



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 94-63

Petition of J. Robert and Kathy Ann Taylor  
24 Morton Street

Pursuant to due notice, the Permit Granting and the Special Permit Granting Authorities held a Public Hearing on Thursday, September 22, 1994 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 J. ROBERT AND KATHY ANN TAYLOR requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow demolition of an existing nonconforming detached two-car garage and construction of a two-story addition approximately 18 feet by 20 feet with less than the required left side yard setback at their nonconforming dwelling at 24 MORTON STREET, in a Single Residence District. Said dwelling has less than the required front and right side yard setbacks. The existing garage has less than the required rear and left side yard setbacks.

A Finding is also requested pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the proposed demolition of the existing detached garage, and construction of a two-story addition, resulting in an nonconforming lot coverage of 28.24%, will not be substantially more detrimental to the neighborhood than the existing nonconforming lot coverage of 28.37%.

On September 2, 1994, the petitioners filed a request for a hearing before these Authorities, and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was J. Robert Taylor, who was accompanied by Sally Weston, project architect. Mr. Taylor said that they would like to demolish the existing nonconforming one-story two-car garage, and add a two-story addition, which would have a slightly smaller footprint. The two-story addition would consist of a one-car garage at ground level, and a bed/sitting room on the second floor.

Mr. Taylor stated that both the rear and left side yard nonconformance would be improved, as the existing garage was built right on the rear property line and 7.6 feet from the left side line. The addition will conform to the rear yard setback, and will be 10.01 feet from the left side line. The nonconforming lot coverage will be minimally lessened.

Mr. Taylor explained that the Wetlands Protection Committee had approved the project, which was required as the Brook Path is adjacent to their property. The Board noted that

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there seemed to be a discrepancy between the Site Plan dated July 29, 1994, noted in the Wetlands Decision, and the Plot Plan of the same date, which was submitted to the Board of Appeals, as the ZBA plot plan does not indicate ground elevations or locations of haybales. A revised plot plan dated August 30, 1994 (SP1.1 Site Plan), attached to the construction drawings, does show elevations and haybale locations. The Board requested that all submitted plans be cited with detailed reference to the specific use for each plan.

The Board also explained that upon demolition of the garage, no other structure could be built in that location, as the grandfathered status of the nonconforming garage would no longer exist. The new nonconformance will be based on the left rear corner of the new addition.

#### Statement of Facts

The subject property is located at 24 Morton Street, in a Single Residence District, on a 6,210 square foot lot. The lot contains a two-story nonconforming dwelling with a minimum front clearance of 22.7 feet and a minimum right side yard clearance of 8.2 feet; and a nonconforming detached two-car garage with a minimum rear yard clearance of .3 feet and a minimum left side yard clearance of 5.5 feet. The percentage of lot coverage is 28.37%, which exceeds the allowed percentage of 25%.

The petitioners are requesting a variance to demolish the existing detached garage and construct a two-story addition approximately 18 feet by 20 feet attached to the left rear corner of their dwelling. The addition would have a minimum left side yard clearance of 10.01 feet at the left rear corner. Demolition of the existing garage and construction of the addition would result in a nonconforming lot coverage of 28.24%. A Finding is requested that the reduced lot coverage would not be substantially more detrimental to the neighborhood than the existing nonconforming lot coverage of 28.37%.

A Plot Plan dated July 29, 1994 drawn by John S. Keefe, Registered Professional Land Surveyor; a Notice of Intent Plan dated July 29, 1994, drawn by Robert E. Hannigan, Registered Professional Engineer included on the same page with Building Section/Exterior Detail (SP1.1) dated 8/30/94 drawn by Weston-Hewitson, Architects; As-Built Floor Plans (A1.1) dated 8/29/94; As-Built Elevations (A1.2) dated 8/29/94; Floor Plans (A2.1) dated 8/29/94; and Elevations (A2.2) dated 8/29/94; and photographs were submitted. All of the plans numbered A1.1 through A2.2 were drawn by Weston-Hewitson, Architects.

On August 11, 1994, the Wetlands Protection Committee voted to issue a Negative Determination of Applicability with Conditions for the proposed project. The site plan which

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accompanied the application was the Notice of Intent Plan, dated July 29, 1994, drawn by Robert E. Hannigan, Registered Professional Engineer, which was included on Page SP1.1 of the plans submitted to the Board of Appeals.

On September 13, 1994, the Planning Board voted to offer no comment on the project.

### Decision

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

It is the opinion of this Authority that the demolition of the existing nonconforming detached two-car garage and construction of the two-story addition will bring the property into greater conformance with the Zoning Bylaw than the conditions that currently exist.

It is the further opinion of this Authority that because of the shape of the lot, the restrictions due to its location within an Area Subject to Protection Under the Wetlands Protection Act (MGL Chapter 131, Section 40), a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted to demolish the existing garage and construct the two-story addition subject to construction in accordance with the submitted plot plan and construction drawings, and subject further to all the conditions contained in the Negative Determination of Applicability issued by the Wetlands Committee, as noted in the foregoing Statement of Facts.

The Special Permit Granting Authority finds that the proposed reduction in the lot coverage from 28.37% to 28.24% due to the proposed demolition and construction shall not be substantially more detrimental to the neighborhood than the existing nonconforming lot coverage, as the project will reduce the nonconforming lot coverage.

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

If the rights authorized by this variance are not exercised within one year of the date of grant of date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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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.

cc: Planning Board  
Wetlands Protection Committee  
Inspector of Buildings  
edg

Kendall P. Bates  
Kendall P. Bates, Acting Chairman

Sumner H. Babcock  
Sumner H. Babcock

William E. Polletta  
William E. Polletta

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