

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2006-62  
Petition of Casco LLC  
22 Barnstable Road

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Petition of CASCO LLC (the "Petitioner") requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing structure with a 2,047 square foot footprint and construction of a structure with a 3,881 square foot footprint that will meet all setback requirements, on a 19,853 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 22 BARNSTABLE ROAD, shall not be substantially more detrimental to the neighborhood.

On July 25, 2006, 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 were William Rizzo, who said he was representing the property owner, John Wallace, Richard Wills, Architect, and Doris Peña-Cruz, Landscape Architect.

Mr. Rizzo said that in 1946 the owner of the property contemplated a subdivision of a tract of land larger than, but containing what is now 22 Barnstable Road. He said that the subdivision was registered and the papers were filed with the Land Court but that the plans for subdivision were abandoned at that time.

In 1948, the subdivision was reconsidered. At that time there were some very small changes made to the bounds in several of the lots. Mr. Rizzo said that he believes this is when an error occurred because there was a boundary line change on the parcel that came to be known as 22 Barnstable Road. Historically, the lot has been treated as having 20,190 square feet. Tax records and the building permit issued in 1956 for the current structure show that figure.

Mr. Rizzo said that Mr. Wallace had the property re-surveyed in 2006. The new plot plan shows that the lot contains 19,853 square feet. Mr. Rizzo said that there have been no changes in the dimensions of the lot since the subdivision was created in 1948 or since the house was built on the property in 1956.

The Board asked what figure the Land Court plans show. Mr. Rizzo said that they show a figure of 20,190 square feet. Mr. Rizzo said that one bound had been changed about two feet in part of the rear yard. He said that there is a wedge, approximately two feet by fifty feet, that was changed sometime between 1946 and 1948.

The Board said that there is a vertical dimension that leads to a line called maximum height limit on Elevation Drawings, Sheets 5, 6 and 7. The Board asked how the average grade correlates to that and how it correlates to the topography that is shown on Sheet 0.

Mr. Wills said that the maximum height limitation was calculated from the existing grade using points all the way around the house. Mr. Wills said that the proposed topography is shown on Sheet 0. The Board confirmed that the elevations are consistent with the proposed grades and that the tallest part of the house will be less than 35 feet.

Tom Hennessey, 30 Barnstable Road, said that his home is adjacent to 22 Barnstable Road. He said that he had looked at the drawings. He asked what relief the Petitioner was asking for.

The Board said that the nonconformance is the size of the lot, that is, a lot of 19,853 square feet does not comply with the minimum size for the 20,000 square foot district in which 22 Barnstable Road is located.

Mr. Hennessey said that a concern of the neighbors had been preservation of the existing vegetation.

Doris Peña-Cruz said that the neighborhood is rich with old trees. She said that only two of the major trees that are recessed into the property are planned to be removed and all other trees will remain. She said that screening may have to be shifted but will be reused, with the exception of some overgrown *Euonymus Alatas*. She said that they will substitute the *Euonymus* with more appropriate plants.

Ms. Peña-Cruz said that there is a path at the front of the building with a circular detail that will be planted with low-growing plants of varying textures. She said that there is a patio garden at the back. She said that the screening at the back is reinforced with trees and hedges. The plantings to the right of the house will remain except for a *Euonymus*.

The Board asked if the large 36 inch caliper white pine tree will remain. Mr. Rizzo said that it will remain.

#### Statement of Facts

The subject property is located at 22 Barnstable Road, on a 19,853 square foot lot in a district in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing structure with a 2,047 square foot footprint and construction of a structure with a 3,881 square foot footprint that will meet all setback requirements, on a 19,853 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood.

A Plot Plan dated 6/6/06, revised 6/30/06, 7/7/06, 8/2/06, stamped by Bruce Bradford, Professional Land Surveyor, Existing Floor Plans and photographs, Proposed Floor Plans and Elevation Drawings, dated 7/1/06, and Landscape Plan, dated 7/31/06, drawn by Royal Barry Wills Associates, Inc., were submitted.

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On August 8, 2006, the Planning Board reviewed the petition and had no objection to the granting of 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 demolition of the existing structure and construction of a new house on what was surveyed to be a nonconforming lot shall not be substantially more detrimental to the neighborhood as it will neither intensify the existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing structure with a 2,047 square foot footprint and construction of a structure with a 3,881 square foot footprint that will meet all setback requirements.

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.

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J. Randolph Becker, Acting Chairman

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David G. Sheffield

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Robert W. Levy

cc: Planning Board  
Inspector of Buildings  
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