



ZONING BOARD OF APPEALS

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 11/13/2017
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ZBA 2017-89

Petition of United Investment Fleet, LLC
 48 Cedar Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 2, 2017, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of United Investment Fleet, LLC requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming porch, and construction of a two-story addition with an attached two-story, two-car garage and construction of a one-story entry porch, that will meet all setback requirements, on an existing nonconforming structure with less than required front yard and side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District and a Water Supply Protection District, at 48 Cedar Street, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 27, 2017, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Terrence Morris, Esq. and Tom Zou, United Investment Fleet, LLC, the Petitioner.

Mr. Morris said that his client purchased the property several months ago. He said that the property consists of two lots, an 8,000 square foot lot and a 6,000 square foot plus lot that merged to become a 14,000 square foot plus lot that is compliant in the 10,000 square foot Single Residence District. He said that the request is to demolish an existing porch that faces Cedar Street and add a two story addition to a nonconforming single family structure that does not meet the 30 foot setback requirement from Cedar Street and the 20 foot side yard setback. He said that the existing front yard setback is 22.6 feet and the existing side yard setback is 13.1 feet. He said that his client spoke with the abutters on both sides and they have no objections. He said that the proposed addition will not exacerbate the existing nonconformity. He said that demolition of the front porch will improve the situation by increasing the front yard setback to 27.3 feet.

The Chairman said that the Planning Board recommendation stated that said that the altered structure would result in a Total Living Area plus Garage (TLAG) of almost triple the existing structure with an increase from 1,775 square feet to almost 5,000 square feet. The Chairman said that this is a pre-existing nonconforming property. He said that it is a very large lot and the setbacks are enormous with 53 feet at the rear and 42 feet on the right side. He said that the Planning Board asked that the Zoning Board consider the criteria for Large House Review (LHR) in its review and request additional materials from the Applicant. He questioned the need to apply LHR standards in this particular case. He said that it is a very large addition but he does not see it as something that adversely affects anyone around.

A Board member said that he is a neighbor who lives at the other end of River Ridge. He said that he will not be impacted by this proposal and will not be prejudiced in any way about the Board's decision. He asked if the Applicant shared the plans with anyone other than the two abutters, particularly the homeowner who lives across the town land. Mr. Zou said that he had not. The Board member said that the Board always encourages applicants to share their plans with as many neighbors as possible.

Mr. Morris said that it is his understanding that this project will be subject to LHR because it will exceed the existing TLAG by more than 10 percent. The Chairman said that under the bylaw this property is not subject to LHR because it is a pre-existing nonconforming property.

A Board member asked if the Applicant would be willing to supply additional information that would address LHR criteria for drainage, trees, landscaping, and lighting. Mr. Morris said that it is possible to reduce the structure to address the main thrust of LHR, which is volume. He said that drainage and the other standards are peripheral matters. The Board said that those standards mitigate the impact. Mr. Morris said that the proposed setbacks are quite generous and they will not exacerbate the setbacks.

Mr. Morris said that the standard is whether the proposal will be substantially more detrimental to the neighborhood. He questioned whether simply expanding the structure will make it substantially more detrimental. A Board member said that he would lean toward the determination that this would be more detrimental because of the massing and the increase from one story up to three stories. He said that it is a grand redevelopment of what is currently there and in comparison to other homes on Cedar Street.

Mr. Morris said that the plans show the house at 4,930 square feet, of which 552 square feet is garage. He said that it is possible to reduce the square footage to 10 percent over the threshold of 3,600 square feet. He said that they could reduce the proposed structure by 440 square feet, which would bring the total down to 3,960 square feet, which is below the threshold. The Chairman said that was a good suggestion.

A Board member said that the structure is set back from the neighbor facing onto River Ridge. He said that the Applicant should be cognizant of the neighbor on Cedar Street because that is who would be most affected. Mr. Morris said that the addition will provide a new front porch that is oriented toward River Ridge.

The Chairman asked that the Applicant provide as many of the items in summary form that LHR normally looks at. He said that he would like to see a TLAG calculation with the new plans.

The Board voted unanimously to continue the petition to December 7, 2017.

December 7, 2017

The Chairman said that the Planning Board reviewed the revised plans and modified its recommendation to recommend approval.

Present were Terrence Morris, Esq., Tom Zou, Principal, United Investment Fleet, LLC, and Scott Lewis, Home Design.

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Mr. Morris said that the request is for a Section 6 Finding under Chapter 40A that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. He said that the house is a nonconforming structure by virtue of a side yard setback of 13 feet and a front setback of 22.5 feet. He said that all other aspects are conforming. He said that the property is located in a 10,000 square foot Single Residence District. He said that the lot size is 15,000 square feet, which is 50 percent more than what is required.

Mr. Morris said that the previously proposed house has been reduced by 20 percent to 3,480 square feet. He said that the existing house presents itself almost as a three-story, given the dimensions of the dormer. He said that they reduced that and simplified the look of the building. He said that they reduced the overall height by almost four feet.

The Chairman confirmed that on the plans where it says that the outline of the existing roof structure will be removed and rebuilt it means that the roof will be removed and lowered. Mr. Lewis said that the roof will be rebuilt at a drastically lower pitch that will effectively eliminate usable attic space. He said that there will be no habitable space on the third floor. He said that access to the attic will be by pull down stairs.

A Board member asked if the 32.04 feet height that is listed in the table on the plot plan is correct. Mr. Morris said that it is lower at 27.9 feet. Mr. Lewis said that Sheet A8 shows a height of 25.8 feet from the first floor to the highest ridge. He said that from the grade to the first floor is a couple more feet. He said that all of the structure will be under 30 feet.

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

Statement of Facts

The subject property is located at 48 Cedar Street, on a corner lot, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with a minimum front yard setback to Cedar Street of 22.6 feet and a minimum side yard setback of 13.1 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming porch, and construction of a two-story addition with an attached two-story, two-car garage and construction of a one-story entry porch, that will meet all setback requirements, on an existing nonconforming structure with less than required front yard and side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District and a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan and a letter re: Building Alignment, dated 9/20/17, stamped by Peter J. Nolan, Professional Land Surveyor, Existing & Proposed Floor Plans and Elevation Drawings, dated 9/19/17, revised 11/28/17, prepared by Scott Lewis, and photographs were submitted.

On December 5, 2017, the Planning Board reviewed the revised plans and recommended that a Special Permit be granted.

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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 porch, and construction of a two-story addition with an attached two-story, two-car garage and construction of a one-story entry porch, that will meet all setback requirements, on an existing nonconforming structure with less than required front yard and side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District and a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming porch, and construction of a two-story addition with an attached two-story, two-car garage and construction of a one-story entry porch, that will meet all setback requirements, in accordance with the submitted plot plan and construction drawings dated 11/28/17.

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.

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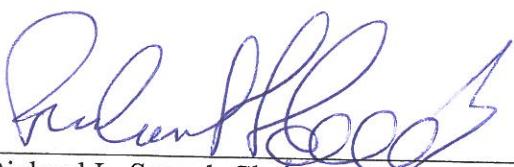
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ZBA 2017-89
Petition of United Investment Fleet LLC/
Tom Zou
48 Cedar Street

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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.



Richard L. Seegel, Chairman



Walter B. Adams



J. Randolph Becker

cc: Planning Board
Inspector of Buildings
lrm

