



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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85-51

Petition of Patricia and Robert DeMeo
36 Marshall Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 15, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills on the petition of PATRICIA AND ROBERT DE MEO requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow the construction of an addition at their non-conforming dwelling at 36 MARSHALL ROAD consisting of conversion of part of an existing two-car attached garage to a permanent room, and addition of a second story approximately 34 feet by 20 feet over the existing 2-car garage which would include a bay window approximately 18" by 6.5 feet, leaving less than the required right side yard.

On July 25, 1985, the petitioner requested 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 Robert DeMeo, who stated that he recently purchased the home and wishes to construct an addition. A letter was discussed from Arthur LaConte, Building Inspector and Zoning Enforcement Officer, which states that he believes the proposed plan creates a second dwelling unit. Mr. DeMeo stated that there are no cooking facilities in the plan, that Mrs. DeMeo's mother lives with them.

Other than the petitioners, no one was present either favoring or opposing the request.

Statement of Facts

The property in question is located at 36 Marshall Road, containing 13,428 square feet of land. A one-story dwelling exists with an attached two-car garage. The garage exists per a variance granted in 1976 (ZBA 76-39) to allow a side yard of 18.04 feet at the rear corner of the garage.

The petitioner is now requesting a variance to allow the conversion of part of the two-car garage to living space and the addition of a second story approximately 34 feet by 20 feet over the garage. A bay window approximately 18" by 6.5' would be constructed between the first and second stories but would not have a foundation. The addition of the second story, except for the bay window, would not extend closer to the right side line (18.04') than the existing structure.

A Plot Plan was submitted, drawn by Paul L. DeSimone, Professional Land Surveyor, dated August 1, 1985. Construction drawings were submitted by J. Cummings, dated May 20, 1985.

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Following review of the plans submitted, Arthur LaConte, Inspector of Buildings and Zoning Enforcement Officer, on August 13, 1985 wrote a memo to the Board of Appeals stating that the proposed construction appears to create a second dwelling unit completely isolated from the existing dwelling. In summary, Mr. LaConte stated the following: "In my opinion, the proposed plan, as submitted, creates a possible second dwelling unit that is not allowed as a matter of right in a Single Residence District.....".

The Planning Board, at its regular meeting of August 6, 1985, voted to recommend denial of the variance.

A letter of support to the request was received from Susan and Robert Toner, 37 Turner Road.

Decision

This Authority has made a careful study of the evidence presented. The particular house in question in its location on the lot does not conform to the present Zoning Bylaws. A variance was granted in 1976 (ZBA 76-39) to allow a two-car garage leaving a right side yard of 18.04 feet.

It is the opinion of this Authority that the proposed addition of a second story to the existing garage conforms to the present lines of the house and does not alter the relationship of the house to the right side lot line.

It is the opinion of this Authority that, because of the shape of the lot and the location of the house on the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

However, this Authority shares the concerns of the Building Inspector about the apparent creation of a second dwelling unit. The property is located in a Single Residence District and must be used as a one-family dwelling. The Building Inspector requires that the refrigerator and sink as shown in plans for the "study" be eliminated from the plans and not installed.

The requested variance is granted to construct another story approximately 34 feet by 20 feet over the existing two-car garage and to convert part of the garage to living space, as shown on the Plot Plan drawn by Paul L. DeSimone, dated August 1, 1985, at 36 Marshall Road pursuant to Section XXIV-D and XIX of the Zoning Bylaw.

The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans. The plans must show that the petitioner will meet the requirements of the Zoning Bylaws regarding Single Residence Districts.

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.

