



ZONING BOARD OF APPEALS

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ZBA 97-4
Petition of Brian and Aleece Strachan
89 Ledgeways

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 30, 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 BRIAN AND ALEECE STRACHAN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a 6 foot by 2 foot chimney with less than the required right side yard setback at 89 LEDGEWAYS, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The following changes to construction previously allowed by a variance (ZBA 96-29) are also requested:

1. Raising the ridge line of the roof approximately 6 feet above the approved 18 foot by 18.5 foot 1 1/2 story addition to accommodate a full second story of the same dimensions which will have less than the required right side yard setback. There will be no change in the footprint.
2. A change in the footprint of the allowed 19 foot by 9.3 foot addition at the right front corner of the dwelling to a 19.5 foot by 8.8 foot addition with a 19.5 foot by 2.2 foot overhang. The addition will have less than the required right side yard setback.
3. A change in the dimensions of an allowed right side overhang from 9.5 feet by 3 feet to 11 feet by 3.5 feet. The overhang will have less than the required right side yard setback.

On January 13, 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 were Brian and Aleece Strachan, who were accompanied by their architect, Tom Catalano. Mr. Catalano stated that they had been before the Board last May, but that after the Board had approved the submitted plans, the Stachans had found that the scope of the work was much too expensive. As a result, they have revised the design, which has proven to be about 40-50% less expensive than the original plan.

Mr. Catalano explained that the portion of the house requiring redesign is nonconforming. The house is located in the right rear corner of the lot, varying from 11 to 14 feet from the right side lot line. Rock outcroppings as well as a drain line owned by the Town are located on the left side of the house. Any addition on that side would involve relocating the drain line. At the rear, they are constrained by the Buffer Zone of Rockridge Pond. They are precluded from going forward due to the front setbacks of the adjacent properties within a distance of 500 feet.

Mr. Catalano said that the Strachans are aware of the concerns of their right side abutters, Joseph and Lois Shandling, and have tried to mitigate the impact of the proposed construction on the Shandlings.

Mr. Catalano submitted a series of photographs taken from the Strachan property showing the Shandling property, and from the Shandling deck looking toward the proposed addition. Before taking the pictures, he had erected several story poles outlining the location of the addition, the eave height at the corner and the ridge height, as well as one at the front of the garage indicating the proposed addition in that area. The photographs show that even in winter, the site is fairly well screened from the Shandlings' view.

Mr. Catalano stated that Mr. Shandling had voiced his concern that the exterior chimney would be detrimental to the trees along the border. Mr. Catalano explained that some of the trees will have to be limbed, regardless of the placement of the chimney, because they severely overhang the house. The Strachans would like to remove some of the trees which have limbs starting 20-30 feet from the ground, and replace them with a buffer zone of evergreens at a planting height of 16 feet. He submitted a sketch showing the proposed addition, the existing slope line, the Shandling deck, and a sight line with a 16 foot tree planted on the property line. It would obscure everything but the top half of the proposed roof.

The Board asked the relationship of the proposed roof to the existing roof. Mr. Catalano said that the highest point of the addition would align with the existing ridge. The roof in the original plan was 5-6 feet lower.

Joseph Shandling, 85 Ledgeways, the right side abutter, expressed strong opposition to the petition. He said that the existing house has a nonconforming garage with a bedroom above, and a right side yard setback of about 10 feet. The petition approved last May included an addition extending the front of the garage about 9 feet and a family room addition at the rear of the garage. The family room had a one-story wall which could have been landscaped. He did not raise any objection at that time as the garage was to be retained.

Mr. Shandling stated that the new petition involves demolition of the existing garage and replacement with a higher structure to accommodate a larger bedroom above the garage, and a two-story addition behind the garage to provide a bedroom above the family room, resulting in an entire new wing with a setback of 10-11 feet. The west wall would be 45 feet long at a height of a two-story building, which would be substantially more detrimental to

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him than the existing garage. This wall faces the most active portion of his property containing his lawn, deck and a side entrance, and would have an enormous visual impact

Mr. Shandling felt that the photographs taken from his deck were very misleading because of the light conditions. The light on the trees place the back in shadow so that it appears the screening is sufficient to hide a two-story addition, which would not be the case. Furthermore, the trees shown on Mr. Catalano's site plan cannot be planted where they are shown.

Mr. Strachan said that he understands Mr. Shandling's concern about the visual impact, but cannot afford to build the plans approved in May. He is willing to accommodate any planting wishes the Shandlings have, eliminate the chimney, remove the right side overhang, and cut down the overhang at the front of the garage to accommodate them.

The Board asked Mr. Shandling what the Strachans could do which would result in his approval. Mr. Shandling said that they could go back to the original plan as the impact of the new wall would be overwhelming and could not be mitigated.

