Permit will not be issued. The Board said that it assumes that when a surveyor puts a stamp on the plans that it is valid and that the plan is correct. The Board said that issues with the State Licensing Board are outside of the Zoning Board of Appeals' authority.

#### Statement of Facts

The subject property is located at 4 Great Plain Avenue, on a 19,545 square foot lot in a district in which the minimum lot size is 30,000 square feet.

The Petitioner is requesting an extension of a previously approved Special Permit, 2007-25, granted by the Zoning Board of Appeals on May 14, 2007 and recorded in the Norfolk Registry of the Land Court on June 15, 2007. There are no changes requested.

A Plot Plan dated 2/24/09, stamped by Frank Iebba, Professional Land Surveyor, was submitted.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject Special Permit was granted by the Zoning Board of Appeals on May 14, 2007, pursuant to Section XVII and Section XXV of the Zoning Bylaw and was recorded with the Norfolk Registry of the Land Court on June 15, 2007, Document # 1,131,451.

Therefore, an extension of the Special Permit, ZBA 2007-25 is granted, as voted unanimously by this Authority at the Public Hearing, subject to the following condition:

- Extension of the Special Permit shall be measured one year from the date time stamped on this decision.

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.

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 G. Sheffield

cc: Planning Board  
Inspector of Buildings  
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