Stephen S. Porter

 Stephen S. Porter, Chairman

Franklin P. Parker

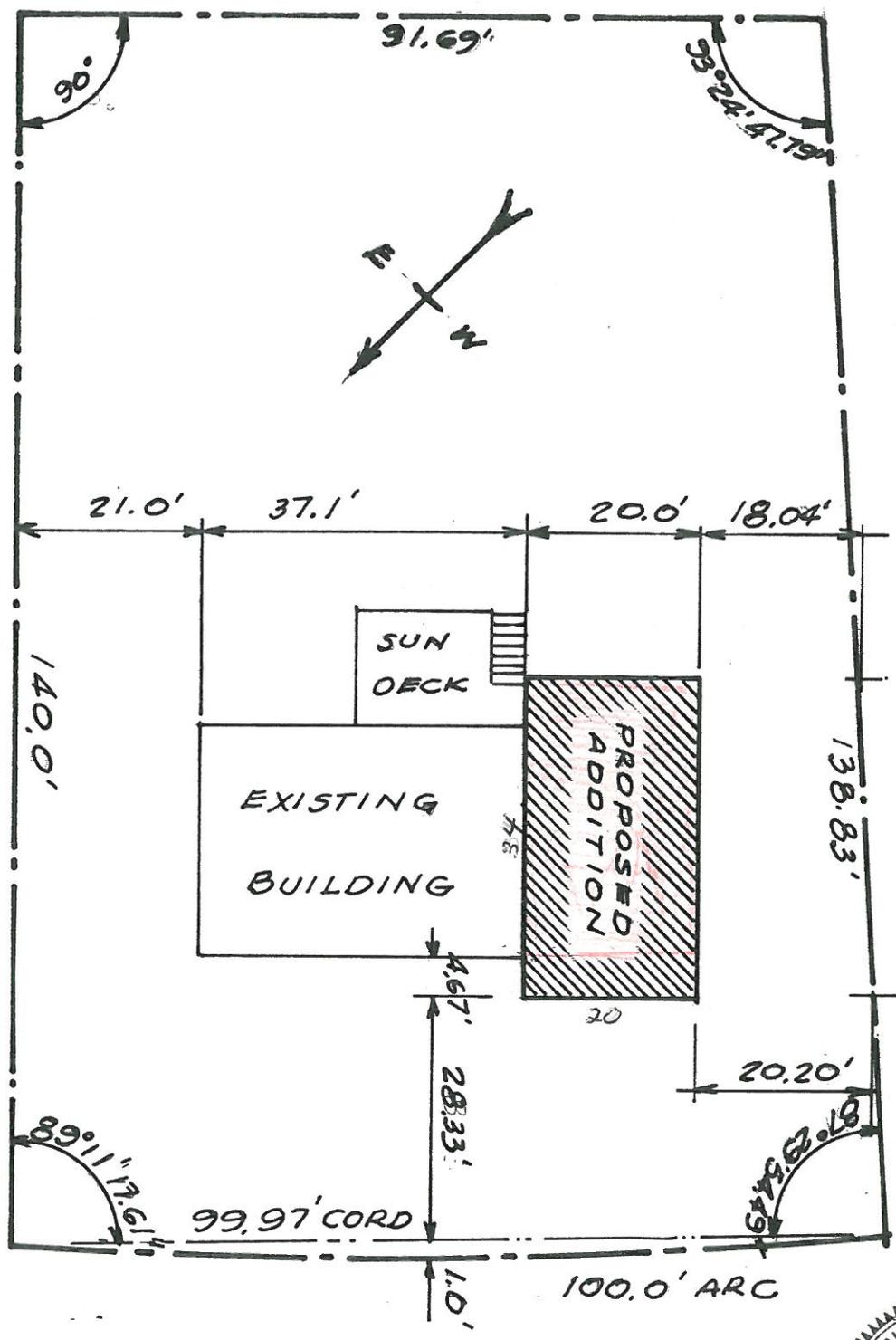
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William E. Polletta

