TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

SEP 9 8 01 AM '94

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019 X208

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

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ZBA 94-54
Petition of N. John and Julie M. Messervy
11 Boulder Road

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, August 25, 1994 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 N. JOHN AND JULIE M. MESSERVY requesting a Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the change of use of their nonconforming detached garage with less than the required rear setback at their premises at 11 BOULDER ROAD, in a Single Residence District, from automobile storage to a family room, which will be incorporated into the internal structure of their dwelling, shall not be substantially more detrimental to the neighborhood than the existing use of the nonconforming structure.

A variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is also requested to construct a deck approximately 9 feet by 18 feet 3 inches, which will have less than the required rear yard setback. Said deck will attach to the right side of the proposed family room.

On August 8, 1994, 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 John and Julie Messervy. Mr. Messervy said that the lot has topographical problems, as the rear of the lot drops off about 30 feet down to the MBTA tracks. The north side of the lot, which has the only flat land, contains a lovely garden. The proposed conforming addition will extend from the existing house alongside the driveway to the garage, which would be converted to a family room. Both side abutters are supportive of the plan. The cars are parked in the driveway now, so there will be no change.

The Board noted that the plot plan submitted shows two lots, and does not show the proposed bay window on the addition. Mrs. Messervy said that a perimeter plan binding the lots had been filed with the Norfolk Registry of Deeds. The Board requested that a new plot plan showing the property as one lot, and showing the location of the bay window, be submitted as a condition of the decision.

No other person present had any comment on the petition.

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The subject nonconforming detached garage is located at 11 Boulder Road, in a Single Residence District, on a 23,340 square foot lot and has a minimum rear yard clearance of 5.6 feet. The petitioners are requesting a Finding that the proposed change of use of said garage from automobile storage to a family room, in connection with construction of a one-story addition which will connect the existing dwelling to said garage, will not be substantially more detrimental to the neighborhood than the existing use of the nonconforming structure.

The petitioners are also requesting a variance to construct a deck, approximately 9 feet by 18 feet 3 inches, which would have a minimum rear yard setback of 5.6 feet, and would be attached to the right side of the proposed family room.

A plot plan dated July 25, 1994, drawn by Alexanded V. Zaleski, Registered Professional Land Surveyor; Floor plans and elevations dated August 1, 1994, drawn by John and Julie Messervy; and photographs were submitted.

On August 18, 1994, the Planning Board reviewed the petition and voted to offer no comment.

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Decision

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

This Authority finds that the requested change of use of the nonconforming garage from automobile storage to a family room will not be substantially more detrimental to the neighborhood as the garage is located 5.6 feet from the rear abutter, which is the MBTA, approximately 65 feet from the left side abutter and over 100 feet from the right side abutter. As no one in the neighborhood will be affected by the change of use, there will be no detriment to the neighborhood.

In regard to the request for a variance to construct a deck with a minimum rear yard clearance of 5.6 feet, it is the opinion that the proposed deck conforms to the present lines of the garage, and does not alter the relationship of the garage to the rear lot line.

It is the opinion of this Authority that because of the topography of the lot with a 30 foot drop to the MBTA tracks at the rear of the lot, and the location of the proposed deck in this portion of the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

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Therefore, the requested variance is granted to construct said deck, subject to construction in accordance with the submitted plot plan and construction sketches, and on the condition that a revised plot plan showing Lot 11 and Pt. Lot 12 as one lot, and showing the location of the proposed bay window on the conforming addition, be submitted to the office of the Board of Appeals prior to the issuance of a Building Permit.

The Inspector of Buildings is hereby authorized to issue a permit for the construction following the petitioners' submission of the aforesaid revised plot plan, and upon his receipt and approval of a building application and detailed construction plans.

If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

John A. Donovan, Jr., Chairman

Kendall P. Bates

Franklin P. Parker

cc: Planning Board
Inspector of Buildings
edg

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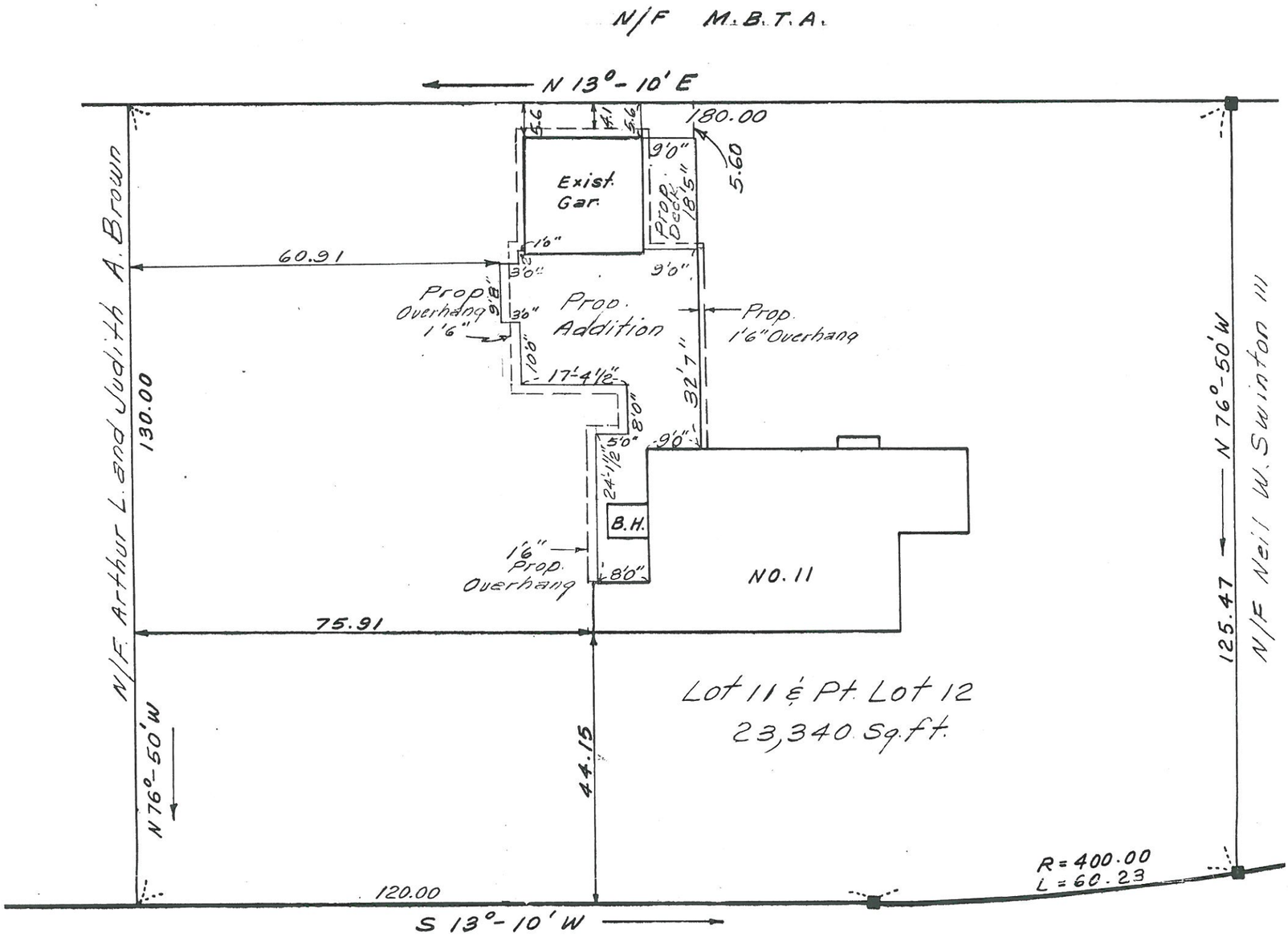

BOULDER PUBLIC - 40' R.O.W. ROAD

PLAN OF LAND IN

WELLESLEY, MASS.

JULY 25, 1994

SCALE: 1" = 20'

Revised Oct. 4, 1994

ALEXANDER V. ZALESKI

REG. LAND SURVEYOR

COMMONWEALTH OF MASSACHUSETTS
ALEXANDER V. ZALESKI
No. 10597
PROFESSIONAL LAND SURVEYOR

10/4/94

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