

**ZONING BOARD OF APPEALS**

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ZBA 2009-45
Petition of Marc Shechtman
41 Rice Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 11, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MARC SHECHTMAN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a one-story addition and construction of a second story addition over an existing structure with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 41 RICE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 22, 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 were Marc Shechtman and Kathleen Coolidge (the "Petitioner").

Mr. Shechtman said that the existing house is 1,388 square feet, with one bathroom upstairs. He said that the plan is to expand out to an existing large tree at the rear, which they may not be able to save.

The Board said that the critical dimension is the 16.5 foot left side yard setback. The 15.4 foot dimension is from the entryway, which may not be counted as a structure for setback purposes.

The Board said that it would need to see the dimension to the left corner of the existing house. The Board said that the shortest distance should be measured.

The Board said that the proposed plan appears to be a good solution. The variety of roof shapes break up the mass and bulk.

The Board said that a new plot plan should be submitted showing the dimension to the front left corner.

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

AMENDED

Statement of Facts

The subject property is located at 41 Rice Street, in a 10,000 square foot Single Residence District, with a minimum left side yard setback of 15.9 feet and a minimum right side yard setback of 15.7 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a one-story addition and construction of a second story addition over an existing structure with less than required left side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 5/20/09, revised 7/10/09, stamped by Joyce Hastings, Registered Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/30/09, prepared by Samuel Savage Design, and photographs were submitted.

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 although construction of a one-story addition and construction of a second story addition over an existing structure with less than required left side yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a one-story addition and construction of a second story addition over an existing structure, 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.

Cynthia S. Hibbard, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm

