TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

APR 16 1 37 PM '93

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019 X208

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

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ZBA 93-22
Petition of Margaret Taylor
20 Kingsbury Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 25, 1993 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley on the petition of MARGARET TAYLOR requesting a Special Permit/Special Permit Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a 14 foot 4 inch by 7 foot dormer, with less than the required right side yard, at her nonconforming condominium dwelling, with less than the required front setback from KINGSBURY STREET and less than the required right side yard, at 20 KINGSBURY STREET, in a General Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 8, 1993, the petitioner requested 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 Margaret Taylor, who said she would like to add a dormer to the right side of the house, which would not be apparent from the street. She would like to add a second full bathroom for guests, as the third floor has a bedroom. Although the bath could be added without the dormer, she would like the additional space. There is one full bath on the second floor with half baths on the first and basement levels. She is the only occupant of the unit at this time.

The Board noted that the Planning Board had recommended denial of the petition and had commented on the elimination of the kitchen and outside staircase on the proposed plans, although mention is made of both in the approval signed by four of the unit owners. Ms. Taylor responded that the approval, originally requested by the Building Inspector, covered her first proposal, which she decided was not workable. She stated that the Condo Association has no problem with the petition, and that she has spoken to the unit owners individually.

Wendy Lyons, unit owner of 290 Linden Street, expressed opposition both for herself and her mother, Charity Lyons, unit owner of 286 Linden Street, stating that Ms. Taylor had never spoken to either of them regarding her petition.

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Ms. Lyons submitted copies of sections of the condominium Master deed and read from the condo documents stating that no exterior changes to the units were allowed. She also read from the Declaration of Trust, Section 7.1, which states that changes must be approved by not less than 67% of all unit owners.

Ms. Lyons was opposed to the petition because it was not allowed according to condo documents, and Ms. Taylor did not have legal approval from the condo association, as only 5 of the 8 unit owners approved the request. She added that she was also opposed for other reasons, such as increased insurance costs due to the construction, if the petition was allowed.

No other person present had any comment on the petition.

Statement of Facts

The subject nonconforming dwelling is located at 20 Kingsbury Street, in a General Residence District. The dwelling is the only free-standing unit in the 8 unit Linden Plaza Condominium, and has a minimum front clearance of 27.50 feet from Kingsbury Street, and a minimum right side yard clearance of 9.64 feet.

The petitioner is requesting a Special Permit Finding that the addition of a 14 foot 4 inch by 7 foot dormer on the right side of the nonconforming dwelling, with a minimum right side yard of 9.64, would not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling.

A Plot Plan dated 8/1/86, drawn by Verne T. Porter, Registered Land Surveyor, revised 2/22/93 by Joseph Marcklinger, Registered Land Surveyor; Existing third floor plan, Existing and proposed North and East elevations; a letter of approval dated 8/5/92 signed by Linda Stifler, Maryellen Quigley, Myrna Watkins and Donna McDonnell; and photographs were submitted.

Following the Public Hearing, copies of the Master Deed of Linden Plaza Condominium and Declaration of Trust were submitted by Ms. Lyons.

On March 15, 1993, the Planning Board reviewed the petition and voted to recommend denial of the Special Permit Finding.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling does not conform to the current Zoning Bylaw as noted in the foregoing Statement of Facts.

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It is the opinion of this Authority that the rules and regulations promulgated in the Town of Wellesley Zoning Bylaw are separate and distinct from those of the Master Deed and Declaration of Trust of the Linden Plaza Condominium, and that the decision of this Authority shall be made pursuant solely to the provisions of Section XVII of the Zoning Bylaw. Approval of the petitioner's application by the required number of unit owners was originally requested by the Inspector of Buildings to eliminate the hardship of the expense of applications to the Board of Appeals and the Building Department, which, if granted, could be denied by the Condo Association.

This Authority is concerned with the inconsistency between the submitted plans and the description of the request approved by four of the unit owners. Furthermore, this Authority notes the absence of a floor plan depicting the specific use of the additional space requested.

It is the opinion of this Authority that the requested dormer will intensify the existing nonconformity, although it will not create additional ones.

It is the finding of this Authority that the proposed addition would be substantially more detrimental to the neighborhood than the existing nonconforming structure due to the increased bulk of the proposed addition on an inadequate side yard of 9.64 feet, where a 20 foot setback is required.

It is the unanimous decision of this Authority that this petition be denied and this case dismissed.

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

Kendall P. Bates

Robert R. Cunningham

cc: Planning Board
Inspector of Buildings

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