

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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TELEPHONE
(781) 431-1019 EXT. 2208

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ZBA 2019-88
Petition of Brian & Carolyn O'Boyle
36 Pine Street

1020 JAN 23 P 12:10

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 7, 2019 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Brian & Carolyn O'Boyle requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming attached garage with less than required left side yard setbacks and construction of a new two-story attached garage with less than required left side yard setbacks and a second story addition over an existing structure, on an existing nonconforming structure with less than required left side yard setbacks, at 36 Pine Street, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 11, 2019, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing were David Himmelberger, Esq., Keri Murray, Architect, Carolyn and Brian O'Boyle, the Petitioner.

Mr. Himmelberger said that the request is for a special permit to extend a nonconforming garage four feet into the setback. He said that the proposal is to replace the garage with a 24 foot wide garage that will reduce the setback from 19 to 15 feet. He cited the Bellalta Case in Brookline to extend a nonconformity. He asked that the Board find that the proposed construction will not be substantially more detrimental to the neighborhood.

Mr. Himmelberger said that the existing house is a one and a half story cape, standing approximately 16 feet tall. He said that the proposed structure will be 23 feet tall. He said that 855 square feet, or 17 percent, will be added to the existing TLAG of 2,551 square feet for a total of 2,986 square feet, which is well below the threshold for Large House Review in a 15,000 square foot district. He said that this is one of the smaller homes on a street with some significant grand Victorians and Dutch Colonials. He said that the aesthetic style of one and a half stories will be maintained.

The Chairman said that the proposed design appears to be driven by what is upstairs. He asked about the request to expand four more feet into the setback. Mr. Himmelberger said that the purpose is to make the 20 foot wide garage more functional and create space for a bedroom on the second floor. He said that the dormers will be at the eave line into the roof.

Ms. Murray said that due to issues with the way that the current house is sited, the layout of the kitchen, mudroom and garage, the pitch of the roof and the height of the dormers, it would not be possible for a

passageway to the new addition without modifying the roof in a way that would require some modifications to the first floor as well. She said that the mass of the proposed structure will look proportionally correct from the street. She said that increasing the width of the garage to 24 feet is standard for two vehicles and helps the roofs tie together on the second floor. She said that they tried to keep the pitch aesthetically desirable and not too flat.

A Board member said that Plan A0.09 shows the existing house with the dormers extending out onto the roof. He said that the new portion is drawn differently with the walls going up higher.

A Board member said that the plan abandons the front door. He said that there is a lot of energy going into the dormers, the façade of the garage and the cupola. He said that an element could be added to the front door that is consistent with the overall design of the house. A Board member said that the front portico would be subject to the 500 Foot Rule.

The Chairman said that the garage dominates the front elevation. He said that it looks like a small house attached to a garage. He questioned how much increased encroachment would be too much in terms of the Bellalta v Brookline Case. Mr. Himmelberger said that it is a case by case evaluation that relates to the context of the neighborhood. He said that the very substantial home to the left at 32 Pine Street will be 40 feet away. He said that there will be minimal visual impact to that property because it is upgrade and well screened. He displayed photographs of a significant wall of very mature arbor vitae trees between the garage and the neighbor at 32 Pine Street, who was among the three abutters who wrote letters of support.

The Chairman discussed TLA and lot size in the Pine Street neighborhood. He said that the average TLA is approximately 3,800 square feet and the TLA for this property is 2,200 square feet. Mr. Himmelberger said that the existing TLAG of 2,551 square feet will be increased to 2,986 square feet.

A Board member said that the dormers on the side are flush with the facade of the first floor, which enlarges the scale of the building. He said that the design will call for more downspouts. He suggested pulling the dormers back where a continuous gutter would work.

The Board discussed concerns about using a seven inch encroachment to create a five foot encroachment by special permit, given that the Zoning Board's task is to make houses more conforming. Mr. Himmelberger said that it is a question of scale and perspective. He said that in this particular case, the 15 feet is not so close to the property line as to be significantly more detrimental. A Board member said that, given the neighborhood, not only on this street but on adjacent streets, the proposed size is not more detrimental to the neighborhood. He said that what is proposed is a fairly standard size for a garage. He said that the three windows in the garage helps with the scale to the neighbors.

The Chairman asked that the Applicant come back with a solution that is less than five feet. He said that the proposed construction will increase a minor nonconformity to 25 percent of the allowed setback.

The Board voted unanimously to continue the hearing to January 9, 2020.

January 9, 2020

Mr. Himmelberger said that the Applicant made a number of revisions to the plans in response to the Board's concerns. He said that the width of the addition was reduced by two feet, thereby increasing the left side setback to 16 feet 8 inches. He said that the front façade was redesigned to reduce the perception of verticality by eliminating the eyebrow roof over the garage doors, the width of the garage doors was reduced from nine to eight feet, and a window over three wide windows was reduced to a double window flanked by smaller windows. He said that the overall perception of the addition is of significantly reduced height. He said that the existing driveway curb cut will be retained. He said that a portico would not work at the front door, so they added side lights to call out the appearance and function. He said that recessing the dormers was unworkable. He said that because it is a half story, pulling the windows back would put them too high in the room and head height would not align with the other windows. He said that the pitch of the roof would require that the dormers sit as they have been designed. He said that the proposed construction will be a full story lower than any neighboring houses. He said that the neighbor on the left has considerable plantings and sits higher. He said that there has been significant abutter support. He said that the proposed construction is not substantially more detrimental to the neighborhood.

A Board member said that the existing setback of 19.3 feet will be reduced to 16.8 feet. The Chairman said that the setback is less than last time but not as much as the Board had hoped for. He said that the Board's other concerns were responded to.

A Board member said that this house, even with the addition, will be considerably smaller than adjacent houses.

A Board member discussed recent case law that allows construction in the setback. He said that the analysis is whether it will be substantially more detrimental.

There was anyone present at the public hearings who wished to speak to the petition.

Statement of Facts

2020 JAN 23 P 12:01
JUDICIAL CLERK'S OFFICE
WELLSLEY MA 02481

The subject property is located at 36 Pine Street, in a 15,000 square foot Single Residence District, with a minimum left side yard setback of 19.7 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming attached garage with less than required left side yard setbacks and construction of a new two-story attached garage with less than required left side yard setbacks and a second story addition over an existing structure, on an existing nonconforming structure with less than required left side yard setbacks, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals, dated 1/2/20, from David Himmelberger, a Plot Plan dated 9/30/19, revised 1/9/20, stamped by Elliott J. Paturzo, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 10/1/19, revised 1/9/20, and renderings, prepared by Keri Murray Architecture, and photographs were submitted.

On November 5, 2019, the Planning Board and January 8, 2020, the Planning Department staff 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 opinion of this Authority that demolition of an existing nonconforming attached garage with less than required left side yard setbacks and construction of a new two-story attached garage with less than required left side yard setbacks and a second story addition over an existing structure, on an existing nonconforming structure with less than required left side yard setbacks will result in the intensification of existing nonconformities, will not result in additional nonconformities, and will 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 nonconforming attached garage with less than required left side yard setbacks and construction of a new two-story attached garage with less than required left side yard setbacks and a second story addition over an existing structure, on an existing nonconforming structure with less than required left side yard setbacks, in accordance with the revised plans dated January 9, 2020.

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, the Special Permit shall expire two years after the date time stamped on this decision.

2020 JAN 23 P 12:01
WELLSTREET MA 02482
TOWN OF NEEDHAM
MASSACHUSETTS 02492

ZBA 2019-88

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36 Pine Street

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
J. Randolph Becker, Chairman

David G. Sheffield
David G. Sheffield

Robert W. Levy
Robert W. Levy

2020 JAN 23 P 12:01
TOWN CLERK'S OFFICE
WELLESLEY MA 02481

ZBA 2019-88
Applicant Brian & Carolyn O'Boyle
Address 36 Pine Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

