



TOWN OF WELLESLEY

MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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ZBA 2020-77
Petition of Craig Byrnes
133 Abbott Road

2020 DEC 29 P 10:56:00
bearing on Tues
permit/finding

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Tuesday, December 15, 2020 at 7:30 pm, on the petition of Craig Byrnes requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition and reconstruction with expansion of the footprint of an existing nonconforming garage with less than required right side yard and rear yard setbacks, and replacement of an existing conforming portico entry on an existing conforming structure, on an 18,212 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, at 133 Abbott Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 2, 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 December 15, 2020.

Present at the public hearing were David Himmelberger, Esq., Jacob Lilley, Architect, and Craig Byrnes, the Petitioner. Mr. Himmelberger said that the request is for a special permit for razing and reconstruction of a pre-existing nonconforming structure on a lot with less than required area and setback. He said that the project consists of two items, the first of which is rebuilding the existing front portico on the same footprint, restoring it to its historical origins. He said that the original portico was removed at some point and was left unadorned and plain. He said that there is a pre-existing nonconforming garage with less than required setbacks of 15.1 feet at the rear and 5.8 feet on the side. He said that the request is to raze the garage, retain the existing rear and side yard setbacks, and rebuild a slightly enlarged garage that moves toward the interior of the lot. He said that lot coverage will increase from 2,549 square feet to 2,713 square feet, and proposed TLAG will be 4,569 square feet, which is well below the threshold for Large House Review (LHR) in a 20,000 square foot Single Residence District. He said that the garage replacement is intended to provide slightly larger accommodation for two cars with additional storage space. He said that there will be a cupola on top.

A Board member discussed concerns about tearing down a nonconforming garage that is 5.8 from the property line and not trying to move it over into what appears to be a large backyard. He said that the goal of the Zoning Bylaw is to try to make things more conforming. He said that if there was some effort to move it over 5 to 10 feet, it would still not be fully compliant but would have shown a willingness to make it more conforming.

Mr. Himmelberger said that, due to the location of the driveway tight on the side of the house and the proximity of the face of the garage to the back of the house, moving it further left would make getting into

the garage more difficult. He said that the Petitioner would also like to preserve the backyard. Board members discussed reorienting the garage to improve the rear yard setback. Mr. Himmelberger said that it would be difficult to access the left bay because it would be moved forward three or four feet. He said that the approach is tricky due to the encroachment of an addition that was put on the house 25 years ago. He said that under current circumstances, you can very carefully place two cars in the garage and still have enough room for some storage. He said that it is very tight and a tough angle to accommodate.

A Board member asked about having a turnaround in the driveway. Mr. Lilley said that they looked at viable options for the garage other than building on the same footprint. He said that building on the footprint still provides a difficult approach to the garage because the addition that encroaches toward the garage creates a tight pinch point. He discussed the Zoning Bylaw setback requirements for side facing garages. He said that they went through several iterations to come up with a design that provided utility and maintained the yard and the design that seemed to work best was rebuilding on the existing footprint. He said that this is a family with three young kids and having to do a six point turn to go down a north facing driveway that is frequently icy and problematic in the winter would be a concern.

A Board member asked about lighting in the cupola. He said that the garage will be 5.8 feet from the lot line and 15 feet in the air. Mr. Lilley said that there will be one LED fixture that they do not need to have. He said that his clients would probably be willing to lower the cupola or remove the light. A Board member said that it was hard to judge from the plans but the screening looks somewhat scrawny. He asked about possibly adding some. Mr. Byrnes said that there are a lot of trees between the garage and the neighbor's house.

A Board member discussed eliminating the lighting in the cupola or darkening the side that faces the abutter to the right. Mr. Lilley said that they could locate the light so that it sits in a meaningful spot in the space to shine up but with no direct exposed bulb. He said that it is more important to have lighting inside the garage. Mr. Himmelberger displayed a plan with a reduced footprint of the cupola that would reduce light from it by at least 50 percent. He said that if it is just ambient light coming through, that should address the concerns, given the screening that is already there. He discussed inserting a condition that the light be shut off at a certain time. The Board confirmed that the height of the garage and cupola that Mr. Himmelberger displayed is the same as the originally proposed garage and cupola.

Mr. Byrnes said that his wife had a conversation with the neighbors to the right. He said that when they previously did a project on the side of the house, they spoke with the neighbors about their overall plans and his wife had more recent conversations with them about plans for the garage. Erin Byrnes said that the neighbors had not seen the plans but she discussed with them what they were planning to do and the neighbor was fine with it.

A Board member discussed applicability of the 500 Foot Rule. Mr. Himmelberger said that the existing portico will be replaced by the proposed portico on the same footprint, coming no closer to the street.

The Board discussed the Planning Board recommendation about the outdoor shower and removal of the shed. The Chairman said that outdoor showers are not addressed in the Zoning Bylaw, so approval of a special permit would not cover the outdoor shower. He said that the Petitioner should check with the Board of Health and the Building Inspector to see what is required.

Mr. Himmelberger said that the existing 65 square foot free-standing shed behind the garage is primarily used for lawn equipment and the garage is used for cars and kid paraphernalia. He said that storage will be accessed from two doors on the left side of the proposed garage.

Caren Parker, 134 Abbott Road, said that she lives across the street from 133 Abbott Road. She said that she looked at the plans and discussed concerns that she had with Ms. Byrnes. She said that she likes the façade. She said that it is extremely common in this neighborhood to have garages in the corner of the lot. She said that the driveway is a hill. She said that the garage needs to be where it is and she has no objection to making the garage a little bigger to make it more useful. She said that she was concerned about the cupola, which will add height, presence and prominence to a secondary building. She said that she liked the alternate plan that Mr. Himmelberger displayed but not the proposed design.

The Board further discussed lighting in the cupola. The Chairman said that light spillage discussed in the bylaw is usually connected to direct lighting in a parking lot. He said that his preference is for the alternate design that Mr. Himmelberger displayed. A Board member said that as long as the source of the illumination is not visible, he did not see it as a problem. A Board member said that the light should be shut off at midnight.

Statement of Facts

2020 DEC 29 158
MURKIN CLERK'S OFFICE
Wellesley, MA

The subject property is located at 133 Abbott Road, on an 18,212 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet. The existing nonconforming garage has a minimum right side yard setback of 5.8 feet where 20 feet is required, and a minimum rear yard setback of 15 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 and reconstruction with expansion of the footprint of an existing nonconforming garage with less than required right side yard and rear yard setbacks, and replacement of an existing conforming portico entry on an existing conforming structure, on an 18,212 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 10/30/20, stamped by John R. Hamel, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 11/3/20, prepared by Jacob Lilley Architects, and photographs were submitted.

On December 14, 2020, the Planning Board reviewed the petition and recommended that a special permit be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that demolition and reconstruction with expansion of the footprint of an existing nonconforming garage with less than required right side yard and rear yard setbacks will result in the intensification of existing nonconformities, replacement of an existing conforming portico entry on an existing conforming structure will not result in the intensification of existing nonconformities, on an 18,212 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet,

and the proposed construction 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 and reconstruction with expansion of the footprint of an existing nonconforming garage with less than required right side yard and rear yard setbacks, and replacement of an existing conforming portico entry on an existing conforming structure, on an 18,212 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, subject to the following conditions:

1. The cupola shall be changed to a 2 over 2 in lieu of the double 2 over 2, in accordance with the Proposed Garage Elevation Plan, dated December 15, 2020, prepared by Jacob Lilley Architects.
2. The source of lighting in the cupola shall not be visible from the exterior.
3. Lighting in the cupola shall be shut off no later than midnight of each day.

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

RECEIVED
JOHN BYRNE'S OFFICE
WELLESLEY MA 02482
2020 DEC 29 P 1:58

ZBA 2020-77
Petition of Craig Byrnes
133 Abbott Road

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 (l.m.)
J. Randolph Becker, Chairman

Robert W. Levy (l.m.)
Robert W. Levy

Walter B. Adams (l.m.)
Walter B. Adams

ZBA 2020-77
Applicant Craig Byrnes
Address 133 Abbott Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

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2020 DEC 29 P 1:58
TOWN CLERK'S OFFICE
WELLESLEY MASS 02482

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

