



ZONING BOARD OF APPEALS

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

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ZBA 2018-63
Petition of Will Sullivan
49 Sawyer Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 6, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Will Sullivan requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw to install two air conditioning condensers with less than required side yard setbacks, on a corner lot at 49 Sawyer Road, in a 20,000 square foot Single Residence District.

On August 2, 2018, 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 Will Sullivan, the Petitioner. He said that the request is for a variance to install air conditioning condensers in the setback area that is at the back of his house but is considered to be a side yard setback because it is a corner lot. He said that the side yard setback is 20 feet where a rear yard setback would be 10 feet. He said that most of the yard is at the front and the side where his kids play and where the patio is. He said that the back of the house is not visible from Edmunds or Sawyer Roads. He said that the side driveway area was dug out 20 years ago and a variance was granted for a garage there but it was not built. He said that it is dug out with steps up to the house. He said that there is no place to put the condensers on that side of the house. He said that at the rear of the house that is considered to be a side yard is a wooded area and it is 120 feet to the direct abutter. He said that the abutter wrote a letter of support. He said that there are walls at the back. He said that the other neighbor has a fenced off pool that is not visible. He said that the properties are not visible to one another. He said that the Smithy's property runs along the driveway at 49 Sawyer Road and is all non-buildable lot and forest there. He submitted pictures of the back of his house from the neighbor's property.

The Chairman asked why the condensers could not be put on the side of the house with the two 30 foot setbacks. Mr. Sullivan said that the front area where the lot cuts back into the deck has a gas meter and a large grate for a window well. He said that there is a mature hedge of hydrangeas that runs right next to the yard that is visible from both streets and where his kids play. He said that he would have to remove the hedges and screen the area off. He said that the area where the addition is originally held an oil tank and there is three foot thick concrete that he has been told they cannot drill through. He said that they would have to do expensive work around the patio and up around the gas to get to that location in addition to removal of the hedges. He said that the condensers will be 15.9 feet from the property line, will not be visible and will maintain the character of the neighborhood, which is made of mostly older homes. He said that his house was built in 1930.

A Board member said that the topography on the property and the topography of the immediate abutters is such that the ac condensers will not cause any harm. He said that the technology of compressors and condensers is such that all manufacturers have mitigation packages for condensers to suppress noise, whereas plantings and screening do not suppress noise.

A Board member said that it would have been helpful if the surveyor had shown the walls on the plot plan because they are important to the topography. Mr. Sullivan described the retaining walls. He said that there is a hemlock hedge along Edmunds Road. He said that the previous owner did not build the garage that was approved but dug the area out and built a large retaining wall.

The Chairman said that the neighbor at 38 Greenwood Road has no objection to the project. Mr. Sullivan said that the neighbors have been very supportive.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 49 Sawyer Road, in a 20,000 square foot Single Residence District

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw to install two air conditioning condensers with less than required side yard setbacks, on a corner lot at 49 Sawyer Road, in a 20,000 square foot Single Residence District.

Request for Variance, dated 7/31/18, a Plot Plan, dated 8/3/18, stamped by Christopher C. Charlton, Product Specifications, and photographs were submitted.

On August 23, 2018, 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 subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

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 and topography 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 XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted for installation of two air conditioning condensers with less than required side yard setbacks, subject to the following condition:

ZBA 2018-63
Petition of Will Sullivan
49 Sawyer Road

- Acoustic screening in accordance with the manufacturer's recommendations for sound attenuation shall be placed around the units.

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

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

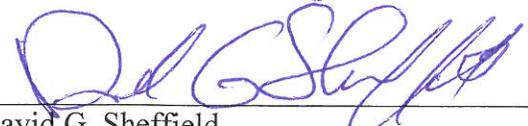
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OFFICE OF THE
INSPECTOR OF BUILDINGS
17 SEP 20 P 2:53

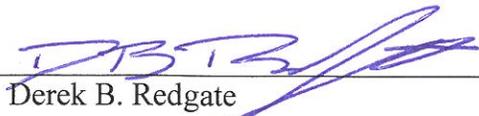
ZBA 2018-63
Petition of Will Sullivan
49 Sawyer Road

REC'D
1711 SEP 20 P 2 53

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.


Richard L. Seegel, Chairman


David G. Sheffield


Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

5.1 Certified Plot Plan



No. 55 EDMUNDS RD.
N/F
MICHAEL CROKE

No. 38 GREENWOOD RD.
N/F
CYNTHIA SMITHY



Christopher C. Charlton



RESIDENTIAL BUILDING PERMIT

Application # _____

Property Address: _____

Date Permit Granted: _____

Reviewed By: _____

FOR ALL BUILDINGS ON THE PROPERTY

5.2 Lot Area / Coverage

Lot Area (SF) _____

Proposed Lot Coverage (SF) _____

Proposed Lot Coverage (%) _____

FOR THE BUILDING TO BE CONSTRUCTED OR ALTERED UNDER THIS PERMIT

5.3 Building Height & Area

Footprint New Construction (SF) _____

Proposed Total Footprint (SF) _____

Height of Building (FT) _____

5.4 Living Area Gross (SF)

Finished _____

Unfinished _____

5.5 Rooms

Total # Rooms _____

Bedrooms _____

Full Bathrooms _____

Half Bathrooms _____

Fees Collected:

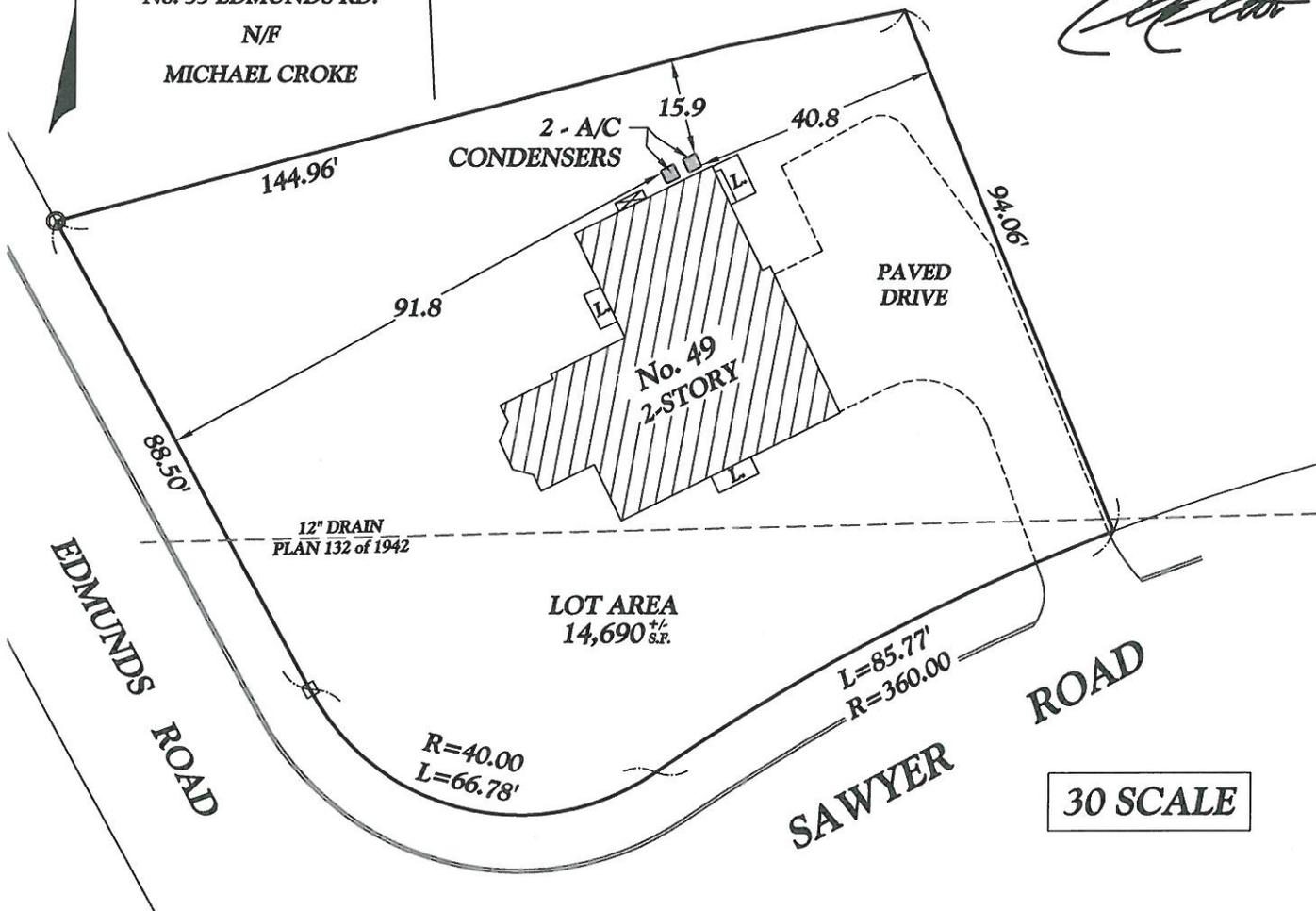
Permit _____

Microfilming _____

Advertising _____

Cert. of Occ. _____

TOTAL \$ _____



30 SCALE

NOTE: By sealing/stamping this plot plan, the Registered Land Surveyor certifies that the proposed construction is in accordance with the Town of Wellesley zoning By-Laws.

Registered Surveyor Signature: _____

Christopher C. Charlton

Date: **06-14-18**

Address: **105 BEAVER STREET, FRANKLIN, MA 02038**

Telephone: **(508)528-2528**