

**ZONING BOARD OF APPEALS**

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

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Petition of Christopher Hall
18 Abbott Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 7, 2011 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of CHRISTOPHER HALL requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a 17.5 foot by 19.5 two-story addition, construction of a 9 foot by 19.5 foot covered porch, construction of a 6 foot by 15 foot one-story addition, and construction of a 2 foot by 6 foot front entry roof, on an existing nonconforming structure with less than required right side yard setbacks, on a 7,574 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 18 ABBOTT STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Record Owner of Property: Brice & Laurie MacLaren

On June 22, 2011 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 were Christopher Hall (the "Petitioner"), David Himmelberger, Esq., and Laurie MacLaren, homeowner.

Mr. Hall said that the house is approximately 1,700 square feet and is located in a Historic District. He said that the lot is pre-existing nonconforming at 7,574 square feet. He said that the house sits 5.2 feet from the side lot line. He said that the front setback is 21.5 feet.

Mr. Hall displayed oversized plans (retained by proponent).

Mr. Hall discussed the Total Living Area plus Garage (TLAG) calculations. The Board said that the TLAG Affidavit was not signed.

Mr. Hall said that the house has not had much done to it since vinyl siding was put on. He said that he was not sure when that occurred. He said that the material that is under the siding is anticipated as needing replacement. He said that the plan is to reside the entire structure.

Mr. Hall said that the Existing Site Plan shows a shared driveway to the right of the property. He said that the house has deeded access to a driveway on the neighbor's property that allows them to park in a 500 square foot paved area behind the house. He said that the intent is to abandon that.

Mr. Hall said that the proposal is to have a curb cut on the left side of the property for a driveway to allow for parallel parking for two cars. He said that they will remove the existing blacktop and put a patio and plantings at the back.

The Board asked about access for the neighbor on the existing driveway. Mr. Hall said that they will only be removing the bend that allows the parking behind the house.

Mr. Hall said that the existing lot coverage is 14.4%. He said that the proposed lot coverage will be 22.3%

Mr. Hall said that they are re-working the house for a different lifestyle. He said that the proposed plans will comply with the current Zoning Bylaws. He said that there is a six foot bumpout for a one-story mudroom at the front of the house. He said that there is a two-story bumpout at the back to allow for a family room and an upstairs master bedroom.

Mr. Hall said that the mudroom will be 32.2 feet from the front lot line, the two-story addition at the back will be 21.6 from the side lot lines, and the rear of the house will be 26.4 feet away from the rear lot line. He said that the basement will have crawl space under the mudroom.

The Board said that not all of the setbacks were shown on the plans. The Board said that it typically requires that a plot plan show existing and proposed structures and the minimum distances to the lot lines. Mr. Hall said that setbacks for the proposed porch and the right side yard setback for the two-story addition were not shown on the plot plan.

Mr. Hall said that they would like to add a small covered entrance at the front of the house.

The Board asked about the retaining walls along the driveway. Mr. Hall said that there is a grade change from the street up to the parking area. He said that there is a stone wall that they will have to remove to have access. He said that they will be turning the stone walls to retain a couple of feet of soil before they get up to grade. He said that the walls will be at grade. He said that the existing walls are approximately 18 inches high. He said that the walls will be under four feet.

Mr. Hall said that the three elements that are visible on the north elevation are the covered entry, a single dormer on the front that they would like to enlarge to a double dormer, and a shed roof over the mudroom. He said that on the east elevation, the proposed height will be 22.5 feet. He said that they are copying the profile of the Greek Revival on the back of the house. He said that it will be 1.5 stories with a double window dormer in the front for the master bedroom and a shed dormer at the back.

Mr. Hall said that, after meeting with the Historic District Commission (HDC), they added two windows on the first floor on the south elevation. He said that on the east elevation the gable was changed to a hip shed over the mudroom.

The Board said that it is a lovely home and what has been proposed is very sensitive.

The Board said that a condition will be that the recommendations of the HDC be complied with.

