

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2005-77

Petition of Top Realty Trust
7 Woodlawn Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 6, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of TOP REALTY TRUST requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing deck and construction of a 24 foot by 26 foot two story addition with a two car garage underneath, and construction of a 10 foot by 20 foot deck, with less than required right side yard setbacks, at 7 WOODLAWN AVENUE, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 19, 2005, the petitioner 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 Jimmy Eisenstein who said that he lives with his wife, Beth, at 87 Hundreds Road. He said that they created a trust called TOP Realty Trust to acquire the property at 7 Woodlawn Avenue.

Mr. Eisenstein said that the house has been in a state of disrepair. He said that they would like to put an addition on at the back of the house. He said that the addition would be a family room with an expanded master suite above and a two-car garage underneath.

Mr. Eisenstein said that the back of the yard is approximately 70 feet across. He said that they will meet the 30 foot setback for a side-facing garage.

Mr. Eisenstein said that the existing house is approximately 11.3 feet from the side lot line. He said that the addition will be 13.2 feet to the side lot line at the closest point.

Mr. Eisenstein said that the addition will not be visible from the street.

Mr. Eisenstein said that they had conducted a neighborhood meeting. He said that one neighbor suggested that they have the utility pole moved. Mr. Eisenstein said that they are willing to do that. The Board said that the pole issue is up to the utility companies. Mr. Eisenstein said that they have looked into that issue.

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Mr. Eisenstein said that a neighbor, Don Michael, requested that some trees on the property be removed. He said that Mr. Michael also requested that the petitioners install a french drain and sump pump to prevent drainage onto his property.

The Board asked about the garage that is of similar architecture to the right of the house. Mr. Eisenstein said that is on a separate lot. He said that they own that lot and that the garage is coming down due to termite investment. Mr. Eisenstein said that there had been a huge woodpile behind the garage for years. He said that there was a warranty when they closed on the house that the termites had not gotten to it.

The Board asked if the lot to the east is buildable. Mr. Eisenstein said that it is currently an unbuildable lot. He said that Mr. Jacobson has offered to sell a parcel of land that is behind the lot that will make it conforming. He said that process will have to go through Land Court. The Board said that the lot should be considered as one that will not remain under Mr. Eisenstein's control. The Board asked how big the lot is as it currently exists. Mr. Eisenstein said that it is approximately 9,000 square feet.

Mr. Eisenstein said that the goal of the project is to make the addition look as if it has always been there.

The Board asked if the house would be for resale. Mr. Eisenstein said that was correct.

Mr. Eisenstein submitted elevation drawings showing the height of the structure from average grade. The Board said that they are very close to the maximum with a height of 35 feet 5 inches. The Board said that the height of the addition will be less than the height of the existing house.

The Board said that lot coverage is also tight at 19.1 percent.

Mr. Eisenstein said that he had discussed with the neighbors sliding the addition over one to two feet to the left to get a 15 foot side setback on the right. Mr. Eisenstein said that would block the bathroom window in the existing house. The Board said that moving the garage over will not achieve the 20 foot setback on the right hand side. Mr. Eisenstein said that they tried to make the garage as small as possible.

The Board asked about a turnout for the garage. Mr. Eisenstein said that they will show that on the construction plans.

The Board asked about the setback on the left side of the house. The Board asked if there is enough room for a driveway. Mr. Eisenstein said that there will be enough room for a ten foot driveway. He said that they spoke with the neighbor about clearing the shrubbery and replanting.

The Board asked if any trees would be removed. Mr. Eisenstein said that they may take down two trees.

The Board said that it received a letter from Eugene and Joan Savitt, 2 Woodlawn Avenue. Mr. Savitt said that he has lived on the street for 20 years. He said that there has been a fair amount of development on the street. He said that the houses are older and the lots tend to be very small. Mr. Savitt said that he is concerned that constructing a new home on a tight corner lot and creating a massive structure at 7 Woodlawn Avenue may be detrimental to the overall view of the street.

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Mr. Eisenstein said that the addition will not be visible from the street. He said that he and his wife prefer to preserve the historical nature of the house rather than destroy it. He said that the proposed house on the other lot will tie into the house at 7 Woodlawn Avenue. He said that the new house will not be large because it will have to meet all of the setback requirements.

Mr. Savitt asked to withdraw his objection.

Tom Stagliano, 12 Woodlawn Avenue, said that he saw the plans and it appears to be a nice design. He said that Mr. Eisenstein addressed two of the concerns; drainage to the neighbor's property and removal of the utility pole. He said that the Assessor's recording of the lot lists it as 20,665 square feet. He said that the plan is to have two buildable lots. He said that the Board should consider that moving the lot line could make 7 Woodlawn Avenue a conforming lot. The Board said that it was concerned that this has always been treated as one lot by the Assessor.

Adam Cohen, 190 Washington Street, said that he lives at the back of the property. He asked how far back the addition would be. Mr. Eisenstein said that there will be more than 60 feet from the rear lot line to the deck.

Michael Cassa, 188 Washington Street said that it will be an enormous house. He asked if the addition was for living space. The Board said that it will be a family room with an enlarged master suite above and a two-car garage underneath. Mr. Cassa asked about the size of the addition. The Board said that it will be 26 by 24 feet.

Gary Lockberg, 10 Oakland Street, said that he is a realtor and a neighbor. He said that as a neighbor, there have been six to eight petitions, including one of their own, in the neighborhood. He said that he believes that the additions have increased the values of the homes and improved the look of the street. He said that he is in favor of this project. He said that he would like to see a newly developed home on the overgrown lot. He said that the developer is taking great care to preserve the nature of the old house.

The Board said that the Planning Board had no objection to granting the petition.

The Board said that the benefits and advantages of the design that has been proposed outweigh those of tearing the house down and building a new home that would be conforming. The Board said that keeping the existing house with its natural character would be beneficial to the neighborhood.

Statement of Facts

The subject property is located at 7 Woodlawn Avenue, in a 10,000 square foot Single Residence District, with a minimum right side yard setback of 11.3 feet.

The petitioner is requesting a Special Permit/Finding that demolition of an existing deck and construction of a 24 foot by 26 foot two story addition with a two car garage underneath with a minimum right side yard setback of 13.2 feet, and construction of a 10 foot by 20 foot deck, with a minimum right side yard setback of 14.6 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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A Plot Plan dated 10/7/05, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, drawn by HPA Design, Inc., and photographs were submitted.

On October 4, 2005 the Planning Board reviewed the petition and had no objection to granting the request.

Decision

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

It is the finding of this Authority that although demolition of an existing deck and construction of a 24 foot by 26 foot two story addition with a two car garage underneath, and construction of a 10 foot by 20 foot deck, is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing deck and construction of a 24 foot by 26 foot two story addition with a two car garage underneath with a minimum right side yard setback of 13.2 feet, and construction of a 10 foot by 20 foot deck, with a minimum right side yard setback of 14.6 feet.

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

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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.

Cynthia S. Hibbard, Acting Chairman

Robert A. Bastille

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm