

**ZONING BOARD OF APPEALS**

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ZBA 2010-14

Petition of Rachel & Richard Carter  
75 Fairbanks Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 4, 2010, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of RACHEL & RICHARD CARTER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing deck and entryway and construction of a 32 foot 11.9 inch by 22 foot one-story addition that will meet all setback requirements on an existing nonconforming structure with less than required side yard setbacks, on a 14,022 square foot lot in a district in which the minimum lot size is 15,000 square feet, at 75 FAIRBANKS AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 16, 2010 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 Rachel Carter (the "Petitioner"), who said that their kitchen space is too small.

The Board said that the overall height was not shown on the plans but the height of the proposed addition was shown. A Board member said that it appears that the overall height is well within the requirement.

The Board confirmed that the proposed patio will be at grade.

The Board said that the proposed addition appears to meet all of the required setbacks.

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 75 Fairbanks Avenue, on a 14,022 square foot lot in a district in which the minimum lot size is 15,000 square feet, with a minimum left side yard setback of 13.6 feet and a minimum right side yard setback of 9.9 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing deck and entryway and construction of a 32 foot 11.9 inch by 22 foot one-story addition that will meet all setback requirements on an existing nonconforming structure with less than required side yard setbacks, on a

14,022 square foot 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 dated 1/19/10, stamped by Ronald J. Natoli, Professional Land Surveyor, Existing Floor Plan, dated 12/3/09, Proposed Floor Plan dated 2/4/10, Existing Elevation Drawing dated 12/18/09, Proposed Elevation Drawings dated 1/11/10 & 1/13/10, prepared by McGavern Design, and photographs were submitted.

On February 22, 2010, the Planning Board Staff 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 demolition of an existing deck and entryway and construction of a 32 foot 11.9 inch by 22 foot one-story addition that will meet all setback requirements on an existing nonconforming structure with less than required side yard setbacks, on a 14,022 square foot 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 deck and entryway and construction of a 32 foot 11.9 inch by 22 foot one-story addition, 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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Richard L Seegel, Chairman

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Cynthia S. Hibbard

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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