

**ZONING BOARD OF APPEALS**

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ZBA 2009-89

Petition of Zhaolin Wang & Jie Zheng
88 Kingsbury 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 ZHAOLIN WANG & JIE ZHENG requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 16 foot by 48.37 foot two-story addition and construction of a 12 foot by 16.8 foot deck that will meet all setback requirements, on an existing nonconforming lot with less than required frontage, at 88 KINGSBURY 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 David Cohen and Jie Zheng (the "Petitioner"). Mr. Cohen said that he had not included photographs with the submittal. He submitted photographs to the Board.

Mr. Cohen said that they are proposing to construct a conforming addition to the house. He said that the requested relief is for frontage. He said that the existing house meets all setback requirements.

Mr. Cohen said that Total Living Area Including Garage (TLAG) calculations are at 3,400 square feet, which is under the 3,600 square foot threshold for a 10,000 square foot Single Residence District.

Mr. Cohen said that the existing house is split level. He said that what the architect refers to as the first floor is at basement level and the second floor is at first floor level. He said that the house does not have a basement.

The Board said that the new construction will extend the roof height approximately 3 feet. Mr. Cohen said that the existing roof is a hip roof. He said that they will be gabbling the entire roof.

Ms. Zheng said that they spoke with the neighbors on the left hand side. She said that the neighbors on the right hand side are in a nursing home. The Board said that it received a letter from the abutter at 84 Kingsbury Street. The Board said that the abutter proposed conditions for approval. The Board said that the abutter requested that the applicant remove the existing pine trees on the border between 84 and 88 Kingsbury Street.

The Board said that the pine trees have not been maintained and asked if the Petitioner would be amenable to trimming, cutting or removing the trees. Ms. Zheng said that the abutters had proposed to them a few years ago that they cut down the trees. She said that her husband was out of work at that time, so it was not possible for them to do that. The Board recommended that the Petitioner have a

conversation with the neighbor. The Board said that the abutter has the right to cut anything that hangs over on their property. Mr. Cohen suggested that an arborist look at pruning the trees.

The Board said that a landscape plan should be developed. The Planning Board, in its recommendation, suggested that evergreen trees be planted along the border between 88 and 90 Kingsbury Street.

The Board confirmed that the property is not located in a wetlands area.

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 88 Kingsbury Street, in a 10,000 square foot Single Residence District, with 40 feet of frontage.

The Petitioner is requesting a Special Permit/Finding that construction of a 16 foot by 48.37 foot two-story addition and construction of a 12 foot by 16.8 foot deck that will meet all setback requirements, on an existing nonconforming lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 11/16/09, stamped by Dennis B. O'Brien, Professional Land Surveyor, Existing Floor Plans and Elevation Drawings, dated 5/7/09, Proposed Floor Plans and Elevation Drawings, dated 6/5/09 & 8/18/09, drawn by RBL Architects, 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 16 foot by 48.37 foot two-story addition and construction of a 12 foot by 16.8 foot deck that will meet all setback requirements, on an existing nonconforming lot with less than required frontage, 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 16 foot by 48.37 foot two-story addition and construction of a 12 foot by 16.8 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.

Cynthia S. Hibbard, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm