



## ZONING BOARD OF APPEALS

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ZBA 2012-11

Petition of Katherine Freund

7 Tappan Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 5, 2012, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of KATHERINE FREUND requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming front porch and construction of a 5 foot by 7 foot 8 inch front porch with less than required front yard setbacks, and construction of a two-story rear addition with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 7 TAPPAN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 17, 2012, 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 Tim Sorrell, Katherine Freund (the "Petitioner") and Charles Cassidy.

Mr. Sorrell said that the house sits on a 10,925 square foot lot. He said that the house has nonconforming setbacks on the left side and on the front. He said that the proposal is for an addition off of the back that will consist of an eating area and sitting area on the first floor and a master bedroom on the second floor. He said that they are going to divide the old master bedroom into two bedrooms. He said that two families will be coming together so that a family of four and a family of three will become a family of seven.

Mr. Sorrell said that they are proposing to construct a five foot porch off of the front. He said that currently there is a small porch that extends off of the front with a U-shaped landing that extends 5'4" from the foundation. He said that it conforms only in respect to the 50 square feet allowed in the front yard setback. He said that it does not conform because it is closer than 25 feet to the street and extends more than five feet from the front of the house. He said that they are proposing to cut that back to five feet from the face of the house. He said that it will still be closer than 25 feet to the street. He said that there will be three treads that will extend out 30 inches.

The Board asked why the addition was not moved over by two feet. Mr. Sorrell said that putting the addition closer to the center of the house would not yield a good amount of backyard space for the family to use. He said that having the eating and sitting area in the proposed location would leave it open to the

kitchen area. He said that on the second floor it would be an unnatural way to enter the master bedroom. He said that the plan was to utilize an existing bedroom without having to take out the center bathroom.

The Board said that there is a fair amount of land at the back of the property that is a little lower. The Board said that there is a lot of moss back there.

The Board asked if an Order of Conditions had been issued. Mr. Sorrell said that they are scheduled to go before the Wetlands Protection Committee (WPC) on February 16, 2012. The Board said that it could not make its decision without the Wetlands determination. The Board said that the WPC decision would be incorporated into the Zoning Board's decision.

The Board discussed the front extension. Mr. Sorrell said that it will be an enclosed area that will give a little relief so that the door does not swing almost against the stairs. He said that across the front of the house is a belt roof. He said that roof extends 24 inches from the front of the house and 26 inches from the foundation. He said that the enclosed part of the porch will extend just a shy of the belt roof. He said that the belt roof is the closest point to the street in terms of the main body of the house. He said that the framing on it is two feet and there is a five inch gutter on it. He said that it will project more than two feet into the front yard setback.

The Board questioned if the projection is part of the house or part of the porch. The Board said that if it is part of the house, a Variance will be required. The Board said that the Applicant should bring alternative plans for the front entry to a continued hearing.

The Board said that a significant amount of roof will be added to the back. The Board asked what will happen to the additional rainwater. Mr. Sorrell displayed a Civil Engineer's Plan (retained by proponent). He said that the plan calls for two low profile leaching basins. He said that the Engineer calculated that the leaching basins will more than handle all of the impervious area that will be created. He said that all of the downspouts will be routed into the two leaching basins.

Mr. Sorrell said that they will not be losing any trees. The Board said that moving the addition over would require removal of a 30 inch tree.

Mr. Sorrell displayed the proposed location of the siltation barrier.

The Board voted unanimously to continue hearing to April 5, 2012.

### **April 5, 2012**

Presenting the case at the hearing was Katherine Freund, who said that she has been the owner of the home since 1998. Also present was Charles Cassidy who said that he is Ms. Freund's fiancé and Tim Sorrell.

Ms. Freund said that she would really like to be able to stay in the neighborhood. She said that between herself and Mr. Cassidy, they have five children. She said that they will need extra space.

Mr. Cassidy said that the proposal is for an addition to the back of the house that will allow them to expand the kitchen and build a family room and eating area. He said that they plan to build a bedroom on the second floor over that. He said that the existing house has nonconforming side yard setbacks. He said that the proposed addition will extend the nonconforming side yard setback.

Ms. Freund said that the side of the house where they are planning the expansion faces the garage of the neighbor. She said that she spoke with the neighbor, who was written a letter to the Board. The Board said that it received several letters of support from the neighbors.

Ms. Freund said that the addition was designed to look like it had always been there.

The Board confirmed that plans labeled Draft #6 are the plans that the Board will approve and the ones that will be submitted to the Building Inspector.

The Board asked about the proposed changes to the front of the house. Ms. Freund said that they wanted a little more room in the entry way as you walk into the house. Mr. Cassidy said that the proposal is to extend the front door out two feet onto the existing landing. The Board said that the existing house does not meet the 30 foot front yard setback. The Board said that Ms. Freund had not applied for a Variance. Mr. Cassidy asked if the request for the changes to the front entry way could be withdrawn. The Board said that it would allow that.

Ms. Freund said that when they went before the WPC, the Committee expressed the importance of keeping the trees. She said that there is a 30 inch tree at the back. She said that there was no other place where they could put the kitchen expansion addition.

The Board said that it was clear that the immediate neighbor was not concerned about how close the addition will be. Mr. Cassidy said that the addition will face the neighbor's garage. He said that it will not impact the neighbor's house. He said that the neighbor's driveway is between their garage and house.

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 7 Tappan Road, in 10,000 square foot Single Residence District, with a minimum front yard setback of 19.1 feet and a minimum left side yard setback of 11.4 feet.

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

A Plot Plan dated 4/8/12 and a Site Plan, dated 2/1/12, revised 2/13/12, stamped by Robert F. Drake, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevations Drawings, dated 1/5/12, prepared by Tim Sorrell, and photographs were submitted.

On March 15, 2012, the Wetlands Protection Committee issued Order of Conditions, MassDEP File #324-0683.

On April 4, 2012, the Planning Board reviewed the petition and recommended that the Special Permit be denied.

### 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 two-story rear 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, as voted unanimously by this Authority at the Public Hearing, for construction of a two-story rear addition with less than required left side yard setbacks, subject to the conditions:

1. A revised plot plan shall be submitted showing the front entry as it currently exists.
2. Order of Conditions, MassDEP File #324-0683, shall be incorporated into this decision and all work shall be done in compliance with the Order of Conditions.

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 2012-11  
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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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Richard L. Seegel, Chairman

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J. Randolph Becker

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Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
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