

**ZONING BOARD OF APPEALS**

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

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ZBA 2009-15
Petition of Matthew & Jill O'Toole
69 Windsor Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 5, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MATTHEW & JILL O'TOOLE requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 2 ½ story addition, a deck and a porch that will meet all setback requirements on a 17,214 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 69 WINDSOR ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 17, 2009 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 Doug Shoop, who said that also present was Matthew O'Toole, (the "Petitioner").

Mr. Shoop said that when Mr. O'Toole bought the property in January, 2007, the previous owner, who Mr. Shoop had worked with, had proposed an addition. The previous owner had gone before the Wetlands Protection Committee with a schematic design and received approval and an Order of Conditions.

Mr. Shoop said that when Mr. O'Toole purchased the property he retained Mr. Shoop as the architect for a new design. He said that the plan is to keep the existing footprint and put an addition on.

Mr. Shoop said that the plans had to go before the Wetlands Protection Committee because there is a brook within 100 feet of the property.

Mr. Shoop said that the project went through Large House Review due to the proposed size of the house. He said that there were two meetings with the Design Review Board during which time a number of modifications were made to the house. He said that the project was approved by the Planning Board in May, 2008. He said that they then went ahead with the construction drawings and landscape and grading plans.

Mr. Shoop said that last year the Building Inspector said that there would have to be a determination as to preserving 50 percent of the existing structure. He said that he met with the Building Inspector again in 2009 and was told that case law had changed and the project would have to go before the Zoning Board. He said that the initial intention was to leave a majority of the house. He said that the plans submitted to the Board are essentially the same ones that were approved under Large House Review with a few minor modifications.

Mr. Shoop said that the plans were re-submitted to the Wetlands Protection Committee for review. He said that the Order of Conditions had an expiration date for submitting additional plans. He said that since none of the work had been done, the plans were not submitted before the expiration date.

Mr. Shoop said that he submitted the required landscape plans with the proposed construction date to the Wetlands Protection Committee.

Mr. Shoop said that all of the approved plans for the Large House Review were recorded at the Norfolk County Registry of Deeds.

Mr. Shoop said that the front entry will be changed and there will be an addition. He said that they addressed the concerns of the Design Review Board for adding detail on the side so that it was not so flat as the original proposal.

Mr. Shoop said that the plan has always been intended to meet the setback requirements and the 500 foot rule.

The Board said that it received a memorandum from the Wetlands Protection Committee that stated there is a reasonable workable timeline for installation of the landscape plan and further that the Committee is amenable to working with the new timeline and that the project can now be considered in compliance with the Determination of Applicability issued by the Wetlands Protection Committee.

Mr. Shoop said that there will be stone siding on the first level of the house and the second level will be stucco. He said that the original house is a homely tudor with a fairly steep roof. He said that the existing second floor comes down to the wing walls and a lot of space is cut out. He said that the existing house is 34 feet and the proposed structure will be 35.6 feet high from average grade. He said that the pitch of the roof was changed from 16/12 to 11/12 to allow for full height walls on the second floor.

The Board said that there is a different number of windows shown at the deck on the architectural plans than what is shown on the computer renderings.

Nancy Bagdasarian, 60 Windsor Road, asked about the setback of the garage from Windsor Road. Mr. Shoop said that it will be 39.6 feet.

Ms. Bagdasarian said that Windsor Road is a cozy, narrow street. She said that there are no other houses on the street that have the garage facing the street. She said that detached garages that do face the street are usually set back.

Mr. Shoop said that they tried to get a side entrance garage. He said that they looked at having a long driveway that runs along the property line and swings into a garage underneath. He said that would add 20 to 30 percent more impervious surface because of the length of the drive. Matthew O'Toole said that the Wetlands Protection Committee was very appreciative that so much of the impervious surface will be removed.

Mr. Shoop said that the bump out on the three-car garage is to break up the look. He said that the garage was pushed back because of the 500 foot rule.

Mr. Shoop said that the lot is approximately 17,000 square feet. He said that it is a corner lot that has a big sweeping front.

Mr. Shoop said that the ground slopes down to the back. He said that rainwater comes down Windsor Road and runs down the driveway to the backyard. He said that there is a catch basin between the two homes that the water skips by which leads to puddling in the backyard. He said that they will be filling the area in to force the rainwater into the catch basin and hopefully eliminate the problems.

Robert Bagdasarian, 60 Windsor Road, said that he was concerned about the garage being as prominent as the Tolle Brothers houses on Wellesley Avenue. He said that it would be good if the cars could go down the driveway and swing into the garage. Mr. Shoop said that the site is constricted. The Board said that the design cannot be changed because it has already been approved under Large House Review.

Ms. Bagdasarian said that Windsor Road is usually a quiet street. She said that cars are usually not visible from the street. She said that she was concerned that there will be a car parked in their sight line.

Statement of Facts

The subject property is located at 69 Windsor Road, on a 17,214 square foot lot in a district in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 2 ½ story addition, a deck and a porch that will meet all setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 2/10/09, stamped by Clifford E. Rober, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/11/09, prepared by Douglas Shoop, and photographs were submitted.

On February 17, 2009, the Wetlands Protection Committee sent a memorandum stated:

Although the implementation of the landscape plan does not conform to the conditions of the Determination in terms of timing, Mr. Shoop has outlined a reasonable and workable timeline for the installation of the landscape plan. Under such circumstances, the Committee is amenable to working with this new timeline.

As such, this project can now be considered in compliance with the Determination of Applicability issued by the Wetlands Protection Committee.