The Board noted that the distance between the two homes is 40 feet. If each home had been 20 feet from the lot line instead of 10 feet and 30 feet, the Strachans would not need Board approval. The Board was of the opinion that the west elevation was attractive, and that with proper screening, it might not be offensive to the Shandlings. Furthermore, any approval would contain a condition regarding the landscaping.

Statement of Facts

The subject nonconforming dwelling is located on a 29,035 square foot lot at 89 Ledgeways in a Single Residence District, and has a minimum right side yard clearance of 12.9 feet. The property is within the 100 year Buffer Zone of Rockridge Pond and contains a Town drain line running close to the left side of the dwelling.

In May, 1996, the petitioners appeared before the Board and were granted a variance (ZBA 96-29) to construct a 19 foot by 9.3 foot one-story addition at the right front corner of the dwelling with a minimum right side yard clearance of 12.2 feet; a 9.5 foot by 3 foot overhang on the right side of the dwelling with a minimum right side yard clearance of 10.7 feet; and a two-story addition approximately 41.7 feet by 18.5 feet extending across the rear of the dwelling with a minimum right side yard clearance of 15.3 feet and a minimum rear yard clearance of 17 feet.

The petitioners are now requesting a Special Permit/Finding to construct a 6 foot by 2 foot chimney with a minimum right side yard clearance of 13.7 feet and to modify the aforementioned decision by changing the footprint of the 19 foot by 9.3 foot addition to 19.5 feet by 8.8 feet with a 2.2 foot overhang with a minimum right side yard clearance of 12.1 feet; changing the dimensions of the right side overhang to 11 feet by 3.5 feet with a minimum right side yard clearance of 10 feet; and raising the ridge line of the roof

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approximately 6 feet above the 18 foot by 18.5 foot addition to accommodate a full second story of the same dimensions. The ridge line above the garage wing will also be raised 6 feet in order to connect to the raised ridge line above the family room (See Architectural Plan A5/East and West Elevations).

A plot plan dated January 2, 1997, drawn by David W. Humphrey, Professional Land Surveyor; Architectural Plans (A1-A6, A9-A12, D1-D3, S0-S4, E0-E2) dated 7/29/96 revised 11/8/96, revised 12/11/96, drawn by Catalano Architects, Inc.; and photographs were submitted.

A letter in support of the petition was received from Irving and Ann Kofsky, 2 Ledgeways.

On January 23, 1997, the Planning Board reviewed the petition and voiced strong opposition to the revised plans.

Decision

This Authority has made a careful study of the materials 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 finding of this Authority that the proposed chimney will neither intensify the existing nonconformance nor create additional nonconformities as it is less nonconforming than the existing structure.

In regard to the modifications to the approved plan (ZBA 96-29), it is the finding of this Authority that the reconfiguration of the proposed addition at the right front corner of the dwelling will neither intensify the existing nonconformance nor create additional nonconformity as it is less nonconforming than the existing nonconforming dwelling.

It is the finding of this Authority that the proposed change in the dimensions of the right side overhang will create additional nonconformity as the allowed overhang had a right side yard setback of 10.7 feet, whereas the proposed overhang has a right side setback of 10 feet. However, as the overhang does not have a foundation, it is the finding of this Authority that it will not intensify the existing nonconformance.

It is the finding of this Authority that the raising of the approved ridge line 6 feet above the allowed family room and connecting with the raised ridge line of the garage wing, as shown on the above noted architectural plan, will not create additional nonconformity, as there will be no change in the footprint, but will intensify the existing nonconformance as a greater portion of the right side facade will be at a height of two stories than in previously approved plan.

It is the further finding of this Authority, fully aware of the concerns expressed by the right side abutter, that with the proper screening, neither the chimney nor the proposed

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modifications to the previously approved plan will be substantially more detrimental to the neighborhood than the previously approved plan.

The Board has noted that of the 13 Interested Parties comprising the "neighborhood", one has written a letter of support, 11 have expressed no opinion, and only the Shandlings, albeit the most directly affected, have expressed opposition.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the proposed chimney and all of the modifications to the previously approved plan (ZBA 96-29) subject to the following conditions:

1. All construction shall be in accordance with the submitted plot plan and construction drawings.
2. The Strachans and the Shandlings shall mutually agree on a landscape architect, to be hired by the Strachans, who will design a plan to include a buffer zone of plantings at an initial height of no less than 16 feet. This plan will be signed by both parties and submitted to the office of the Board of Appeals within 60 days of the date of this decision. The plantings depicted on said plan shall be the financial responsibility of the Strachans, and must be in place within one year from the date that the building permit has been finalized.

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

cc: Planning Board
Inspector of Buildings
edg



John A. Donovan, Jr., Chairman



Kendall P. Bates



Robert A. Bastille

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