

**ZONING BOARD OF APPEALS**

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ZBA 2009-46
Petition of Peter & Caroline Conlin
47 Martin Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 6, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PETER & CAROLINE CONLIN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 15.2 foot by 38 foot two-story addition with less than required right side yard setbacks, in a 10,000 square foot Single Residence District, at 47 MARTIN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 20, 2009 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 Dan Tibma. Also present were Peter and Caroline Conlin, (the "Petitioner").

Mr. Tibma said that there is a porch at the back of the existing house that is nonconforming. He said that the proposal is to tear the porch down and construct a two-story addition. He said that the addition will be set in an additional 1.33 feet from the corner of the existing house to the side property line.

The Board asked if the petitioner had spoken to the neighbors about the proposed windowless right side elevation. Mr. Tibma said that they are considering putting some small windows on the first floor. Mr. Conlin said that they have spoken with the neighbors on both sides.

The Board said that the windows in the proposed family room and master bedroom face the rear of the house. The Board said that adding windows will break up the mass on the right side elevation.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 47 Martin Road, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 29.7 feet and a minimum right side yard setback of 10.6 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 15.2 foot by 38 foot two-story addition with less than required right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 5/15/09, stamped by Peter G. Hoyt, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/18/09, prepared by McKay Architects, and photographs were submitted.

On July 29, 2009, the Wetlands Protection Committee issued an Order of Conditions, MassDEP #324-624 – 47 Martin Road.

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 construction of a 15.2 foot by 38 foot two-story addition with less than required right side yard setbacks 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 construction of a 15.2 foot by 38 foot two-story addition, subject to the following condition:

- Windows shall be added to the right side elevation, consisting of two windows on the lower level and two windows on the upper level of the two-story addition. Said windows shall be consistent with existing windows in the house.

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.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm