



## ZONING BOARD OF APPEALS

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ZBA 2019-45

Petition of Frank Prall, Trustee, 41 Howe Street Realty Trust  
 41 Howe Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 2, 2019 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Frank Prall, Trustee, 41 Howe Street Realty Trust, requesting a Special Permit/Finding pursuant to the provisions of Section XIV, Section XVII and Section XXV of the Zoning Bylaw that raising the roof on an existing nonconforming structure and construction of a dormer to create third floor attic space with less than required front and right side yard setbacks, on a 9,431 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 41 HOWE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 28, 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.

### WITHDRAWN WITHOUT PREJUDICE

Present at the public hearing were Kristin Dibella and Frank Prall, the Petitioner. Ms. Dibella said that she and her husband have lived at 41 Howe Street for 13 years. She said that, over the years, they have done a few construction projects. She said that she is an interior designer, so the integrity of the house is very important to her. She said that they went before the Historical Commission for a previous variance request because it is important to them to maintain the character of the house. She said that they have made substantial improvements to the house.

Ms. Dibella said that they live in the house with their three children, aged thirteen, nine and two years old. She said that the house is a little too small for them at approximately 1,800 square feet. She said that they have three bedrooms. She said that with the children at such different ages, with a boy in the middle, it would be hard to make them share rooms. She said that the request is to raise the roof approximately four feet and add dormers. She said that they do not have a basement and have no attic space over four feet. She said that the lot is nonconforming at under 10,000 square feet. She said that she spoke to the Building Department about adding by-right dormers but decided to go ahead with this plan so that they can have a look to the house that is appropriate for the neighborhood. She said that the existing average height is 26 feet and that will be increased to 29 feet 8 inches. She said that the height on the driveway side will be 32 feet 7 inches because of the sloping topography. She said that a special permit was granted for a house at 68 Crest Road with a similar roof height. She said that the request is to raise the roof and add some dormers.

Mr. Seegel said that he was troubled with the request. He said that there are a number of nonconformities, including the house at the rear. Ms. Dibella said that the house at the rear is grandfathered and has been rented for more than 100 years. She said that two years ago a complaint was filed in the Building

Department regarding that use. She said that got documentation from the Historical Commission showing a census that shows the grandfathered use.

Mr. Seegel said that the lot is undersized, the front yard setback is only 18.9 feet, the left side yard setback is 15.2 feet, and the right side yard setback is 14.8 feet. He said that the Board has been generous over the years by granting permits but the addition of another floor, which would add another nonconformity, is not reasonable. He said that a lot of the neighbors are not happy with the plan. He said that there are two homes that would be very much adversely affected by adding another floor. He said that the windows would look down on the neighbors' bedroom windows. He said that what is proposed would be substantially more detrimental to this neighborhood.

Ms. Dibella said that she was not approached by any of the neighbors. She said that she has letters of support from three neighbors and the abutter next door is present at the public hearing. She said that she has tried to do things tastefully and not overbuild. She said that the house is 1,800 square feet and is significantly smaller than other houses in the neighborhood. She said that Mr. Prall's family has owned the house for 100 years.

Mr. Redgate said that there is a large shed that is not shown on the plot plan. Ms. Dibella said that the shed is 10 feet by 10 feet and she did not realize that it had to be shown on the plan since it did not require a permit. She said that the other small structure is a kids tree house.

Ms. Dibella said that the addition will just be over the main portion of the house, not over the farmers porch.

Mr. Sheffield discussed letters that were submitted to the Board. He said that one of the letters discussed a structure that might overhang the property line. Mr. Redgate said that a photograph that was sent to the Board shows the shed being rectangular. Mr. Prall said that the shed that is close to the neighbor's property is 8 feet by 12 feet. Ms. Dibella said that it is approximately eight feet from the fence.

