



ZONING BOARD OF APPEALS

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

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ZBA 2016-22
 Petition of Reza Mahban
 33 Upson Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 7, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Reza Mahban requesting a Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a one-story, side facing two-car garage with less than required left side yard setbacks, at 33 Upson Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District.

On March 21, 2016, 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 Reza Mahban, the Petitioner. He said that the request is for a nine foot variance to construct a 21 foot by 22.4 foot addition to the house that will be used as a garage. He said that they currently have a one car garage at the front of the house that they would like to include into the house so that his 78 year old father can move in. He said that current Zoning requires a 30 foot setback where he only has 21 feet. He said that several neighbors have a 20 foot setback with a side facing garage. He said that because the property abuts wetlands, there is no other place to put the addition.

The Board confirmed that the existing garage is used to park cars. Mr. Mahban said that the road is narrow and there is no parking on the street, especially during the winter.

The Board said that there is a large tree and telephone pole where the new driveway will be. Mr. Mahban said that the plan is to take some of the existing driveway out. He said that they will keep the tree because it is relatively old and they do not want to disturb it. He said that they will curve the front part of the driveway and go down by the side of the house.

The Board asked if Mr. Mahban spoke to his neighbor at 37 Upson Road. Mr. Mahban said that it is his mother. A Board member said that he did not think that a vehicle could make the turn into the garage without going onto the neighboring property.

The Board said that this is a situation where soil conditions could qualify this for a variance due to the majority of the lot being in the wetland buffer zone.

Mr. Mahban said that his father had back surgery last year and cannot climb stairs. He said that although they have space on the second floor that could accommodate him, he does not want to put his father through the stress of going up and down stairs all of the time. The Board asked why the decision was made to build a new garage as opposed to new living space. Mr. Mahban said that it would be financially difficult to build a kitchen, bathroom and living space. He said that the existing first floor has a half bath that they can add a shower to. He said that they can make it functional as living area. He said that they will not add a kitchen. He said that the existing kitchen is located next to the garage.

The Board said that the site plan shows the driveway into the old garage remaining. Mr. Mahban said that the driveway needs to be removed, subject to the Order of Conditions. He said that the new driveway will have permeable asphalt.

A Board member asked if the WPC took into consideration that the garage floor is considerably lower than the first floor of the house. He questioned whether the garage could be subject to flooding. Mr. Mahban said that drywells will be put in. The Chairman said that the WPC determined that the addition can be built, subject to applicable performance standards of the Wetlands Protection Act. He said that the Order of Conditions will be incorporated into the ZBA decision.

A Board member said that one of the ways to mitigate the lack of dimension from the garage doors to the side lot line is to extend the asphalt about a car length and one width of a car beyond the garage so a car can back into the garage. The Board said that as a first pass, it is fairly typical in tight places to show the template of a car graphically. The Board said that it can be a simple car template on a plan that shows that it is possible.

A Board member said that he did not see how it will function without going onto the neighbor's property. The Board discussed requiring an easement from Mr. Mahban's mother's property. The Board said that if the template does not work, an easement may be the right thing to get because someone else might buy the house next door.

Mr. Mahban said that he drives a small car. He said that the size of the proposed garage is not large. The Chairman said that a future owner may have large SUV's and will have a problem with the neighbor because they will have to back onto their property. He said that what the Board is suggesting is that Mr. Mahban consult with an attorney to see if a 10-foot easement can be granted by Mr. Mahban's mother to give Mr. Mahban the right to back onto her property to maneuver a vehicle. He said that Board members are concerned that there is not enough space.

A Board member said that there is no connection from the garage to the house indoors. Mr. Mahban said that because of the slope, there is a possibility to cut an opening into the base of the foundation for access to the basement. The Board member said that the differential from the garage to the house seems to be more than required. He said that there is an opportunity for grading behind the garage. He said that there are some mitigating design things that contribute to the difficulty. He said that it looks like there should be more work done on it. He said that he did not see a differential between the floor level of the house and the garage. He said that it looks to be about four or five feet. He said that if you try to put stairs in the garage or adjacent to it, that creates a large stairway. He said that he was not sure if an opening in the foundation for access would make things work in the garage because it would take away parking space. The Chairman said that it does not have to have an entrance.

The Chairman said that the Board's concerns are that Mr. Mahban either has to come in with a template showing how you can maneuver two full sized cars or get an easement from his mother's property to allowing vehicles to back onto her property. He said that the petition will be continued to the June 2, 2016 hearing.

Mr. Mahban asked if extending the driveway would alleviate the ZBA's concerns. The Chairman said that Mr. Mahban would have to go back to the WPC if he wanted to put any more asphalt down. He said that the issue is cars turning. He said that the Zoning Bylaw states that if you have a side loaded garage, you need to have 30 feet so that you are able to back up, make a turn and go up the driveway, with the same thing in reverse. He said that a Board member is an engineer and is concerned that you cannot make the turn with 20 feet. He said that Mr. Mahban either has to come in and prove with an engineer's template that you can make the turn with a normal size car or get an easement that would solve the problem to get the required 30 feet.

