

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2009-87

Petition of Christopher & Donna Wargo  
45 Brook Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 10, 2009, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of CHRISTOPHER & DONNA WARGO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 4 foot by 22 foot two-story extension of a previously approved garage that will meet all setback requirements and modification of the roofline of a previously approved dormer (ZBA 2008-72), on an existing nonconforming structure with less than required front yard and right side yard setbacks, at 45 BROOK STREET, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 23, 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 and Christopher Wargo (the "Petitioner").

Mr. Hally said that they are looking to modify an existing nonconforming structure. He said that they came before the Board last year to request relief for two side yard setbacks. He said that the first meeting was in October of 2008. He said that the Board was comfortable with one of the reliefs but was unhappy with the other one. He said that they were granted a continuance and came back in November. He said that they took the existing attached garage and pulled it into the buildable area so that it was now conforming.

Mr. Hally said that after starting construction drawings they noticed that there would not be enough head room for the stairs down to the garage. He said that they are now looking to gain an extra four feet on the now conforming garage to get the legally required head room down the stairs and also allow for the plumbing to work out.

Mr. Hally said that there is an existing dormer over the front porch that currently has a fairly flat hip roof. He said that the proposed design is shown on Plan B-3. He said that side is in the setback area. He said that other than roofline and window changes, renovations will be minimal.

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 45 Brook Street, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 22.9 feet and a minimum right side yard setback of 16.8 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 4 foot by 22 foot two-story extension of a previously approved garage that will meet all setback requirements and modification of the roofline of a previously approved dormer (ZBA 2008-72), on an existing nonconforming structure with less than required front yard and right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 10/28/08, revised 11/11/09, stamped by Thomas DiPersio, Professional Land Surveyor, Existing Floor Plans and Elevation Drawings, dated 9/5/08, Approved Floor Plans and Elevation Drawings, dated 10/10/08, revised 10/16/08, 10/20/08 & 10/22/08, Proposed Floor Plans and Elevation Drawings, dated 11/10/09, drawn by Michael Hally Design, Inc., and photographs were submitted.

On December 8, 2009, the Planning Board reviewed the petition and recommended that the petition be approved.

### 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 construction of a 4 foot by 22 foot two-story extension of a previously approved garage that will meet all setback requirements and modification of the roofline of a previously approved dormer (ZBA 2008-72), on an existing nonconforming structure with less than required front yard and right side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing for construction of a 4 foot by 22 foot two-story extension of a previously approved garage that will meet all setback requirements and modification of the roofline of a previously approved dormer (ZBA 2008-72), 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 G. Sheffield

cc: Planning Board  
Inspector of Buildings  
lrm