

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2021-83
Petition of Cynthia Sibold
130 Abbott 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 Cynthia Sibold requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming garage with less than required left side yard and rear yard setbacks and reconstruction on the same footprint with an increase in height, and construction of a deck that will meet setback requirements at the back of an existing conforming house, on a 16,407 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, in a Water Supply Protection District, at 130 Abbott Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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 David Himmelberger, Esq. and Kent Duckham, Architect.

Mr. Himmelberger said that the request is for a special permit to raze and reconstruct on the same footprint of a pre-existing nonconforming two car garage with a less than required side yard setback of 14.3 feet and a less than required rear yard setback of 13.5 feet. He said that the Petitioner also seeks to enlarge a fully conforming rear deck that is part of the same project.

Mr. Himmelberger said that the garage is proposed to be rebuilt in place with an increase in height of 3 feet to 21.5 feet. He said that the storage space will be accessed by stairs. He said that there is no heat or water proposed for the storage space.

Mr. Himmelberger said that the overall TLAG for the house and garage will increase by 204 square foot, for a total of 5,337 square feet, which is well within the allowable 5,900 square feet for the SR20 district.

Mr. Himmelberger said that the Petitioners spoke with their neighbors and they were supportive of the project.

The Chairman said that at a business meeting held earlier this evening, the Board discussed detached structures such as garages or storage sheds, that proponents are seeking to replace or revise. He discussed Town Counsel's opinion, the Appeals Court case of Comstock v Gloucester, M.G.L. Chapter 40A, Section 6, Wellesley's local bylaw, and a recommendation that the Planning Board look at the issue to decide whether it wants to give the Zoning Board the authority to permit non one or two family houses to be reconstructed under a special permit finding. Mr. Himmelberger said that the Board has previously permitted reconstruction of garages in place if the footprint is not being expanded, which is the case here.

The Chairman said that having a taller garage close to the lot line is more imposing than having a taller structure in the middle of the lot. Mr. Himmelberger said that the garage is 14 feet from the lot line. He said that the majority of the garages in the neighborhood are not conforming in the back corner.

A Board member asked about moving the garage further away from the side property line. Mr. Himmelberger said that there is an issue with getting into the garage if it is moved in or forward.

Mr. Duckham said that there is a large garage, probably equal distance from the lot line, immediately to the left. He said that the two garages will be side by side and in the same position off the lot lines. He said that there are tall fences on the property lines, and the space between the garage and the fence is unutilized space. He said that all of the properties converge with fences in that back corner. Mr. Himmelberger said that there is a lot of screening there already.

A Board member said that the proposed roof appears to have a double dormer, where the existing roof is standard. He said that the second floor is higher and has a lot more headroom. Mr. Duckham said that the existing garage is full and is in disrepair. He said that there is currently a ladder to access the storage space above. He said that the homeowners would like to be able to put their cars in the garage, move storage to the upper level, and have it more readily accessible with interior stairs rather than going up and down a ladder.

A Board member said that with the roof system, the garage shows itself as a larger structure. Mr. Duckham said that it was designed to be more in concert with the existing house.

The Chairman said that the Board received two letters from neighbors who were not in support of the project. He said that they asked that their letters not be shared at the public hearing. He said that the letters will be part of the file, as they were submitted to the town and are public records. He said that he was reluctant to give the letters full value since there were restrictions on the Board's ability to share them.

Mr. Himmelberger discussed two recent cases that came before the Board on Cushing Road where garages were rebuilt. The Chairman discussed the Board's authority under the statute.

A Board member said that a lot of effort was put into the architecture and the proposed garage is not just a big box that gets as big as it can on the footprint. He said that the Architect did a good job mitigating the increased impact with details.

There were no members of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 130 Abbott Road, on a 16,407 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, in a Water Supply Protection District. The existing garage structure has a minimum left side yard setback of 14.3 feet and a minimum rear yard setback of 13.5 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 demolition of an existing nonconforming garage with less than required left side yard and rear yard setbacks and reconstruction on the same footprint with an increase in height, and construction of a deck that will meet setback requirements at the back of an existing conforming house, on a 16,407 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals, dated 8/31/21, from David Himmelberger, Esq., a Plot Plan, dated 8/3/21, stamped by Joseph R. Porter, Professional Land Surveyor, Floor Plans and Elevation Drawings for the Garage Structure and Floor Plans and Elevation Drawings for the Residential Structure, dated 8/30/21, and TLAG Affidavit, dated 8/31/21, prepared by Duckham Architecture & Interiors, and photographs were submitted.

On October 5, 2021, 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 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 demolition of an existing nonconforming garage with less than required left side yard and rear yard setbacks and reconstruction on the same footprint with an increase in height, and construction of a deck that will meet setback requirements at the back of an existing conforming house, on a 16,407 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet will not result in the intensification of an existing nonconformity, 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 of an existing nonconforming garage with less than required left side yard and rear yard setbacks and reconstruction on the same footprint with an increase in height, and construction of a deck that will meet setback requirements at the back of an existing conforming house, on a 16,407 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, subject to the following condition:

- The height of the garage shall not exceed 21.5 feet, as shown on the plans.

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

Draft

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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 2021-83
Applicant Cynthia Sibold
Address 130 Abbott 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