Jason Whittet, 17 Abbott Street, said that he is a direct abutter. He said that he opposes the project and asked that the Board oppose it as well. He said that it is a lovely house. He said that the proposed changes will be significantly detrimental to the street. He said that because of the curb, the property is visible from Weston Road and Church Square. He said that because of the scope of the project, the composition and feel of the street will be altered. He said that he believed that the HDC got it wrong. He said that they deviated from the precedent and intent of the HDC. He said that the neighbors are preparing an appeal. He said that they hoped that the Zoning Board of Appeals (ZBA) would continue the hearing until the appeal has been resolved. He said that the appeal has to be resolved within 45 days, which would be before the ZBA September 8th Public Hearing.

Mr. Whittet said that the tree in front of the house blocks it from Church Square. He said that the driveway that is being proposed will endanger the critical root zone. He said that the bushes on the property line will be removed against the neighbor's desire. He said that he read through 140 cases that went through the HDC since it was created in 1980. He said that this is the first example of a curb cut being allowed in the Historic District. He said that the last home built on the street was #19, which was built in 1930. He said that this is the most significant project on the street.

Mr. Whittet said that he believed that this would be one of the first instances of building out to the side in public view. He said that the driveway is also a significant safety issue. He said that right now there are five parking spots. He said that it is a one-way street and all of the homes have a single lane driveway and they frequently have to park on the street. He said that this driveway, because of where it is positioned, will reduce the number of spots available in the entire middle section of the street from five to two. He said that will have an impact on the residents' everyday lives.

Mr. Whittet said that looking at the project as a whole, it is currently a flowing open space with continually flowing wall that is really inviting. He said that all of that will go away. He said that it is a lovely project but it deviates from the intent of the HDC to preserve the district.

The Board asked if Mr. Whittet appeared before the HDC. He said that he did and he felt that the HDC rushed through it. The Board asked if the all of the issues discussed at the Public Hearing were raised before the HDC. Mr. Whittet said that they were. He said that he felt that the HDC punted the issues to the ZBA. He said that he felt that this project was getting caught in the cracks.

The Board said that, from a Zoning standpoint, the project complies. The Board said that some of the things that Mr. Whittet raised are beyond the scope of the Board's jurisdiction. The Board said that it cannot grant a curb cut because that is in the Board of Selectmen's (BOS) jurisdiction.

The Board asked about HDC appeal process. The Board said that the HDC comments are only a recommendation to ZBA.

Mr. Whittet discussed the original Historic Study that was commissioned by the BOS in August of 1978. He said that their intent was to preserve this district. He said that the HDC has completely changed the neighborhood. He said that this project will set a dangerous precedent for the entire district.

Karen Marquet, 619 Washington Street, said that she is the abutter at the rear of the property. She said that the HDC recommended screening at the back. She said that there is an existing shed that is directly

behind the addition right on the property line. She said that putting up evergreens will not screen the addition with the existing shed there.

Christopher Marquet, 619 Washington Street, said that he disagreed that the addition will be in compliance. He said that it is a nonconforming lot. He said that the nonconformity will be intensified. He said that it will be a huge addition in a neighborhood with small houses that are tightly packed.

Mr. Marquet said that they will be looking directly at the addition. He said that the new rooflines will change their view. Ms. Marquet said that this is their only view. He said that they are concerned about their property value.

Mr. Marquet said that they are also filing an appeal with the HDC. He said that it was pushed through quickly and rubber stamped approved.

Mr. Himmelberger said that the project went before the HDC on two nights. He said that there was a thorough vetting of the project. He said that the changes that the HDC suggested have been agreed to by the homeowner. He said that there was a question if the windows could be seen from any public street. He said that the abutters to the rear are in a Townhouse that is 36 feet tall and three stories. He said that building looms over the Petitioner's property.

