

TOWN OF WELLESLEY



MASSACHUSETTS

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482

2001 SEP 26 A 8:19

ZONING BOARD OF APPEALS

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

KENDALL P. BATES, CHAIRMAN
RICHARD L. SEEGEL, VICE CHAIRMAN
CYNTHIA S. HIBBARD

ELLEN D. GORDON
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT: 208

ROBERT A BASTILLE
J. RANDOLPH BECKER
ROBERT W. LEVY

ZBA 2001-65
Petition of 49 Russell Road Realty Trust
Frederick Fortmiller, Trustee
49 Russell Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 13, 2001 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of 49 RUSSEL ROAD REALTY TRUST, FREDERICK FORTMILLER, TRUSTEE, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the demolition and reconstruction and enclosure of an existing nonconforming one-story 8 foot by 8 foot open front porch with less than the required front and right side yard setbacks, at 49 RUSSELL ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There will be no change in the footprint.

On August 27, 2001, the petitioner 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 was Frederick Fortmiller, Trustee of the 49 Russell Road Realty Trust, who said that the petition describes the project.

The Board noted the Planning Board comment that the application was not clear. The application speaks of an entry, but no entry exists. Only the pad exists.

Mr. Fortmiller said there was an existing pad for the entry, which remains. As to the entry, two things occurred which resulted in its demolition. During a storm last winter, one of the tree limbs demolished the entry roof. They also discovered that the sill behind the entry was rotted and the wooden pad had termite damage. Both the sill and pad had to be replaced. There was an open porch, which they would like to rebuild and enclose. They could replace the open porch, which had existed, but the enclosure requires Board approval.

The Board asked if the enclosed porch would be part of the heated space of the house. Mr. Fortmiller said that it would not be heated. In response to the Board's question, Mr. Fortmiller added that the pad had footings approximately 4 feet deep.

The Board asked how long ago the porch had been demolished. Mr. Fortmiller said about 5-6 months ago. There has been other construction at the property. Originally, when the sewer was put in, it was laid under a parking pad, but weep holes had not been constructed. As a consequence, the parking pad cracked. In addition, the sewer line was not put in correctly. Five of the joints had roots in them, which

ZBA 2001-65
Petition of 49 Russell Road Realty Trust
Frederick Fortmiller, Trustee
49 Russell Road

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482

2001 SEP 25 A 8:20

necessitated replacement of the sewer line. They did not want to reconstruct the porch until the other construction had been completed.

The Board expressed its opinion that the property is unique and doesn't impact any other property. If the porch is built according to the submitted drawings, it will not be substantially more detrimental to the neighborhood than if it were left open. It is not on a line with other houses on the street, nor does it lie close to the road.

The Board stated that the floor plans and elevation drawings had to have dimensions. Although they have been scaled, they have not been dimensioned, and this would be a condition. The Board also requested a description of the building materials to be used. Mr. Fortmiller said he would be glad to comply with the condition.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 49 Russell Road, in a Single Residence District, on a 3,950 square foot lot and has a minimum front yard clearance of 29.3 feet and a minimum right side yard clearance of 3.1 feet.

The petitioner is requesting a Special Permit/Finding that the reconstruction and enclosure of an 8 foot by 8 foot one-story entry porch, with a minimum right side yard clearance of 3.6 feet and a minimum front yard clearance of 29.3 feet shall not be substantially more detrimental to the neighborhood than the prior nonconforming 8 foot by 8 foot open entry porch. There will be no change in the footprint.

A Plot Plan dated July 3, 2001, revised August 9, 2001, stamped by Bruce Bradford, Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated April 12, 2001, drawn by Thomas Wirth, Registered Landscape Architect; and photographs were submitted.

On Monday, September 17, 2001, the petitioner submitted a dimensioned floor plan and dimensioned proposed front and side elevation drawings, as well as a list of materials to be used, in compliance with the request of the Board of Appeals at the Public Hearing.

On September 4, 2001, the Planning Board reviewed the petition and commented that the application was not clear.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject property does not comply with the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that the proposed reconstruction of a nonconforming enclosed 8 foot by 8 foot one-story front entry porch shall not be substantially more detrimental to the neighborhood than

ZBA 2001-65
Petition of 49 Russell Road Realty Trust
Frederick Fortmiller, Trustee
49 Russell Road

the prior unenclosed nonconforming 8 foot by 8 foot structure, as there will be no intensification of the existing nonconformance, nor will new nonconformity be created, as there will be no change in the footprint.

Therefore, a Special Permit is granted, as voted unanimously at the Public Hearing, to reconstruct the 8 foot by 8 foot one-story front entry porch and enclose it according to the submitted plot plan and revised construction drawings.

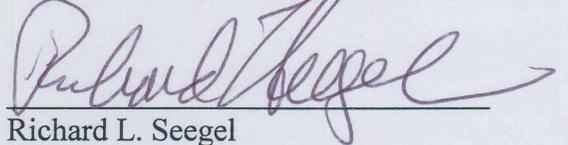
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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.

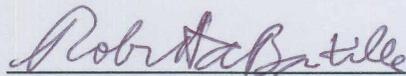
Cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Chairman



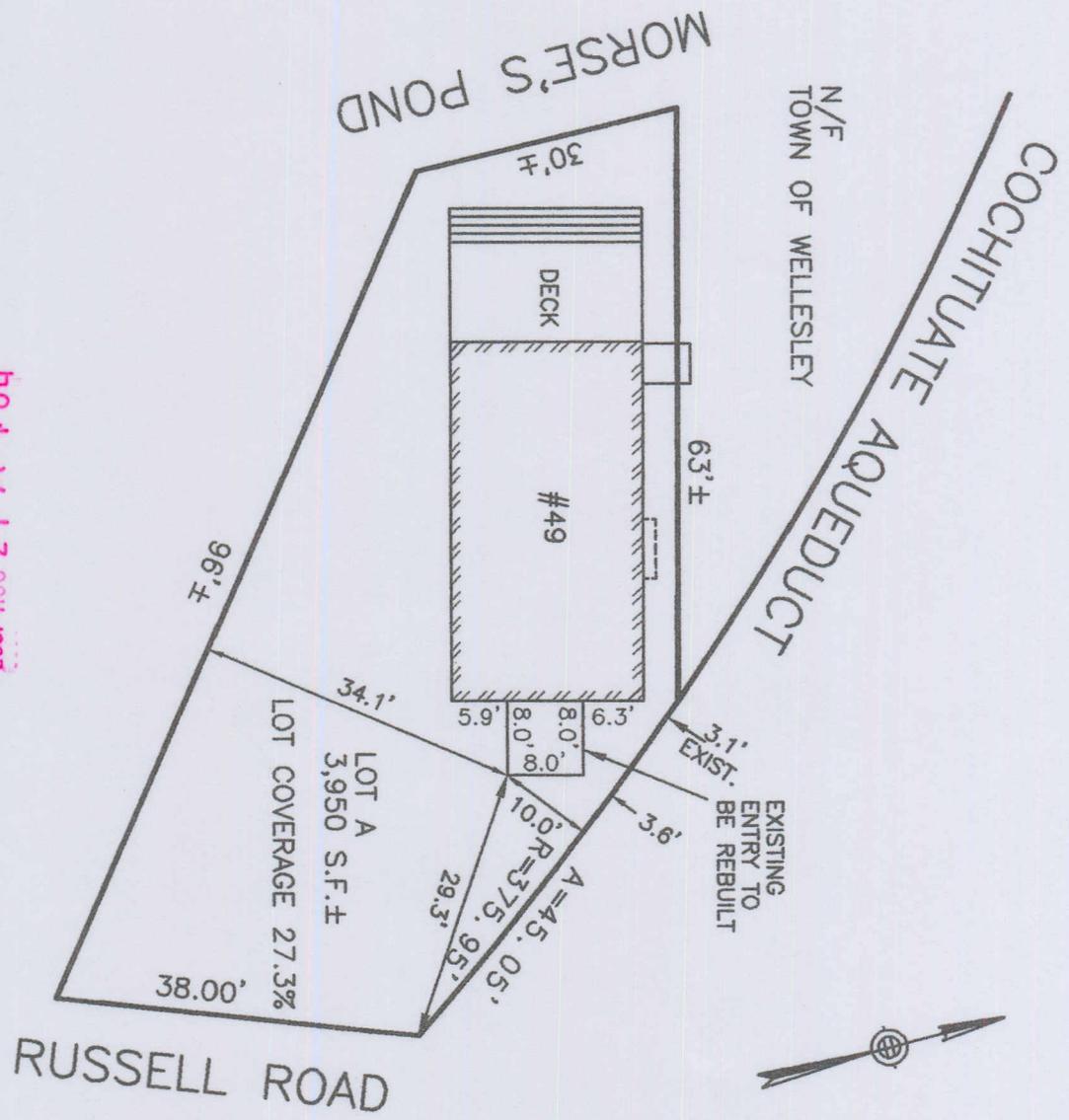
Richard L. Seegel



Robert A. Bastille

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2001 SEP 26 A 8:20

RECEIVED
 TOWN CLERK'S OFFICE
 WELLESLEY MA 02482
 10:4 A 12 NOV 1002



PLAN OF LAND IN
 WELLESLEY, MA.

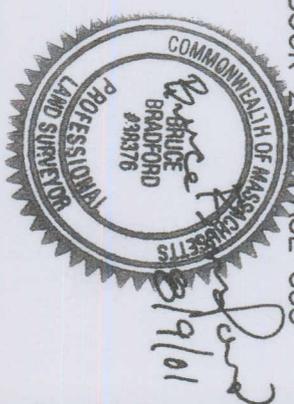
49 RUSSELL ROAD
 EXISTING CONDITIONS

PREPARED FOR:
 49 RUSSELL ROAD
 REALTY TRUST

SCALE 1 IN. = 20 FT
 JULY 3, 2001
 REVISED AUGUST 9, 2001

DEED REFERENCE:
 BOOK 9897 PAGE 160

PLAN REFERENCE:
 BOOK 2065 PAGE 535



EVERETT M.
BROOKS
 COMPANY
 ENGINEERS & SURVEYORS
 49 LEXINGTON STREET
 WEST NEWTON MA 02465
 (617) 527-8750
 PROJECT NO. 20480