

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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TELEPHONE
(781) 489-7450

WALTER B. ADAMS
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ZBA 2024-79
Petition of Eduard Kelenchuk
22 Aberdeen Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, December 5, 2024, at 7:30 pm, on the petition of Eduard Kelenchuk requesting a Special Permit/Finding and a Special Permit pursuant to the provisions of Section 5.1, Section 5.3, Section 5.13 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming detached garage on the same footprint and foundation, and construction of a second story over the garage for an Accessory Dwelling Unit, with less than required left side yard setbacks, at 22 Aberdeen Road, on a 7,825 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.

On November 4, 2024, 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 were David Himmelberger, Esq. and Ed Kelenchuk, the Petitioner. Mr. Himmelberger said that the request is for a special permit to raze and rebuild an existing detached nonconforming garage on the same footprint and foundation, with the addition of an Accessory Dwelling Unit (ADU) above the garage. He said that the left side yard setback for the two-car garage is 10.3 feet. He said that the lot is nonconforming at 7,825 square feet in a 10,000 square foot Single Residence District (SR10).

Mr. Himmelberger said that the ADU on the second floor of the garage will be accessed by internal stairs. He said that the height of the garage will be 23.3 feet, which is considerably less than the existing home's ridge height of 30.1 feet. He said that the living space will be accommodated with two shed dormers. He said that the TLAG will increase from 3,203 to 3,613 square feet, which is 13 square feet over the threshold for an SR10. He said that lot coverage will increase by 48.75 feet, from 18.7 to 19.4 percent, due to the overhang of the second floor over the front of the garage.

Mr. Himmelberger said that, in accordance with the Town's ADU bylaw, the proposed garage will remain subordinate to the principal dwelling, matching the style and architecture. He said that the floor area of the ADU will be 410 square feet, which is well beneath the 900 square foot limit.

A Board member discussed safety concerns about the interior open stair to the second floor and the door into the ADU.

A Board member discussed concerns about the substantial increase in height and shadows affecting the property that is located behind this property on Atwood Street. Mr. Himmelberger said that the garage that is shown in one of the photos that was submitted by a neighbor was built with a special permit issued by the Zoning Board. He said that the grade goes up about five feet from the base of the proposed garage to the lot at 25 Atwood Street.

Matt Werger said that he is the prior owner of 18 Aberdeen Road, where his mother currently lives. He said that 18 Aberdeen Road is directly to the left of 22 Aberdeen Road and will be the property that is most affected by the new structure. He discussed concerns about privacy and safety. He said that the ADU will look directly over the only private area in his mother's yard, which significantly impacts the feeling of safety in an area where the lots are already small. He said that with the ADU over the garage, it will border on the size of several houses on the street. He said that egress from the ADU goes into the side yard setback, which is already significantly nonconforming. He said that the Applicant hasn't accounted for a patio or landing space that could go further into the setback. He said that additional parking spaces will be needed, possibly on the street. He questioned whether the Applicant could add onto the back of his house where the structure would be conforming. A Board member said that the Applicant is trying to take advantage of a Zoning Bylaw that allows a garage to be converted into a garage/ADU of limited size. He said that in this case, it will be a small apartment.

The Chairman asked Mr. Werger about his concerns about security. Mr. Werger said that the additional dwelling on a small property will be well within the side yard setbacks and will look directly into his mother's kitchen and bedroom. He said that it is currently a single level garage that is proposed to have second floor living space where people will spend considerable time looking for light from their windows, which changes the privacy in his mother's bedroom and kitchen.

A Board member discussed problems with pushing the garage over a few feet. He said that it would create a pinch point between the new structure and the existing house.

Mr. Himmelberger said that the left side yard setback is well screened, as seen in Ms. Werger's photograph. He said that the view in the photograph that was taken from the bedroom looks down at the garage. A Board member said that the garage is kitty corner behind Ms. Werger's property. He said that the distance from the left front corner of the proposed garage to the right rear of the existing house next door is 40 to 50 feet. He said that the pictures didn't show any easy way to look into somebody's windows.

Annette Werger, said that she is the owner of the house next to 22 Aberdeen Road. She said that she and her husband planted the trees that are between the properties. She said that the arbor vitae will never grow and will not shield the view of the window looking into her yard. She said that the spruce will provide some shielding. She said that the door and a window are proposed in the setback. She asked that

if the project is approved, that the door be placed on the back side or on the other side, since it is to the Applicant's benefit to have the apartment. She said that three people can live in a 400 square foot loft. She said that the impact of noise and parking could be significant to her house.

Rosemary McCormack, Atwood Street, said that she lives on the adjacent street and wanted to echo Ms. Werger's concerns. She said that it will be a significant infringement of the enjoyment of the neighbors' property to have a house that is over the setback. She said that a house is very different from a garage that is over the setback.

The Chairman said that setbacks aren't applied retroactively. He said that the left side yard setback became nonconforming when the Zoning Bylaw was changed after the structure was built.

