



ZONING BOARD OF APPEALS

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ZBA 2020-40
Petition of Jonathan & Allexe Law-Flood
7 Cavanagh 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 Jonathan & Allexe Law-Flood requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that construction of a second floor egress with stairs and a landing, and demolition and reconstruction with a larger footprint of an existing nonconforming shed with less than required right side yard setbacks, at 7 Cavanagh Road, 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.

On April 22, 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.

Present at the public hearing were Jon and Allexe Flood, the Petitioner. Mr. Flood said that they have owned the property since 2000. He said that they have come before the Board two times for other requested improvements and those requests were approved. He said that the current request is to construct an exterior stair from the master bedroom on the second floor that comes down to the side of structure and lands at the end of the driveway and to also replace and expand an existing shed.

Mr. Flood said that he has correspondence from Michael Grant, Building Inspector, who stated that his opinion was that a special permit was not required for the stairs because they are uncovered and the landing that is in the setback is less than 25 square feet.

Mr. Flood said that the existing shed is 6 feet by 20 feet, for a total of 120 square feet. He said that the southern side of the shed at its closest point is just over 3 feet from the property line. He said that the proposal is to maintain that setback. He said that the rear setback of the shed is conforming at 13 feet. He said that the existing shed was built in the mid to late 1950's. He said that it is an open air structure. He said that the existing shed has electricity for a light and outlets but no plumbing. He said that the request is for a special permit for a proposed shed that would increase the width from 6 feet to 10 feet, with a total square footage of 200 square feet. He said that the existing height is 9 feet and the proposed height is 12 feet. Ms. Flood said that the shed will extend into the yard.

Mr. Flood said that they spoke with many of the neighbors and there were no objections. Ms. Flood said that the neighbor who is next door has a large garage that obscures the view. The Chairman said that the properties abutting the southerly property line face onto Elmwood Road.

Mr. Flood said that he spoke with the former owner's daughter who remembered her father constructing the shed when she was young, in the mid to late 1950's. He said that she sent a picture of the shed dating from 1978.

Mr. Flood said that he asked Mr. Grant about Zoning Bylaws in effect when the shed was built. He said that according to the 1956 bylaw, the side yard setback was 20 feet and there was an exception to the bylaw that allowed for ancillary structures that were not more than 1.5 stories and not used for human habitation.

Mr. Flood said that proposed lot coverage will be 1,686 square feet or 13 percent. He said that there are 24 homes fronting on Cavanagh Road and 21 of them have structures in excess of 100 square feet within the side yard setback and 12 of them have ancillary structures in excess of 200 square feet. He discussed an expanded count of homes in the neighborhood in addition to Cavanagh Road with ancillary structures, many of which are nonconforming.

A Board member asked about fencing. Mr. Flood said that there is a stockade fence at the rear on the neighbor's property and the other sides have wire fencing.

The Chairman asked if any consideration had been given to shifting the shed to the north. Mr. Flood said that by shifting the shed off of the property line would bring it further into the yard and because of the angle of the house and the garage would increase the view of the shed. Ms. Flood said that the neighbors across said that they like the location of the new shed. A Board member suggested that the new shed be installed perpendicular to the lot lines. The Chairman confirmed that the Petitioner did not object to squaring the shed off with the property lines, using 6.3 feet for the setback. He confirmed that the purpose of the shed is just for storage.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 7 Cavanagh Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with a minimum front yard setback of 29.6 feet where 30 feet is required and a minimum left side yard setback of 13.9 feet where 20 feet is required. The existing nonconforming shed has a minimum right side yard of 3.4 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that construction of a second floor egress with stairs and a landing, and demolition and reconstruction with a larger footprint of an existing nonconforming shed with less than required right side yard setbacks, 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 Plan of Land Existing Conditions and a Plan of Land Proposed Addition, dated 3/5/20, revised 3/10/20 & 4/7/20, stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 10/26/10, revised 2/10/11 & 3/11/11, prepared by MTL, Proposed Floor Plans and Elevation Drawings, dated 5/6/17, prepared by Williamson Building Works, LLC, Eastern Shed

Company Building Standards and Features, Elevation Drawings, dated 4/11/20, prepared by Eastern Shed Company, and photographs were submitted.

On September 23, 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 second floor egress with stairs and a landing, and demolition and reconstruction with a larger footprint of an existing nonconforming shed with less than required right side yard setbacks 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 second floor egress with stairs and a landing, and demolition and reconstruction with a larger footprint of an existing nonconforming shed with less than required right side yard setbacks, subject to the following condition:

- The shed shall be aligned to be parallel with the lot line at a setback that is no closer than 6.3 feet.

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.

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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.

Robert W. Levy, Acting Chairman

David G. Sheffield

Derek B. Redgate

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Applicant Jonathan & Allexe Law-Flood
Address 7 Cavanagh Road

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