



## ZONING BOARD OF APPEALS

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ZBA 2014-52  
 Petition of Melanie Milde  
 7 Cottage Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 10, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MELANIE MILDE requesting a Special Permit/Finding pursuant to the provisions of Section XIVD, Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing nonconforming carport with less than required left side yard and rear yard setbacks, in a 10,000 square foot Single Residence District, in an Historic District, with 21 percent lot coverage for 2808.75 square feet, at 7 COTTAGE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 23, 2014, 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 Russell Santoro, representing Paul and Melanie Milde, (the "Petitioner). He said that there is an existing 22 foot by 24 foot carport in the back yard that they would like to enclose. He said that they will not extend the footprint. He said that they would like to make it look more conforming with the architecture of house and the neighborhood.

The Board said that there is no foundation or floor in the carport. The Board questioned whether the columns could support a roof. Mr. Santoro said that the existing carport has been supported with four steel columns that support two carrying beams going in the opposite direction, 2 by 12s on center with a flat roof. He said that the proposal is to build a roof on top of the deck of the existing carport, pour a slab with a three foot perimeter frost wall, and connect the slab with the undercarriage of the ceiling joists. He said that he will enclose it in accordance with the architectural design that was approved by the Historic District Commission.

The Board said that there were no floors plans submitted for the proposed carport. The Board asked what will happen to the columns. Mr. Santoro said that the columns will stay. He said that they are the main support of the roof. He said that as soon as the walls and the slab go in, there will be added support.

The Board asked about access to the second floor. Mr. Santoro said that there will be storage access, most likely with a pull down stairway.

The Board said that the front elevation did not show a dimension for the length. The Board said that there is no dimension for height shown on the plans. Mr. Santoro said that the plan shows the existing height at

8 feet 6 inches. He said that the proposal is to add 7 feet 2 inches to the peak. He said that he labeled the plan as existing carport to show that he will not exceed the area of the existing carport. He said that he showed a garage door at the front and a side door.

The Board said that there is a building card from the Building Department that says that the carport was built in 1965. The Board asked how that was allowed. The Board questioned whether carports were allowed as a matter of right at that time. The Board said that there are other issues related to this other than the construction sequence. The Board said that the current bylaw would not allow a 528 square foot structure to be built in the setback areas. The Board said that the proposal is to build around what is there. The Board said that it has to determine the definition of building under the Zoning Bylaw. The Board questioned if putting the walls around it would make it a building that is not allowed in the setback. Mr. Santoro said that he thought that the carport was a building. He said that it will have the same use to house cars. The Board said that the carport is an accessory use to the house. The Board said that the issue is the thing that sits so close to the lot line. The Board said that something that has walls, windows and doors is different from a carport. Mr. Santoro said that there is a garage almost the same distance from the lot line next door. The Board said that if the carport was not there, they could not build a garage. The Chairman read the definition of building from the Zoning Bylaw. He said that it is a combination of materials forming a shelter for persons, animals or property. He said that if the carport provides shelter for property, the Board can call it an existing building. Mr. Santoro said that the carport provides shelter for vehicles. He said that the homeowner wants to enclose it. He said that it will not change the use, which is to protect vehicles from the elements.

The Board said that there are two sheds shown on the plot plan. Mr. Santoro said that they will be removed.

Michael Zehner, Planning Director, said that under Section XVII. Pre-Existing Non-Conforming Uses, Structures and Lots, there are standards for changes to other than one and two-family dwellings. He said that application for changes to non-conforming structures other than one and two-family dwellings shall be governed by Section 6 of Chapter 40A M.G.L. (The Zoning Act). He said that the question is whether this is a pre-existing nonconforming structure. The Board questioned whether an accessory use to a one or two-family house falls under the second exception clause of Section 6.

The Board said that it was concerned that when the project is completed, the original structure will be gone. Mr. Santoro said that the columns and the existing roof will remain.

The Board said that it was concerned about how the carport came into existence. The Board said that it was concerned about the massing, almost doubling the height and enclosing the carport. The Board said that light goes through it now. The Board said that because it is close to the lot line, the question is if it will be substantially more detrimental to the neighborhood. The Board said that the existing carport is almost not visible. The Board said that the proposal is for an almost double the height enclosed structure with a peaked roof.

The Board asked about tearing down the carport and building a conforming garage. Mr. Santoro said that area is landscaped. He said that the Historic District Commission thought that the enclosed carport would be an enhancement. The Board said that is more of a design issue. The Board said that the structure was pre-existing. The Board said that the Petitioner is not asking to increase its size or use.

The Board said that pre-existing denotes that something pre-existed zoning. The Board said that Zoning was in effect in 1965 in Wellesley. The Board questioned how a building permit was issued for this. The Board said that the impacts of what is proposed is significant compared to what is currently there. The Board said that under Section XVII, because it is not a one or two-family dwelling, it defers to the State Statute.

Mr. Zehner said that the bylaw discusses changes to nonconforming, not just pre-existing nonconforming structures.

The Board said that there is a building permit from 1965 for a 22 foot by 24 foot carport. The Board said that it was legal at the time and the Town cannot force the homeowner to remove it. Mr. Zehner said that if a permit was issued in 1965, by some interpretation of the bylaw it was perceived to be allowed. The Board said that they might have said that this is not a structure. Mr. Zehner said that the bylaw does not define structures. The Board said that the bylaw describes a structure as a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

The Board said that the carport does provide shelter for vehicles. The Board said that the question is whether enclosing the carport would be more detrimental to the neighborhood. The Board said that no abutters have objected or expressed concern. Mr. Santoro said that one of the members of the Historic District Commission is a neighbor who lives two houses down. He said that member saw the plans. He said that the Commission thought that it was better than what is there. He said that you can barely see it from the street. He said that the people in the neighborhood did not have a problem with the proposal.

The Board asked about the peaked roof and second story. Mr. Santoro said that it looked better with the house. He said that it will also be similar to the other garage that is close to it. The Board asked about the roof slope. Mr. Santoro said that it is a 7 pitch that matches the house. The Board said that the adjacent garage is smaller. Mr. Santoro said that it is a two-car garage.

The Board said that it was concerned about the increase in height. Mr. Santoro said that the second floor will be for storage. The Board said that it will be a much larger mass than what currently exists. The Board said that the house behind is a fairly long distance away. The Board said that 9 Cottage Street is located closer to the street.

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 7 Cottage Street, in a 10,000 square foot Single Residence District and an Historic District, with lot coverage of 21 percent for 2808.75 square feet. The subject carport has a minimum left side yard setback of 6.5 feet and a minimum rear yard setback of 6.7 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVD, Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing nonconforming carport with less than required left side yard and rear yard setbacks, in a 10,000 square foot Single Residence District,

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in an Historic District, with 21 percent lot coverage for 2808.75 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 5/14/14, stamped by Wayne S. Carlson, Registered Land Surveyor, Existing Floor Plans & Elevation Drawings, dated 4/22/14, and Proposed Floor Plans & Elevation Drawings, dated 6/2/14, prepared by Daus-Haberle Design, and photographs were submitted.

On June 3, 2014, the Historic District Commission reviewed the petition and recommended that the project be approved with conditions.

On July 8, 2014, the Planning Board reviewed the petition and recommended

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 although enclosure of an existing nonconforming carport with less than required left side yard and rear yard setbacks, with 21 percent lot coverage for 2808.75 square feet 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, as voted unanimously by this Authority at the Public Hearing, for enclosure of an existing nonconforming carport with less than required left side yard and rear yard setbacks, with 21 percent lot coverage for 2808.75 square feet, subject to the following conditions:

1. The two existing sheds shall be removed.
2. There shall be no plumbing.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions 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.

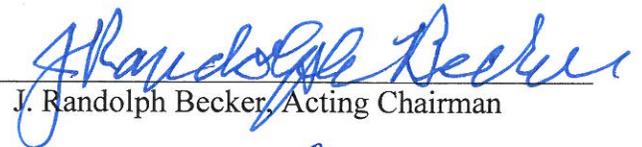
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7 Cottage Street

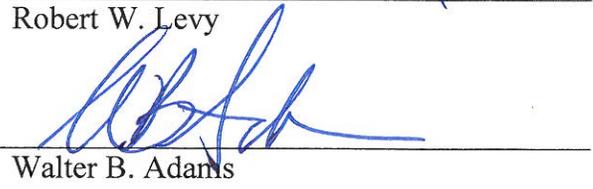
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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
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J. Randolph Becker, Acting Chairman

  
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Robert W. Levy

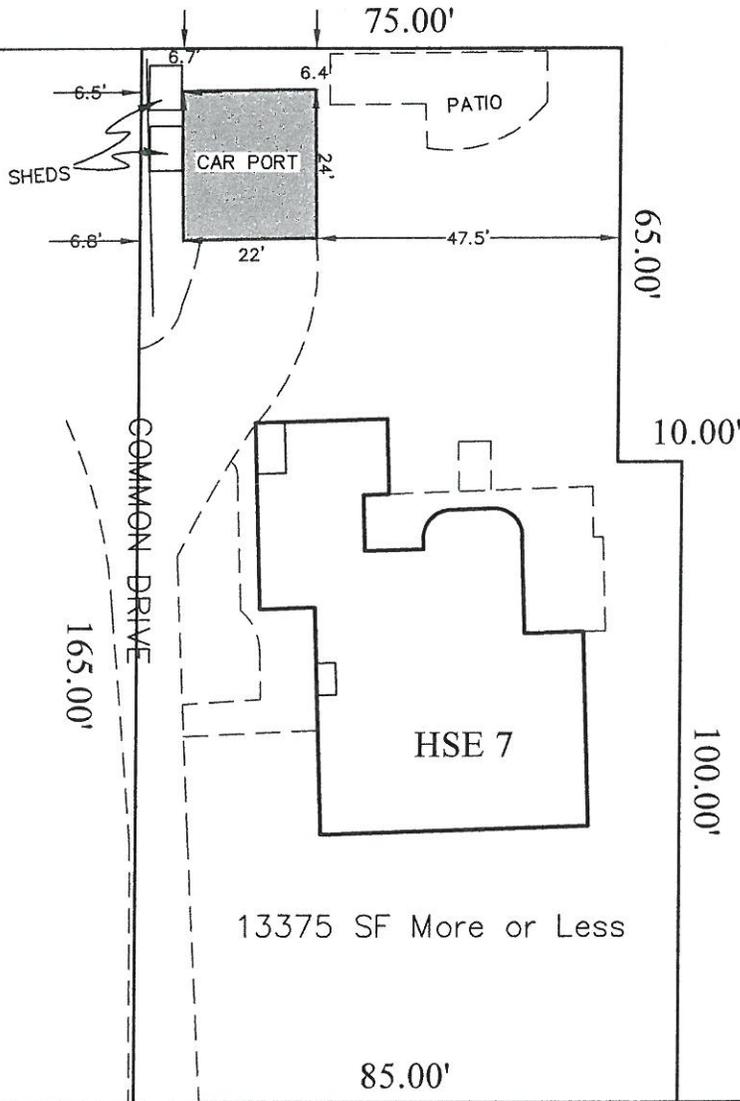
  
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Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm

**ZONING BOARD PLAN**  
**WELLESLEY – MASS.**  
 SCALE 1" = 30' DATED: MAY 14, 2014

PAUL & MELANIE MILDE  
 7 COTTAGE STREET – WELLESLEY  
 CARLSON SURVEY COMPANY  
 261 UNION STREET – MILLIS, MASS. 02054

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**COTTAGE STREET**

- NOTES:
- ZONE 10 & HISTORICAL DISTRICT
  - PERCENTAGE OF LOT COVERAGE = 21 % (EXISTING)
  - PERCENTAGE OF LOT COVERAGE = 21% (PROPOSED)
  - PERCENTAGE OF INCREASE LOT COVERAGE = NONE (PROPOSED CHANGE)