

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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2022 JUN 16 PM 3:09

ZBA 2022-40

Petition of Heera Sharma & Vanita Goyal
37 Kimlo Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 2, 2022, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Heera Sharma & Vanita Goyal requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to legitimize a deck that was built in 2016 without the required zoning relief for a nonconforming front yard setback of 25 feet where 30 feet is required nor a building permit, at 37 Kimlo Road, in a 10,000 square foot Single Residence District.

On May 3, 2022, 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 Heera Sharma and Vanita Goyal, the Petitioner. He said that the house was purchased in 2009. He said that the homeowners hired a contractor to build the deck in 2016 and did not understand that the contractor had not pulled a building permit for it. He said that when they applied for a permit in 2021 for internal renovations to the house, the Building Department said that there was a problem with the deck. He said that the property is subject to a 30 foot front yard setback at the rear because it backs up to Route 9. He said that the Building Inspector advised that the 500 Foot Rule does not apply to the second front yard setback. He said that the required relief is for a 25 foot setback where 30 feet is required. He said that a predecessor in interest was granted a variance in 1973 for construction of a pool with a smaller setback. He said that the Applicant is seeking a variance to retain the deck as it is currently located.

The Board discussed proper permitting process, difficulty of removing a corner of the deck, and harm to the neighbors.

Mr. Himmelberger said that a building permit should have been applied for in 2016. He discussed the topography of the lot with respect to granting a variance.

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 37 Kimlo Road, in a 10,000 square foot Single Residence District, with 23.21 feet of frontage where 60 feet is required, a minimum front yard setback of 25 feet to Worcester Street where 30 feet is required, and a minimum side yard setback of 8 feet where 20 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to legitimize a deck that was built in 2016 without the required zoning relief for a nonconforming front yard setback of 25 feet where 30 feet is required nor a building permit.

A Letter to Zoning Board of Appeals, dated 4/4/22, from David J. Himmelberger, Esq., a Plot Plan, dated 3/3/22/ stamped by James P. Horgan, Professional Land Surveyor, Assessor Parcel Plan, ZBA Decision 75-25, Building Permit 12652, and photographs were submitted.

On May 20, 2022, the Planning Board reviewed the petition and was split on its evaluation of the requested variance.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

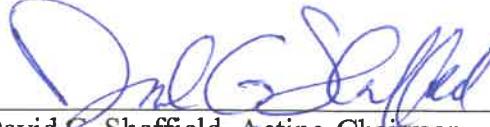
It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape and topography of such land, which does not generally affect the zoning district 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 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted to allow a deck that was built in 2016 without the required zoning relief for a nonconforming front yard setback of 25 feet where 30 feet is required nor a building permit to remain, in accordance with the submitted plans.

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JOHN M. CLARK, CLERK'S OFFICE
WELLESLEY, MA 02482

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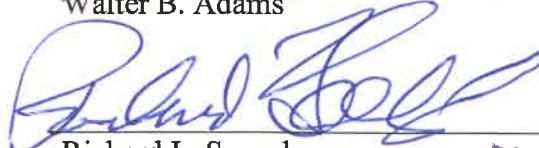
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



David G. Sheffield, Acting Chairman



Walter B. Adams



Richard L. Seegel

ZBA 2022-40
Applicant Heera Sharma & Vanita Goyal
Address 37 Kimlo 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

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