

**ZONING BOARD OF APPEALS**

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ZBA 2009-62
Petition of Gordon Ellis
78 Whittier Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 10, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of GORDON ELLIS requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that extension and enclosure of an existing nonconforming 11.55 foot by 16.77 foot porch to 17.55 feet by 16.77 feet, with less than required right side yard setbacks, construction of a 7 foot by 8.86 foot one-story addition, and construction of a 8.36 foot by 10.05 foot deck, at 78 WHITTIER ROAD, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 25, 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 Michael Collins. He said that also present were Mr. & Mrs. Ellis (the "Petitioner") and Peter Bachman, builder.

Mr. Collins said that the proposal is for a first floor bedroom to be constructed within the existing open porch at the rear of the property. He said that the existing porch is nonconforming. He said that they are asking for relief for a proposal that will not come any closer to the side property line.

The Board asked about the second floor porch at the back of the house. Mr. Collins said that it is an old sleeping porch. He said that the plan is to enclose the area underneath it. He said that the plan is to leave the existing upper porch as is except for changing the flooring.

Mr. Collins said that the bedroom is being converted so that the Ellises can stay in the home. He said that will make it more accessible and create one floor living for them.

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 78 Whittier Road, with a minimum left side yard setback of 10.9 feet and a minimum right side yard setback of 16.2 feet.

The Petitioner is requesting a Special Permit/Finding that extension and enclosure of an existing nonconforming 11.55 foot by 16.77 foot porch to 17.55 feet by 16.77 feet, with less than required right side yard setbacks, construction of a 7 foot by 8.86 foot one-story addition, and construction of a 8.36 foot by 10.05 foot deck, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/23/09, stamped by Terrence M. Ryan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/24/09, prepared by D. Michael Collins Architects, and photographs were submitted.

On August 31, 2009, 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 although extension and enclosure of an existing nonconforming 11.55 foot by 16.77 foot porch to 17.55 feet by 16.77 feet, with less than required right side yard setbacks, construction of a 7 foot by 8.86 foot one-story addition, and construction of a 8.36 foot by 10.05 foot deck 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 extension and enclosure of an existing nonconforming 11.55 foot by 16.77 foot porch to 17.55 feet by 16.77 feet, with less than required right side yard setbacks, construction of a 7 foot by 8.86 foot one-story addition, and construction of a 8.36 foot by 10.05 foot deck, 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.

Richard L. Seegel, Chairman

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm