

TOWN OF WELLESLEY



MASSACHUSETTS

TOWN CLERK'S OFFICE  
WELLESLEY MA 02482

ZONING BOARD OF APPEALS

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

2002 JUN -5 A 8:22

KENDALL P. BATES, CHAIRMAN  
RICHARD L. SEEDEL, VICE CHAIRMAN  
CYNTHIA S. HIBBARD

ELLEN D. GORDON  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 208

ROBERT A. BASTILLE  
J. RANDOLPH BECKER  
ROBERT W. LEVY

ZBA 2002-51

Petition of Jeffrey D. and Roberta L. Morgenstern  
16 Cleveland Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 23, 2002 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of JEFFREY D. AND ROBERTA L. MORGENSTERN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following construction at their nonconforming dwelling with less than the required right side yard setback, at 16 CLEVELAND ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Demolition of existing nonconforming deck and construction of a one-story 10 foot by 23.8 foot addition with less than the required right side yard setback.
2. Construction of a new 14 foot by 10 foot deck with less than the required right side yard setback.

On May 6, 2002, the petitioners 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 was Jeffrey Morgenstern, who said they are proposing to extend the rear of the house in order to expand a very small den into a family room and enlarge the kitchen. The addition will not be more nonconforming than the existing house. They would also like to add a deck behind the addition.

The Board asked if the Order of Conditions had been recorded, and if the retaining wall shown on the plot plan existed now. Mr. Morganstern said the Order of Conditions had not been recorded as yet, and that the retaining wall existed.

The Board stated it agreed with the Wetlands Committee's comment that the Site Plan should have the 141 foot elevation 100 year flood location shown on it. A condition stating that no building permit be issued prior to submission of a revised plan showing this demarcation to both the Wetlands Committee and the Board of Appeals.

The Board asked if the Morgansterns planned to do the plantings required by the Wetlands Committee before the winter. Mr. Morganstern said they had not thought about that as yet. The Wetlands Committee requested that more blueberry bushes be planted.

The Board stated that Condition #20 in the Order of Conditions requires that, prior to beginning any work on the site, a landscape plan must be submitted for the areas now occupied by the shed and by portions of

ZBA 2002-51  
Petition of Jeffrey D. and Roberta L. Morgenstern  
16 Cleveland Road

the lawn below the retaining wall. The Board would add a condition that until said planting is completed, no Certificate of Occupancy be issued.

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY TOWN 01982  
2002 JUN -5 A 8:22

No other person present had any comment on the petition.

#### Statement of Facts

The subject property is located at 16 Cleveland Road, in a 10,000 square foot Single Residence District, on a 6,242 square foot lot, and has a minimum right side yard clearance of 7.0 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of the existing deck and construction of a one-story 10 foot by 23.8 foot addition, with a minimum right side yard setback of 8.9 feet; and a new 10 foot by 14 foot deck, with a minimum right side yard setback of 9.6 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated February 15, 2002, stamped by Paul J. DeSimone, Registered Land Surveyor; a Site Plan dated April 2, 2002, stamped by Paul J. DeSimone, Registered Land Surveyor; Existing and Proposed Floor Plans and Elevations drawn by Norman A. Homsy, Registered Architect; and photographs were submitted.

On May 2, 2002, the Wetlands Protection Committee issued an Order of Conditions (DEP 324-393) for the property.

On May 14, 2002, the Planning Board reviewed the petition and noted the proximity of this project and the "proposed" retaining wall to the stream.

#### 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 finding of this Authority that the demolition of the existing deck and construction of the one-story 10 foot by 23.8 foot addition and 10 foot by 14 foot deck, both of which will have less than the required right side yard setback, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as neither the addition nor the deck will intensify the existing nonconformance nor create new nonconformity as both structures will be less nonconforming than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the demolition of the deck, and construction of the one-story addition and new deck in accordance with the submitted plot plan and construction drawings, subject to the following conditions:

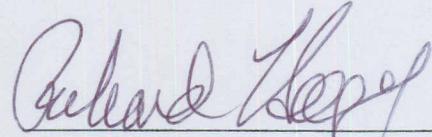
1. The Order of Conditions (DEP 324-393) is hereby incorporated into this decision.

2. Prior to the issuance of a building permit, a revised Site Plan showing the 141 foot elevation for a 100 year storm shall be submitted to both the Wetlands Protection Committee and the office of the Board of Appeals.
3. Prior to the issuance of a Certificate of Occupancy, the landscape plan shall be drafted, approved by the Wetlands Protection Committee and a copy submitted to the office of the Board of Appeals. All plantings shown on the proposed landscape plan shall be planted before the winter.

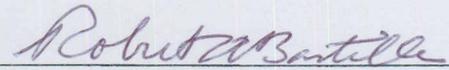
The Inspector of Building is hereby authorized to issue a building permit upon receipt and approval of a building application and detailed construction plans, and compliance with Condition #2 as stated above.

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.

