

**ZONING BOARD OF APPEALS**

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ZBA 2010-67  
Petition of Matt Sacher  
8 Kirkland Circle

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Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, August 5, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of MATT SACHER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing 10 foot by 16.4 foot porch, construction of a 3 foot by 7 foot landing, and construction of a 20 foot by 38.8 foot two-story addition, with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 8 KIRKLAND CIRCLE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 19, 2010, 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 Michael Hally, Architect and Matt Sacher, (the "Petitioner").

Mr. Hally said that the request is for three areas of approval. He said that they would like to put an unenclosed portico at the front of the house. He said that the portico will be less than 50 square feet and more than 25 feet to the front lot line. He said that they would like to rebuild an existing screened porch as an enclosed heated space. He said that the porch is in a state of disrepair. He said that they would like to build a two-story addition off of the back of the house. He said that area has less than 20 feet to the left side lot line. He said that the addition will be staggered along the back. He said that the proposed additions will not be more detrimental to the neighborhood than the existing structure.

Mr. Hally discussed proposed changes shown on Plans A-1 and A-2. He said that it was important to preserve the backyard area. He said that the lot is oddly shaped because the house is parallel to the street and the backyard dog legs out slightly. He said that in order to make the addition conforming, it required that they make it wider and more massive. He said that by keeping the L-shape, they were able to keep the mass down. He said that just a small sliver of the proposed addition will be in the setback area.

The Board said that the left side yard setback for the existing structure is 12.1 feet. The Board said that the Petitioner could have requested a Special Permit to come closer than 16 feet. The Board said that the staggered approach will probably serve the project better.

Mr. Hally said that siting the addition presented a geometry problem. He said that they did look at alternatives. He displayed a plan showing the approximate setback line (retained by proponent).

Mr. Hally said that the existing house is a 60 year old garrison. He said that the house needs a lot of updating, particularly the outside of the house. He said that they will match the new construction with the updated existing house. He said that the addition will not be visible from the street.

Thomas Picher, 4 Kirkland Circle, said that he is the abutter to the left. He said that his property is the closest to the 12.1 foot side yard setback. He discussed the Planning Board recommendation regarding intensification of existing nonconformities. He said that the Planning Board stated that there is adequate room in the rear yard to construct a conforming addition. Mr. Picher said that there appears to be plenty of room to configure a conforming addition. He said that he has met with the Petitioner and thought that the plans were tasteful. He questioned whether it would be necessary to encroach into the setback area.

John Schuler, 58 Kirkland Circle, said that the backyard of his house is contiguous to the rear property line of 8 Kirkland Circle.

Mr. Schuler said that he had not been in contact with the Petitioner. He said that he objected to the proposal. He said that the odd footprint of the house on the property restricts the use of the backyard.

Mr. Schuler said that the previous owners encroached on his property with a fence. He said that the fence is not located in an agreed upon location.

Mr. Schuler said that, without having seen the plans, there is a suggestion that in the short term there will be quite a bit of construction equipment on the property. He said that it is the Petitioner's right to use as much of his backyard that falls within Zoning regulations. He said that he did not see a hardship that would necessitate encroaching into the setback area.

The Board asked if Mr. Schuler objected to having any addition at the rear of the property. Mr. Schuler said that he objected to the encroachment. He said that he had not seen the plans for the addition.

The Board said that it did not have to make a finding of hardship with a Special Permit. The Board said that it has to make a determination that the proposed addition would not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The Board said that there are two existing nonconformities, the 13.6 foot right side yard setback and the 12.1 foot left side yard setback.

The Board said that the rear yard setback can be 10 feet. The Board said that the proposed addition will have a rear yard setback of 34.3 feet.

The Board said that if the addition was pushed further away from the left side it would be pushed further to the back. The Board said that the proposed solution does not come close to what the Petitioner could have asked for. The Board said that the design maximizes the rear yard setback.

The Board said that the Planning Board assumed that anything done on this lot would have to meet the setback requirements.

Meir Segal, 15, Kirkland Circle, said that he was Mr. Sacher's realtor. He said that he did not want see the neighborhood turn into a big box neighborhood. He said that he would rather see existing houses expanded tastefully. He said that this house probably would have been knocked down by a different contractor, who could have maximized the space of the house that could be put on the lot at 3,600 square feet. He said that the proposed addition is much smaller in terms of mass.

Mr. Segal said that he encouraged Mr. Sacher to have the addition at the rear of the house. He said that he has seen many instances where a rear addition is centered in the yard and it basically wrecks the yard. He said that it leaves two unappealing side yards. He said that it pulls the mass of the house backwards. He said that by setting it off to one side, the mass is shifted, the line is staggered, and it softens the look.

Mr. Segal said that the proposed design is a good solution. He said that it is sensitive to the neighbors who live behind the property and on the sides. He said that it was a better solution than if a builder bought the house. He said that the addition will not be seen from the street.

Mr. Sacher said that he had spoken with the neighbor on the left side about installing a front to back row of 10 foot arborvitae for privacy for both parties. He said that he will remove the fence that encroaches on the property at the rear.

Mr. Picher asked that his objection be removed, based on the commitment of the Petitioner to plant the row of trees along the property line.

#### Statement of Facts

The subject property is located at 8 Kirkland Circle, on a 10,560 square foot lot, with a minimum left side yard setback of 12.1 feet and a minimum right side yard setback of 13.6 feet.

The Petitioner is requesting a Special Permit/Finding that enclosure of an existing 10 foot by 16.4 foot porch, construction of a 3 foot by 7 foot landing, and construction of a 20 foot by 38.8 foot two-story addition, with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 7/12/10, stamped by stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/9/10, prepared by Michael Hally Design, Inc., and photographs were submitted.

On August 3, 2010, the Planning Board reviewed the petition and recommended that the request be granted with conditions.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that although enclosure of an existing 10 foot by 16.4 foot porch, construction of a 3 foot by 7 foot landing, and construction of a 20 foot by 38.8 foot two-story addition, with less than required left 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 for enclosure of an existing 10 foot by 16.4 foot porch, construction of a 3 foot by 7 foot landing, and construction of a 20 foot by 38.8 foot two-story addition, with less than required left side yard setbacks, in accordance with the submitted plot plan and construction drawings.

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.

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J. Randolph Becker, Acting Chairman

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Robert W. Levy

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David L. Grissino

cc: Planning Board  
Inspector of Buildings  
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