TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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May 11 8 50 AM '90
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ZBA 90-30
Petition of Christopher and Laurie Doyle
58 Colburn Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 26, 1990 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, on the petition of CHRISTOPHER AND LAURIE DOYLE requesting a Finding pursuant to the provisions of Section XVII and Section XXIV-D of the Zoning Bylaw that the alteration and repair of the pre-existing non-conforming one-story detached dwelling unit, approximately 13 feet by 34 feet; and the removal and reconstruction of the pre-existing non-conforming garage on the same footprint, with less than the required right side yard, at their property at 58 Colburn Road, in a Single Residence District, shall not be more detrimental to the neighborhood than the existing use and structure.

On April 9, 1990, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Laurie Doyle, who said she would like to repair the cottage and the garage. Her builder would like to take the garage down and reconstruct it, but the repairs can be done without removal. The footprint of the garage, which is badly in need of repair, would remain the same. Mrs. Doyle said that her neighbor's driveway is positioned between the subject garage and her neighbor's dwelling.

Archie Morrison, 86 Woodlawn Avenue, voiced support for the petition.

Statement of Fact

The pre-existing non-conforming cottage, approximately 34.2 feet by 12.9 feet, and the pre-existing non-conforming garage, approximately 8.3 feet by 18 feet, are located at 58 Colburn Road on a 43,630 square foot lot. The cottage was built in 1934 and is non-conforming in that it constitutes a second separate dwelling unit on the property. The garage is non-conforming in that it has a minimum right side yard clearance of 4.4 feet. The primary dwelling unit was constructed prior to 1921, but the date of construction of the garage is unknown.

The petitioners are requesting to make the following repairs to the cottage: replace rotted sills and floor joists; fill in between piers with concrete block; insulate floors, ceiling and walls; replace rotted bathroom floor; remodel kitchen and bathroom; replace exterior siding; replace existing storm windows; and add a bay window.

The petitioners are requesting to remove and reconstruct the existing garage.

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The petitioners are requesting a Finding that the above-mentioned alterations and repairs to the pre-existing non-conforming cottage and the removal and reconstruction of the pre-existing non-conforming garage shall not be more detrimental to the neighborhood that the existing structures and use.

A Plot Plan dated April 12, 1990, drawn by Verne T. Porter, Registered Land Surveyor; construction drawings and elevations of the cottage and the garage; and photographs were submitted.

The Planning Board, on April 10, 1990, voted to recommend no objection to the repair of the cottage and to oppose reconstruction of the garage.

Decision

This Authority has made a careful study of the evidence presented. The subject cottage and garage are both pre-existing non-conforming structures as described in the foregoing Statement of Facts.

It is the finding of this Authority that the proposed alterations and repairs to the subject cottage, as detailed in the foregoing Statement of Facts, would not be more detrimental to the neighborhood than the existing structure and can be allowed.

Section XVII of the Zoning Bylaw states:

> "...Pre-existing non-conforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Permit Granting Authority that such change, extension or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood."

It is the opinion of this Authority that "change, extension or alteration" does not include demolition of a structure, and that once a structure has been demolished it would lose its pre-existing non-conforming status; and that the petitioners would not have a right to construct a new non-conforming dwelling on the original footprint, but would have to construct the new structure in conformance with the current zoning requirements.

Therefore, it is the finding of this Authority that only general repairs can be made to the garage, and that no wall can be taken down to be rebuilt or roof removed to be replaced, for such action would constitute reconstruction which would have to be done in a conforming manner.

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The Inspector of Buildings is hereby authorized to issue a permit for the alteration and repair of the cottage and a permit for general repairs to the garage, as noted above, upon his receipt and approval of a building application and construction plans.

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.

John A. Donovan, Jr., Chairman

Sumner H. Babcock

William E. Polletta

cc: Planning Board
Inspector of Buildings
edg

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NO. 75 GARDEN ROAD

NO. 81

187.63

25.0

34.2

NO. 58 A

28.25

12.9

13'

6'

1.5'

12.9

26.04

PROPOSED BAY WINDOW

43,630 S.F.

TOWN OF WELLESLEY

240.35

N/F KEVIN F. HUGHES

10.3

15.55

55.9

55.9

10.3

7.94

242.94

20.8

20.0

15.0

21.5

20.2

8.0

22.6

NO. 58

20.1

7.5

8.5

PORCH

22.1

18.1

16.4

25.80

2.5

8.0

2.5

4.4

0.15

8.3

16.5

16.5

8.3

6.56

EXISTING GARAGE TO BE REMOVED AND RECONSTRUCTED

187.71

N/F RONALD STANLEY

N/F PAUL R. REICH

15' RIGHT OF WAY

156.72

COLBURN ROAD

Blaine Porter

REGISTERED LAND SURVEYOR

BLAINE PORTER

7932

COMMONWEALTH OF MASSACHUSETTS

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WELLESLEY, MA 02181

PLAN OF LAND IN WELLESLEY MASS.

VTP ASSOCIATES
LAND SURVEYORS
SCALE 1" = 20'

NEWTON MASS.
CIVIL ENGINEERS
APRIL 2, 1990

0 10 20 30 40 60 80 100 120