



## ZONING BOARD OF APPEALS

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

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ZBA 2020-14  
Petition of Janine & Daniel Gustafson  
29 Damien 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 Janine & Daniel Gustafson requesting a Special Permit/Finding and amendment of a Variance pursuant to the provisions of Section 14E, Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that construction of a two-story addition that will meet setback requirements, on an existing nonconforming structure with less than required left side yard and right side yard setbacks, on a 14,250 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, at 29 Damien Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting to amend an existing variance to add a second floor to a garage with less than required right side yard setbacks.

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 hearing were David Himmelberger, Esq., Janine and Daniel Gustafson, the Petitioner.

Mr. Himmelberger said that the request is for a special permit and modification of an existing variance to permit construction of second story addition to the garage and a two story addition to the rear of an existing nonconforming structure. He said that the garage was the subject of an earlier variance that was granted by one of the predecessor Boards. He said that the proposed addition will be fully compliant with dimensional setbacks. He said that the current house is nonconforming due to insufficient lot area of 14,250 square feet, with a left side setback of 12.7 feet and a right side setback at the garage of 10.8 feet.

Mr. Himmelberger said that the proposed new second story over the garage will be 20 feet 11 inches tall. He said that the rear addition will be the same height as the existing ridge line elevation. He said that existing lot coverage of 14.3 percent or 2,045 square feet, will increase to 19.1 percent, or 2,720 square feet. He said that existing TLAG of 3,252 square feet will increase to 4,759 square feet. He said that this will be a tasteful addition to a very gracious home in a nice neighborhood. He said that the abutters to the garage side are supportive of the application.

A Board member asked if the plans have any provisions for containing water runoff. Mr. Gustafson said that they currently have a drywell on the left side of the house. The Board member asked about the increase in impervious surface. Mr. Himmelberger said that lot coverage will increase by 675 square feet. Ms. Gustafson said that the area between the two existing structures at the rear will be new and the rest of the new construction will be above the existing structure. The Board member confirmed that the lot is level.

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 29 Damien Road, on a 14,250 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, with a minimum left side yard setback of 12.7 feet and a minimum right side yard setback of 18 feet where 20 is required.

The Petitioner is requesting a Special Permit/Finding and amendment of a Variance pursuant to the provisions of Section 14E, Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that construction of a two-story addition that will meet setback requirements, on an existing nonconforming structure with less than required left side yard and right side yard setbacks, on a 14,250 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting to amend an existing variance to add a second floor to a garage with less than required right side yard setbacks.

A Plot Plan, dated 1/23/20, stamped by Terrence M. Ryan, Professional Land Surveyor, Existing and Proposed Floor Plans, dated 1/21/20, Existing and Proposed Elevation Drawings, dated 1/16/20, prepared by Tiryaki Architectural Design, and photographs were submitted.

On March 5, 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. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

The Board found that the Design and Operation Standards in Part F are adequately satisfied and not otherwise prohibited in Part D.1, of Section XIVE of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that construction of a two-story addition that will meet setback requirements, on an existing nonconforming structure with less than required left side yard and right side yard setbacks, on a 14,250 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, will not result in the intensification of existing nonconformities, 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 construction of a two-story addition that will meet setback requirements, on an existing nonconforming structure with less than required left side yard and right side yard setbacks, on a 14,250 square foot lot in a

Single Residence District in which the minimum lot size is 15,000 square feet, in accordance with the submitted plot plan and construction drawings.

The Board is of the opinion that in granting amendment of previously granted Variance, ZBA 46-12, it was determined by a previous Board in 1946 that a hardship existed.

Therefore, in reliance on the prior findings of that Board, this Board amends the Variance to permit construction of a second floor to a garage with less than required right side yard setbacks, in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

If construction has not commenced, except for good cause, the Special Permit shall expire two years after the date time stamped on this decision.

If construction has not commenced, except for good cause, Amendment of the Variance shall expire one year after the date time stamped on this decision.

2020 MAR 19 A 11:30  
CITY OF PORTLAND  
PLANNING AND COMMUNITY DEVELOPMENT  
1100 NE OREGON ST. 5TH FLOOR  
PORTLAND, OR 97232

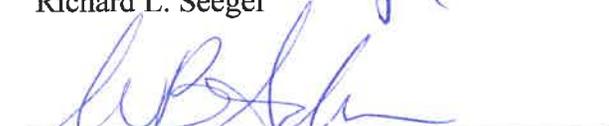
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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
J. Randolph Becker, Chairman

  
Richard L. Seegel

  
Walter B. Adams

ZBA            2020-14  
Applicant     Janine & Daniel Gustafson  
Address       29 Damien Road

2020 MAR 19 A 11:30  
TOWN CLERK  
CATHRYN JANE KATO

**NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK**

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