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 construction of a 2 ½ story addition, a deck and a porch that will meet all setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it shall neither increase an existing nonconformity nor shall it create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a 2 ½ story addition, a deck and a porch.

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 construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on 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.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

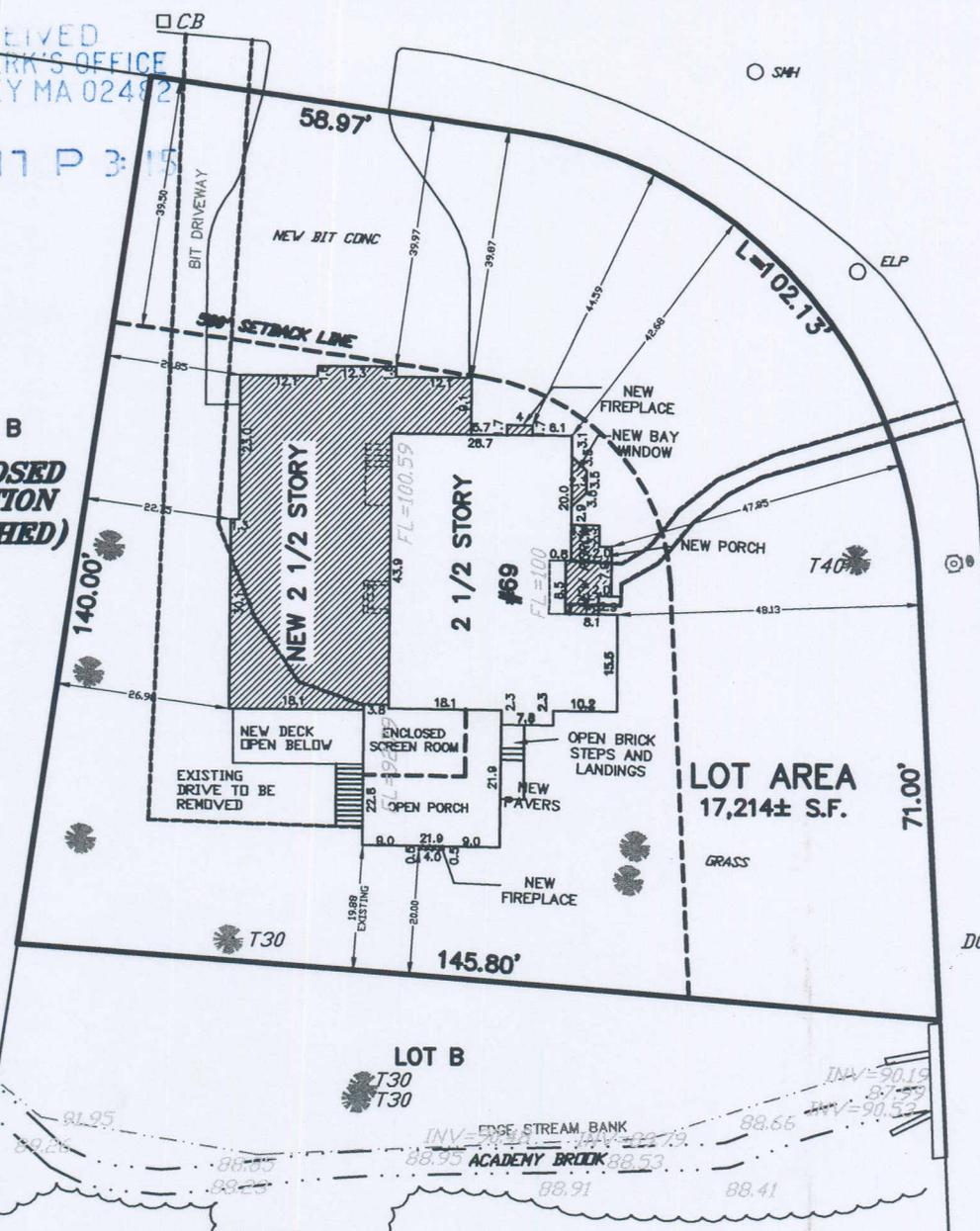
David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482

2009 FEB 17 P 3:15

LOT B
**PROPOSED
ADDITION
(HATCHED)**

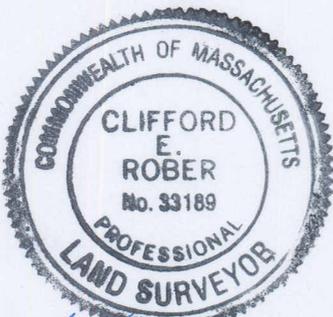


LOT AREA
17,214± S.F.

EXISTING LOT COVERAGE = 10.9%
PROPOSED LOT COVERAGE 3,439 SF = 19.9%

ZONING DISTRICT: SINGLE RESIDENCE 20
OWNER: KARIM SAHYOUN

I HEREBY CERTIFY THAT THE BUILDING IS
LOCATED AS SHOWN.



Clifford E. Rober 2/10/09

 CLIFFORD E. ROBER, PLS DATE
 THIS PLAN MAY HAVE BEEN ALTERED IF
 THE SIGNATURE IS NOT SIGNED IN BLUE.

**PROPOSED PLOT PLAN
#69 WINDSOR ROAD
IN
WELLESLEY, MA
(NORFOLK COUNTY)**

SCALE: 1" = 30' DATE: 2/10/2009

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WINDSOR ROAD

 LINCOLN ROAD