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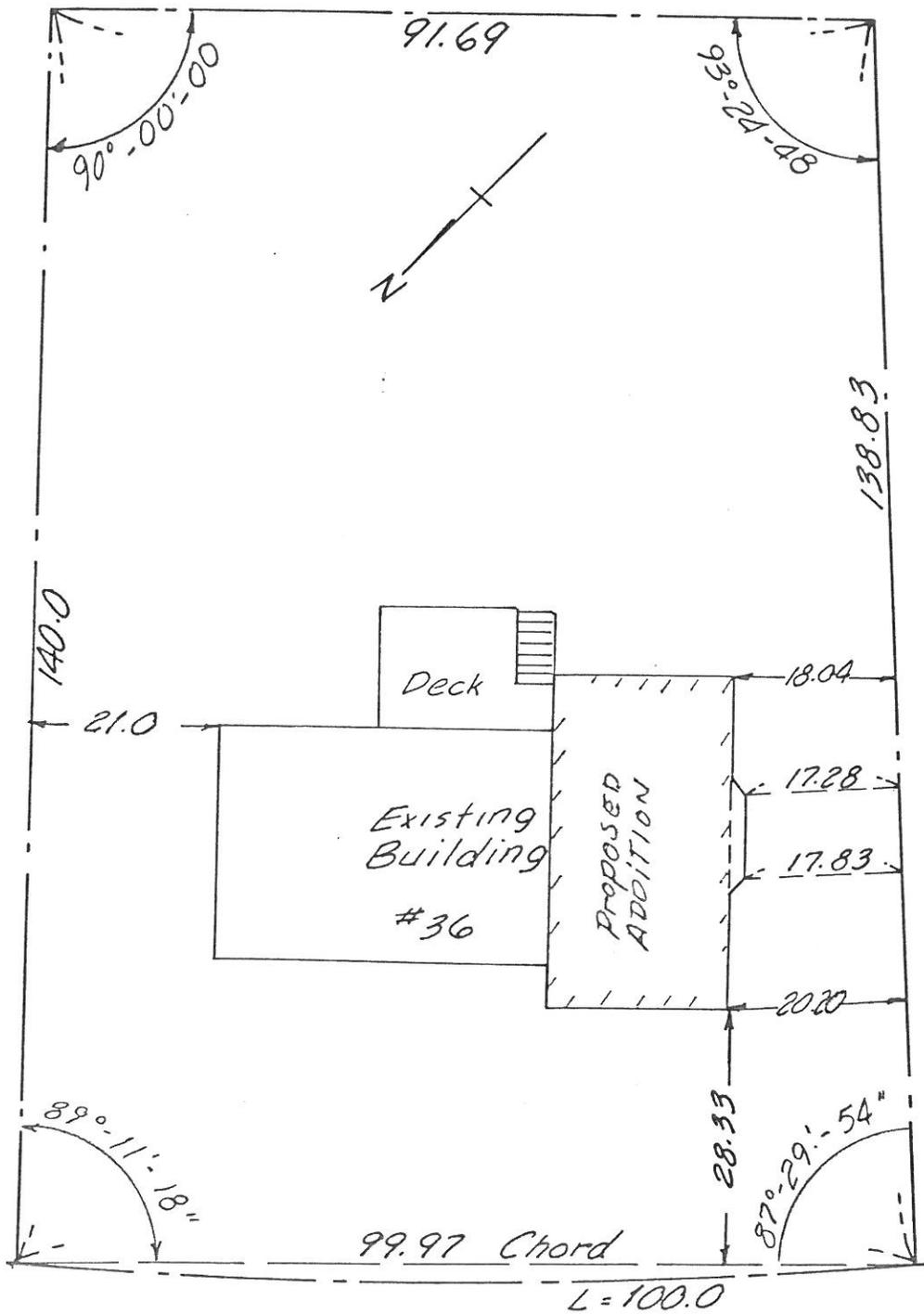
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PLOT PLAN
SCALE 1" = 20'0"

36 MARSHALL RD
WELLESLEY, MASSACHUSETTS





MARSHALL ROAD

PLOT PLAN
WELLESLEY, MASS.

Scale 1"=20' Aug. 1, 1985