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

The Board voted unanimously to continue the hearing to June 2, 2016.

June 2, 2016

The Board voted unanimously to continue the hearing to September 8, 2016.

September 8, 2016

Presenting the case at the hearing were Laurence Shind, Esq, and Reza Mahban, the Petitioner.

Mr. Shind said that more work was done and the plan was revised to increase the setback by four feet to 25 feet off of the side lot line. He said that the Applicant went before the Wetlands Protection Committee (WPC) and they approved the revised plan.

Mr. Shind said that their Engineer sent a letter certifying that, in his opinion, the minimum required turning radius for the side facing garage will be met with the 25 foot setback.

Mr. Shind said that the Planning Board recommended favorable action. He said that the Planning Board brought the original bylaw proposal to Town Meeting to increase the side facing garage setback to 30 feet. He said that they are comfortable with 25 feet in this situation. The Board said that the fact that they were able to move the garage four feet to increase the turning radius to 25 feet makes a big difference.

The Board said that it previously discussed that the garage will be lower than the first floor of the house and might be subject to flooding. Mr. Mahban said that the property has existing drywells and they will install an additional drywell.

The Board said that there is no room for a stair or connection to the house. The Board confirmed that the process will be to park the car, go outdoors and up the deck to the back door.

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The Board said that the original plot plan that was submitted shows the driveway. The Board said that the revised plot plan does not show the completion of the driveway. The Board said that it would be appropriate to have the Surveyor show the driveway in solid lines where it will actually be located. The Board said that a condition of the decision will be that a revised plot plan indicate that the asphalt will be porous.

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 33 Upson Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a one-story, side facing two-car garage with less than required left side yard setbacks.

Narrative for Variance Request, dated 2/10/16, a Plot Plan, dated 2/9/16, revised 4/25/16 & 6/8/16, stamped by Alfred M. Berry, Professional Land Surveyor, Letter dated 8/4/16, re: 33 Upson Road Driveway Turning Radii, stamped by Scott P. Hayes, Professional Engineer, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/10/16, prepared by Karla Tinkjian, Architectural Designer, and photographs were submitted.

On March 17, 2015, the Wetlands Protection Committee issued Order of Conditions – MA DEP #324-0773. On August 22, 2016, the Wetlands Protection Committee issued an Amended Order of Conditions – MA DEP 324-0773.

On April 6, 2016, the Planning Board reviewed the petition and recommended that action be deferred. On September 7, 2016, the Planning Board reviewed the petition and recommended that the Variance be granted.

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 soil condition 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.

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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 construction of a one-story, side facing two-car garage with less than required left side yard setbacks, subject to the following conditions:

1. A revised plot plan shall be submitted that shows the location of the driveway and indicates that the asphalt shall be porous.
2. Order of Conditions, MA DEP #324-0773, dated March 17, 2015 and Amended Order of Conditions – MA DEP 324-0773, dated August 22, 2016.

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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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

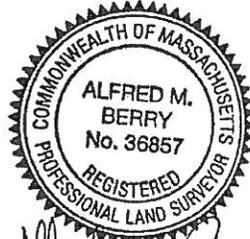
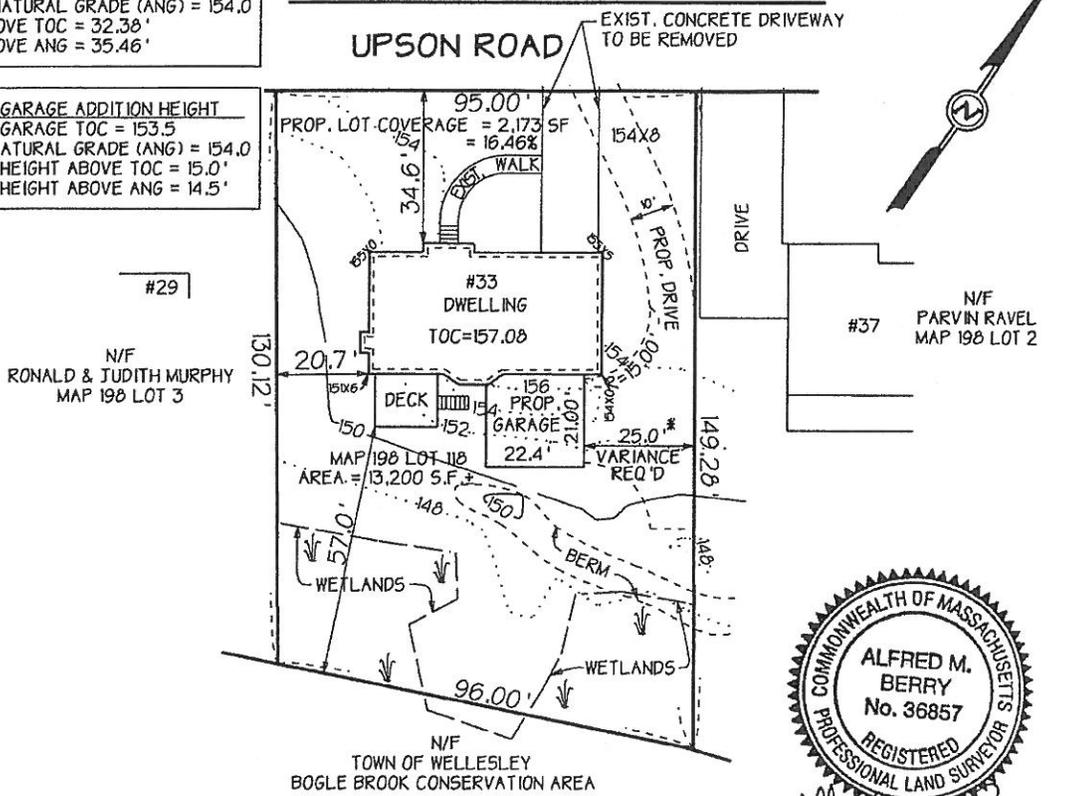


