

**ZONING BOARD OF APPEALS**

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

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ZBA 2009-22
Petition of Stephen Bogiages & Carole Hughes
12 Hill Top Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 2, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of STEPHEN BOGIAGES AND CAROLE HUGHES requesting a Special Permit/Finding pursuant to the provisions of the Section XVII and Section XXV of the Zoning Bylaw that construction of a 10 foot by 18 foot deck with 3 foot by 8 foot stairs with less than required right side yard setbacks, on a 6,000 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 12 HILL TOP ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 16, 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 Stephen Bogiages (the "Petitioner"), who said that they had come before the Board in 2003 for a second story addition that was approved (ZBA 2003-22). He said that there was a deck shown on the plans for ZBA 2003-22. He said that a description of the deck was not included in the permit. He said that the current request is for a deck and stairs down to the ground. He said that the proposed deck is smaller than the deck that was proposed in 2003.

The Board asked if the March 9, 2009 survey was the basis for the proposal. The Board said that the setback dimensions are different from the grid drawings that were submitted. Mr. Bogiages said that the survey is accurate.

The Board asked if the deck is currently under construction. Mr. Bogiages said that they were advised erroneously that because the deck was shown on the previous plan, they were free to go forward with its construction. He said that they ceased construction last Fall.

The Board said that it probably did consider the deck if it was shown on the plans in 2003. Mr. Bogiages said that there have been some design changes made to the configuration of the deck.

Mr. Bogiages said that he spoke with the neighbors and they are in favor of the proposal.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 12 Hill Top Road, on a 6,000 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum right side yard setback of 5.8 feet and a minimum front yard setback of 17.5 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 10 foot by 18 foot deck with 3 foot by 8 foot stairs with less than required right side yard setbacks, on a 6,000 square foot lot in a district in which the minimum lot size is 10,000 square feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 3/9/09, stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 3/6/09, prepared by S. Bogiages, and a photograph were submitted.

On March 20, 2009, the Planning Board reviewed the petition and had no objection to granting 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 although construction of a 10 foot by 18 foot deck with 3 foot by 8 foot stairs with less than required right side yard setbacks, on a 6,000 square foot lot in a district in which the minimum lot size is 10,000 square feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a 10 foot by 18 foot deck with 3 foot by 8 foot stairs, subject to the following condition:

1. The hand drawn lot plan be re-submitted without showing the dimensions to the lot lines.

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.

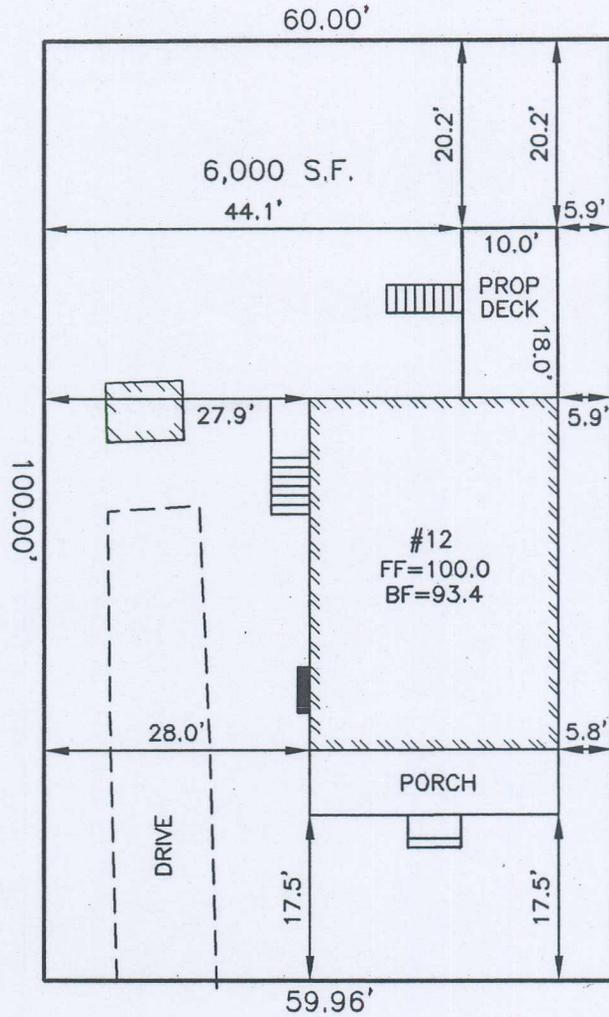
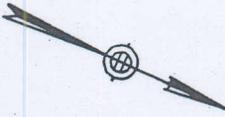
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm



2009 MAR 16 P 3:10
 TOWN CLERK'S OFFICE
 WELLESLEY, MA 02459

EXISTING
 STRUCTURES 1,239 S.F.
 LOT COVERAGE 20.6%

PROPOSED
 STRUCTURES 1,419 S.F.
 LOT COVERAGE 23.7%

HILL TOP ROAD

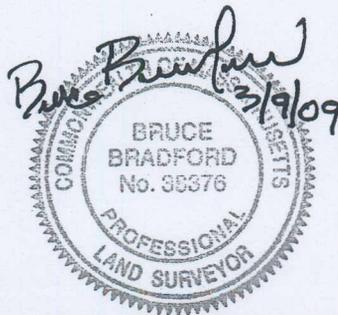
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PLAN OF LAND IN WELLESLEY, MA

12 HILLTOP ROAD
 PROPOSED ADDITION
 PREPARED FOR: STEPHEN BOGIAGES

SCALE: 1 IN. = 20 FT.

DATE: MARCH 9, 2009

DRAWN: SM

CHECK: BB

PROJECT NO. 20833