

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS
888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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TELEPHONE
(781) 489-7450

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ZBA 2024-55
Petition of Hillary Keenan & Varant Kupelian
118 Oak Street

SEARCHED
SERIALIZED
INDEXED
FILED
AUG 8 2024
WELLESLEY
ZONING BOARD OF APPEALS
MASSACHUSETTS

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, August 8, 2024, at 7:30 pm, on the petition of Hillary Keenan & Varant Kupelian requesting a Special Permit/Finding pursuant to the provisions of Section 5.1 and Section 6.3 of the Zoning Bylaw that construction of a deck with less than required side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, on a corner lot at 118 Oak Street, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 3, 2024, 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 Steve Gage, Franca Services, and Hillary Keenan, the Petitioner.

Mr. Gage said that his company was hired by the homeowners to build a new deck at the back of the house. He said that the project went through the necessary permitting process. He said that during final inspection it was discovered that the deck was built 18.2 feet from the side property line, which is less than the required setback. He said that the request is for relief for the nonconforming setback. He said that it will not have a major effect on neighboring properties and will not adversely affect the community.

The Chairman said that the Board is not generally happy to grant relief for something that has already been constructed. He said that the deck could have been built as of right. He confirmed that a surveyor was involved in the project. Mr. Gage said that the plot plan was not clear about the distance to the fence and the property line. He said that the construction crew mistook the vinyl fence as the setback line.

Mr. Gage said that he believes that the fence is shared with abutters. Ms. Keenan said that she has spoken about the fence to the neighbor who is affected by the setback and will speak with the new neighbor to the rear about it.

The Chairman asked if any thought was given to moving the deck instead of seeking relief. Mr. Gage said that there are footings attached to concrete sona tubes right at the corner of the deck. He said that moving the deck would require taking it apart and reconstructing it.

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

Statement of Facts

The subject property is located on a corner lot at 118 Oak Street, in a 10,000 square foot Single Residence District, with a minimum side yard setback of 13.1 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 5.1 and Section 6.3 of the Zoning Bylaw that construction of a deck with less than required side yard setbacks on an existing nonconforming structure with less than required side yard setbacks on a corner lot, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals from Nicole Gaino, Permitting Coordinator, Franca Services, Inc., a Plot Plan, dated 12/22/23, stamped by Robert A. Gemma, Professional Land Surveyor #37046, Floor Plans and Elevation Drawings, dated 8/10/24, prepared by Franca Services, and photographs were submitted.

On July 30, 2024, 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.

It is the opinion of this Authority that construction of a deck with less than required side yard setbacks on an existing nonconforming structure with less than required side yard setbacks on a corner lot will 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 deck with less than required 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.

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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 (lm)
Robert W. Levy, Acting Chairman

David G. Sheffield (lm)
David G. Sheffield

Peter Covo (lm)
Peter Covo

ZBA 2024-55
Applicant Hillary Keenan & Varant Kupelian
Address 118 Oak Street

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