Mr. Himmelberger said that the Town Bylaw specifically only provides for appellate review by an applicant aggrieved by a determination of the HDC. He requested that the Board vote tonight regardless of the fact that there may or may not be an appeal taken with respect to the HDC. He said that there was nothing that precludes this Board from rendering its decision based on the Zoning issue that is before it. He said that the evidence is clear that this is not a project that is substantially more detrimental to the neighborhood. He said that it is a sensitive project with an exceedingly small side bumpout. He said that the remainder of the addition goes to the rear and will be 26 feet off of the rear property line. He said that it is a well proportioned project.

The Board said that as far as the Zoning issues are concerned, this project meets the requirements for a Special Permit. The Board said that it is located in a Historic District. The Board said that issues with massing and the side bumpout are relevant in the HDC's consideration. The Board said that if there is an appeal, new plans may be submitted.

The Board voted unanimously to continue the hearing to September 8, 2011.

September 8, 2011

Presenting the case at the hearing were David Himmelberger, Esq., Christopher Hall, Architect, and Laurie MacLaren, Homeowner. Mr. Himmelberger said that a revised plot plan was submitted. He said that since the prior hearing, the Petitioner obtained curb cut approval from the Town. He said that the Board did not vote at its last hearing and continued the hearing when neighbors appeared and represented that they would appeal the Certificate of Appropriateness issued by the HDC. He said that one of the neighbors did send a letter to the HDC purporting to request an appeal of the Certificate of Appropriateness. He said that the letter, timely sent, was responded to by the HDC Chair, Jean Berry, who sent a letter to the neighbor on July 19, 2011, still well within the 20 day appeal period. Ms. Berry advised that the HDC would not submit the request for appeal to the MAPC as the Commission found that

the appropriate venue for an appeal was Superior Court. Mr. Himmelberger said that none of the neighbors elected to pursue such an appeal with the Superior Court.

Mr. Himmelberger urged that the Board find that the proposed project will not be substantially more detrimental to the neighborhood and that a Special Permit should issue. He asked that the Board consider that this home is the only one on Abbott Street without its own driveway. He said that unlike the house at 16 Abbott Street, which required a Variance in 1985, none is required here.

Christopher Marquet, 619 Washington Street, said that he lives directly behind 18 Abbott Street. He said that one of the recommendations by the HDC was for screening at the back side. The Board said that one of the conditions of the Special Permit will be that the requirements of the HDC be adhered to.

Mr. Marquet said that one of the issues that they brought up at the previous hearing was the shed. He said that the shed will obstruct adequate screening along the rear lot line. He said that as the direct abutters downhill from 18 Abbott Street, they are concerned about the screening and any off-flow of water down the hill. He said that the trees would help to soak up some of the runoff.

The Board said that this project will be subject to the Tree Protection Bylaw.

Statement of Facts

The subject property is located at 18 Abbott Street, on a 7,574 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 5.2 feet and a minimum front yard setback of 17.8 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a 17.5 foot by 19.5 two-story addition, construction of a 9 foot by 19.5 foot covered porch, construction of a 6 foot by 15 foot one-story addition, and construction of a 2 foot by 6 foot front entry roof, on an existing nonconforming structure with less than required right side yard setbacks, on a 7,574 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 5/26/11, revised 8/10/11, stamped by Joseph R. Porter, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/25/11, revised 6/28/11, prepared by Christopher Hall Architect Inc., and photographs were submitted.

On September 7, 2011, the Planning Board reviewed the petition and deferred to the Historic District Commission.

On July 11, 2011 the Historic District Commission issued a Certificate of Appropriateness.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that construction of a 17.5 foot by 19.5 two-story addition, construction of a 9 foot by 19.5 foot covered porch, construction of a 6 foot by 15 foot one-story addition, and construction of a 2 foot by 6 foot front entry roof, on an existing nonconforming structure with less than required right side yard setbacks, on a 7,574 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, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted for construction of a 17.5 foot by 19.5 two-story addition, construction of a 9 foot by 19.5 foot covered porch, construction of a 6 foot by 15 foot one-story addition, and construction of a 2 foot by 6 foot front entry roof, subject to conditions that:

1. The recommendations of the Historic District Commission shall be incorporated into this decision.
2. The existing wood shed at the back of the property shall be moved to permit tree screening along the rear property line.

