

**ZONING BOARD OF APPEALS**

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ZBA 2009-78

Petition of Uljen & Linda Abazaj  
7 Maurice Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 5, 2009, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of ULJEN & LINDA ABAZAJ requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition, reconstruction and expansion of 3.4 feet in length of an existing nonconforming garage, construction of a 7 foot 10 inch by 30 foot 11 inch two-story addition with less than required left side yard setbacks, construction of a 20 foot by 26 foot two story addition, construction of a 6 foot 5 inch by 3 foot 2 inch deck and construction of a 4 foot by 3 foot 2 inch deck that will meet setback requirements, in a 10,000 square foot Single Residence District, at 7 MAURICE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 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 were Michael Hally, Uljen and Linda Abazaj (the "Petitioner").

Mr. Hally said that the Petitioner is requesting relief for two setbacks. He said that the existing house is a two-story colonial. He said that there is a sunroom on the west side that is nonconforming and a garage/mudroom on the east side that is nonconforming.

Mr. Hally said that they submitted plans for work that will be done in two phases. He said that they want to rebuild the sunroom on a frost wall foundation, build it up to the same height as the first floor and have a flat roof with a railing on top of it.

Mr. Hally said that they would also like to take down the existing garage/mudroom and rebuild it. He said that one of the previous owners drove through the rear wall. He said that it has a block foundation. He said that they would like to take it down to the foundation and expand it back forty inches. He said that it will veer away from the lot line. He said that they will keep it as a single story. He said that the rear wall will be a little higher to get some usable space. He said that they will keep the same roof pitch.

Mr. Hally said that a kitchen bumpout at the rear of the existing structure is proposed for the first phase of construction. He said that just about all of that addition will be conforming. He said that there will be a flat roof on the kitchen bumpout during phase one.

Mr. Hally said that the second phase will involve construction of a 20 foot by 26 foot two-story addition. He said that a second floor will be added over the kitchen bumpout. All of the construction will be on the conforming part of the property.

Mr. Hally said that they worked hard to come up with a design that will fit in well with the neighborhood. He said that they added some stylistic accents with the flat roof and some panel siding. He said that they will not be changing the height of the building. The height of the garage will go up by a couple of feet. He said that there are homes that back up to this property that are a little higher than this.

The Board said that the mass, especially during phase one is consistent with other buildings in the neighborhood. The Board said that phase two involves a fairly substantial addition. The Board said that although it is a bulky addition, it is set back in such a way that it would not be substantially more detrimental to the neighborhood.

The Board said that it would be approving both phases of construction with the Special Permit.

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 7 Maurice Road, on an 11,719 square foot lot in a 10,000 square foot Single Residence District, with a minimum front yard setback of 25.3 feet, a minimum left side yard setback of 9.3 feet and a minimum right side yard setback of 12.1 feet.

The Petitioner is requesting a Special Permit/Finding that demolition, reconstruction and expansion of 3.4 feet in length of an existing nonconforming garage, construction of a 7 foot 10 inch by 30 foot 11 inch two-story addition with less than required left side yard setbacks, construction of a 20 foot by 26 foot two story addition, construction of a 6 foot 5 inch by 3 foot 2 inch deck and construction of a 4 foot by 3 foot 2 inch deck that will meet setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 9/29/09, stamped by Todd P. Chapin, Professional Land Surveyor, Existing Floor Plans and Elevation Drawings, dated 8/29/09, Phase I Proposed Floor Plans, dated 9/22/09, Phase I Proposed Elevation Drawings, dated 9/18/09, Phase 2 Proposed Floor Plans, dated 9/22/09, and Phase 2 Proposed Elevation Drawings, dated 9/18/09, prepared by Michael Hally Design, Inc. and photographs were submitted.

On October 29, 2009, the Planning Department Staff 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 demolition, reconstruction and expansion of 3.4 feet in length of an existing nonconforming garage, construction of a 7 foot 10 inch by 30 foot 11 inch two-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.

It is the finding of this Authority that construction of a 20 foot by 26 foot two story addition, construction of a 6 foot 5 inch by 3 foot 2 inch deck and construction of a 4 foot by 3 foot 2 inch deck that will meet setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor shall it create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing for demolition, reconstruction and expansion of 3.4 feet in length of an existing nonconforming garage, construction of a 7 foot 10 inch by 30 foot 11 inch two-story addition with less than required left side yard setbacks, construction of a 20 foot by 26 foot two story addition, construction of a 6 foot 5 inch by 3 foot 2 inch deck and construction of a 4 foot by 3 foot 2 inch deck that will meet setback requirements, 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.

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Cynthia S. Hibbard, 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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