

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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

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ZBA 2002-68  
Petition of Mark Kaplan and Linda Chow  
21 Lafayette Circle

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 25, 2002 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 MARK KAPLAN AND LINDA CHOW requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a 60.5 foot by 23.3 foot two-story addition with less than the required left and right side yard setbacks, at their nonconforming dwelling with less than the required left and right side yard setbacks, at 21 LAFAYETTE CIRCLE, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 8, 2002, 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 was Mark Kaplan, who said they have lived in their house, which is nonconforming on both sides, since 1994. They would like to demolish the garage off of the family room, and build a new garage and family room across the rear of the house. The new construction will not be more nonconforming than the existing house.

The Board noted that the Planning Board had no objection to the request.

The Board further stated that the proposed scale of the house is similar to other homes in the neighborhood, and suggested that Dr. Kaplan consider embellishing the sides of the house to make the views from the abutting properties more attractive.

Bill Murphy, 15 Lafayette Circle, the right side abutter, expressed concern that the house is now 7.8 feet from the right side line, and the proposed structure will be only 14.2 feet from the lot line. The Board said although the addition begins at a distance of 14.2 feet, it will be 23.8 feet at the right rear corner, which is conforming.

Mr. Murphy expressed concern regarding a wall on the property line. They do not know who owns the wall, but are concerned about the effect of the construction on the integrity of the wall, as well as on a beech tree located about 7 to 8 feet from the wall on the Murphy property.

The Board stated that with respect to the wall, the Board could condition that special care be taken during construction to preserve the wall. As the right side line is only 7.8 feet from the foundation, construction vehicles would probably be entering from the left side of the property, which could be a condition.

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Mr. Murphy said that Dr. Kaplan had already agreed to do that.

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Mr. Murphy expressed concern about the percentage of land now covered versus the percentage of land covered when the addition is completed. The Board state the existing percentage of lot coverage is 16.87% and the proposed coverage is 19.15% on a lot on which 20% coverage is allowed.

A discussion ensued about which party would be responsible if there were damage to the wall. The Board decided that the right side lot line would have to be staked prior to construction to determine on whose property the wall was located.

#### Statement of Facts

The subject property is located at 21 Lafayette Circle, in a 10,000 square foot Single Residence District, on an 11,279 square foot lot and has a minimum left side yard clearance of 12.9 feet and a minimum right side yard clearance of 7.8 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of the existing garage and deck, and construction of a two-story 60.5 foot by 22.3 foot addition with a minimum left side yard clearance of 17.9 feet and a minimum right side yard clearance of 14.2 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated April 3, 2002, stamped by George N. Giunta, Professional Land Surveyor; and Existing and Proposed Floor Plans and Elevations dated July 1, 2002, drawn by Adam Weiner, Certified Remodeler;

A letter in support of the petition was received from Mr. and Mrs. Harte, 8 Fells Road

On July 16, 2002, the Planning Board reviewed the petition and had no objection to the granting of the request.

#### 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 proposed garage and deck demolition, and construction of the two story 60.5 foot by 22.3 foot addition shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure for although the addition will intensify the existing nonconformance, it will not create new nonconformance as the encroachment on both the right and left sides shall be less than the existing structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, to demolish the existing garage and deck and construct a two-story 60.5 foot by 22.3 foot addition in accordance with the submitted plot plan and construction drawings, subject to the following conditions:

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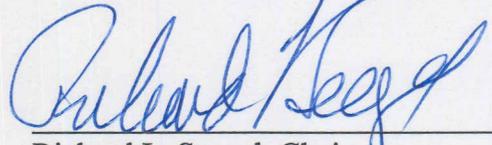
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1. Prior to the onset of construction, the easterly lot line shall be staked by a registered land surveyor.
2. Special care shall be taken by the contractor to preserve the integrity of both the beech tree located on the Murphy property and the wall.
3. All construction vehicles shall enter the Kaplan property from the west side of the existing house.
4. No building materials shall be stored on the easterly side of the house.

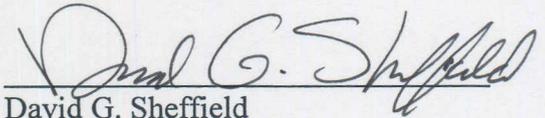
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans and the compliance of the petitioners with Condition 1 of this decision.

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.

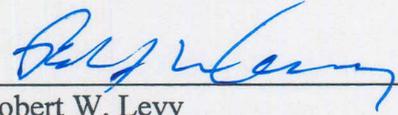
Cc: Planning Board  
Inspector of Buildings  
edg



Richard L. Seegel, Chairman



David G. Sheffield

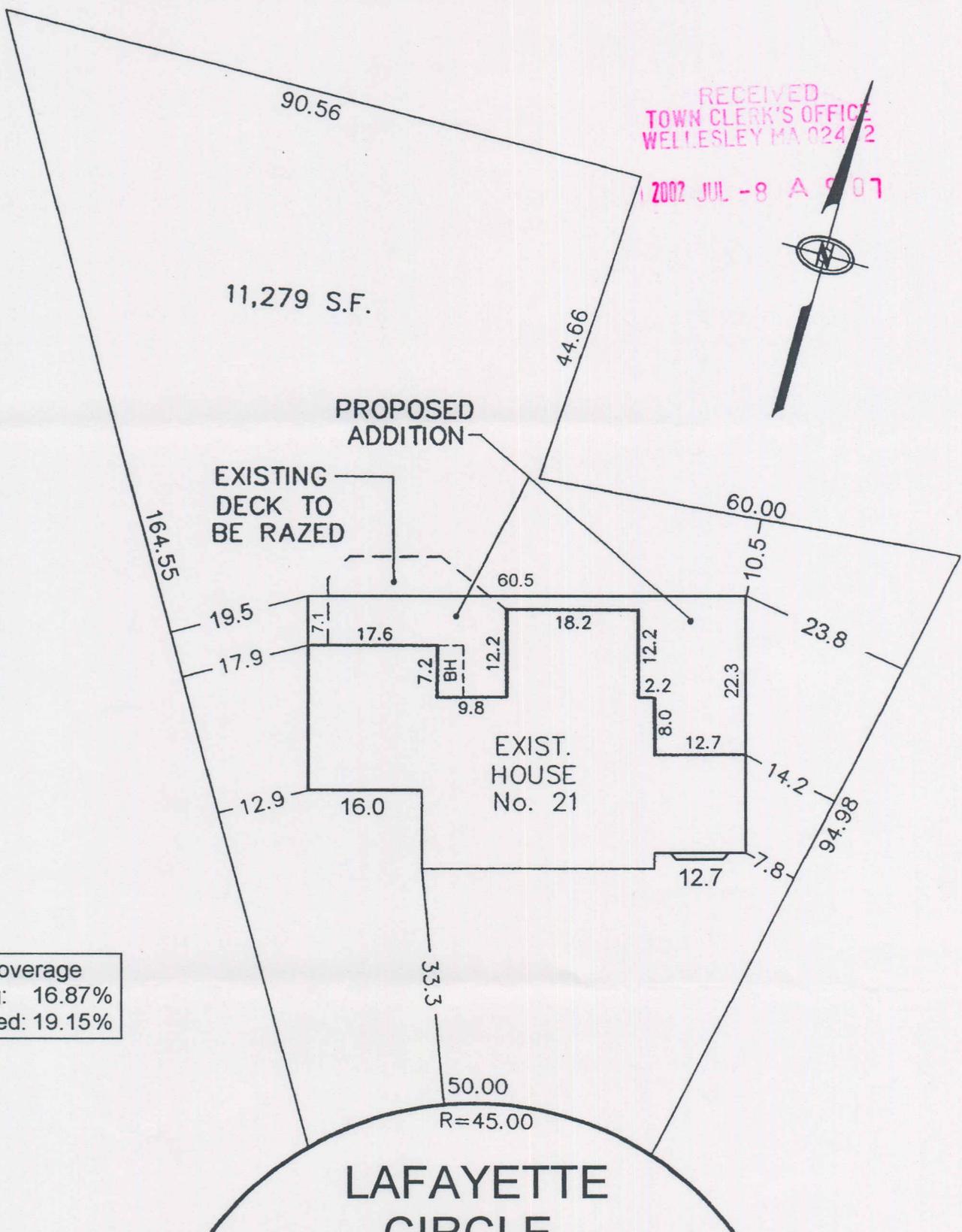


Robert W. Levy

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Lot Coverage  
Existing: 16.87%  
Proposed: 19.15%

# LAFAYETTE CIRCLE

## PLOT PLAN OF LAND WELLESLEY, MASS.

April 3, 2002 SCALE 1" = 20'

NEEDHAN SURVEY ASSOCIATES, INC.  
281 CHESTNUT STREET  
NEEDHAM, MASS. 02192  
781 - 444 - 5936

