

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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2024 FEB 15 AM 11:15
 TOWN CLERK'S OFFICE
 WELLESLEY, MA 02482

ZBA 2024-09

Petition of Monika Patience & Francisco Triana
 96 Woodside Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, February 1, 2024, at 7:30 pm, on the petition of Monika Patience & Francisco Triana requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming structure with less than required right side yard setbacks, on a 5,024 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 96 Woodside Avenue, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 27, 2023, 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., Monika Patience and Francisco Triana, the Petitioner.

Mr. Himmelberger said that the Petitioners came before the Board last summer with a request for a special permit to add a second story to an existing one and a half story structure. He said that a special permit was granted and construction began. He said that during construction it was discovered that there was significant rot on sills and siding on a couple of walls. He said that the Applicant documented it with photographs and called in a structural engineer, who found that a portion of a foundation wall also needed repair. He said that Michael Grant, Building Inspector, put a stop work order on the project, believing that the Applicant had exceeded the authority of the special permit and the building permit. He said that Mr. Grant thought that the best way to proceed would be for the Petitioner to resubmit for a special permit for reconstruction of two and a half sides of the existing first floor before continuing with the second story. He said that they submitted plans that show the areas where rot had been observed, where new siding and sills were required, and the portion of the foundation wall that needed repair. He said that there is no increase in the relief being sought. He said that there will be no change in the footprint, wall or building height. He said that if relief is granted, it will be the same finished product that was previously approved but with more new components.

Property Address: 96 Woodside Rd Wellesley MA Certificate # 208631

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Mr. Himmelberger said that a plot plan dated 12/26/22, revised 5/11/23, was submitted to the Building Department. He said that plan shows that the heat pump will be located in the back left corner in a permissible location.

The Chairman discussed comments from the Planning Board. He said that the height of the building will be less than the maximum allowed in the Zoning Bylaw.

A Board member discussed the Department of Public Works' comments. Mr. Himmelberger said that the driveway is shown on the plot plan as 10 feet wide. He said that two permeable paver parking spaces are shown on the plan. He said that the pavers are herringbone design and are not permeable asphalt or grass geogrid.

A Board member said that the basis for relief for right side yard setbacks and lot area of 5,024 square feet in the approved special permit has not changed.

No member of the public wished to speak to the petition.

Statement of Facts

The subject property is located at 96 Woodside Avenue, on a 5,024 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, with a minimum right side yard setback of 9.5 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming structure with less than required right side yard setbacks, on a 5,024 square foot lot in a Single Residence District in which the minimum lot size is 10,000 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 12/21/23 from David Himmelberger, Esq., Letter to Francisco Triana, dated 9/12/23, from Madison Vlass, Preservation Planner, Wellesley Historical Commission, Memorandum to Building Inspector, dated 12/4/23, from Sami E. Kassis, P.E., regarding Structure Renovation and Addition, Memorandum to Building Inspector, dated 12/8/23, from Sami E. Kassis, P.E., regarding Existing Foundation to Remain, copy of decision, ZBA 2023-38, Letter to Francisco Triana, dated 11/27/23, from Michael grant, Inspector of Buildings/Zoning Enforcement Officer, regarding Stop Work Order, a Plot Plan, dated 12/26/22, revised 5/11/23, stamped by Michael P. Clancy, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 12/4/23 & 12/19/23, Renovation/2nd Floor Addition, dated 12/4/23, revised 1/30/24, prepared by Design by Sami LLC, Floor Plans and Elevation Drawings, dated 5/19/23, revised 7/18/23, prepared by Nazeih Hammouri, P.E., and photographs were submitted.

On January 26, 2024, the Planning Board reviewed the petition and recommended that a Special Permit be approved.

TOWN OF WELLESLEY
PLANNING BOARD
MEETING
15 FEB 2024

ZBA 2024-09

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On January 31, 2024, Rafi Razzaque, Civil Engineer, Town of Wellesley DPW Engineering Division, submitted comments.

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 3.8 of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition and reconstruction of an existing nonconforming structure with less than required right side yard setbacks 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 and reconstruction of an existing nonconforming structure with less than required right side yard setbacks, in accordance with the submitted plans.

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

2024 FEB 15 AM 11:19
TOWN CLERK'S OFFICE
WELLESLEY MA 02482

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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 (km)
 J. Randolph Becker, Chairman

David G. Sheffield (km)
 David G. Sheffield

Peter Covo (km)
 Peter Covo

ZBA 2024-09
 Applicant Monika Patience & Francisco Triana
 Address 96 Woodside Avenue

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2024 FEB 15 AM 1:19
 TOWNSHIP OF WELLESLEY
 MASSACHUSETTS

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: 3.7.2024

Attest:

Cathryn J. Kato

Cathryn Jane Kato
 Town Clerk

cc: Planning Board
 Inspector of Buildings
 Irm

