

TOWN OF WELLESLEY



MASSACHUSETTS

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WELLESLEY MA 02482

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

2004 JUL 23 A 8:15

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ROBERT A BASTILLE
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ZBA 2004-41

Petition of Richard Broberg and Susan Tomasino

5 High Ledge Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 15, 2004 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of RICHARD BROBERT AND SUSAN TOMASINO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following construction at their nonconforming dwelling with less than the required front and right side yard setbacks, at 5 HIGH LEDGE AVENUE, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Demolition of the existing garage and construction of a 22 foot by 20 foot detached garage with less than the required front setback.
2. A one-story 23 foot by 12 foot entry area with a 5 foot by 6 foot porch/ stair totaling 306 square feet, with less than the required front yard setback.
3. A one-story 13 foot by 19 foot addition with less than the required right side yard setback.

On June 28, 2004, the petitioners filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Richard Broberg and Susan Tomasino. Mr. Broberg said their home is nonconforming on the north and west sides, which are the two sides where they are planning to locate the new additions. They have met with the Wetlands Committee, and have received approval of the change in their plans. They also have letters in support of their petition from their neighbors at 8 and 18 High Ledge Avenue, and 51 Overbrook Road.

The Board expressed concern with the west side elevation, as it appears there is no break in the façade. Mr. Broberg said that is correct. It would be a total of 59 feet long. The Board stated that normally an addition is slightly inset in order to provide a break in the mass. The west side is the side facing neighbors, and it will create an appearance of substantial mass along the right side. It would be preferable to inset the addition a minimum of 6 inches.

The Board asked if the shed would remain. Mr. Broberg said that it probably would.

The Board asked what the differences would be between the prior Special Permit petition (ZBA 2003-76), which the Board had granted, and the current petition. Mr. Broberg said the current petition is for one-story additions rather than the original second story addition; the demolition of the garage and reconstruction of a larger garage; and the one-story addition at the rear of the dwelling, which was not part of the original petition.

ZBA 2004-41
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The Board noted that the Planning Board had no objection to granting the request, but had stated that, as the additions exceeded more than 50% of the existing footprint, and the property is located on an unaccepted road, the petitioners would have to come to the Planning Board for a review of the adequacy of the way prior to the issuance of a building permit.

No other person present had any comment on the petition. The Board discussed conditions to be placed in the decision, and agreed to the following:

1. The 13 foot by 19 foot addition shall be inset a minimum of 6 inches from the right side lot line. A new plot plan depicting this revision shall be submitted to the office of the Board of Appeals prior to the issuance of any building permit.
2. This Special Permit shall supercede the previous decision (ZBA 2004-76) granted on October 23, 2003.

Following the hearing of the last petition on the agenda, the petitioners returned to the Board to explain that inseting the addition a minimum of 6 inches would result in structural complications. The Board agreed to revise the first condition to read:

1. A revised west side elevation showing a visual break shall be submitted to the office of the Board of Appeals prior to the issuance of a building permit.

Statement of Facts

The subject property is located at 5 High Ledge Avenue, an unaccepted road, in a 10,000 square foot Single Residence District, on a 15,265 square foot lot, and has a minimum front yard setback of 25 feet from High Ledge Avenue and a minimum right side yard setback of 14.7 feet. The lot contains a nonconforming two-story dwelling and a nonconforming one-car detached garage.

In October, 2003, the petitioners requested and received a Special Permit (ZBA 2003-76) to construct a one-story 9 foot by 12 foot addition and a 3 foot by 12 foot porch, both having less than the required front setback; and raising the ridgeline of the roof above the existing nonconforming dwelling to accommodate a 40 foot by 24 foot second story addition with less than the required front and right side yard setbacks.

The petitioners are now requesting a Special Permit/Finding that the following construction at their nonconforming property shall not be substantially more detrimental to the neighborhood than the existing nonconforming structures:

1. Demolition of the existing garage and construction of a 22 foot by 20 foot detached garage with a minimum front yard setback of 25.3 feet.
2. A one-story 23 foot by 12 foot entry area with a 5 foot by 6 foot porch/ stair totaling 306 square feet, with a minimum front yard setback of 25 feet.
3. A one-story 13 foot by 19 foot addition with a minimum right side yard setback of 14.7 feet.

A Plot Plan dated 5/18/04 stamped by James W. Gougioukas, Registered Land Surveyor; Existing and Proposed Floor Plans and Elevation drawings dated 3/24/04 drawn by Greg Rapp, Architect; and photographs were submitted.

Letters in support of the petition were submitted from Heidi Milne and Michael Lariviere, 18 High Ledge Avenue; Kathryn Powers, 31 Overbrook Drive; and Barbara Sullivan, 8 High Ledge Avenue.

ZBA 2004-41
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On May 13, 2004, the Wetlands Protection Committee voted to approve the changes to the previous plans for additions and alterations at 5 High Ledge Avenue. The Committee wrote:

2004 JUL 23 A 8 16

"The changes are considered insignificant to the interests of the Wetlands Protection Act and the Wellesley Wetlands Protection Bylaw."

"This means that the negative Determination of Applicability you received in August, 2003, for the original version of the plan applies to the revised plan. That Determination is conditioned on the use of an erosion control barrier and the stockpiling of soil only in the front yard."

On July 13, 2004, the Planning Board reviewed the petition and had no objection to the granting of the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public Hearing. The subject structures do not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that none of the three construction projects outlined in the Statement of Facts shall be substantially more detrimental to the neighborhood than the existing nonconforming dwelling and detached garage, as the new garage, entry and porch/stair, and one-story addition shall neither intensify the existing nonconformance, nor shall they create new nonconformity.

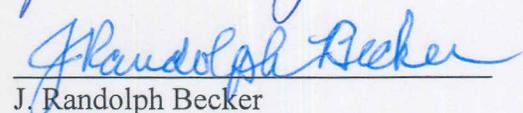
Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the aforesaid three projects, subject to the following conditions:

1. A revised west side elevation showing a visual break shall be submitted to the office of the Board of Appeals prior to the issuance of a building permit.
2. This Special Permit shall supercede the previous decision (ZBA 2004-76) granted on October 23, 2003.

Subsequent to compliance with Condition One, the Inspector of Building is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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.


Cynthia S. Hibbard, Acting Chairman


J. Randolph Becker


Robert W. Levy

Cc: Planning Board
Inspector of Buildings

REFERENCES

NORFOLK COUNTY
 REGISTRY OF DEEDS:
 CERT. OF TITLE NO. 144139
 REG. BOOK 721, PAGE 139.
 LAND COURT PLAN NO. 4252-B
 CERT. OF TITLE NO. 2542
 REG. BOOK 13
 DEED BOOK 1013, PAGE 57.

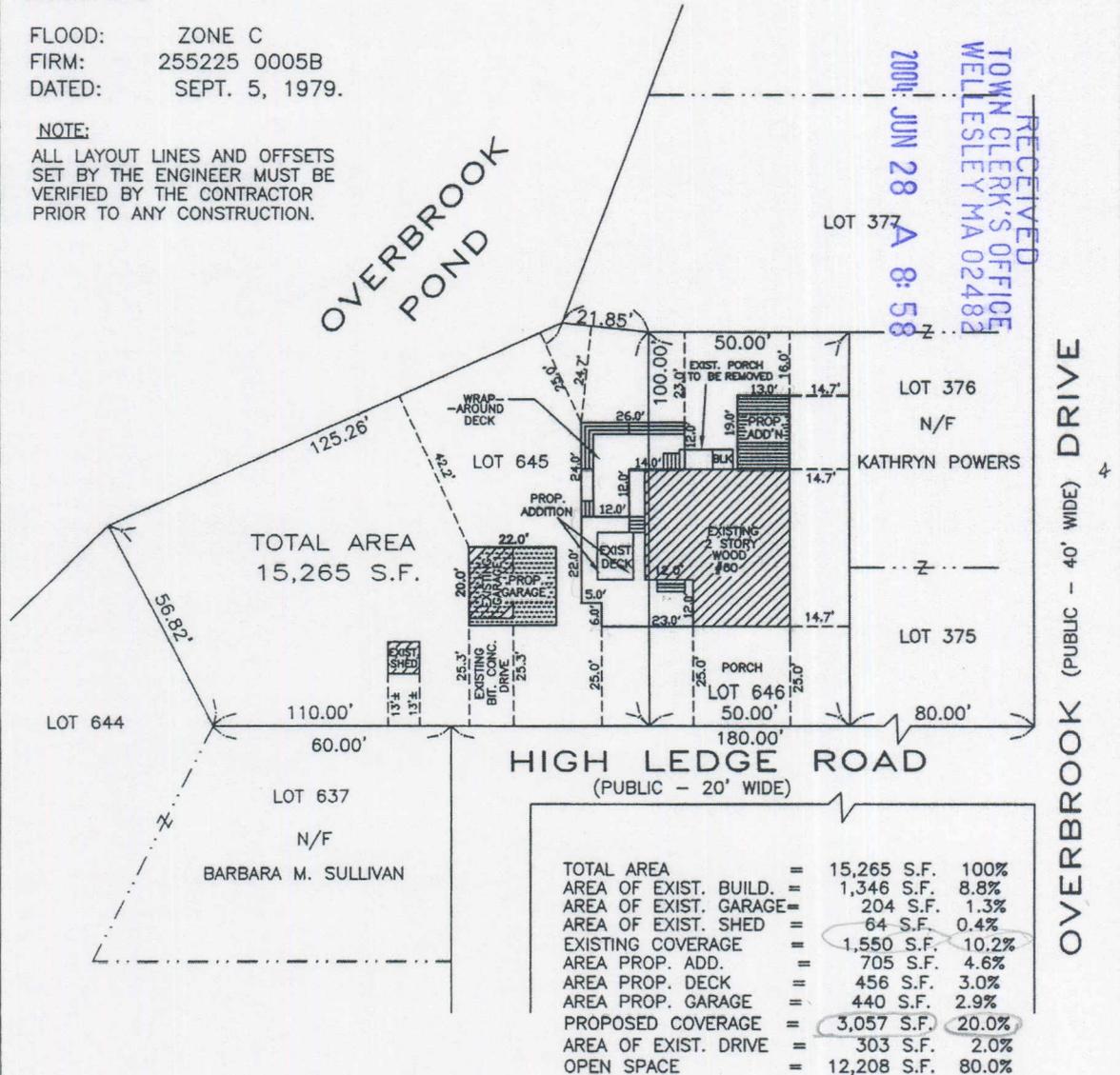
ASSESSOR'S
 MAP 204
 LOT C
 ZONING: R-C

FLOOD: ZONE C
 FIRM: 255225 0005B
 DATED: SEPT. 5, 1979.

NOTE:
 ALL LAYOUT LINES AND OFFSETS
 SET BY THE ENGINEER MUST BE
 VERIFIED BY THE CONTRACTOR
 PRIOR TO ANY CONSTRUCTION.

TOWN OF WELLESLEY, MA.
 BOARD OF APPEALS
 APPROVED

DATE



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 2004 JUN 28 A 8:58

OVERBROOK DRIVE (PUBLIC - 40' WIDE) DRIVE

PLAN OF LAND IN WELLESLEY, MA. NO. 5 HIGH LEDGE AVENUE			
OWNER/APPLICANT: RICHARD H. BROBERG		ZONING: R-C	
FOR SPECIAL PERMIT			
BRADFORD ENGINEERING CO. 3 WASHINGTON SQ. HAVERHILL MA. 01830		SHEET 1 OF 1	
DESIGNED: AHO	PHONE: (978) 373-2396	FAX: (978) 373-8021	E-MAIL: bradford.engr@verizon.net
DRAWN: A.H.O.	FILE NAME: PERMIT\WEL61203.DWG	FILE NO: 121904	DATE: 5/17/2004
CHECKED: WJB			REVISIONS
APPROVED: JWB			BY
SCALE: 1" = 30'			8/15/2003 AHO
DATE: JUNE 12, 2003			4/08/2004 RG
			5/17/2004 PLB