

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ZBA 2001-29

Petition of Hugh R. Johnston and Erica E. Johnson
3 Boulder Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 26, 2001 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of HUGH R. JOHNSTON AND ERICA E. JOHNSON requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of a two-story 20 foot by 21 foot addition and a 12 foot by 16.8 foot deck, both of which will have less than the required rear yard setback, at their nonconforming dwelling at 3 BOULDER ROAD on the corner of GLEN ROAD, in a Single Residence District.

On April 9, 2001, 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 were Hugh Johnston and Erica Johnson. Mr. Johnston said their property is at the corner of Glen and Boulder Roads. The house is a traditional cape with 5 rooms on the first floor and 2 bedrooms on the second. They would like to replace a four year old kitchen with a new one which would allow eat-in space for a family. They have concluded that it would be economical to add a master bedroom as well.

One corner of the proposed addition extends 7 feet into the setback towards the MBTA property. The MBTA is the only abutter to be potentially directly effected by the encroachment. Extending from the rear of their property line to the MBTA tracks is a wooded area which falls off to the tracks 140 feet away, and at least 20 feet below the level of their yard. The MBTA has submitted a written statement indicating that the proposed setback encroachment has no detrimental effect on its property.

The proposed addition has the support of all of their neighbors. The Planning Board also had no objection.

They are appealing for a variance based on two hardships: topography and shape of the lot. Their house is located on a slope. From one end of the house to the other, the land falls approximately one story, or 10 feet. The slope increases as one moves in the direction of their only residential abutter at 11 Boulder Road, whose house is approximately 20 feet higher than their home. Building within the setback requirement would necessitate constructing a retaining wall, and may be detrimental to the hedgerow and hemlocks which serve as a buffer between the two homes.

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In regard to the shape of the lot, the house is located towards the back of the property at an angle to the rear property line, which is the reason the proposed addition encroaches on the 20 foot setback at the rear of the house.

They have attempted to remedy the encroachment by purchasing land from the MBTA. Their offer was refused. They have attempted to satisfy their own objectives to make the project economically feasible and to satisfy the setback requirements as far as possible.

The Board noted that the Planning Board had no objection to granting the variance.

No other person present had any comment on the petition.

Statement of Facts

The subject conforming property is located at 3 Boulder Road and Glen Road, in a Single Residence District, on a 15,963 square foot lot.

The petitioners are requesting a variance to construct a two-story 20 foot by 21 foot addition, which will have a minimum rear yard clearance of 13.5 feet and a 12 foot by 16.8 foot deck, which will have a minimum rear yard clearance of 13.6 feet.

A Plot Plan dated April 2, 2001, stamped by Peter G. Hoyt, Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated 3/2/01, drawn by Vincent Codispoli, Architect; and photographs were submitted.

Letters in support of the petition were received from Julia and Troy Norris, 6 Boulder Road; Lynda and Paul Schuepp, and from Maureen P. Hart, Deputy Director of Real Estate at MBTA.

On April 24, 2001, the Planning Board reviewed the petition and had no objection to the grant of the variance.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling conforms to the current Zoning Bylaw.

It is the opinion of this Authority that because of the shape of the lot, the location of the house on the lot, and the topography of the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the two-story addition and deck in accordance with the submitted plot plan and construction drawings.

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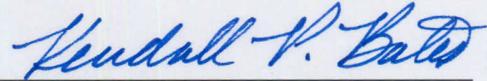
2001 MAY 14 A 9:31

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

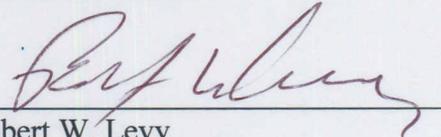
Cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Chairman



William E. Polletta



Robert W. Levy

