



ZONING BOARD OF APPEALS

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EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208
web: www.wellesleyma.gov

ROBERT W. LEVY
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ZBA 2012-27
Petition of Ryan Lenhart
32 Avon Road

Record Owner of Property: The Estate of Athena Balci, Rev. Nicholas C. Manikas, Executor

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 RYAN LENHART 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 two-story dwelling and construction of a new two-story dwelling that meets all setback requirements, on an 8,285 square foot lot in a Water Supply Protection District and Single Residence District in which the minimum lot size is 10,000 square feet, at 32 AVON ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 20, 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 was Ryan Lenhart (the "Petitioner"). Also present were Kristin Lenhart and Leo DaSilva.

Mr. Lenhart said that the request is for a Special Permit to demolish an existing nonconforming structure. He said that there is less than required lot area.

Mr. Lenhart submitted revised plans that show two skylights and a potential third floor walk up storage area. He said that there are no dimensional changes and the heights will remain the same. He discussed Total Living Area plus Garage (TLAG) calculations. He said that the third floor area will add 515 square feet to the TLAG calculations for a total of 3,259 square feet.

The Board said that the building coverage will increase by a factor of two. The Board asked about drainage plans. Paul Bollier said that the calculations were based on the entire surface of the house. He said that the driveway slopes slowly but steadily down toward the road.

The Board asked who will be responsible for implementing the Tree Protection Plan. Mr. Lenhart said that he will be responsible. He said that, prior to any excavation, the Contractor, Michael Shay and Company, will put up a four foot construction fence around the areas. He said that they spoke with a consultant who has identified the crucial root zone. He said that there will be more than adequate space for demolition and excavation. Ms. Lenhart said that information on the plans will be incorporated into the Contract.

The Board said that the right side elevation has only two windows and a bump out for a gas fireplace. The Board said that even though it is a garage, it would be greatly beneficial to the neighborhood if there were a window or two in the garage.

The Board said that the roof over the bay window at the rear could be extended over the door.

The Board said that the left side yard elevation is also rather blank. The Board said that there is no window in the living area and there are none in the kitchen because the stove is against the wall. Mr. Lenhart said that it came down to a function of the wall space in the living area.

The Board said that there is only one window in the bedrooms. The Board said that there will be no cross-ventilation. The Board said that the second floor is pretty much devoid of windows. The Board said that the side elevations are what is presented to the neighbors. The Board said that the scale of the building is improved with windows. Mr. Lenhart said that they can add windows on the second floor.

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 32 Avon Road, on an 8,285 square foot lot in a district in which the minimum lot size is 10,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming two-story dwelling and construction of a new two-story dwelling that meets all setback requirements, on an 8,285 square foot lot in a Water Supply Protection District and Single Residence District in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/2/12, Elevation Stations for Grade Plan Calculations, dated 3/7/12, Tree Bylaw Protection Plan, dated 3/12/12, and Proposed Elevation Stations for TLAG Basement Exemption, dated 3/12/12, stamped by Bradley J. Simonelli, Professional Land Surveyor, letter from Kray A. Small, Massachusetts Certified Arborist, dated 3/6/12, letter to Michael Grant regarding the 500 Foot Rule, dated 3/9/12, stamped by Bradley J. Simonelli, Proposed Floor Plans and Elevations Drawings, dated 2/12, prepared by Shane Structures, and photographs were submitted.

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

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 an existing nonconforming two-story dwelling and construction of a new two-story dwelling that meets all setback requirements, on an 8,285 square foot lot in a Water Supply Protection District and Single Residence District in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an 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 nonconforming two-story dwelling and construction of a new two-story dwelling that meets all setback requirements, on an 8,285 square foot lot in a Water Supply Protection District and Single Residence District in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, subject to the following condition:

- Windows shall be added to the right side elevation and at the second floor bedrooms.

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.

Richard L. Seegel, Chairman

J. Randolph Becker

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm