



ZONING BOARD OF APPEALS

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

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ZBA 2003-59

Petition of John and Ashley Althoff
21 Cavanagh Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 14, 2003 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley on the petition of JOHN AND ASHLEY ALTHOFF 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 left, front and right side yard setbacks, at 21 CAVANAGH 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. A two-story 22 foot by 24 foot addition with less than the required left side yard setback.
2. A one-story 12 foot by 14 foot screened porch with less than the required left side yard.

On July 28, 2003, 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 Jay (John) Althoff, who was accompanied by his designer/builder, Ray Wiese. Mr. Althoff said they have one bathroom and would like to add a family room, master bedroom and bath, as they need more space. The detached garage will remain.

The Board noted that the Planning Board had no objections.

Mr. Wiese said that although the addition may appear large on paper, the current house is only 1,300 square feet. The project would add 1,000 square feet of living space, which is not very large.

The Board asked the reason for the revised plot plan. Mr. Wiese said his surveyor had made a mistake on the setback from the conforming side. The "24 feet" should have been "22 feet". The proposed lot coverage also changed slightly.

The Board commented that during a site visit, it was observed that other homes in the neighborhood had similar additions, and that this project appeared to be compatible with the neighborhood in mass and scale.

Meredith Galliger, attorney representing Janet Byer, 19 Cavanagh Road, the right side abutter, submitted letters in opposition to the petition from Richard Larschan, 18 Cavanagh Road, and B.E. Crowell, 20 Cavanagh Road.

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Ms. Galliger said the issues are lack of communication by the petitioners with the neighbors regarding the proposal; drainage, which may not seem to be a zoning issue, construction equipment, and light blockage, whereby the proposed construction will result in a worse condition than exists now.

Mr. Wiese responded that the plans submitted are compatible with the neighborhood. They could have torn down the house and built one ten feet taller. As to the equipment issue, he has built on sites with a greater degree of difficulty.

Mr. Wiese stated that he had been on the premises two days ago. He had spoken to Mr. Bailey, the affected left side abutter, who was concerned about drainage. He promised Mr. Bailey that he would not commence by installing dry wells because that is not always the best solution. They will be very particular about the grading. If there is still a problem, they would seek a viable solution. He has also spoken to Ms. Byer about drainage.

The Board stated that a drainage plan is not required for a Special Permit petition. However, the Board would strongly urge Mr. Althoff to consult with his abutters, address their drainage concerns, and possibly give them a construction phase schedule.

Ms. Galliger requested that the Board continue the hearing so that the discussions endorsed by the Board could take place prior to the Board decision. The Board refused, stating that discussion of neighbor concerns was not a condition of approval.

The Board asked how the roof drainage would be handled. Mr. Wiese said they do not have a drainage plan. There is a slight pitch from the house to the back of the lot. After settling has occurred, a final grading would be done to correct any problems. If necessary, dry wells can be installed at the rear.

The Board said that, absent a special Wetlands problem, the drainage is not an issue in granting a Special Permit. The Board looks at compliance of the proposed footprint with the allowable percentage of lot coverage, the mass of the addition, and its compatibility with the neighborhood. In regard to the construction equipment, there is no building project that does not involve construction equipment. The Board cannot deny a petition because equipment must be brought onto the site. The Board could recommend that care be taken not to damage any trees, but that would be the responsibility of the contractor.

The Board decided that it would include a strong recommendation that the petitioner consult with his abutters about their drainage problems and inform the neighbors as to the phasing of the construction and give them an equipment schedule. However, these would not be conditions for grant of the Special Permit.

Statement of Facts

The subject property is located at 21 Cavanagh Road, in a 10,000 square foot Single Residence District, on a 7,880 square foot lot, and has a minimum right side yard setback of 12.1 feet, a minimum front yard setback of 28.5 feet and a minimum left side yard setback of 10.9 feet.

The petitioners are requesting a Special Permit/Finding that the following additions shall not be substantially more detrimental to the neighborhood than their existing nonconforming structure:

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1. A two-story 22 foot by 24 foot addition with a minimum left side yard setback of 11.5 feet.
2. A one-story 12 foot by 14 foot screened porch with a minimum left side yard setback of 13.2 feet.

A Plot Plan dated July 11, 2003, revised August 13, 2003, stamped by Bruce Bradford, Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated July 8, 2003, drawn by The Wiese Company; and photographs were submitted.

The Planning Board reviewed the petition and had no objection to the granting of the request. The proposed addition is large, but does not further decrease the front or side yard setbacks. Mass and bulk do not appear to be an issue, and the dwelling will be well within the 25% maximum lot coverage allowed.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public 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 construction of the two-story 22 foot by 24 addition and the one-story 12 foot by 14 foot screened porch, both with less than the required left side yard setback, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as neither shall intensify the existing nonconformance nor shall either create new nonconformity, as both additions shall be less nonconforming than the existing structure.

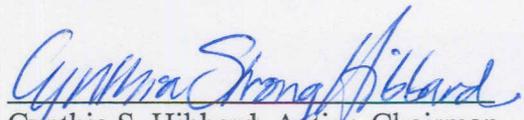
It is the strong recommendation of this Authority that, prior to construction, the petitioners meet with their left and right side abutters to seek accord on the drainage issue and for the petitioners advise said abutters as to the phases of the construction, and the equipment involved in each phase.

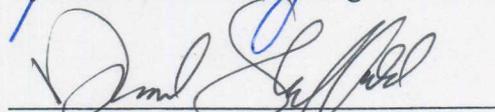
Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the two-story addition and the one-story screened porch in accordance with the revised plot plan and construction drawings.

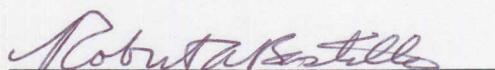
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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
edg

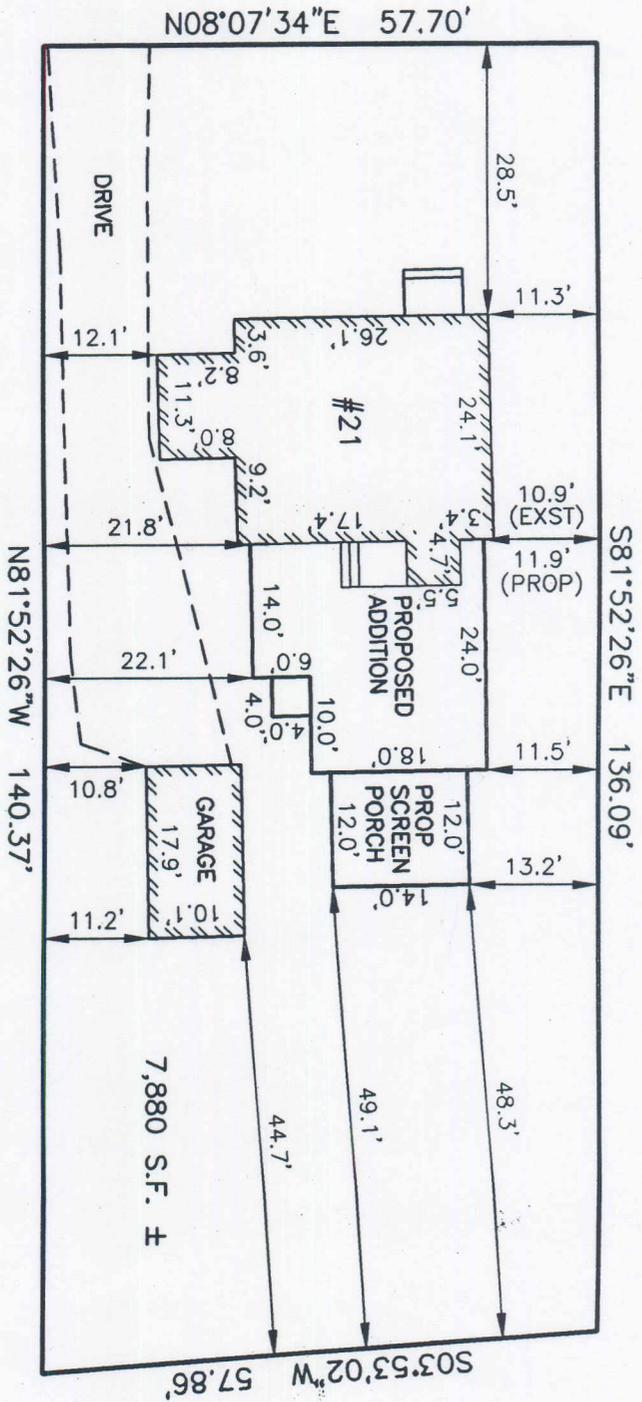

Cynthia S. Hibbard, Acting Chairman


David G. Sheffield


Robert A. Bastille

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CAVANAUGH ROAD



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PLAN OF LAND IN WELLESLEY, MA.

TO ACCOMPANY THE PETITION OF
ASHLEY ALTHOFF
21 CAVANAUGH ROAD
WELLESLEY, MA

Scale: 1 inch = 20 Feet
JULY 11, 2003
REVISED AUGUST 13, 2003

PROPOSED STRUCTURES	1,589 S.F.
EXISTING STRUCTURES	978 S.F.
LOT COVERAGE	20.2%
LOT COVERAGE	12.4%



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2003-08-14