

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2020-42

Petition of Richard & Mary Quincy  
19 Lincoln Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, October 1, 2020 at 7:30 pm, on the petition of Richard & Mary Quincy 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 left side yard setbacks, and construction of a new attached two-car garage with less than required left side yard setbacks and construction of a mudroom, on a 15,838 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, at 19 Lincoln Road, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 28, 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. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for October 1, 2020.

### WITHDRAWN WITHOUT PREJUDICE

Present at the public hearing was Mike Tartamella, Architect, representing Richard and Mary Quincy, the Petitioner. Mr. Tartamella said that 19 Lincoln Road is a 1.5 story cape with an existing two car detached garage. He said that the house was built in approximately 1924 and was renovated in 1979. He said that it runs along Lincoln Road and the rear property line abuts Wellesley Country Club. He said that the lot is 15,838 square feet and is located in a 20,000 square foot Single Residence District. He said that the current structure has a total living area of 2,532 square feet, which is modest for the neighborhood and the district. He said that the existing structure is nonconforming on the western property line with a 10.2 foot setback. He said that the existing detached two car garage has a setback of 3.8 feet, which increases to approximately 5 feet as it goes to the north.

Mr. Tartamella said that the proposal is to raze the existing two car garage and reconstruct a new two car garage further away from the existing setback, improving the current nonconformity. He said that the new two car garage will attach a new mudroom connector piece to the existing kitchen in the house. He said that the entire house will be renovated on the interior. He said that proposed TLAG will be approximately 4,000 square feet, which is well below the 5,900 square foot threshold for the district. He said that it will be well below the demolition delay calculations. He said that lot coverage will be well below the maximum allowed. He said that the project will be relocation of an existing detached garage and attaching with an improvement on the eastern setback side. He said that they spoke with the neighbors and they support the relocation of the garage.

The Chairman said that the project will almost double the square footage. He said that the existing garage is 413 square feet and the proposed addition is 793 square feet. He asked about the height of the existing garage and the proposed garage. Mr. Tartamella said that the addition includes the mudroom connector. He said that the proposed height of the garage will be six feet higher than the existing height. He said that Sheet A1 shows a gable that runs from front to back, with the highest point of the gable along the east property line. He said that while the proposed ridge will be higher, it will still be lower than the existing house. He said that the roof will slope away from the east property line, so there will be less exposed elevation than what is currently there.

A Board member confirmed that the neighbors, the Costellos were notified. Mr. Tartamella said that they are the direct abutter to the east. He said that the Petitioner and the Costellos have spoken together a number of times to discuss landscaping and installing the buffer between the two driveways.

The Chairman asked about plumbing in the new structure. Mr. Tartamella said that there is no proposed finished space above the garage. He said that there will be a slight expansion above the mudroom. He said that above the garage will be attic storage. He said that the house is quite modest in comparison to the scale of other houses in the neighborhood. He said that the homeowners are downsizing to the area. He said that they would like to have the garage attached for a number of reasons, including having a more reasonably sized garage because the existing garage is too tight.

The Chairman asked if the height is being driven by trying to fit into the architectural integrity of the building. Mr. Tartamella discussed the slope and pitch of the roof. He said that it will pick up on the existing architectural character. The Chairman said that the cupola is a nice structure but it is close to the lot line, which exacerbates the massing issue. Mr. Tartamella said that the purpose of the cupola was to add verticality to something that is horizontal. He said that they enlarged the chimney for the same purpose. The Chairman said that his concern was the effect on the abutters with the cupola being so close to the lot line.

A Board member asked how the intersection with the other driveway will be restored. He said that the new driveway will impact a stone wall and a lot of trees will be coming out. Mr. Tartamella said that the existing driveway comes in low on the property. He said that the plan is to relocate the curb cut. He said that currently there is an agreement to use the curb cut for both properties. He said that the new curb cut will be located further up the street. He said that there will be an arborist's report. He said that the project will not trigger the Tree Preservation Bylaw. He said that intention is to thin out the trees, some of which are dead and others that have not been maintained over time. He said that the proposed driveway will be a straight shot and not so steep a slope. He said that the existing curb cut will be reduced to be sufficient for the property to the west.