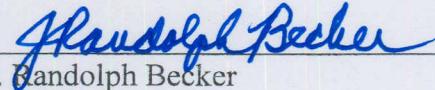
Cc: Planning Board  
Wetlands Protection Committee  
Inspector of Buildings  
edg



Richard L. Seegel, Acting Chairman



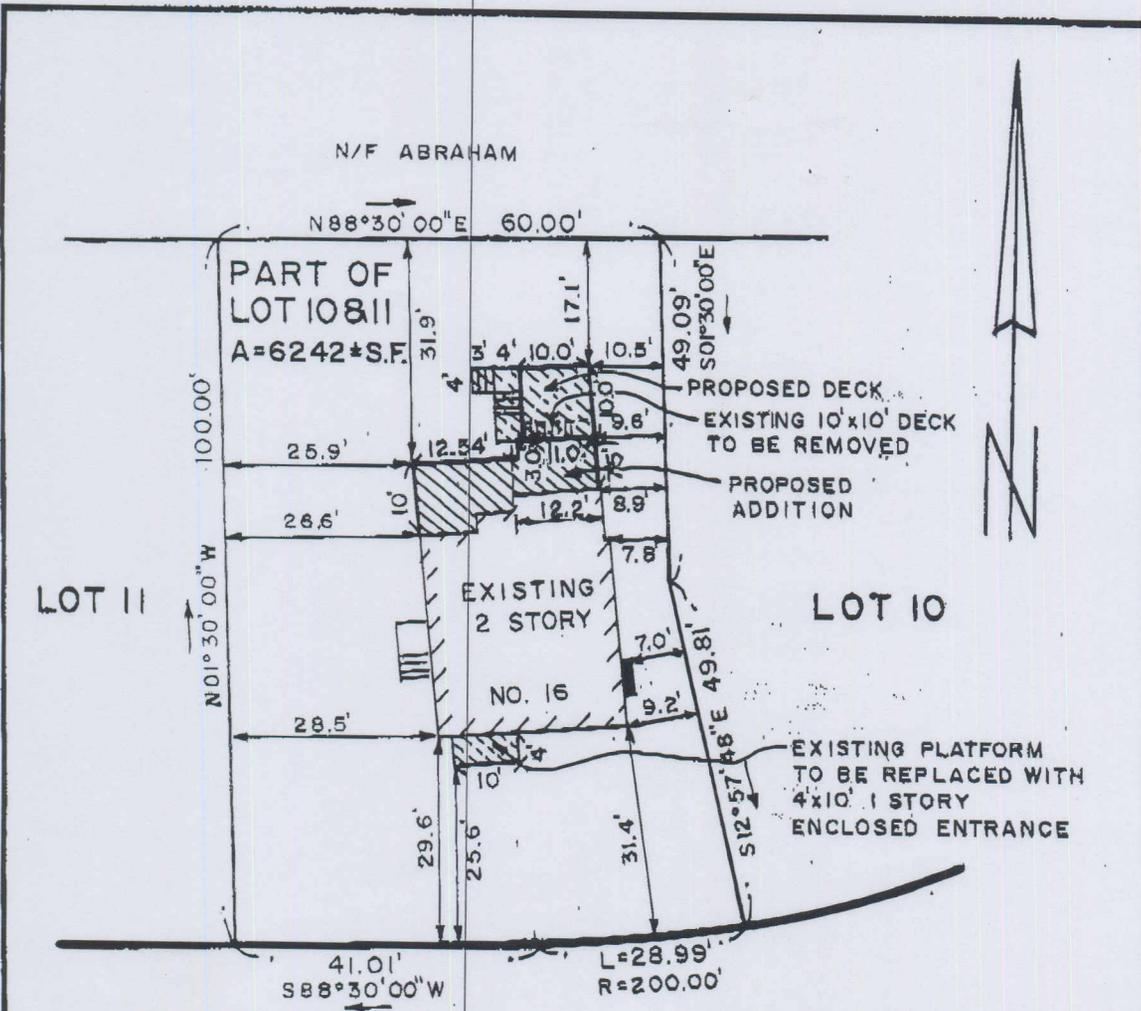
Robert A. Bastille



J. Randolph Becker

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MA 02482  
2002 JUN - 5 A 8:23

202-202-51



# CLEVELAND ROAD

### NOTES:

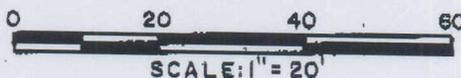
1. THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY.
2. RECORD OWNERS: JEFFREY D. AND ROBERTA L. MORGENSTERN  
BOOK 8492, PAGE 390
3. PLAN REFERENCE: END OF BOOK 1827

4. LOT COVERAGE: EXISTING =  $\frac{941\text{sf}}{6242\text{sf}} = 15.1\%$   
 PROPOSED =  $\frac{1416\text{sf}}{6242\text{sf}} = 22.7\%$



*Paul J. Sedgwick*

## CERTIFIED PLOT PLAN SHOWING PROPOSED ADDITION IN WELLESLEY, MA



**FEBRUARY 15, 2002** REVISED  
AUG. 28, 2002  
 CAMERON BROTHERS, INC.  
 11 TOURO AVE. MEDFORD, MA 02155  
 (781) 324-9556 (781) 321-2501 (FAX)