

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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1998 OCT -4 A 8-34

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SUMNER H. BABCOCK
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ZBA 98-84

Petition of Larry C. Miller and Robin W. Deutch
5 Commonwealth Park

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 24, 1998 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of LARRY C. MILLER AND ROBIN W. DEUTCH requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXV of the Zoning Bylaw to allow construction of a 5 foot by 23.2 foot roofed front entry porch addition, which will exceed the area of 50 square feet allowed for a front landing, at their conforming dwelling at 5 COMMONWEALTH PARK, in a Single Residence District.

On September 4, 1998, 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 were Les Brown and Larry Merola from Stirling/Brown Architects, who were representing the petitioners who were not present. Mr. Brown said that he believed they were before the Board for an interpretation of the Zoning Bylaw, rather than for a variance. Specifically, they are not exceeding the 30 foot setback by more than the 50 feet that is allowed. The entire porch is more than 50 square feet, but the area exceeding the 30 foot setback is not.

Mr. Merola said that the current front entrance is located on the side. They would like to restore the front entrance to the proposed location, which was the original location when the house was built. They would like an open covered entry to the structure. The porch will be 110 feet extending from the corner of the proposed entry across the front of the house, but only 30 square feet will project into the 30 foot setback.

Mr. Brown added that the property is a long, narrow piece of land which is only 85 feet deep in parts. The house is closer to the street than any others on the street.

Mr. Brown stated that the question is whether the word "total" in the Zoning Bylaw refers to the "total" size of the porch, or whether it refers to the "total" size of the porch that goes beyond the 30 foot setback.

Mr. Bates stated that the Board has a problem with setting a precedent that was so much greater than the allowed area, and felt that the variance was unwarranted, as there was no hardship. The issue is not one of aesthetics, but one of zoning.

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Mr. Polletta said that the lot has an irregular shape; the addition will not increase the living space as it will remain open.

Mr. Babcock said that he did not have a problem with the construction as the proposal was for unenclosed space.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 5 Commonwealth Park, in a Single Residence District, and conforms to the current Zoning Bylaw.

The petitioners are requesting a variance to construct a 5 foot by 23.2 foot roofed front entry porch, which will exceed the allowed area of 50 square feet.

Section XIX-A. Definitions. in the Zoning Bylaw states:

"Front Yard - An area, on the same lot as the building, measured from the street line the building extending across the entire front of the lot, and unoccupied above ground level except by uncovered steps, eaves projecting not more than 2 feet from the wall of the building, and a covered or uncovered, enclosed or unenclosed, entrance porch on the first floor which neither exceeds a total area of 50 square feet, nor projects more than five feet from the face of the building nor extends nearer than 25 feet to the street line." (Bold lettering not in original document)

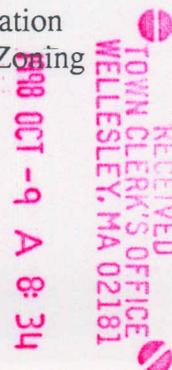
The intent of this definition is to provide three separate conditions, all of which must be complied with for the structure to be built without the grant of a variance.

A Plot Plan dated September 2, 1998, drawn by Vernon J. LeBlanc, Professional Land Surveyor; Existing Site Plan, dated February 11, 1998, drawn by Andover Engineering, Inc.; Demolition Plans (EX1-5), Floor Plans (A1-4) and Elevation Plans (A5-6), all dated August 31, 1998, drawn by Stirling/Brown Architects; and photographs were submitted.

On September 14, 1998, the Planning Board reviewed the petition and recommended that there be compliance with the 50 square foot limitation for enclosed entrances in the front setback area.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling presently conforms to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.



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At the Public Hearing, Mr. Polletta and Mr. Babcock voted to grant the requested variance. Mr. Bates voted to deny the requested variance on the grounds that the hardship was self-created, and the grant of the variance would substantially derogate from the intent and purpose of the Zoning Bylaw as it would set an unwelcome precedent.

Section XXIV-D. Variances. 3. of the Zoning Bylaw states:

"The concurring vote of all members of the ZBA, if a three-member Board, shall be necessary to effect any variance in the application of this Zoning Bylaw."

As the three sitting members of the Zoning Board of Appeals were not unanimous in their decision, this petition is denied and this case is dismissed.

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.

