

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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1999 NOV -3 P 1:12

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ZBA 99-68

Petition of Thomas J. and Tania F. Rovero

1 Morses Pond Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 23, 1999 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of THOMAS J. AND TANIA F. ROVERO requesting a Special Permit/Finding that the following additions to their nonconforming dwelling at 1 MORSES POND ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. A two-story 7.7 foot by 12.8 foot addition with less than the required front setback.
2. Realignment of the existing roof from north/south to east/west and replacement of the existing front dormer with a new front dormer in the same location with less than the required front setback.

On September 7, 1999, 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 was Thomas Rovero, who said that they would like to enlarge their 1913 bungalow from approximately 1,250 square feet to about 1,900 square feet. The proposed additions will not increase the existing nonconformance.

The Board read the recommendation of the Planning Board into the record. The recommendation stated that there was no clear indication or labeling of the town line on the plan. There is a question of whether there is sufficient lot area and side yard setback within Wellesley to satisfy zoning requirements. Additionally, the percentage of lot coverage should include percentages based on land within Wellesley.

Mr. Rovero said that when he purchased the property, the deeds were combined and filed in both the Norfolk and Middlesex Registries of Deeds. The total lot size is 18,000 square feet.

The Board stated that for zoning purposes, it can look only at the portion of the property lying within Wellesley. It needs to see a properly sized plan with the town line depicted, as well as the dimensions of land in each town, the setbacks from the Wellesley property lines, and the percentage of lot coverage proposed for the Wellesley portion of the lot.

Paul Tecca, 26 Buena Vista Road, the rear abutter, expressed concern that the Board would grant a new permit when Mr. Rovero's existing permit for construction has been idle for over two years. The Board responded that it can only deal with what is before it, and cannot make conditions regarding other issues on the property.

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The Board voted unanimously to continue the hearing to October 21, 1999, in order to enable Mr. Rovero time to submit a revised plot plan showing the information requested.

Due notice of the hearing on October 21, 1999 was given by mailing and publication.

Presenting the case at the hearing was Thomas Rovero, who said that the requested revision of the plot plan had been submitted which contains the dimension from the right side of the dwelling to the Wellesley town line of 1.5 feet; the side yard setback of 60 feet from the building to the Natick property line; depiction of the Wellesley/Natick town line which traverses the property; and the proposed percentage of lot coverage of 15.1% on the Wellesley portion of the lot.

The Board stated that the Planning Board had no objection to the petition, but noted that within the land held by the owner are separate land court lots. The separate sale of these lots could create short side yards for the house. Consideration should be given to preparation and filing of a perimeter plan which merges the lots into a single lot.

Mr. Rovero said that he believed that when separate lots are held under one ownership, they are considered to be one lot, and that he has no intention of building on any of the lots because they are below the 5,000 square foot minimum lot size.

After further discussion, the Board decided that the Special Permit be granted with the condition that prior to a final inspection by the Building Inspector of the proposed addition and dormer, a perimeter plan of the entire property shall be prepared and recorded in both the Norfolk and Middlesex Registries of Deeds with a copy submitted to the office of the Board of Appeals.

No other person present had any comment on the petition.

Statement of Facts

The subject property, of which 8,152 square feet is located in Wellesley and 9,848 square feet is located in Natick, is sited at 1 Morses Pond Road, in a Single Residence District. The Wellesley portion of the lot contains a nonconforming dwelling with a minimum front yard clearance of 12 feet and a minimum right side yard clearance of 1.5 feet from the Wellesley town line. The property contains 8 lots, of which 3 (Lots 580-582) are totally in Wellesley, 3 (Lots 584, 585, 558) are totally in Natick, and two (559, 583) are transected by the Wellesley/Natick town line.

The petitioners are requesting a Special Permit/Finding that the construction of a 7.7 by 12.8 foot two story addition with a minimum front yard clearance of 12 feet and a realignment of their roof to allow for a new front dormer to replace the existing dormer with a minimum front yard clearance of 12 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated August 10, 1999 and a revised plot plan of the same date, drawn by George Giunta, Registered Land Surveyor; Existing and Proposed floor plans and elevations dated 8/12/99, drawn by Thomas J. Rovero; and photographs were submitted.

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On October 19, 1999, the Planning Board reviewed the continued petition and had no objection to the granting of the request. However, they noted that within the land held by the owner there are separate land court lots. The separate sale of these lots by the owner could create short side yards for the house. Consideration should be given to preparation and filing of a perimeter plan which merges the lots into a single lot.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the two hearings. The subject dwelling does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that the construction of the proposed two-story addition and reconfiguration and replacement of the nonconforming front dormer with another dormer in the same location shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the addition will not create a new nonconformance, nor will the realignment and replacement of the dormer as there will be no change in the footprint.

Therefore, the Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the two-story addition, the change in roof direction and replacement of the front dormer, subject to construction in accordance with the submitted plot plan time stamped October 4, 1999 and construction drawings; and further subject to the following condition:

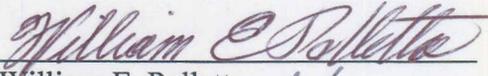
Prior to final inspection of the two-story addition and dormer, the petitioner shall file a perimeter plan merging the 8 lots shown on the submitted plot plan into one lot. The perimeter plan shall be filed in both the Norfolk and Middlesex Registries of Deeds, and a copy of the plan and recording slip submitted to the office of the Board of Appeals.

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.

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, Chairman


William E. Polletta

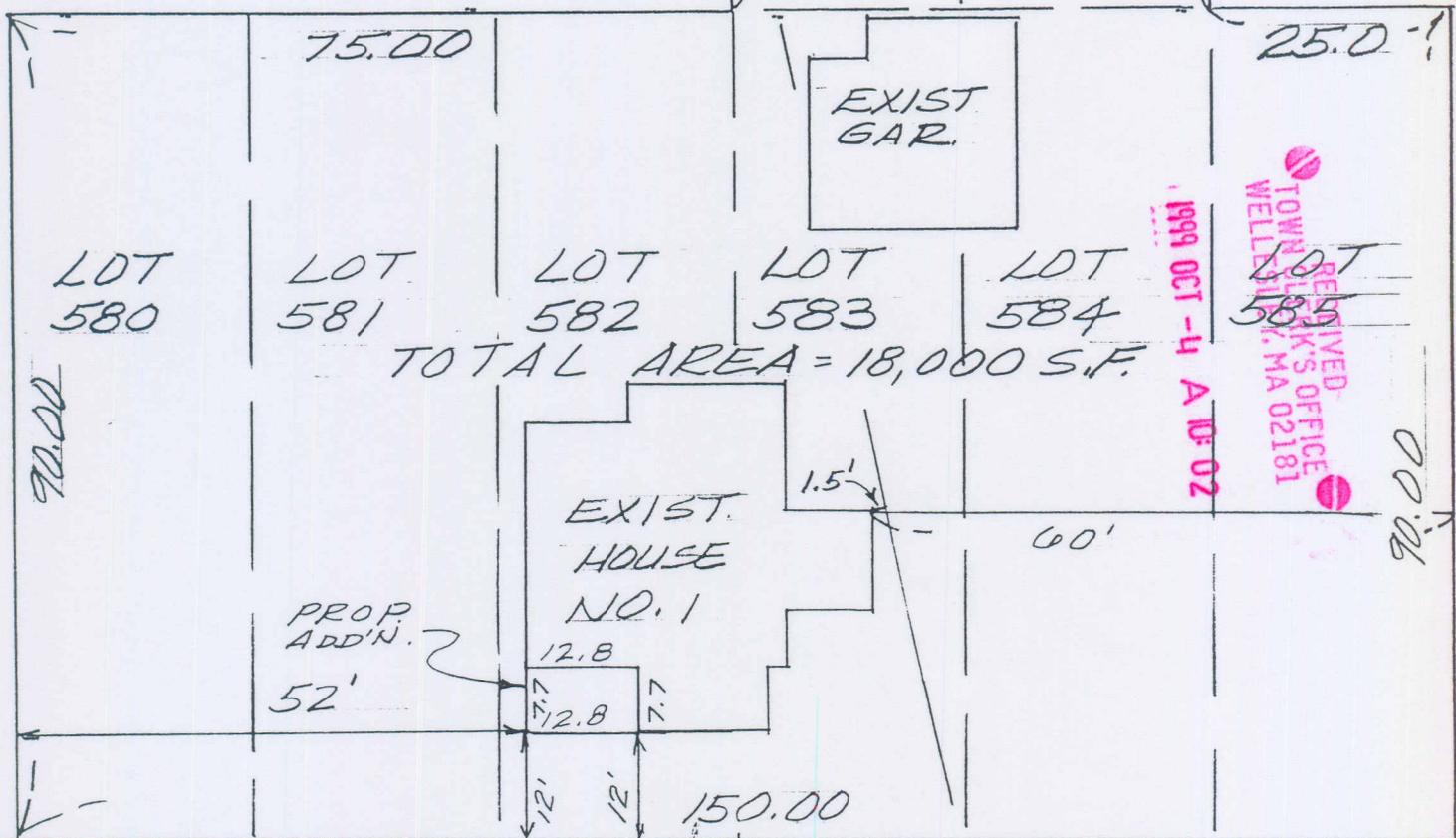
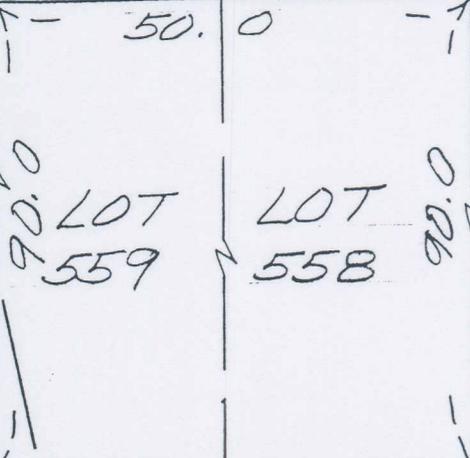

Richard L. Seegel

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WELLESLEY



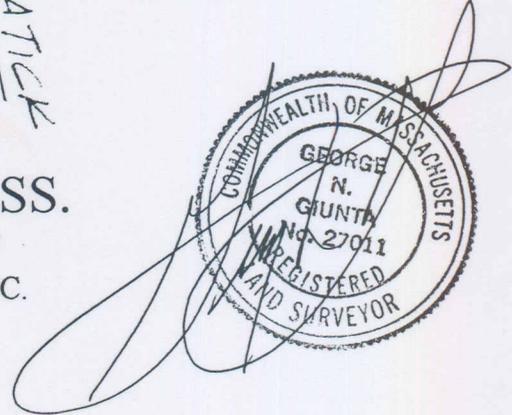
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MORSES POND ROAD

NATICK

PLOT PLAN OF LAND
WELLESLEY-----MASS.

Aug. 10, 1999 SCALE 1" = 20'
NEEDHAM SURVEY ASSOCIATES, INC.
281 CHESTNUT ST.
NEEDHAM, MA. 024924



TOTAL EXIST LOT COV = 9.27%
TOTAL PROP. LOT COV. = 9.82%
LAND AREA WELLESLEY = 8152 ± S.F.
LAND AREA NATICK = 9848 ± S.F.
PROP. LOT COV. WELLESLEY LAND = 15.1%

OWNER: THOMAS ROVERO