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.

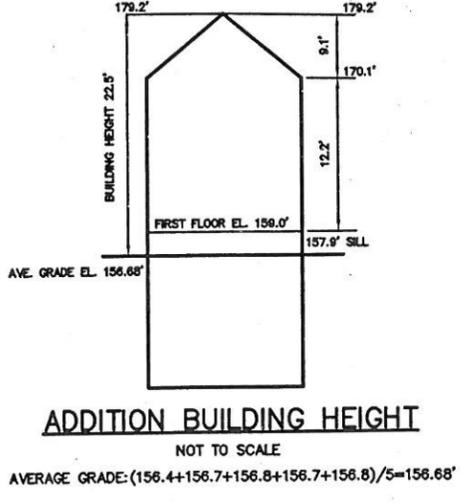
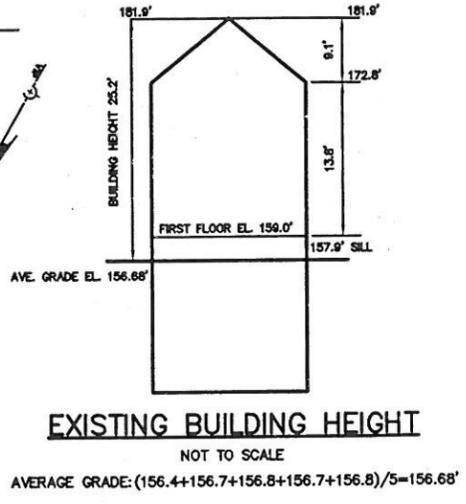
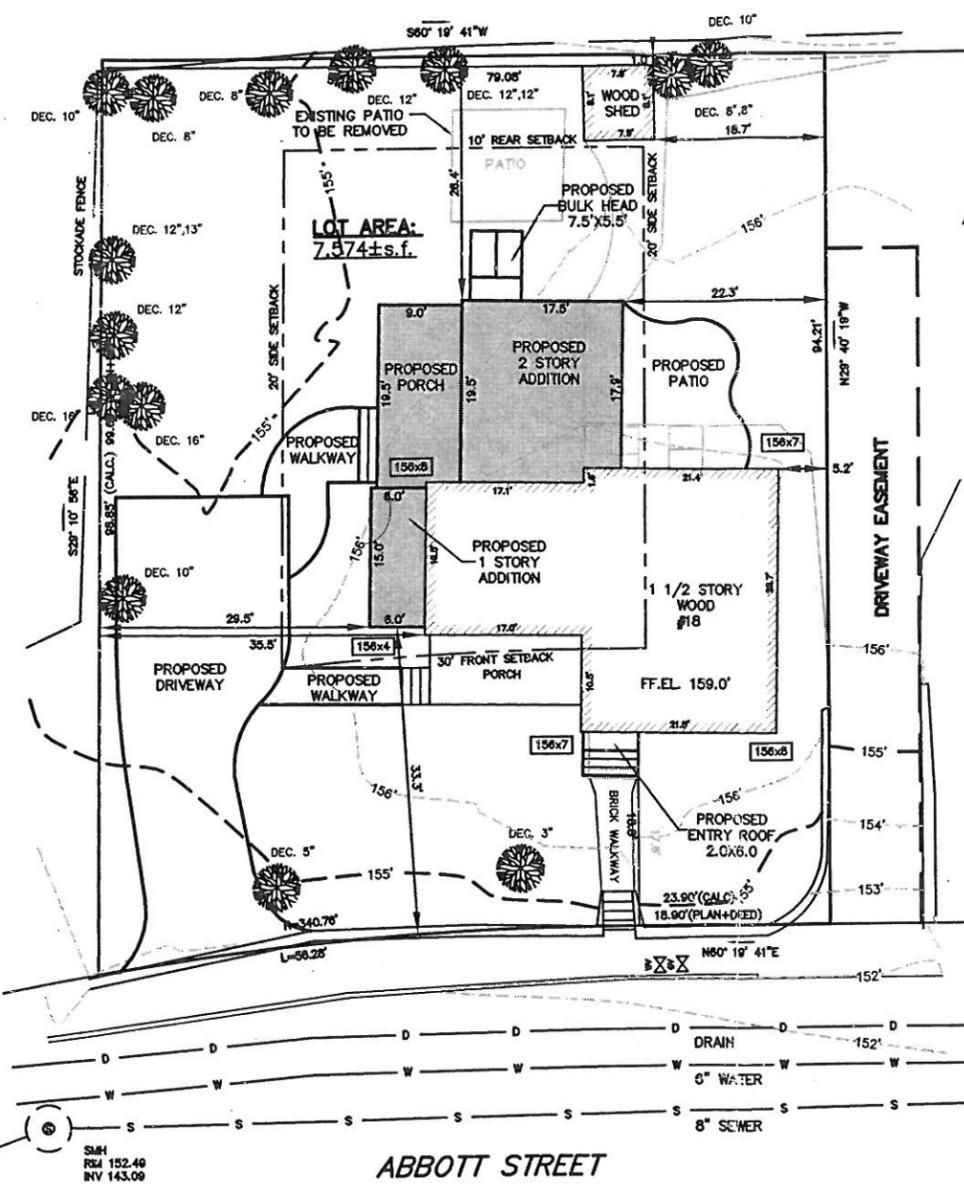
J. Randolph Becker, Acting Chairman

