

TOWN OF WELLESLEY



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ZBA 2020-15

Petition of Stephen & Maryanne Ulian
14 Windsor Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 5, 2020 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Stephen & Maryanne Ulian requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming garage with less than required rear yard setbacks and demolition of an existing one-story sunroom, construction of a new garage with less than required rear yard and right side yard setbacks with an attached one story addition with less than required rear yard setbacks, and construction of a two-story addition that will meet setback requirements, at 14 Windsor Road, in a 20,000 square foot Single Residence District, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 6, 2020, 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., Lisa Abeles, Architect, Stephen and Maryanne Ulian, the Petitioner.

Mr. Himmelberger said that the request is to raze and replace a nonconforming garage and build a two story addition at the rear of the house, attached to a new 1.5 story garage with a nonconforming rear setback of 13.4 feet and a nonconforming side yard setback of 16.2 feet. He said that the pre-existing nonconforming garage has insufficient rear and side yard setbacks. He said that the proposed new second story addition will be added to an existing second story and will maintain the ridge height of 26 feet, while the ridge height of the main house will remain unchanged at 30.5 feet. He said that the height of the garage will be 19 feet. He said that lot coverage will increase from 11 percent to 14.9 percent and existing TLAG of 3,862 square feet will increase to 5,453 square feet.

A Board member said that the only nonconformity is the garage to the rear and the proposal is to demolish it. He asked why the proposed garage will not be built in conformity. Ms. Abeles display oversized plans. She said that the existing garage is awkward. She said that the proposal is to put the family room where the garage is now and slide garage over to the driveway.

The Chairman said that the proposal is to make a conforming house nonconforming and create a new nonconformance on the right side. He questioned why this was not a variance request. Mr. Himmelberger said that the Petitioner is seeking a determination that, under the Bellalta Case which allows for increasing an existing nonconformity, to also allow for the creation of the two additional nonconformities. The Chairman said that Deadrick and other case law conclude that a new

nonconformance needs a variance. He said that Bellalta dealt with exacerbation of an existing nonconformity.

A Board member agreed that the new setback of 16.2 feet should require a variance. He said that everything could be pushed over. Ms. Abeles asked if moving the addition over four feet to the left will be acceptable.

A Board member discussed concerns with having the rear yard nonconformity remain and creating a new nonconformity in the right side yard. Ms. Abeles said that the family room will take the place of the garage. She said that the garage will be easier to get to. She said that it is set back from the street and the abutters on both sides support the project. She said that they cannot fit two cars into the existing garage. She said that they did not move the structure closer to the rear where it abuts Centennial Park.

A Board member said that the project will not improve any situation. He said that there is plenty of room to slide the whole thing over to where the proposed terrace will be and slide it forward. Ms. Abeles said that if they slide the family room over to where the proposed terrace is, they will have to go through the garage to get to the kitchen from the family room. She asked about pulling the garage over four feet to conform on the side and pulling the family room in to conform to the rear lot line setback. She said that pulling the garage forward would not work. The Chairman said that it will start and end with a nonconforming rear yard setback of 13.4 feet. Ms. Abeles said that they are asking to keep the garage at the same distance from the rear property line and not add more nonconformities.

Ms. Abeles said that the existing sunroom will be demolished. She discussed the existing and proposed floor plans.

A Board member said that one of the problems with not having a separate existing conditions plot plan is that you lose insight into the fact that by connecting to where the garage is, the bulk of the building is increased substantially. Ms. Abeles said that the perception from the street would not be significant. She said that it is very far back on the property. She said that it is a very deep lot and there is a long driveway.

The Chairman said that moving into the side yard setback will require a variance, not a special permit. He said that the garage in the east/west direction, prior to the proposal, was conforming. He said that it will be 16.2 feet instead of 20 feet. He said that the question is then whether the proposal before the Board will be substantially more detrimental to the neighborhood than the existing structure. He said that the proposal is to join everything at the back to the house. He said that a conforming structure will now be made nonconforming without doing anything to the house. He said that the implications of that is that future additions may require a special permit.

A Board member said that TLAG will be increased by 41 percent. He said that the fact that the small nonconformity at the rear exempts the project from Large House Review (LHR) is of concern. He said that he would expect that every requirement of LHR be satisfied. He said that Board would need to look at drainage, lighting, trees, etc. He said that he felt strongly about the fact that when there is a conforming lot and a basic house that conforms, to build an addition of the size that is proposed is beyond ZBA expertise. He said that they are taking advantage of a small nonconformity to make the house half again as large. Mr. Himmelberger said that the property is located in a 20,000 square foot district where the threshold for LHR is 5,900 square feet. He said that this would be under the threshold at 5,453 square feet.

Mr. Ulian said that the existing garage is nonconforming. He said that it is only good for one and a half cars and is falling down. He said that the motivation is not for a McMansion. He said that the design that they put forward is not about being bigger but is to keep the look and feel of the house. He said that the issue that they had was, in order to get a two car garage, pulling it forward was not attractive. He said that maintaining the rear yard setback would keep the garage far back from the street. He said that intention was to get a two car garage, a mudroom and a workable kitchen. Ms. Abeles said that her clients were concerned about not ruining the period look of the house.

A Board member said that he is troubled by the concept of taking down the garage and rebuilding so close to the rear lot line, even though it is park land. He said that there is no basis for granting a variance.

A Board member confirmed that there will be no second floor to the garage other than attic space. Mr. Ulian said that you have to use a ladder to get up to the attic space.

Mr. Himmelberger requested that the Board grant a continuance to the May 7, 2020 public hearing.

A Board member asked that the Petitioner give consideration to the rear lot line when they revise the plans.

There was no one present at the public hearing who wished to speak to the petition.

The Board voted unanimously to continue the petition to May 7, 2020.

In accordance with Chapter 53 of the Acts of 2020, the hearing was continued to June 4, 2020.

June 4, 2020

Mr. Himmelberger said that this matter was before the Board in March. He said that subsequently, the Applicants questioned whether they wished to proceed with a project like this in the current state of affairs and requested that the petition be allowed to be withdrawn without prejudice. He said that the Ulians will assess how things turn out over the coming months before reconsidering to proceed further.

The Board voted unanimously to allow the petition to be withdrawn without prejudice.

