

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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

2002 AUG 15 P 12:00

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ZBA 2002-71
Petition of Mark and Nancy Claflin
31 Abbott Road

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 AND NANCY CLAFLIN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a 15 foot by 9 foot deck with less than the required left side yard setback, at their nonconforming dwelling with less than the required front, right and left side yard setbacks, at 31 ABBOTT ROAD, 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 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 were Mark and Nancy Claflin. Mr. Claflin said they are in the process of renovating their home, and would like to add a deck at the rear of the house. Due to the location of existing doors, they need to have the deck encroach about 2 feet into the 20 left side yard setback. The deck will be less nonconforming than the existing structure.

Mr. Claflin said their house is one of historical significance to the town. They would like to preserve the architectural integrity of the house. Both of their abutting neighbors have written letters in support of the petition.

The Board stated it had no problem with the minimum left side yard setback, but did have a problem with the percentage of lot coverage, which is shown on the plot plan as 21.5%. The plot plan does not show the existing percentage of lot coverage without the deck. The allowed lot coverage for the Claflin lot is no more than 20% of the lot. If the existing percentage of lot coverage exceeds 20%, the Board could grant a Special Permit allowing the Claflins to exceed the lot coverage by a little more.

The Board requested that the Claflins submit a revised plot plan showing the both the existing and proposed percentage of lot coverage. In the event the plot plan show the existing percentage of lot coverage to exceed 20%, a Special Permit/Finding shall be granted for the deck, which would have less than the required left side yard setback and exceed the allowed percentage of lot coverage. Should the revised plot plan show that the existing percentage of lot coverage is less than 20%, the petition shall be deemed to be withdrawn without prejudice.

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Statement of Facts

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The subject property is located at 31 Abbott Road, in a 10,000 square foot Single Residence District on a 15,539 square foot lot, and has a minimum left side yard setback of 16.6 feet, a minimum front yard setback of 26.3 feet and a minimum right side yard setback of 17.5 feet.

The petitioners are requesting a Special Permit/Finding that construction of a 15 foot by 9 foot deck with a minimum left side yard clearance of 18.8 feet, which will increase the percentage of lot coverage to 21.5%, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated July 2, 2002, stamped by Robert M. Drake, Registered Professional Land Surveyor; a revised plot plan dated July 30, 2002, stamped by Robert M. Drake, Registered Professional Land Surveyor, showing the existing percentage of lot coverage as 20.6% and the proposed percentage of lot coverage to be 21.5%; Existing and Proposed Floor Plans and Elevations dated 9/14/01, revised 9/21/01, drawn by Weston-Hewitson Architects; and photographs were submitted.

Letters in support of the petition were received from Jody and Ed Cale, 14 Caroline Street, and Veronica and Giovanni Castellucci, 29 Abbott Road.

On July 16, 2002, the Planning Board reviewed the petition and commented that although this was a relatively modest project, nevertheless, the Board does express concern that it would exceed the allowed lot coverage.

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 submission of the revised plot plan showing the existing percentage of lot coverage as 20.6% validates the Board's belief that the existing percentage of lot coverage does exceed the allowed 20%, and therefore that the grant of a Special Permit must include a provision that the proposed percentage of lot coverage of 21.5% shall not be substantially more detrimental to the neighborhood than the existing nonconforming lot coverage.

It is the finding of this Authority that the construction of the proposed 15 foot by 6 foot deck shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the deck will neither intensify the existing nonconformance, nor will it create new nonconformance as it is less nonconforming than the existing nonconforming structure.

It is the finding of this Authority that the proposed increase in lot coverage from 20.6% to 21.5% is de minimus, and shall not be substantially more detrimental to the neighborhood than the existing nonconforming percentage of lot coverage. However, it is not the intent of this Authority that this finding be construed or used as a precedent in any future petitions, which will be adjudged on an individual basis.

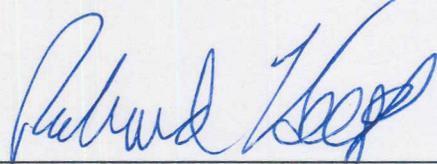
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Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the 15 foot by 9 foot deck in accordance with the revised plot plan dated 7/30/02 and the submitted construction drawings.

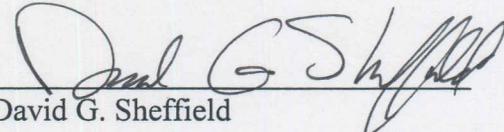
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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.

