



## ZONING BOARD OF APPEALS

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

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ZBA 2010-19  
 Petition of Richard & Susan Ruggiero  
 23 Arnold Road

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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 RICHARD & SUSAN RUGGIERO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition and reconstruction of an existing 12 foot by 12.5 foot one-story structure with less than required right side yard setbacks, demolition of an existing one-story structure and construction of a 10 foot by 21.7 foot two-story structure with less than required left side yard setbacks, and construction of a 756 square foot one-story structure that will meet all setback requirements, in a 20,000 square foot Single Residence District, at 23 ARNOLD 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 Richard Ruggiero (the "Petitioner"), who said that he has lived at 23 Arnold Road for two years. He said that the house was built in the 1930's. He said that they need to create some more space.

Mr. Ruggiero said that it is a pre-existing nonconforming lot. He said that the right side yard setback is nonconforming. He said that the new addition will be conforming. He said that they will not be going out any further on the left side.

Mr. Ruggiero said that he spoke with the neighbors on the right side. He said that he forwarded an email letter from the neighbor to the Board.

Mr. Ruggiero said that on the left side they have less than 20 feet but they own the existing non-buildable nonconforming lot next to them. The Board said that the fact that Mr. Ruggiero owns title to both lots is what is called a merger. The Board said that the simplest way to deal with matters if Mr. Ruggiero wants to build on the left side of the house is to get a perimeter plan that shows both lots as one lot. The Board said that, for practical purposes, the lot line does not exist.

Mr. Ruggiero said that they are trying to keep the addition small. He said that existing lot coverage is 9 percent and the proposed lot coverage will be 11 percent.

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The Board asked about the proposed bulkhead. Mr. Ruggiero said that the existing bulkhead is at the back of the house and sits on a patio. He said that they will be putting the kitchen there and will need access to the basement. He said that the logical place to put the bulkhead was on the left hand side.

The Board confirmed that the one-story addition is on the side of the house that is closest to the neighbor.

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 23 Arnold Road, in a 20,000 square foot Single Residence District, with a minimum left side yard setback of 17.7 feet and a minimum right side yard setback of 12.2 feet.

The Petitioner is requesting a Special Permit/Finding that demolition and reconstruction of an existing 12 foot by 12.5 foot one-story structure with less than required right side yard setbacks, demolition of an existing one-story structure and construction of a 10 foot by 21.7 foot two-story structure with less than required left side yard setbacks, and construction of a 756 square foot one-story structure that will meet all setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 2/5/10, stamped by Stephen P. DesRoche, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/15/10, prepared by Benjamin Nickerson, Architect, and photographs were submitted.

On February 22, 2010, the Planning Board Staff reviewed the petition and recommended that the petition be approved with conditions.

#### 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 and reconstruction of an existing 12 foot by 12.5 foot one-story structure with less than required right side yard setbacks, and construction of a 756 square foot one-story structure that will meet all setback requirements 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.

It is the finding of this Authority that although demolition of an existing one-story structure and construction of a 10 foot by 21.7 foot two-story structure with less than required left side yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted for demolition and reconstruction of an existing 12 foot by 12.5 foot one-story structure with less than required right side yard setbacks, demolition of an existing one-

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23 Arnold Road

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story structure and construction of a 10 foot by 21.7 foot two-story structure with less than required left side yard setbacks, and construction of a 756 square foot one-story structure that will meet all setback requirements, 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.

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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.



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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  
lrm

TOWN OF WELLESLEY



MASSACHUSETTS

**Building Department**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992  
781-431-1019 ext. 2228 Fax 781-283-5724

**Michael T. Grant**  
Inspector of Buildings  
Zoning Enforcement Officer  
Public Safety Officer  
**Erik Tardif**  
Local Building Inspector  
Asst. Zoning Enforcement Officer

**Michael R. Sweeney**  
Electrical Inspector  
**George Lessard**  
Plumbing & Gas Inspector  
**Russell Wheeler**  
Local Building Inspector  
Asst. Zoning Enforcement Officer

Date: February 23, 2010

To: Richard Seegel, Chairman  
Zoning Board of Appeals

From: Michael Grant  
Inspector of Buildings/  
Zoning Enforcement Officer

Re: 23 Arnold Road – ZBA2010-19

I bring to the attention of the board the owners of 23 Arnold Road also own a vacant abutting lot, 23R Arnold Road. While 23 Arnold Road is a conforming lot, 23R Arnold Road is non-conforming due to lot area. (18,106 sf in a 20,000 SRD zone) Therefore the merger doctrine would apply to these lots. As a result of this merger the non-conforming setback on the left side of the home is removed. The right side of the property remains in non-conformity and in accordance with the Bjorklund case law is before the ZBA for relief.

FRONT YARD SETBACK - 30'  
 SIDE YARD SETBACK - 20'  
 REAR YARD SETBACK - 20'  
 EXISTING LOT COVERAGE IS 2,045 S.F. (9%)  
 PROPOSED LOT COVERAGE IS 2,497 S.F. (11%)

20,000 S.F. District



PROPOSED ADDITION  
 AREA=756 S.F.

PROPOSED BULKHEAD

PORTION OF HOUSE TO BE RAZED

2 STORY BRICK NO. 23  
 AREA=2,045 S.F.

EXISTING DRIVEWAY

LOT 4  
 22,803 S.F.

N/F RUGGIERO

N/F MCCORMACK

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L=40.00'

45.14'

L=20.94'

75.00'

ARNOLD ROAD

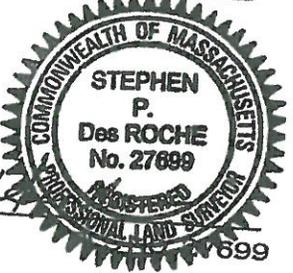
ROAD

PLOT PLAN OF LAND WELLESLEY, MA.

FEBRUARY 5, 2010 SCALE 1"=20'

NEPONSET VALLEY SURVEY ASSOC., INC.  
 95 WHITE STREET  
 QUINCY, MA.  
 SHEET 1 OF 1

*Stephen P. DesRoche*  
 STEPHEN P. DESROCHE



202 356-1416