Cynthia S. Hibbard

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm

- LEGEND**
- STORM SEWER D
 - COMBINATION SEWER CS
 - SANITARY SEWER S
 - WATER MAIN W
 - OVERHEAD ELECTRIC OE
 - UNDER GROUND ELECTRIC UF
 - GAS MAIN G
 - CONTOUR 21
 - BUILDING
 - PICKET FENCE □
 - CHAINLINK FENCE X
 - PROPERTY LINE W/ BEARING DISTANCE N85°23'35"W 346.41'
 - CONIFEROUS TREE
 - DECIDUOUS TREE
 - SIGN POST
 - LIGHT POLE
 - GAS VALVE
 - WATER VALVE
 - UTILITY POLE
 - DRAINAGE MANHOLE
 - SEWER MANHOLE
 - FIRE HYDRANT
 - CATCH BASIN
 - FIRE CALL BOX
 - MAIL BOX
 - MONITORING WELL
 - ELECTRIC MANHOLE
 - TOP OF STONE EL. TOS
 - BOTTOM OF STONE EL. BOS
 - TOP OF WALL EL. TWL
 - BOTTOM OF WALL EL. BWL



ZONING CHART			
WELLESLEY, MASSACHUSETTS			
ZONE:	SR-10	SUBMISSION: PROPOSED	
REGULATION	REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000s.f.	7,574±s.f.	N/A
LOT FRONTAGE	60.0'	80.18'	N/A
FRONT SETBACK	30.0'	17.8'	18.8'
SIDE SETBACK	20.0'	5.2'	N/A
REAR SETBACK	10.0'	40.1'	26.4'
BUILD HEIGHT	36.0'	25.0'	22.5'
AVERAGE GRADE	N/A	156.68'	N/A
LOT COVERAGE	25%	14.4%	22.3%
BUILDING COVERAGE	N/A	1,087s.f.	1,689s.f.

TOPOGRAPHIC SITE PLAN
WELLESLEY, MASSACHUSETTS
 SHOWING PROPOSED CONDITIONS AT
 #18 ABBOTT STREET
 SCALE: 1in.=20ft. DATE: MAY 26, 2011
 REVISED: AUGUST 10, 2011
 PROJECT: 11118



LAND SURVEYORS - CIVIL ENGINEERS.
 132 ADAMS STREET 2ND FLOOR SUITE 3
 NEWTON, MA 02458
 (617) 332-8271