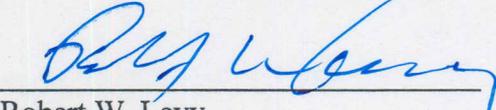
Cc: Planning Board
Inspector of Buildings



Richard L. Seegel, Chairman



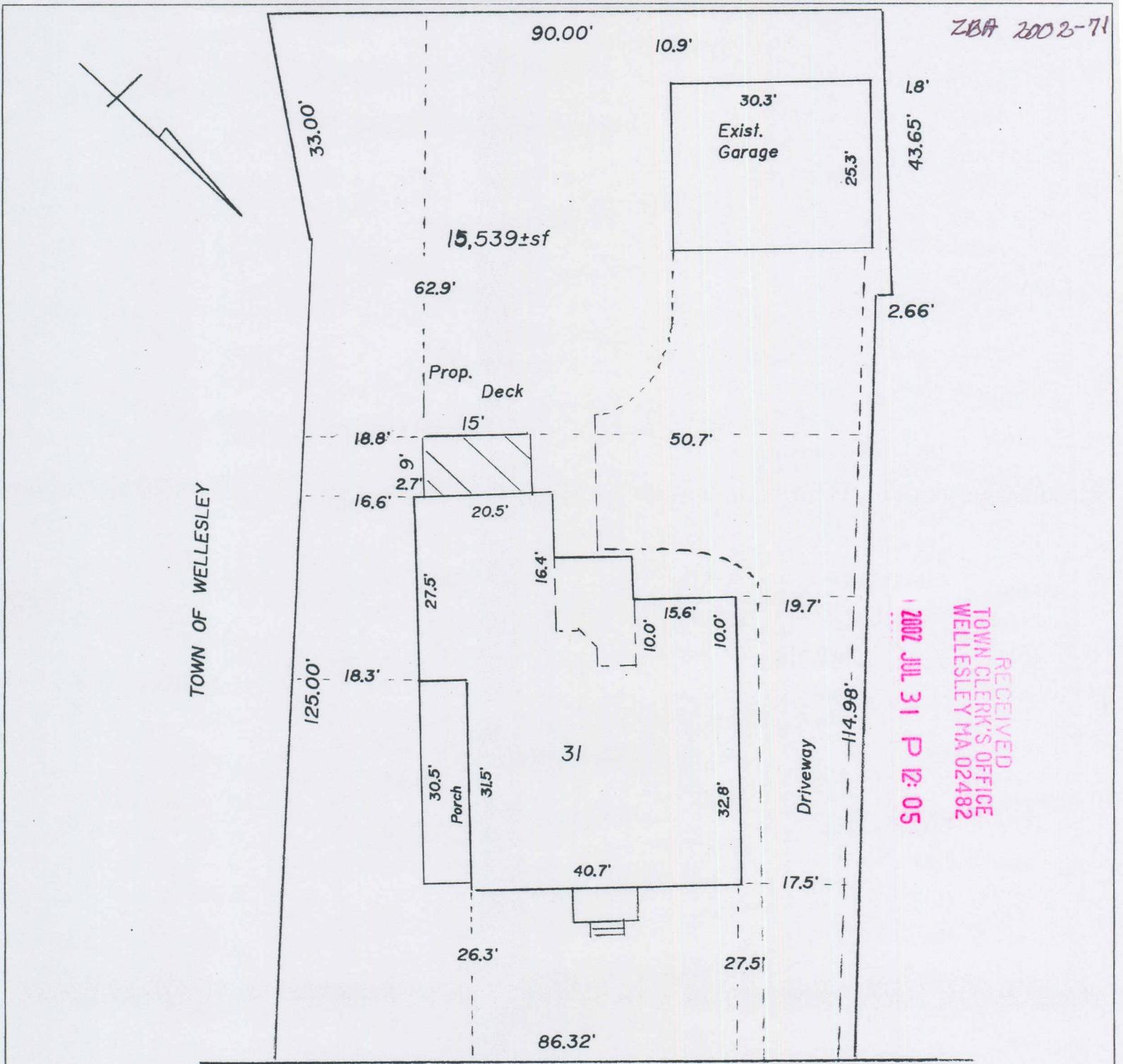
David G. Sheffield



Robert W. Levy

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LOT COVERAGE W/OUT DECK 20.6 %
 LOT COVERAGE W/DECK 21.5 % ABBOTT ROAD

I HEREBY CERTIFY THAT THE CONDITIONS ON THE GROUND ARE THE SAME AS SHOWN HEREON. I FURTHER CERTIFY THAT THE BUILDING(S) ARE LOCATED AS SHOWN HEREON

SIGNED: [Signature]
 DATE: JULY 2, 2002



[Signature]
 7/30/02

CERTIFIED PLOT PLAN
 IN
 31 Abbott Road
 WELLESLEY, MASS.

SCALE 1" = 20 FEET

Drake Associates Inc.
 Civil Engineers Land Surveyors
 770 Grove Street Framingham, Mass.
 (508) 877-0848
 FAX (508) 877-6350