

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET, SUITE 160, WELLESLEY, MA 02482

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2022-53
Petition of Timothy Eaton & Catherine Dyer
58 Upson Road
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WELLESLEY MA 02482
2022-58 PH12:20

ZBA 2022-53

Petition of Timothy Eaton & Catherine Dyer
58 Upson Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 4, 2022 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Timothy Eaton & Catherine Dyer requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for demolition of an existing nonconforming garage and construction of a new nonconforming garage on the same footprint with an attached carport addition, with less than required side yard and rear yard setbacks, at 58 Upson Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District.

On July 12, 2022, 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 were David Himmelberger, Esq., Timothy Eaton and Catherine Dyer, the Petitioner. Mr. Himmelberger said that the request is for a variance that originated a year ago. He said that due to Covid and other intervening issues, the work did not begin. He said that with the looming expiration, his clients sought to request an extension of the variance. He said that the request was submitted prior to the expiration of the original variance but could not be scheduled to be heard within a 30 day period. He said that if the permit granting authority does not grant the extension within 30 days of the date of application, the rights can only be re-established after notice and a new hearing, pursuant to Chapter 40A.

Mr. Himmelberger said that the Applicant resubmitted a request for a zoning variance for the construction of a unique garage that sits in a bump out of a lot. He said that the garage was originally built pursuant to a building permit. He said that the garage is deteriorating and the Applicant wants to rebuild and add a carport on the conforming side. He said that, based on the shape of lot, the Board previously granted a variance, ZBA 2021-24. He asked that the new application for a variance stand on the prior submittal.

The Chairman said that a copy of the building permit for the garage was submitted with the new application. He said that the Board did not find any zoning relief when the garage was constructed in 1978.

Mr. Himmelberger said that the lot has an unusual shape in that it is a rectangle with a protruding 25 to 35 foot extension on the right side, midway up the property line, similar to a jigsaw puzzle piece.

Mr. Himmelberger said that his clients hold the rights to access the garage directly over the driveway.

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

Statement of Facts

The subject property is located at 58 Upson Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District. The detached accessory garage structure has minimum side yard setbacks of 6.1 feet, 7.2 feet, and 7.3 feet where 20 feet is required, and a minimum rear yard setback of 4.5 feet where 10 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for demolition of an existing nonconforming garage and construction of a new nonconforming garage on the same footprint with an attached carport addition, with less than required side yard and rear yard setbacks.

Letter to Zoning Board of Appeals, dated 7/7/22, from David Himmelberger, Esq., an Existing Conditions Plan and Site Plan, dated 10/6/20, stamped by Scott D. Cameron, Professional Land Surveyor, Floor Plans and Elevation Drawings dated 1/3/21, prepared by Steven Garafalo, were submitted.

On August 2, 2022, the Planning Board reviewed the petition and recommended that a variance 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 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 for demolition of an existing nonconforming garage and construction of a new nonconforming garage on the same footprint with an attached carport addition, with less than required side yard and rear 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 construction plans.

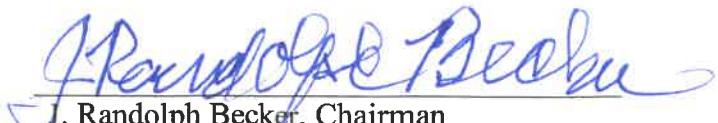
If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

2022 AUG 8 PM 12:40
BOSTON CLERK'S OFFICE
MELLESLEY MA 02482

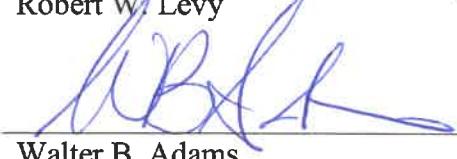
ZBA 2022-53

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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


Robert W. Levy


Walter B. Adams

ZBA 2022-53
Applicant Timothy Eaton & Catherine Dyer
Address 58 Upson 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

GENERAL
TOWN CLERK'S OFFICE
WELLESLEY, MA 02482

2022 AUG 18 PM 12:20

cc: Planning Board
Inspector of Buildings
lrm