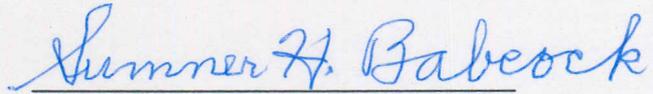
cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Acting Chairman



William E. Polletta



Sumner H. Babcock

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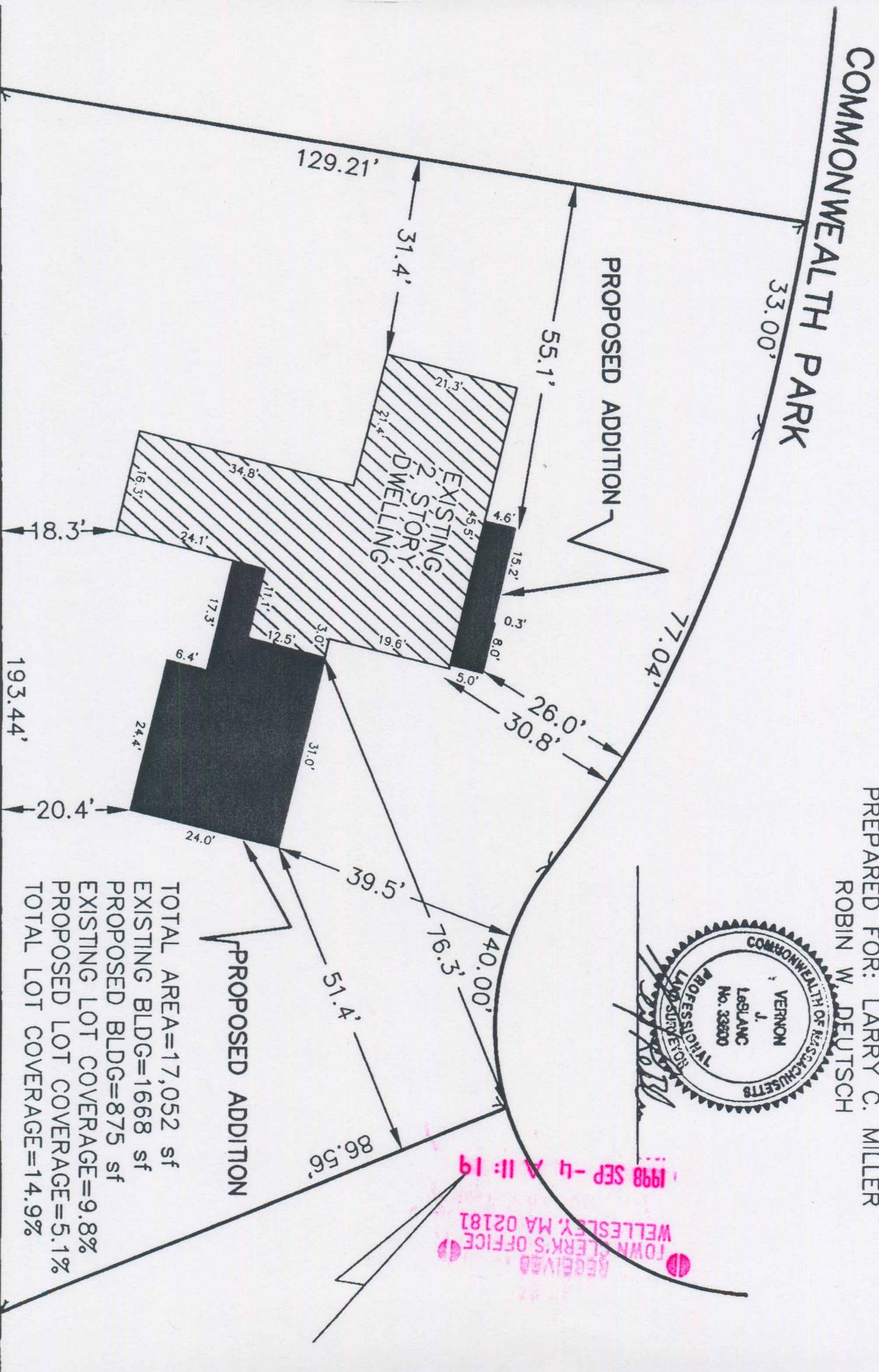
BY: ANDOVER ENGINEERING, INC.
 40 SALEM ST, BLDG #1
 LYNNFIELD, MA 01940

PROPOSED BUILDING LOCATION PLAN
5 COMMONWEALTH PARK, WELLESLEY, MA

SEPT. 2, 1998 SCALE: 1" = 20'
 PREPARED FOR: LARRY C. MILLER
 ROBIN W. DEUTSCH



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TOTAL AREA=17,052 sf
 EXISTING BLDG=1668 sf
 PROPOSED BLDG=875 sf
 EXISTING LOT COVERAGE=9.8%
 PROPOSED LOT COVERAGE=5.1%
 TOTAL LOT COVERAGE=14.9%