TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 95-15
Petition of Mark and Sally Miller
67 Fairbanks Avenue

Pursuant to due notice the Permit Granting and the Special Permit Granting Authority held a Public Hearing on Thursday, February 16, 1995 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 MARK AND SALLY MILLER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw to allow enclosure of their existing nonconforming one-story porch, approximately 10 feet by 15.2 feet with less than the required left side yard at their nonconforming dwelling with less than the required left side yard at 67 FAIRBANKS AVENUE, in a Single Residence District.

A variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is also requested to allow construction of a bay window approximately 6 feet 7 inches by 4 feet 10 inches with a depth of 18 inches, which would have less than the required left side yard.

On January 30, 1995, 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 Mark Miller, who said that he was requesting approval of the petition as read.

The Board noted that the Planning Board had recommended approval of the porch enclosure, but not the bay window, and asked why the Millers needed the window. Mr. Miller said that they would like to open up the room on the southern exposure.

The Board stated that it had previously denied several petitions in which the proposed construction would create an additional nonconformance, and that it was important that the decisions be consistent.

No other person present had any comment on the petition.

Statement of Facts

The subject nonconforming dwelling is located at 67 Fairbanks Avenue, in a Single Residence District, on a 14,000 square foot lot. The house has a minimum right side yard

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clearance of 10.2 feet and a minimum left side yard clearance of 10 feet.

The petitioners are requesting a Special Permit/Finding to enclose an existing one-story porch approximately 10 feet by 15.2 feet, which has a minimum left side yard clearance of 10 feet.

They are also requesting a variance to construct a bay window approximately 6 feet 7 inches by 4 feet 10 inches with a depth of 18 inches on the left side of the porch, which would leave a minimum left side yard clearance of 8.5 feet.

A Plot Plan dated January 14, 1995, drawn by Philip L. Pattison, Registered Land Surveyor; Floor Plans and Elevations drawn by Mark D. Miller, dated January 24, 1995; and photographs were submitted.

On February 7, 1995, the Planning Board reviewed the petition and voted to offer no objection to the granting of the requested relief if the bay window is removed from the petition.

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.

It is the opinion of this Authority that substantial hardship owing to soil conditions, shape of the lot or topography of the land is not present on this property and that desirable relief could not be granted to construct the requested bay window without substantially derogating from the intent and purpose of the Zoning Bylaw.

Therefore, it is the unanimous decision of this Authority that the request for the variance to construct the bay window be denied, and this portion of the petition is dismissed.

It is the opinion of this Authority that the proposed enclosure of the nonconforming porch will neither intensify the existing nonconformance nor create additional nonconformance as there will be no change to the footprint of the structure.

Therefore, it is the unanimous decision of this Authority to grant a Special Permit for said enclosure subject to the following conditions:

1. A revised plot plan showing the elimination of the bay window must be submitted to the office of the Board of Appeals prior to the issuance of any building permit.

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2. The enclosure of said porch shall be done in accordance with the submitted architectural drawings and the revised plot plan.

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, but subsequent to the demonstrated compliance with the first condition listed above by the petitioners.

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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