



ZONING BOARD OF APPEALS

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ZBA 2015-13

Petition of Frederick Igoe, Trustee, 38 Chestnut Street Realty Trust
38 Chestnut Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 5, 2015, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of FREDERICK IGOE, TRUSTEE, 38 CHESTNUT STREET REALTY TRUST requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing addition and deck and construction of a two-story addition that will meet all setback requirements, on an existing nonconforming structure with less than required right side yard setbacks, in a 20,000 square foot Single Residence District, at 38 CHESTNUT STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 20, 2015, 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 Frederick Igoe, (the Petitioner). He said that the existing nonconforming structure has a right side yard setback of 10.1 feet that gets further away from the lot line as you move to the back. He said that the existing structure is 36 feet high. He said that the plan is to demolish the two-car garage at the back of the house and half of the existing family room and build a three-car garage and mudroom to the left of the main structure and extend the existing family room and a corner of the kitchen on the first floor. He said that the master suite will be over the garage on the second floor. He said that the roof over the master bedroom blocks two windows. He said that they will put a shed dormer on the back of the house on the third floor. He said that the proposed project will reduce the nonconformity of the structure by taking a chunk of the house that is in the setback and putting it to the left. He said that it will give the house a back garden where none existed before. He said that the existing house has 3,970 square feet and the proposed house will have 5,364 square feet of living area. He said that the total Total Living Area plus Garage (TLAG) will be 6,095 square feet, which is an increase from 4,476 square feet. He said that there will be an increase of 1,394 square feet of living space.

The Board said that the TLAG will be approximately 200 square feet over the trigger for Large House Review (LHR). The Board questioned if the TLAG calculations were done correctly. The Board said that no TLAG calculations were submitted. The Board asked Mr. Igoe how the basement and the attic were treated in 6,095 square foot TLAG calculation. Mr. Igoe said that they did not add an additional space in the attic other than 8 square feet for the dormer to gain 2 feet out by 6 feet wide. He said that the rest of the third floor is unfinished and the basement is unfinished and will remain unfinished. The Board said that TLAG is not based on whether the basement is finished or not. The Board said that the basement is calculated based on how much of it sticks out of the ground and the attic is treated in a certain way

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depending on how much of that space you can get at. The Board said that it was trying to determine whether this was calculated in accordance with the bylaw. The Board said that it has to consider the extra 195 square feet above the LHR threshold. The Board said that the bylaw does state that the Large House Review (LHR) does not apply with a Special Permit/Finding process. The Board said that TLAG is one of the measures that it can use to determine if the proposed project will be substantially more detrimental to the neighborhood.

The Board asked if Mr. Igoe talked to his neighbors about the project. Mr. Igoe said that he spoke with the three abutters on his side of the road but not across the road because the house is being renovated and there is no one living there. He said that the abutters all seemed happy that house will be worked on. He said that the house has been vacant for several years. He said that the abutters all seemed to think that it was a nice design. He said that they had questions about roofing and siding materials. He said that the existing house has metal siding and the neighbors were happy to see that that will be gone. He said that he is proposing to put a patio at the back of the house. He said that he discussed putting screening between that and the patio for the abutter at the back. He said that the house on the left has a kitchen that will face the garage side. He said that the neighbors on those neighbors would also like to see some screening. He said that a huge chunk of façade will be taken down on the right side of the house. He said that there were some concerns about construction times, noise and trash.

Pam Gilman, 40 Chestnut Street, said that she saw the plans and supports the project. She said that it will improve the home and the neighborhood. She said that there are certain things that she would like to see when the addition is done and the garage is removed. She said that there will be a new patio in the back. She asked that dark sky compliant lighting be used because the houses are very close to each other on that side. She asked that the siding be wood shingles and clapboards. She said that she had a list of the things that she and Mr. Igoe talked about. She asked if that list could become part of the record. She said that she does support the project wholeheartedly. She said that she was pleased that someone who cares about the neighborhood is going to make some improvements to it. She read the list of items discussed with Mr. Igoe including exterior lighting, siding, neutral paint color, and repair or replacement of the fence between the properties. The Board said that there is no basis in the bylaw to specify the color of the house. The Board said that the market dictates a lot of the concerns that Ms. Gilman has.

The Board said that removal of the garage at the back enhances the yard.

The Chairman read Section XVID.C.1 of the Zoning Bylaw. The Board questioned if the Planning Department Staff would have altered its recommendation if it had been presented with the TLAG calculations that were discussed at this hearing.

Michael Zehner, Planning Director, said that the Planning Department Staff did not realize that the TLAG exceeded the threshold for LHR. He said that they would suggest that the correct TLAG be determined and, if it does exceed the threshold, that the Zoning Board be encouraged to consider the criteria for LHR when reviewing the project.

Gary Markoff, 33 Chestnut Street, said that he supports Mr. Igoe's project, although Mr. Igoe has never come to speak to them. He said that there is a project at 37 Chestnut Street that illustrates the disruption that a major construction project causes to the neighborhood. He asked about limitation on working hours with no Sundays and nothing before noon on Saturday. The Board said that there is a bylaw in town that

prohibits Sunday work and before 8 am on Saturdays and 7 am on weekdays. The Board said that it is governed by the Town's Noise Bylaw. Mr. Markoff said that there is no regulation about smoking. He said that he and his wife are both allergic to smoke. He asked that Mr. Igoe consider that the workers not be allowed to smoke on the property and that the noise be kept down to manageable levels because there is a lot of disruption during construction. Mr. Igoe said that he lives 100 yards from the house, so he would not be making noise on Sundays. The Board said that the Police are very supportive of complaints about violations of the Noise Bylaws. The Board said noise and working hours are covered in the bylaw but things like smoking are not.

The Board questioned whether it should see the TLAG calculations. The Chairman said that it would be worthwhile to have documentation that the TLAG will be 6,095 square feet. He said that the bylaw exempts this project from LHR requirements. He said that, as part of looking at whether the project is more detrimental to the neighborhood, TLAG could be part of that analysis.

The Board said that lot coverage will not be increasing substantially. The Board said that it is a 21,000 square foot lot in a 20,000 square foot district.

A Board member said that he thought that it was a good solution for the property. He said that he would be comfortable with having the TLAG calculation as a matter of record. The Board discussed imposing a condition that TLAG not exceed 6,095 square feet.

Statement of Facts

The subject property is located at 38 Chestnut Street, on a 21,228 square foot lot, with a minimum right side yard setback of 10.1 feet, in a 20,000 square foot Single Residence District.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing addition and deck and construction of a two-story addition that will meet all setback requirements, on an existing nonconforming structure 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 1/9/15, stamped by Wesley T. Guillaume, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/12/15, prepared by Frederick Igoe, and photographs were submitted.

On January 29, 2015, the Planning Department Staff reviewed the petition and recommended that the petition 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 opinion of this Authority that although demolition of an existing addition and deck and construction of a two-story addition that will meet all setback requirements, on an existing nonconforming structure 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 demolition of an existing addition and deck and construction of a two-story addition that will meet all setback requirements, on an existing nonconforming structure with less than required right side yard setbacks, subject to the condition:

- A TLAG affidavit shall be submitted that shows that TLAG shall not exceed 6,095 square feet.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

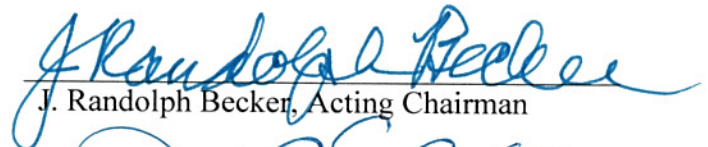
If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

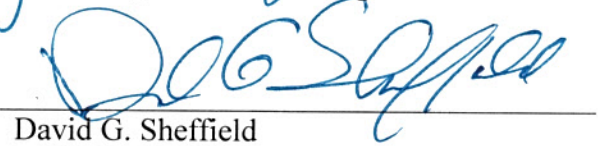
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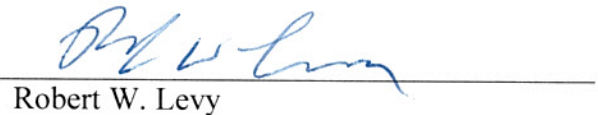
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


J. Randolph Becker, Acting Chairman


David G. Sheffield


Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrn

REFERENCES.

1. DEED IN BOOK 22575 AT PAGE 467
2. PLAN IN BOOK 2778 AT PAGE 405

NOW OR FORMERLY
NEIL P. DESAI

119.54'

NOW OR FORMERLY
PAMELA S GILMAN

NOW OR FORMERLY
RICHARD M. YOUNG

21,228 SQ.FT.±
(RECORD AREA)

CHESTNUT

STREET

EXISTING LOT COVERAGE: 2,899 SQ.FT.±
PROPOSED LOT COVERAGE: 3,266 SQ.FT.±
EXISTING LOT COVERAGE: 13.7% ±
PROPOSED LOT COVERAGE: 15.3% ±

NOTES:

1. PHOTO REPRODUCTION OF THE SEAL AND SIGNATURE HEREON IS INDICATIVE OF UNAUTHORIZED REPRODUCTION AND USE OF THIS PLAN. IF THIS PLAN DOES NOT CONTAIN AN ORIGINAL SIGNATURE IN RED TOGETHER WITH AN EMBOSSED SEAL, IT IS NOT AN AUTHORIZED PLAN FROM GRE SURVEYING AND CANNOT BE USED FOR ANY PURPOSE WHATSOEVER. ANY UNAUTHORIZED USE OR MODIFICATION OF THIS PLAN MAY CONSTITUTE FRAUD AND WILL RENDER THIS PLAN NULL AND VOID.
2. THIS PLAN IS NOT TO BE USED FOR THE RECONSTRUCTION OF BOUNDARY LINES NOR FOR TITLE INSURANCE PURPOSES.
3. THIS PLAN DOES NOT REPRESENT A CONFIRMATION OF BOUNDARY LINES NOR A DETERMINATION OF TITLE BUT IS SOLELY INTENDED TO DEPICT THE OFFSET DIMENSIONS OF THE PROPOSED STRUCTURE TO THE LOT LINES AS DEPICTED ON A PLAN RECORDED IN BOOK 2778 AT PAGE 405.
4. THE SUBJECT PROPERTY IS DEPICTED AS 84 - 48 ON WELLESLEY ASSESSOR'S MAPS
5. OWNER OF RECORD IS FREDERICK IGOE, TRUSTEE, 38 CHESTNUT STREET, WELLESLEY, MA
6. ALL OFFSETS SHOWN HEREON ARE TO THE NEAREST ONE TENTH (1/10) OF A FOOT.
7. ZONING DISTRICT IS SR20

PLOT PLAN of LAND
LOCATED IN
WELLESLEY, MASSACHUSETTS
(NORFOLK COUNTY)

PREPARED FOR
FRED IGOE

SCALE: 1" = 20' DATE: JAN. 9, 2015
10 0 10 20 40



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