Derek B. Redgate

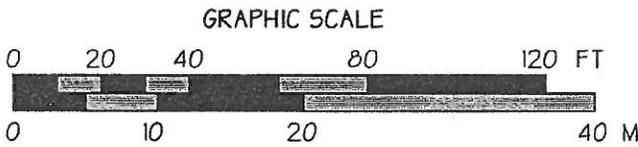
cc: Planning Board
Inspector of Buildings
lrm

EXISTING DWELLING HEIGHT
 FOUNDATION TOC = 157.08
 AVERAGE NATURAL GRADE (ANG) = 154.0
 HEIGHT ABOVE TOC = 32.38'
 HEIGHT ABOVE ANG = 35.46'

PROPOSED GARAGE ADDITION HEIGHT
 PROPOSED GARAGE TOC = 153.5
 AVERAGE NATURAL GRADE (ANG) = 154.0
 PROPOSED HEIGHT ABOVE TOC = 15.0'
 PROPOSED HEIGHT ABOVE ANG = 14.5'



Alfred M. Berry



PLOT PLAN
33 UPSON ROAD
WELLESLEY, MASSACHUSETTS

SITE DATA

33 UPSON ROAD, WELLESLEY
 RECORD OWNER: REZA MAHBAN
 ASSESSORS MAP 198 LOT 118
 LAND COURT CERTIFICATE OF TITLE NO. 154186
 LAND COURT PLAN 4252B
 ZONE SRD 10 - TABLE 1
 FRONT YARD: 30-FT
 SIDE YARD: 20-FT
 REAR YARD: 10-FT
 MAX. TLAG = 3,600 S.F. (WITHOUT LHR)
 MAX. LOT COVERAGE = THE GREATER OF 20% OF LOT AREA OR 2,500 SQ.FT.

PREPARED FOR:
 REZA MAHBAN
 33 UPSON ROAD
 WELLESLEY, MA 02482
 DATE: FEBRUARY 9, 2016
 REV. 4/25/16; 6/8/16
 SCALE: 1"=40'
 www.foresitel.com

FORESITE ENGINEERING
 ENGINEERING SURVEYING PLANNING
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August 4, 2016

Wellesley Zoning Board of Appeals
 525 Washington Street
 Wellesley, Massachusetts 02482

RE: 33 Upson Road Driveway Turning Radii

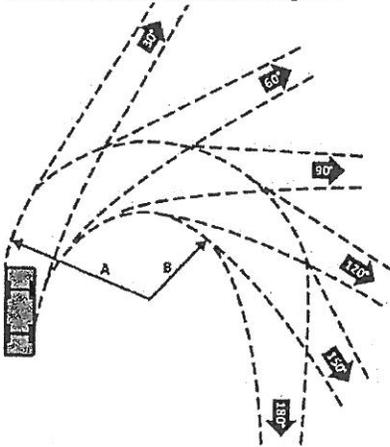
Dear Board Members,

With respect to the proposed driveway at 33 Upson Road, our office has evaluated the minimum inside turning radius required to maneuver into the proposed side load garage. Based on the 2004 AASHTO Green Book turning template for a passenger car (see figure below), the minimum inside turning radius to maneuver into a side load garage is 14.4-ft, and the minimum design (outside) turning radius is 24-ft. The driveway now proposed at 33 Upson Road has a proposed inside turning radius of 15-ft and a minimum outside turning radius of 25-ft with the face of the side load garage at 25-ft from the side lot line.

Standard

FROM AASHTO GREENBOOK 2004

Select Vehicle Dimensions and Turning Radii



Symbol	Design Vehicle Type	Width (ft)	Length (ft)	A. Minimum Design Turning Radius (ft)	B. Minimum Inside Turning Radius (ft)
P	Passenger Car	7.0	19	24	14.4

If the Board should have any questions regarding this matter please contact our office.



Respectfully,

FORESITE Engineering
 By: Scott P. Hayes, PE
 Principal