

**ZONING BOARD OF APPEALS**

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ZBA 2009-53

Petition of Nitin Vir Jain & Anjali Joseph  
17 Caroline Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 6, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of NITIN VIR JAIN & ANJALI JOSEPH, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 7 foot by 14 foot two-story addition and construction of a 24.7 foot by 28.7 foot second story addition with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 17 CAROLINE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 20, 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 Nitin Vir Jain (the "Petitioner"). Also present was Gerry Rossman, Land Surveyor. Mr. Rossman submitted a signature page from a Determination of Applicability from the Wetlands Protection Committee.

Mr. Rossman said that the house was built 40 years ago. The original surveyor's plan showed the house at 20 feet from the side lot line. Mr. Rossman said that after surveying the property three times to check for errors, he came up with a 17.9 foot setback from the side lot line, not 20 feet. He said that he found two Land Court bounds in the back, as well as one on Clovelly Road.

The Board said that the setback is not shown on the plot plan from Caroline Street to the house. The Board said that the two nonconformances are the left side and front yard setbacks.

Mr. Vir Jain said that the existing house has two bedrooms. He said that the proposal is for construction over the garage. He said that there is a breezeway that will be expanded at the back to connect the garage addition to the house. Mr. Rossman said that the 2.5 foot overhangs shown on the plans will be cut back to 2 feet.

Mr. Vir Jain said that the appearance of the front elevation will not change. He said that the ridge of the proposed addition will match the existing ridge. He said that the dashed line on the plan is for interior space.

The Board said that there will be a significant change of the appearance of mass of the house from the street. The existing house has low slung roofs. The proposal is for a large wall and vertical surface. The eave line will be traveling almost as high as the ridge.

Mr. Vir Jain said that they bought the house because of its character. He said that they wanted to keep the look of the house open. He said that the glass panels give the look of openness. He said that three windows are shown on the upper level. He said that he has been speaking with the architect about adding a fourth window.

Mr. Vir Jain said that the house is small but the lot is large.

The Board said that, if the second story was cantilvered out toward the street, it would reflect more of the current character of the house with the deep setbacks and deep eaves along the front. The Board said that would create more space and break up the plane.

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 17 Caroline Street, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 29.4 feet and a minimum left side yard setback of 17.9 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 7 foot by 14 foot two-story addition and construction of a 24.7 foot by 28.7 foot second story addition with less than required left side yard and front yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/13/09, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans, dated 7/1/09, prepared by John C. Staniunas Associates, 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 7 foot by 14 foot two-story addition and construction of a 24.7 foot by 28.7 foot second story addition 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 7 foot by 14 foot two-story addition and construction of a 24.7 foot by 28.7 foot second story addition, subject to the following conditions:

1. This decision shall be subject to the conditions placed by the Wetlands Protection Committee.

2. The north elevation shall be modified to project the second floor above the patio doors a minimum of 9 inches to a maximum of 18 inches to address concerns about mass.
3. A revised plot plan shall be submitted showing the setback from Caroline Street to the front of house.

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.

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J. Randolph Becker, Acting Chairman

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Robert W. Levy

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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