

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2020-12

Petition of Peter & Elizabeth Welburn
20 Cushing Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 5, 2020 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Peter & Elizabeth Welburn requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two-story addition with less than required left side yard and right side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, demolition, reconstruction and expansion of an existing nonconforming garage with less than required rear yard and right side yard setbacks, on a 5,310 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, with 50 feet of frontage, at 20 Cushing Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting to increase lot coverage of 25.3 percent to 33 percent.

On February 6, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing was David Himmelberger, Esq., representing Peter and Elizabeth Welburn, the Petitioner. Mr. Himmelberger said that the request is to continue the petition to allow time to clear up a discrepancy in lot size that was noted in the Planning Board recommendation. He said that town records show the lot at 5,310 square feet, whereas the Petitioner's plan shows it at 5,846 square feet. He said that he determined late this afternoon that a plan was recorded at the Registry of Deeds in 1971 that shows a 533 square foot wedge of land being removed from an abutter's property, with the subtraction of the square footage on the plan, and added to 20 Cushing Road. He said that the deed references the 533 square feet as an easement, not a conveyance in fee. He said that the conveyance also appeared at the Registry of Deeds on a quitclaim deed form conveying an easement. He said that it was so confusing that a confirmatory deed was recorded thereafter on a quitclaim form calling out that what was being conveyed was an easement, not a conveyance in fee. He said that the plans that were submitted are inaccurate because they are based on the larger lot size. He said that he was contacted earlier in the week by the attorney for an abutter. He said that he called the attorney today to tell him that the Petitioner would be seeking a continuance.

The Board voted unanimously to continue the petition to May 7, 2020.

In accordance with Chapter 53 of the Acts of 2020, the hearing was continued to June 4, 2020.

June 4, 2020

Mr. Himmelberger said that the request is to raze and rebuild a pre-existing nonconforming single car garage, and construct an 11 foot deep, two story addition to the rear of the single family residence with less than required setbacks. He said that the pre-existing home is nonconforming due to insufficient lot area, frontage, lot width, front, side and rear yard setbacks. He said that he provided the Board with documentation that shows how the error on lot size came about and a corrected plot plan.

Mr. Himmelberger said that the proposed addition to the rear of the home will retain the existing height of 28.5 feet. He said that existing lot coverage of 25.3 percent will increase to 33 percent and all of the proposed setbacks will be nominally better than existing setbacks. He said that the garage will be moved a few feet and will have an additional 15 inches of height, rising to 13 feet 3 inches. He said that a relief drawing of the garage was submitted that shows the de minimis increase to make it a functional single car garage.

Mr. Himmelberger said that TLAG of 1,827 square feet for the existing structure will increase to 2,519 square feet, which is well below the 4,300 square foot threshold for the 20,000 square foot district. He said that it is an unusual lot in that it is slightly over 5,000 square feet but the house fits nicely on it. He said that neighbors on both sides and across the street submitted letters of support. He said that the only change from the prior submittal is that the back left corner was pulled in further so that it will not encroach further than the existing left side yard setback of 6 feet three inches. He said that the new setback will be 6 feet eight inches. He said that this is a seamless addition to a beautiful four square home that will not be substantially more detrimental to the neighborhood than the pre-existing nonconformities. He requested that the Board grant approval of a special permit.

The Chairman said that he looked at a 12 house neighborhood around 20 Cushing Road and this is currently the smallest TLAG and will still be the smallest TLAG after the addition.

A Board member said that it is reasonable for the Board to approve well designed additions to properties on small lots. He asked if there will be any drainage system. Mr. Himmelberger said that there will be roof leader gutters. He said that the additional impervious area is 400 square feet, which is a de minimis increase.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 20 Cushing Road, on a 5,310 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, with 50 feet of frontage where 60 feet is required, a minimum front yard setback of 29.5 feet where 30 feet is required, a minimum left side yard setback of 6.3 feet and a minimum right side yard setback of 3.7 feet where 20 feet is required. The existing nonconforming garage has a minimum rear yard setback of 1.9 feet and a minimum right side yard setback of 2.5 feet where 20 feet is required. Existing lot coverage is 25.3 percent.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two-story addition with less than required left side yard and right side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, demolition, reconstruction and expansion of an existing nonconforming garage with less than required rear yard and right side yard setbacks, on a 5,310 square foot lot in a Single Residence District in which

the minimum lot size is 20,000 square feet, with 50 feet of frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting to increase lot coverage of 25.3 percent to 33 percent.

Letter to Zoning Board of Appeals, dated 5/4/20, from David J. Himmelberger, Esq., Original Easement Documents, a Plot Plan, dated 1/21/20, revised 4/29/20, stamped by Daniel J. Tivnan, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/27/20, revised 5/7/20, prepared by Patrick Ahearn Architect, and photographs were submitted.

On March 5, 2020 and June 4, 2020, the Planning Board reviewed the petition and recommended that a special permit be approved, subject to conditions.

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 construction of a two-story addition with less than required left side yard and right side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, demolition, reconstruction and expansion of an existing nonconforming garage with less than required rear yard and right side yard setbacks, on a 5,310 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, with 50 feet of frontage and lot coverage of 25.3 percent that will increase to 33 percent 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 construction of a two-story addition with less than required left side yard and right side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, demolition, reconstruction and expansion of an existing nonconforming garage with less than required rear yard and right side yard setbacks, on a 5,310 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, with 50 feet of frontage and lot coverage of 25.3 percent increasing to 33 percent, in accordance with the submitted plot plan and 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 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.

ZBA 2020-12
Petition of Peter & Elizabeth Welburn
20 Cushing Road

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
J. Randolph Becker, Chairman

Richard L. Seegel
Richard L. Seegel

Walter B. Adams
Walter B. Adams

ZBA 2020-12
Applicant Peter & Elizabeth Welburn
Address 20 Cushing Road

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.

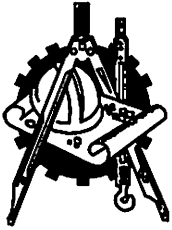
Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

CERTIFIED PLOT PLAN



hs&t group, inc.

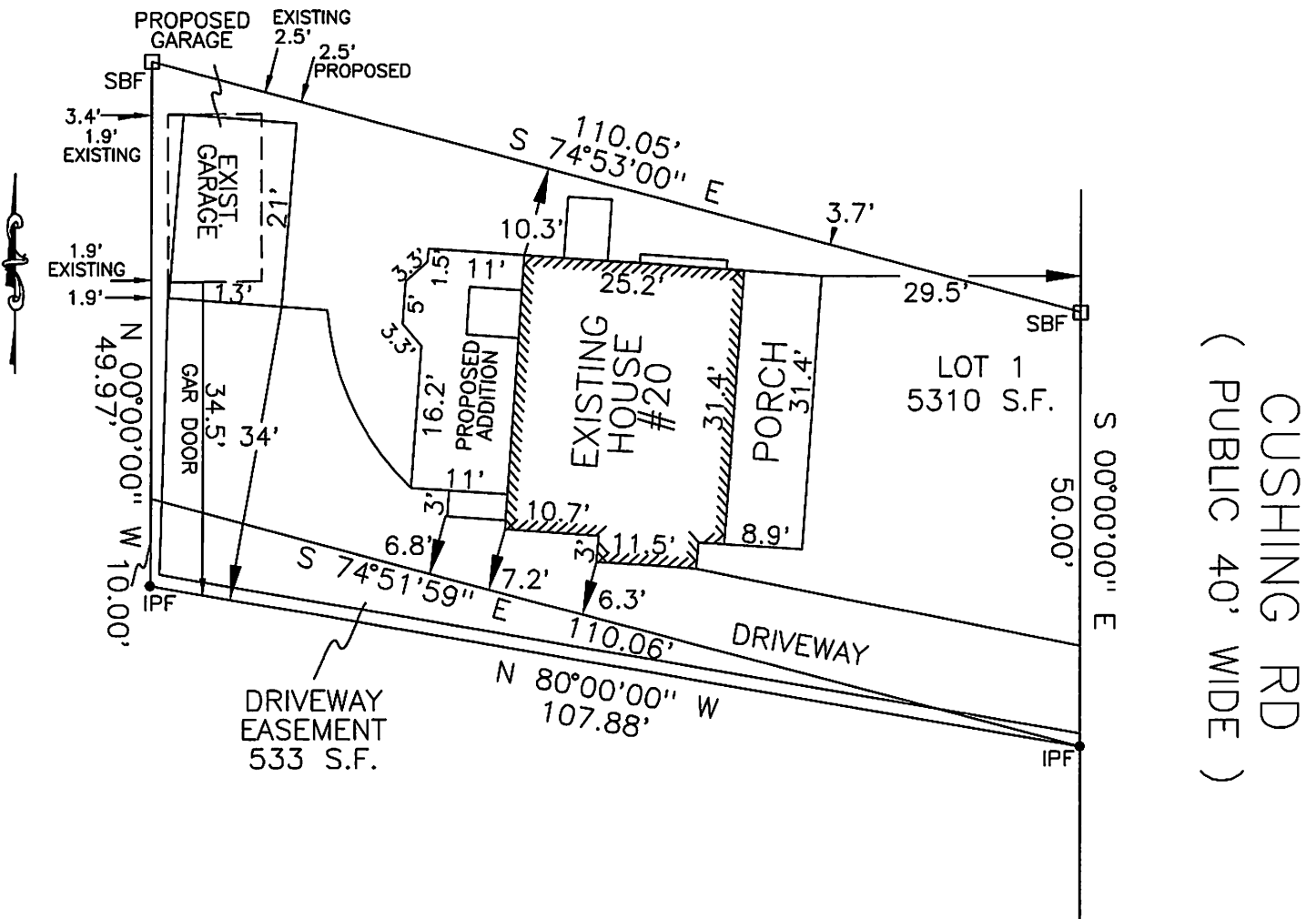
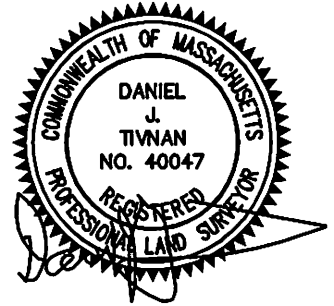
PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS
 75 HAMMOND STREET - 2ND FLOOR
 WORCESTER, MASSACHUSETTS 01610-1723
 PHONE: 508-757-4944 EMAIL: INFO@HSTGROUP.NET
 FAX: 508-752-8895 WWW.HSTGROUP.NET

PROJECT: 20 CUSHING RD
 WELLESLEY MA

OWNER: PETER & ELIZABETH WELBURN
 DATE: 04-29-20 DEED: 25082-124
 ZONE: SR-20 PLAN: 344 OF 1971
 SCALE: 1"=20' MBL: 84-16
 COMP'D: DJT FLD. BK: 652-28
 CAD: DJT JOB #: 6533
 FILE: CUSHING20VAR2

I CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS
 THE LOCATION OF THE BUILDING AND DIMENSIONS AS SHOWN.

EXISTING LOT COVERAGE 1345 S.F. 25.3%
 PROPOSED LOT COVERAGE 1753 S.F. 33%



CUSHING RD
 (PUBLIC 40' WIDE)