

**ZONING BOARD OF APPEALS**

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ZBA 2010-05
Petition of Charles Garrity
35 Fairbanks Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 7, 2010, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of CHARLES GARRITY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming deck and construction of an 11 foot by 19 foot one story addition with less than required side yard setbacks on a 14,020 square foot corner lot in a district in which the minimum lot size is 15,000 square feet, at 35 FAIRBANKS AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 21, 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 Richard Leaf, Architect and Charles Garrity (the "Petitioner").

Mr. Leaf said that the proposal is to make five different improvements to the home. He said that three of the changes are relatively minor. He said that they will be adding a portico to the front, expanding the roof at a tight entry, and adding a gable dormer over the garage to get more space. He said that the fourth piece is probably the largest at 350 square feet and is located at the Walnut Street end of the house. He said that will be a new library/study room. He said that they pushed that back so that the front of the house did not have the appearance of growing too much. He said that by keeping it at the back, they can preserve existing bedroom windows.

Mr. Leaf said that the existing sunroom is approximately 8 feet by 14 feet.

Mr. Leaf said that they are proposing to add a one-story triangular shaped piece at the back of the house. He said that a portion of that is within the setback area. He said that there are two odd-shaped decks that are close to the property line. He said that the plan is to keep one deck and to demolish the other deck. He said that they will build a trellis over a portion of the deck that will remain.

Mr. Leaf said that there was mistake on the plot plan that was submitted. He said that the proposed lot coverage is listed at 20.02%. He said that they reduced the lot coverage by 3 square feet to get the lot coverage down to 20%. He said that they reduced the dimensions of the portico from 4 feet 4 inches by 8 feet to 4 feet by 7.83 feet.

Mr. Leaf said that this is an odd house. He said that it has a very tight, unworkable kitchen. He said that they are asking for the triangular shaped addition to make it a workable kitchen.

The Board said that the addition at the rear of the house will not be creating a new nonconformity.

The Board asked if the deck to be preserved will have to be demolished. Mr. Leaf said that they probably will have to demolish it to get underneath for the foundation footings. The Board questioned whether that would require a Variance. Mr. Leaf said that they will leave the deck if they need to.

The Board said that, given the history of the house, the proposed addition will have a positive effect.

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 35 Fairbanks Avenue, on a 14,020 square foot corner lot in a district in which the minimum lot size is 15,000 square feet, with a minimum side yard setback of 9.7 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming deck and construction of an 11 foot by 19 foot one story addition with less than required side yard setbacks on a 14,020 square foot corner lot in a district in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan showing proposed lot coverage at 20.02%, revised to show proposed lot coverage at 20%, dated 12/12/09, stamped by Verne T. Porter, Registered Professional Land Surveyor, Existing Floor Plans, dated 7/28/09, drawn by Leaf Design Associates, Existing and Proposed Floor Plans and Elevation Drawings, dated 12/10/09, drawn by Leaf Design Associates, and photographs were submitted.

On January 5, 2010, the Planning Board reviewed the petition and recommended that the Special Permit be denied.

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 demolition of an existing nonconforming deck and construction of an 11 foot by 19 foot one story addition with less than required side yard setbacks on a 14,020 square foot corner lot in a district in which the minimum lot size is 15,000 square feet, 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 for demolition of an existing nonconforming deck and construction of an 11 foot by 19 foot one story addition with less than required side yard setbacks, subject to the following condition:

- The plans shall be in accordance with the Plot Plan showing proposed lot coverage as 20%.

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 L. Grissino

cc: Planning Board
Inspector of Buildings
lrm