Mr. Seegel said that letter from an abutter discusses taking away their privacy and contractors going onto their property during the prior construction project. The neighbor said that there is no place for contractors park around there. Ms. Dibella said that she is open to working with the neighbors.

Mr. Seegel asked if there was anyone present at the public hearing who wished to speak to the petition.

Alison Lucas, 28 Howe Street, said that she lives across the street. She said that according the elevation plans that were submitted, there will be four dormers, or technically a fourth structure that does not have windows because it meets another sidewall of a dormer. She said that there are four windows in the dormer and another window in the gable. She said that the dormer begins at the peak of the roof line rather than being set in. She said that there appears to be a two to three foot setback from the sidewall of the dormer on the left. She said that there is another dormer shown on the right side elevation at the peak of the ridge line with two more windows with not much of a setback from the sidewall. She said that the roof is almost flat on the left elevation. She said that the neighborhood has a lot of traditional houses with peaked roofs. She said that if there is a dormer, it is peak and encloses a window, unlike the proposed expanded roof approach with minimal setbacks on both sides. She said that 17 new windows are proposed. She said that the house is already on a high grade. She said that there are Air BNB renters who watch them eat their breakfast if they eat outside. She said that the idea of having an additional level above will loom over the neighborhood and will block sun and light. She said that it will create a horrible

feeling of surveillance for her in her own yard. She said that going two more floors from the main level is outrageous.

Mary Roberts, 21 Howe Street, said that she lives two doors down from 41 Howe Street. She said that she has lived there for 25 years. She discussed intensity of use of the property. She said that many of the neighbors supported the two prior projects that came before the Board. She said that this proposal will exacerbate the intensity of use on the property. She said that over the past few years, there have been frequent short term renters on property and not sufficient parking accommodate the vehicles. She said that adding three new bedrooms and a bathroom will increase the ability to have more short term renters with more vehicles.

Gardner Morse, 24 Howe Street, said that he and his wife live three houses down from 41 Howe Street. He said that he is concerned about this project. He said that he looked at the plans and found them to be hard to decipher. He said that it looks like there will be a full third floor that will dominate the street and be out of character with many of the houses on the street, many of which were built in the 1870's and early 1900's.

Joel Bloom, 20 Howe Street, read a letter from abutters, Catherine Riley and Barbara Werner, 26 Howe Street.

Mr. Seegel said that the Riley/Werner letter was submitted to the Board. He said that the Board also received letters from Suzan Kelley, 23 Howe Street and Meg and Steve Cacciola, 45 Howe Street.

Mr. Bloom said that he has been a resident of 20 Howe Street for 45 years. He said that he agrees with the neighbors who are opposed to this project. He said that the Board has been generous in the past to allow additions to this home, which is on a very small lot. He said that this is the third attempt to increase the size of the house which is on a hilly, curvy, narrow, and dangerous road. He said that the house is rented frequently in its entirety. He said that several businesses are carried on there that create a good amount of traffic. He said that delivery of large oversized packages is a regular occurrence. He asked that the Board deny the permit because it significantly adversely affects the neighborhood. He said that it will be an exponential increase of the building and its use.

Edward Kelley, 23 Howe Street, said that he lives directly to the right of 41 Howe Street. He said that there have been several projects in the neighborhood going on. He said that everything that the Petitioners have done has enhanced the neighbors' property values. He said that the Petitioner's house is shorter than others in the neighborhood. He said that four feet will not make it the tallest. He said that he is in favor of the request.

Ms. Dibella said that they do Air BNB their house. She said that there is a need for people to rent while they are doing renovations. She said that the majority of their renters live in Wellesley. She said that they typically rent their house during vacations when the kids can be away from school. She said that she is willing to compromise on the plans.

Mr. Seegel said that he did not think that the proposed project is appropriate. He said that the plans do not make sense.

Mr. Seegel read the Planning Board recommendation. The Board discussed allowing the petition to be withdrawn without prejudice.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to allow the petition to be withdrawn without prejudice.