

**ZONING BOARD OF APPEALS**

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ZBA 2012-02

Petition of Sam Liss & Tanya Roy
27 Thackeray Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 5, 2012, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of SAM LISS & TANYA ROY requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that construction of an 8 foot by 10.2 foot one-story mudroom, construction of 4 foot by 5.5 foot roof overhang, and construction of a 5.5 foot by 11 foot second story addition with less than required right side yard setbacks, at 27 THACKERAY ROAD, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 19, 2011, 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 Sam Liss (the "Petitioner"). He said that the request is for a Special Permit to build a mudroom with a bathroom above.

The Board said that the plot plan clearly shows the setback dimension from the right side lot line to the corner of the existing building as 11.6 feet. The Board said that the northwesterly corner of the proposed roof is not dimensioned to the lot line. The Board said that it is not clear whether it is greater than or less than 11.6 feet.

Mr. Liss said that it was his understanding that the setback for the existing garage is 11.6 feet. He said that there will be an unenclosed overhang that will be under 25 square feet. He said that the proposed mudroom will have a 12.1 foot setback.

The Board said that the Planning Board recommended that the Special Permit petition be granted with a condition that no alterations or additions be located closer to the right side yard setback than 11.6 feet, the furthest distance to which the existing structure encroaches within the setback.

The Board said that the second floor plan shows the roof coming out to the line of the existing house. The Board said that the corner of the existing house is 11.6 feet from the lot line. The Board said that the lot line gets closer to the house further back in the lot. The Board said that it appears that the corner of the roof following that line would be less than 11.6 feet away from the lot line.

Mr. Liss said that the dimension from the unenclosed structure to the side lot line will be approximately nine feet. He said that the unenclosed structure is exempt from the setback requirements.

The Board said that there is a 3 feet 3 inch extension of the bedroom on the second floor shown on Plan A2. The Board said that it extends beyond the existing corner of the house. Mr. Liss confirmed that the 3 foot 3 inch extension that is labeled "Existing Storage" is the corner in question.

The Board said that the plans do not fit together in a way that it can confirm that 11.6 feet is the closest that the structure will come to the side lot line. The Board said that the architectural drawings do not seem to be right. The Board said that it would want to know what the dimension is before making its decision. The Board said that drawings A2 and A4 should be corrected so that they are consistent with the plot plan.

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

The Board said that it could continue the Public Hearing or it could add the Planning Board's recommended condition to the decision. Mr. Liss said that he would prefer to continue the petition.

The Board voted unanimously to continue the petition to February 2, 2012.

February 2, 2012

Presenting the case at the hearing was Sam Liss, who said that he had submitted an isometric drawing that clarified what the proposed construction will be.

The Board said that without the covered landing, the corner of the mudroom that will be 12.9 feet off of the property line will be the only side lot line violation. The Board said that the intrusion of 12.9 feet is less than the existing 11.6 feet dimension.

Mr. Liss said that the intrusion of the 22 square foot covered stair landing into the setback will be di minimis.

The Board discussed roof runoff.

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 27 Thackeray Road, in a 15,000 square foot Single Residence District in a Water Supply Protection District, with a minimum right side yard setback of 11.6 feet

The Petitioner is requesting a Special Permit/Finding that construction of an 8 foot by 10.2 foot one-story mudroom, construction of 4 foot by 5.5 foot roof overhang, and construction of a 5.5 foot by 11 foot second 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 5/2/11, stamped by Frank Iebba, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/10/11, revised 5/15/11 & 6/5/11 & Isometric View, prepared by David J. Cann, Architect, and photographs were submitted.

On January 30, 2012, the Planning Board reviewed the petition and recommended that the Special Permit be granted with a condition.

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 an 8 foot by 10.2 foot one-story mudroom, construction of 4 foot by 5.5 foot roof overhang, and construction of a 5.5 foot by 11 foot second 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 an 8 foot by 10.2 foot one-story mudroom, construction of 4 foot by 5.5 foot roof overhang, and construction of a 5.5 foot by 11 foot second story addition with less than required right side yard setbacks, subject to the condition that:

- No alterations or additions shall be located closer to the right side yard setback than 11.6 feet, the furthest distance to which the existing structure encroaches within the setback.

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.

ZBA 2012-02
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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.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm