

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2021-81
Petition of Xiuyan Li & Bingtao Yin
23 Lawrence Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 7, 2021 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Xiuyan Li & Bingtao Yin requesting a Variance pursuant to the provisions of Section 14E, Section 19 and Section 24 of the Zoning Bylaw for demolition of an existing nonconforming structure and construction of a new two-story structure with attic with less than required side yard and front yard setbacks, at 23 Lawrence Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District.

On September 1, 2021, 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 public hearing in behalf of the petition was Tom Timko, Architect. He distributed updated architectural plans dated 10/6/21. He discussed consolidation of two bays shown on the original plans to one bay.

Mr. Timko said that the primary request is for relief for a side entry garage. He said that they are also looking to expand the front porch using the 50 square foot exemption. He said that when he spoke with the Building Inspector, it was not clear whether the full size of the porch had to be no greater than 50 square feet or if 50 square feet could be in the setback. The Chairman said that it is subject to the Building Inspector's decision as he is the Zoning Enforcement Office who interprets the Zoning Bylaw. He said that the Board would make a decision if someone appealed the Building Inspector's opinion.

Mr. Timko said that the property is the result of a taking by the town by eminent domain in the 1950's where they took 8,000 square feet and subsequently gave the owner a variance to build on the lot. He said that the existing building was allowed to be built 8 feet from the property line. He said that the adjacent town land is used by the Hardy School as the back end of playing fields. He said that it is a big field and the school is far away.

Mr. Timko discussed the design of the proposed house and the preference to have a side entry garage that presents better to the street than a giant garage at the front. He said that the 30 foot side yard setback will not be met. He said that the current dimension in architectural graphics standards is 25 feet, which they will not meet but will be a lot closer to. The Chairman discussed the purpose of the bylaw regarding turning radius and headlights issues for the neighbors. Mr. Timko said that there is nothing on the affected side and the school is several hundred feet away. He said that they tried to meet dimensional conformities everywhere that they could. He said that resulted in an unusually shaped house because it is an unusually shaped lot.

The Chairman said that the Building Inspector will have to be satisfied that the house will comply with the 500 Foot Rule.

Anna Danilenko, 21 Lawrence Road, said that she lives on the right side. She said that she was impressed with the design that appears to fit in with other homes in the neighborhood. She said that the setback on the right side for the existing structure is 20.3 feet. She said that the proposed porch will have a right side yard setback of 17.9 feet, which will be a tight squeeze. She said that she has a lot of windows on the left side of her house and has children and chronic illness in the family. She asked if there are any plans for screening since the space will be even tighter than it already is. The Chairman said that the Board would not be granting relief for the right side of the house. He said that the Board will decide whether to grant a variance for a side facing garage that requires a 30 foot setback.

Mr. Timko said that the intent is to put landscaping and screening in. He said that because the properties at 21 and 23 Lawrence Road are fairly close, they decided to put the bedrooms on the other side, away from direct interface. He said that the large bay window is a staircase area. He said that most of the spaces on that side are service functions such as a pantry or bathrooms. He said that they would be happy to work with the neighbor on screening.

The Board discussed the shape of the lot with respect to granting a variance.

Statement of Facts

The subject property is located at 23 Lawrence Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, with a minimum left side yard setback of 8 feet where 20 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 14E, Section 19 and Section 24 of the Zoning Bylaw for demolition of an existing nonconforming structure and construction of a new two-story structure with attic with less than required side yard and front yard setbacks, in a Water Supply Protection District.

Supplemental Information, a Plot Plan, dated 7/28/21, stamped by Michael P. Clancy, Professional Land Floor Plans & Elevation Drawings, dated 8/27/21, prepared by Copper Beech Design, revised Floor Plans & Elevation Drawings, dated 10/6/21, prepared by Susan Koslow, Architect, and photographs were submitted.

On October 5, 2021, the Planning Board reviewed the petition and recommended that a variance be denied.

Decision

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

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 14E of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted to allow demolition of an existing nonconforming structure and construction of a new two-story structure with attic with less than required side yard setbacks, subject to the following condition:

- The Board grants no relief for the 500 Foot Rule or for the front porch.

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, this Variance shall expire one year 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

Walter B. Adams

Derek B. Redgate

ZBA 2021-81
Applicant Xiuyan Li & Bingtao Yin
Address 23 Lawrence 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