



ZONING BOARD OF APPEALS

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

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ZBA 2019-48
Petition of Laura London
440 Washington Street

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TOWN CLERK'S OFFICE
WELLESLEY MA 02459
2019 JUL 25 P 2:55

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 6, 2019 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Laura London requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that expansion of third floor living space, construction of cantilevered second floor bays down to grade, construction of an entry and stairwell, construction of a deck, and installation of air conditioning condensers, with less than required setbacks, on an existing nonconforming structure with less than required front yard, left and right side yard setbacks, where existing nonconforming lot coverage of 26.2 percent will be increased to 31.1 percent, on a 5,027 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, at 440 Washington Street, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 8, 2019, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

June 6, 2019

Present at the hearing were Paul Worthington, Designer, and Marc Charney, current owner of the property.

Members of the public who spoke at the public hearing included Robert Fleming, 432 Washington Street and David Himmelberger, 387 Linden Street.

The Board voted unanimously to continue the hearing to July 11, 2019.

July 11, 2019

The Chairman said that the petition was continued from June 6, 2019 but would be heard de novo, as the panel had changed. He said that the Applicant can reference the previous hearing as they choose.

Present at the public hearing were Marc Charney and Paul Worthington.

Mr. Worthington said that the plan is to expand an existing house that is surrounded by town property and has numerous setback violations. He said that the land has been used in a somewhat loose way because of the adjacent private way to the field. He said that they are looking to expand over the existing footprint to create more space for two units of decent size.

Mr. Worthington said that proposed expansion of the footprint includes a new deck and an exterior stairway. He said that at the previous hearing, a member of the public took exception to the exterior stair and requested that it be enclosed. Mr. Worthington said that he did not think that was a big improvement but they went ahead and made the change.

Mr. Worthington said that the air conditioning (ac) units were moved to the east side of the property in response to comments made at the previous hearing.

The Chairman said that a special permit for the two-family use on the property was granted by the Selectmen several years ago.

Mr. Worthington said that a property line cuts through the garage. He said that they have decided to remove the garage.

A Board member said that there were no dimensions shown on the plans to the new ac condensers on the side. He said that the bylaw does not allow condensers in the setbacks. Mr. Charney said that the front yard setback will be less than 30 feet. Mr. Worthington said that the original plan had the condensers at a back corner where they were not visible but, because they were in the setback, it was decided that they should be moved to the other side. Mr. Charney there is no conforming place to put the units because of the shape of the lot. The Board said that the condensers can be moved to where they will meet setback requirements or the Applicant can come back before the Board with a request for a variance at a subsequent hearing.

A Board member said that the left, right and rear yard setbacks are nonconforming. He said that removal of the garage will eliminate the encroachment into the right of way. He said that because the plan does not show it, the Board will insert a condition to require that the garage be removed.

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 440 Washington Street, on a 5,027 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 13.6 feet where 30 feet is required, a minimum left side yard setback of 2 feet and a minimum right side yard setback of 10.5 feet where 20 feet is required. Existing lot coverage is 26.2 percent and proposed lot coverage will be 31.1 percent where 25 percent is allowed. The existing nonconforming garage crosses over the property line.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that expansion of third floor living space, construction of cantilevered second floor bays down to grade, construction of an entry and stairwell, construction of a deck, and installation of air conditioning condensers, with less than required setbacks, on an existing nonconforming structure with less than required front yard, left and right side yard setbacks, where existing nonconforming lot coverage of 26.2 percent will be increased to 31.1 percent, on a 5,027 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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A Plot Plan, dated 3/18/19, revised 7/1/19, stamped by Michael P. Clancy, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 3/25/19, revised 6/20/19, prepared by Paul Worthington Design & Restoration Inc., and photographs were submitted.

On May 24, 2019, the Planning Board reviewed the petition and recommended that a special permit 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 expansion of third floor living space, construction of cantilevered second floor bays down to grade, construction of an entry and stairwell, and construction of a deck, with less than required setbacks, on an existing nonconforming structure with less than required front yard, left and right side yard setbacks, where existing nonconforming lot coverage of 26.2 percent will be increased to 31.1 percent, on a 5,027 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, 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 expansion of third floor living space, construction of cantilevered second floor bays down to grade, construction of an entry and stairwell, and construction of a deck, with less than required setbacks, on an existing nonconforming structure with less than required front yard, left and right side yard setbacks, where existing nonconforming lot coverage of 26.2 percent will be increased to 31.1 percent, on a 5,027 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, subject to the following condition:

- The existing nonconforming garage shall be removed.

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, the Special Permit shall expire two years after the date time stamped on this decision.

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Petition of Laura London
440 Washington Street

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.


J. Randolph Becker, Chairman


Robert W. Levy


Derek B. Redgate

ZBA 2019-48
Applicant Laura London
Address 440 Washington Street

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NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

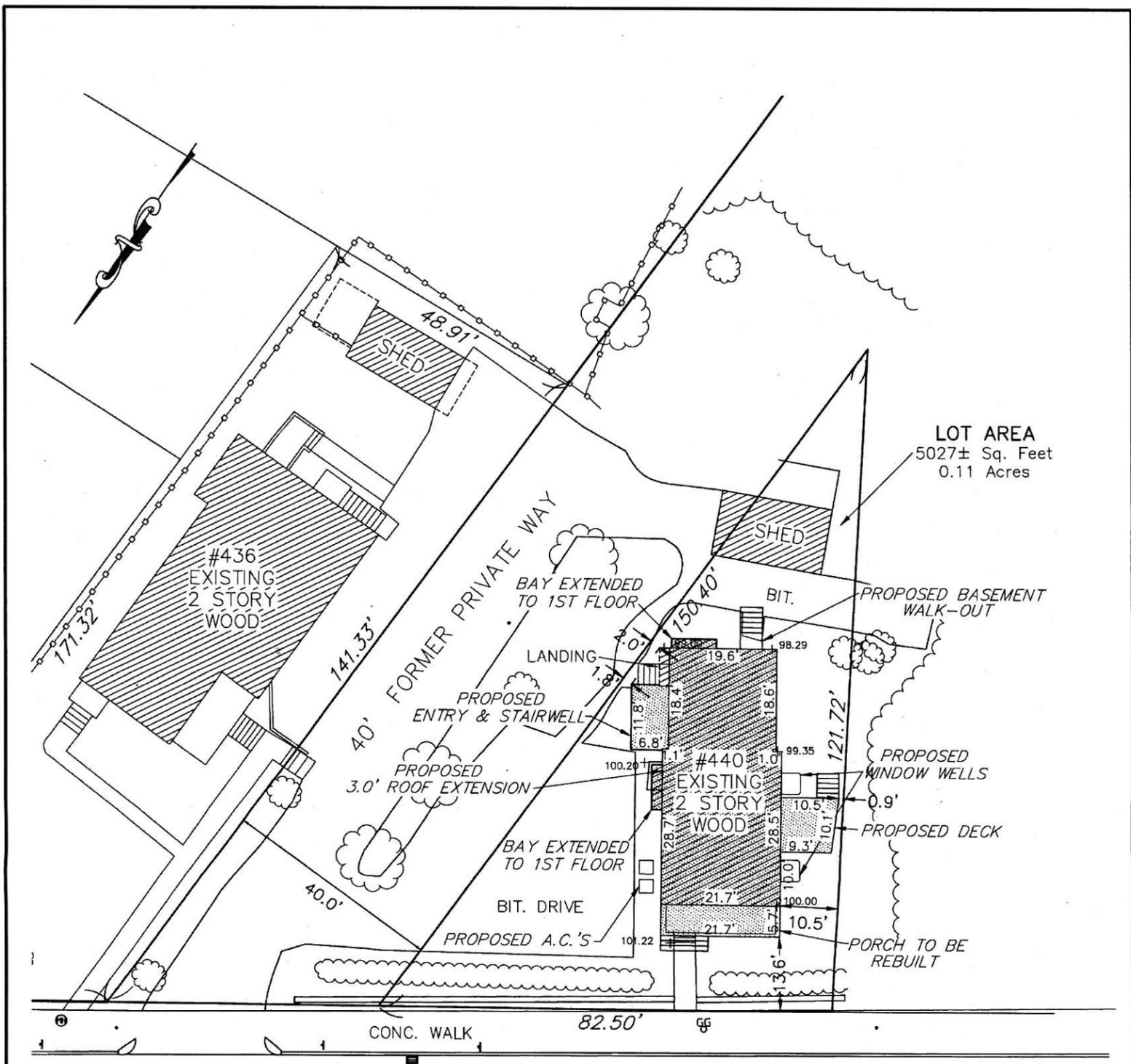
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



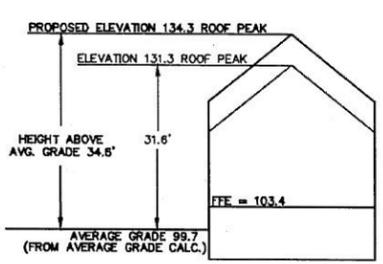
LOT AREA
5027± Sq. Feet
0.11 Acres

WASHINGTON STREET



PLOT PLAN
FOR
440 WASHINGTON STREET
IN
WELLESLEY, MA.

PREPARED FOR:
MARC CHARNEY
4 TWITCHELL
WELLESLEY, MA



- NOTES:
1. ZONING CLASSIFICATION - SR10
 2. LOCUS DEED:
NORFOLK REGISTRY OF DEEDS BOOK 33695 PAGE 405
 3. PLAN REFERENCES:
NORFOLK REGISTRY OF DEEDS BOOK 863 PAGE 432
NORFOLK REGISTRY OF DEEDS LANDCOURT PLAN 1139B
NORFOLK REGISTRY OF DEEDS LANDCOURT PLANS 10235&10069
 4. ASSESSORS PARCEL ID: 86-21-0
*SNOW COVERED AT TIME OF SURVEY

SCALE: 1"=20' MARCH 18, 2019

C & G SURVEY COMPANY
37 JACKSON ROAD
SCITUATE, MA. 02066
1-877-302-8440

AVERAGE GRADE CALCULATION: $(99.0+98.3+99.4+100.0+101.2+100.2) / 6 = 99.7$
 LOT COVERAGE (EXISTING): $(1319.1 / 5027) = 26.2\%$
 LOT COVERAGE (PROPOSED): $(1565.9 / 5027) = 31.1\%$

REVISED 7/1/19