A Board member said that the suggestion to reorient the stairs is a good one. He said that people coming and going from the second floor apartment wouldn't come out in an undersized setback from a door that opens onto it but would come out onto the owner's side. Mr. Kelenchuk said that he would agree to the proposed change. He said that the reason for the apartment is to accommodate his mother or other family members who occasionally need a place to stay. He said that they have no intention of leasing it out. He said that his mother doesn't plan to drive, so there will be no more traffic on the cul de sac or onto the driveway.

Mr. Kelenchuk said that with respect to moving the garage, they were trying to preserve the foundation. He said that at 25 Aberdeen Road, which is across the street, the structure is higher than what is proposed at 22 Aberdeen Road. He said that any concerns with having a taller, two-story structure is already in place. He said that his neighbors at 24 Atwood Street have a two-story and the windows are higher, so they can see into Ms. McCormack's yard. He said that his structure will be lower.

Mr. Werger said that they don't know what the next homeowners will do if the permit is granted and the house sells. He said that the possibility of sliding the garage over a couple of feet would be good. He said that he was hoping for future proofing to preserve an old neighborhood that is valuable to the town as a small, safe community. A Board member said that it would be a significant expense to have to demolish the foundation and re-pour it in a new location.

Board members said that they would need to see revised plans.

The Board voted unanimously to continue the matter to January 9, 2025.

January 9, 2025

Mr. Himmelberger said that in response to suggestion/request to bring the door and the windows on the property line side to the interior of the Applicant's rear yard, revised plans were submitted that show that the side that abuts the common property line with the neighbor now has no windows or door.

A Board member said that he discussed his concerns about the stair opening from the garage to the second floor unit with the Building Inspector, who indicated that he did not have a concern about that issue. He said that the Applicant well addressed the concerns that were raised and he could support this petition.

Mr. Himmelberger said that Plan A101 now shows the redesigned interior with a door at the bottom and at the top of the stairs. He said that the doors may not be required but the Applicant thought that they were a good idea.

A Board member asked if the skylights were shown on the previous plan. Mr. Kelenchuk said that they were not. He said that they introduced them in lieu of the window on the left side for extra light to come in.

A Board member confirmed that the Applicant shared the revised plans with the neighbor. Mr. Kelenchuk said that he had but they were still opposed.

Matt Werger said that he appreciated the changes and alterations that were made. He said that they are still not thrilled about the plan but appreciate that some of their concerns were addressed. He asked that, if a second exit is required, it be confirmed that it will not be onto the 18 Aberdeen Road side. A Board member said that it is hard to condition something that might or might not happen. He said that if the Building Inspector decides that a second exit is needed, that would be a good time to lobby for it being in a location that would not add more activity to the adjacent property. He said that Mr. Werger could always appeal the decision of the Building Inspector.

Statement of Facts

The subject property is located at 22 Aberdeen Road, on a 7,825 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 28.1 feet where 30 feet is required, and a minimum right side yard setback of 9.7 feet where 20 feet is required. The existing nonconforming garage has a minimum left side yard setback of 10.3 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding and a Special Permit pursuant to the provisions of Section 5.1, Section 5.3, Section 5.13 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming detached garage on the same footprint and foundation, and construction of a second story over the garage for an Accessory Dwelling Unit, with less than required left side yard setbacks, on a 7,825 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.

Letter to Zoning Board of Appeals, dated 10/28/24, from David J. Himmelberger, Esq., a Plot Plan, dated 5/22/24, stamped by Michael P. Clancy, Professional Land Surveyor #49621, Floor Plans and Elevation Drawings, dated 10/29/24, revised 12/17/24, prepared by National Design and Drafting, TLAG Affidavit, dated 10/29/24 and photographs were submitted.

On December 3, 2024, the Planning Board reviewed the petition and recommended that a Special Permit be approved.

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 demolition and reconstruction of an existing nonconforming detached garage on the same footprint and foundation, and construction of a second story over the garage for an Accessory Dwelling Unit, with less than required left side yard setbacks, on a 7,825 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 demolition and reconstruction of an existing nonconforming detached garage on the same footprint, and construction of a second story over the garage for an Accessory Dwelling Unit, with less than required left side yard setbacks, on a 7,825 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in accordance with the submitted plans.

The Building Inspector 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 Special Permit shall expire two years after the date time stamped on this decision.

2025 JAN 23 PM 12:27



ZBA 2024-79
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22 Aberdeen 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 (lm)
J. Randolph Becker, Chairman

Walter B. Adams (lm)
Walter B. Adams

Peter Covo (lm)
Peter Covo

ZBA 2024-79
Applicant Eduard Kelenchuk
Address 22 Aberdeen Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