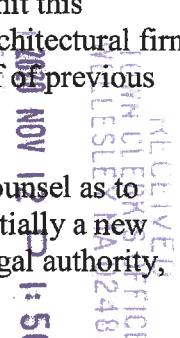
A Board member questioned why this would not be a variance. He said that it starts out with an existing house that is nonconforming on the west side and the east side is conforming. He said that by attaching the garage to the house, it makes a new nonconformity on the east side of the house. Mr. Tartamella said that, by definition, the house is already nonconforming. He said that there are a couple of precedents for this in town.

The Chairman discussed special consideration given to one and two story houses. He said that this is an alteration to a detached garage, which is neither a one or two story house. He said that it is a nonconforming garage and they will be adding a new nonconformity to the east side of the house. Mr.

Tartamella said that there is a case log history of similar approvals done by special permit, particularly with nonconformities. He said that they would be connecting what is an existing nonconforming structure to another nonconforming structure. Three Board members said that the nonconformity is on the other side of the house. A fourth member said that he sat for other petitions with similar conditions. He said that they were judged as individual cases. He said that this seems like an appropriate solution. The Chairman said that the Board has to apply the rules as it sees them, not whether it likes the project or not. He said that those other houses may have been nonconforming on that side but that is not what is currently before the Board. He said that in accordance with the bylaw and State Law, the Board tries to make properties as conforming as possible, and not create new nonconformities. He said that the homeowners may want to come back in the future to expand toward the front of the house using the nonconformity that will exist. Mr. Tartamella said that the garage is a structure and the house is a structure. He said that if the two are connected, they will still maintain their nonconformities. The Chairman said that currently it is a detached garage which could not be built today as a matter of right. He said that they could not expand the house to the east without a variance. Mr. Tartamella said that there are other cases where that was acceptable. The Chairman said that is not before the Board and what happens in other cases is not persuasive. Mr. Tartamella said that they were working with what they thought would be the Board's interpretation of the bylaw. He said that because the language is open to that, they were hoping that the Board would see that favorably. He said that what they are proposing is well under the TLAG threshold, they addressed the mass and scale, and they have an architectural solution that enhances the overall character and scale and is not substantially more detrimental to the neighborhood. He said that they are not asking for something that is above and beyond in terms of mass and scale.

The Chairman said that the point of concern is whether the Board has the authority to grant this by special permit or whether it requires a variance. He said that there are two different criteria analyses. He said that he likes the project and thinks that it has been well designed. He discussed seeking advice from Town Counsel regarding whether they believe that the Board can grant relief to attach the nonconforming garage to the house as a special permit. He said that at least two members have questioned whether the Board can grant a special permit for the relief being sought. He said that if that determination came down, the Petitioner would probably get an affirmative vote. He said that the issue is whether the Board has authority under Chapter 40A, Section 6, as well as the Wellesley Zoning Bylaw to permit this proposal, based on a special permit instead of a variance. Mr. Tartamella said that their Architectural firm has practiced in town for a number of years. He said that they based their interpretation off of previous experiences.

The Chairman suggested that the Board continue the matter and seek advice from Town Counsel as to whether the Board is legally permitted to issue a special permit, given the creation of potentially a new nonconformity. The Chairman said that if Mr. Tartamella wanted to provide any further legal authority, he would be willing to consider it.

  
John Costello, 25 Lincoln Road, said that he wanted to offer his support for what Mr. Tartamella has said. He said that he has been working with the Petitioner for a couple of months and feels positive about all of the design decisions that have been made. He said that it is an impressive improvement to the house, the lot and the neighborhood.

Mr. Tartamella said that he will ask his Counsel to review the petition as well. The Chairman said that the Board will be willing to consider an analysis of why this can be granted as a special permit.

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The Board voted unanimously to continue the petition to October 29, 2020.

On October 28, 2020, Town Counsel submitted an opinion to the Board.

**October 29, 2020**

Mr. Tartamella requested the petition be allowed to be withdrawn without prejudice and thanked the Board for obtaining clarification from Town Counsel.

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

RECEIVED  
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