

**ZONING BOARD OF APPEALS**

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

RICHARD L. SEEDEL, CHAIRMAN  
CYNTHIA S. HIBBARD  
DAVID G. SHEFFIELDLENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208J. RANDOLPH BECKER, VICE CHAIRMAN  
ROBERT W. LEVY  
DAVID L. GRISSINO

ZBA 2010-35  
Petition of Peter McAvinn  
49 Fiske Road

---

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 6, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PETER McAVINN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that raising the ridgeline of the existing house 8 inches, construction of a 41 square foot one-story addition, and construction of a 13 foot by 24.7 foot one-story addition, that will meet all setback and height requirements, on an existing nonconforming structure with less than required right side yard setbacks, at 49 FISKE ROAD, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 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 Christopher Hall, Architect. He said that Mr. McAvinn (the "Petitioner") asked him to design a useful third floor, a study and a mudroom. He said that the garage does not meet the required side yard setback.

Mr. Hall said that a flat-roofed addition was constructed at the back of the house in the 1970's. He said that the proposal is to remove the existing hip roof and put in a more traditional gabled roof with three dormers. He said that there will be a shed roof at the back to accommodate headroom for a bathroom.

Mr. Hall said that they are proposing to add a mudroom, a study and a bumpout on a dining room on the first floor.

Mr. Hall said that the house sits on a 15,000 square foot lot. He said that lot coverage will increase from 15 percent to 17.3 percent. He said that the house will exceed the Total Living Area Plus Garage (TLAG) threshold by 131 square feet.

Mr. Hall submitted photographs of existing houses in the neighborhood. He said that it is a mixed neighborhood. He said that the proposed design would not make the house appear to be out of scale with other houses in the neighborhood.

The Board said that the neighbor's garage is on the side next to the Petitioner's garage and there is a good buffer and fence there.

The Board confirmed that the landscape will be preserved. The Board said that the scale of the house is consistent with the neighborhood.

There was no one present at the Public Hearing who wished to speak to the petition.

#### Statement of Facts

The subject premises is located at 49 Fiske Road, on a 15,194 square foot lot, with a minimum right side yard setback of 12.5 feet.

The Petitioner is requesting a Special Permit/Finding that raising the ridgeline of the existing house 8 inches, construction of a 41 square foot one-story addition, and construction of a 13 foot by 24.7 foot one-story addition, that will meet all setback and height requirements, on an existing nonconforming structure with less than required right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/14/10, stamped by Robert A. Gemma, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 4/14/10, prepared by Christopher Hall, Architect, and photographs were submitted.

On May 4, 2010, the Planning Board reviewed the petition and had recommended that the request 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 opinion of this Authority that raising the ridgeline of the existing house 8 inches, construction of a 41 square foot one-story addition, and construction of a 13 foot by 24.7 foot one-story addition, that will meet all setback and height requirements, on an existing nonconforming structure with less than required right side 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 raising the ridgeline of the existing house 8 inches, construction of a 41 square foot one-story addition, and construction of a 13 foot by 24.7 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.

---

Richard L. Seegel, Chairman

---

Cynthia S. Hibbard

---

David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
lrm