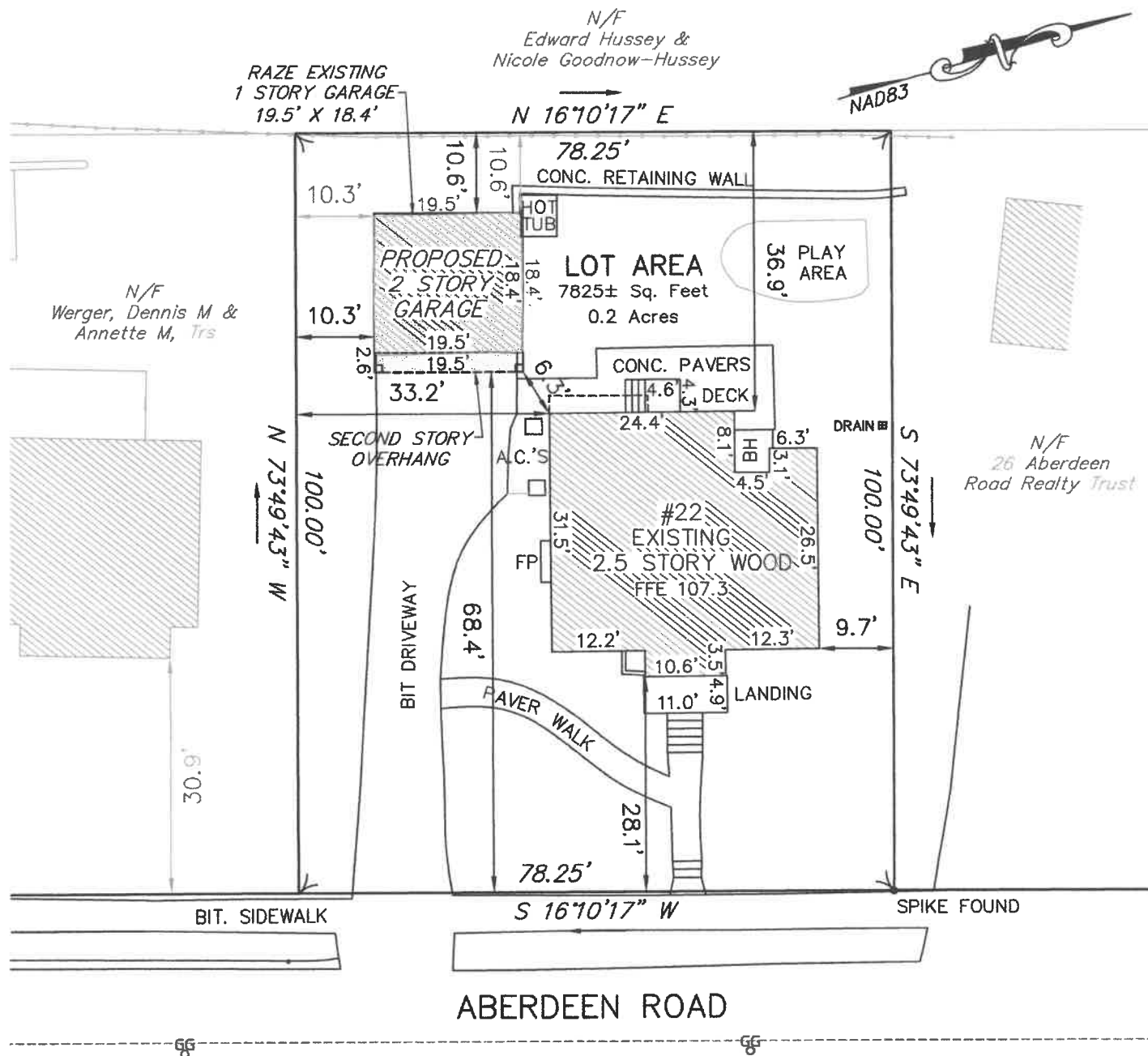
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrn



PREPARED FOR:
EDUARD & MARIA KELENCHUK
22 ABERDEEN ROAD
WELLESLEY, MA. 02482

ZONING DISTRICT
SR-10

REQUIREMENTS:		UNITS	REQUIRED	CURRENT	PROPOSED
MINIMUM LOT AREA	S.F.	10,000	7,825±	7,825±	7,825±
MINIMUM LOT FRONTAGE	FT.	60.0	78.25	78.25	78.25
FRONT SETBACK	FT.	30.0	28.1	28.1	28.1
SIDE SETBACK	FT.	20.0	9.7/10.3(GAR)	9.7/10.3(GAR)	9.7/10.3(GAR)
REAR SETBACK	FT.	10.0	36.9/10.6(GAR)	36.9/10.6(GAR)	36.9/10.6(GAR)
BUILDING HEIGHT	FT.	36.0	30.1	30.1	30.1
LOT COVERAGE	S.F.	1956	1569	1621	1621
LOT COVERAGE	%	25	20.1	20.7	20.7



PLOT PLAN
FOR
22 ABERDEEN ROAD
IN
WELLESLEY, MA.

- NOTES:
- ZONING CLASSIFICATION — SR-10
 - LOCUS DEED:
NORFOLK COUNTY REGISTRY OF DEEDS BOOK 36862 PAGE 121
 - PLAN REFERENCES:
NORFOLK COUNTY REGISTRY OF DEEDS BOOK 1804 PAGE 601
 - ASSESSORS PARCEL ID: 99-62

SCALE: 1"=20' MAY 22, 2024

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

PROPOSED ADDED: OCTOBER 3, 2024



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2025 JAN 23 PM 12:22

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Property Address: 22 Aberdeen Rd, Wellesley
Deed Book 36862 Page 121