

**ZONING BOARD OF APPEALS**

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ZBA 2010-17

Petition of David & Fionnuala Darwin
6 Montvale Road

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 DAVID & FIONNUALA DARWIN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 14 foot by 25 foot two-story addition and 6 foot by 10 foot deck that will meet all setback requirements on an existing nonconforming structure with less than required front yard setbacks, in a 10,000 square foot Single Residence District, at 6 MONTVALE ROAD, 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 David Darwin (the "Petitioner"). He submitted a letter of support with eight signatures.

Mr. Darwin said that there is insufficient setback at the front of the house. He said that the proposal is for a 14 foot by 25 foot addition at the rear of the house that will meet setback requirements.

The Board asked if the overall height of the home was calculated with the new addition. Peter Heffernan, Architect said that the 25.9 foot dimension shown on the elevation drawing is to the first floor grade. The Board said that documentation should be submitted showing that the height from average grade is less than 36 feet.

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 6 Montvale Road, with a minimum front yard setback of 17.3 feet to the covered porch and a minimum front yard setback of 23 feet to the front of the house.

The Petitioner is requesting a Special Permit/Finding that construction of a 14 foot by 25 foot two-story addition and 6 foot by 10 foot deck that will meet all setback requirements on an existing nonconforming structure with less than required front yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 2/8/10, stamped by John F. McQuilkin, Jr., Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/9/10, prepared by Heffernan Architects, 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 construction of a 14 foot by 25 foot two-story addition and 6 foot by 10 foot deck that will meet all setback requirements on an existing nonconforming structure with less than required front 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 for construction of a 14 foot by 25 foot two-story addition and 6 foot by 10 foot deck, subject to the condition that:

- Calculations shall be submitted showing that the height from average grade is less than 36 feet.

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.

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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

Cynthia S. Hibbard

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm