



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02181-5992

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ZBA 97-43

Petition of Robert J. and Marie C. Gerardin
44 Curve Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 19, 1997 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 ROBERT J. AND MARIE C. GERARDIN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following changes to their nonconforming property with less than the required front, right side and rear yard setbacks at 44 CURVE STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming property:

1. Change of use of the existing 30.4 foot by 22.5 foot nonconforming barn from storage to use as a family room. There will be no change in the footprint.
2. Increase in the pre-existing nonconforming lot coverage from 25.09% to 25.4% due to the construction of a 28 square foot addition connecting the barn with the dwelling.

On June 2, 1997, the petitioners 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 was Robert Gerardin, who said that they have a nonconforming barn that they would like to turn into a family room, and connect it to the house. Both the barn and the lot coverage are presently nonconforming. The additional lot coverage would be .02%. The barn is used for storage and is painted only on the two sides facing the house.

The Board asked if the property was under a Purchase and Sale agreement at present. Mr. Gerardin said that it was, but the sale was not contingent on the Special Permit. They felt it would be advantageous to the buyer if granted. The Board stated that as the Special Permit would not be transferrable to the new owners, they would have to request the Special Permit themselves.

Mr. Gerardin stated that the buyer was not aware that the petition had been submitted. The Board asked if, under the circumstances, Mr. Gerardin would like to withdraw the petition, which could then be submitted by the future owner, if desired. Mr. Gerardin chose to continue with the hearing on the petition.

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The Board noted that the change of use of the barn would intensify the use of the structure which is very close to two abutting properties.

John and Zully Hedreen, 50 Curve Street, direct abutters, voiced opposition to the petition, on the grounds that the change of use would result in an invasion of their privacy as two of the ground floor windows of the barn overlook their back yard. Mrs. Hedreen was concerned that if the barn were allowed to be used as living space, it could be used as rental property in the future.

Alison Lukes, 28 Howe Street, a direct abutter, expressed opposition to the petition. She was concerned about invasion of her privacy, but more concerned that the removal of the lead paint, which is peeling off the outer two sides of the barn, be done properly.

Statement of Facts

The subject property is located at 44 Curve Street, in a Single Residence District on an 8,529 square foot lot. The lot contains a nonconforming two-story dwelling with a minimum right side yard clearance of 5.3 feet; and a two-story nonconforming 30.4 foot by 22.5 foot barn, which is currently used for storage. The barn has a minimum right side clearance of .4 feet and a minimum rear yard clearance of 2.5 feet. The nonconforming percentage of lot coverage is 25.09%.

The petitioners are requesting a Special Permit/Finding that the change of use of the barn from storage to living space; and the expansion of the nonconforming percentage of lot coverage from 25.09% to 25.4% due to a 28 square foot addition connecting the barn to the dwelling, shall not be substantially more detrimental to the neighborhood than the existing use and lot coverage.

A Plot Plan dated 4/28/97, drawn by Ralph J. Bibbo, Registered Professional Land Surveyor; undated, unsigned floor plans and elevations; and photographs were submitted.

On June 10, 1997, the Planning Board reviewed the petition and voted unanimously to offer no objection to the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject barn does not conform to the current Zoning Bylaw, nor does the present percentage of lot coverage.

It is the finding of this Authority that the change of use of the barn from storage to living space represents a substantial intensification of the use of the structure. Both of the direct abutters have expressed objection to this change of use.

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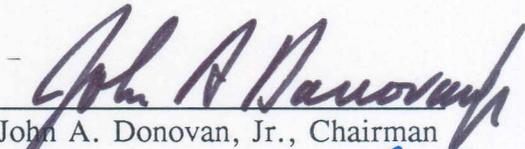
It is the further finding of this Authority that the petitioners would not be the beneficiaries of the grant of a Special Permit, as the property will change ownership in the near future. Not only have the new owners not expressed interest in the granting of the petition, they are not even aware that such relief has been requested.

It is the final finding of this Authority that the intensification of the use of the barn resulting due to a change from storage to living space, and the increase in the nonconforming percentage of lot coverage would be substantially more detrimental to the neighborhood than the existing use and lot coverage.

Therefore, as voted unanimously by this Authority at the Public Hearing, this Special Permit/Finding is denied and this petition is 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.

cc: Planning Board
Inspector of Buildings
edg



John A. Donovan, Jr., Chairman



Kendall P. Bates



William E. Polletta

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