



## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02181-5992

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ZBA 97-39

Petition of Wendy L. Warren  
12 Wilson Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 22, 1997 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 WENDY L. WARREN requesting a Special Permit/Finding that the addition of a 23.9 foot by 14 foot deck to her nonconforming dwelling with a pre-existing nonconforming lot coverage of 20.1% at 12 WILSON STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Said deck will increase the percentage of lot coverage to 22.6% on a lot on which only 20% of the lot is allowed to be covered by right.

On May 5, 1997, 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 was Wendy Warren, who said that she is seeking relief because the house with the proposed deck addition will cover 22.6% of her lot, which was in compliance when the deck was designed last October. The new amendment passed by Town meeting made the existing house nonconforming. However, even with the new deck, the percentage of lot coverage would conform to the old zoning requirement.

No other person present had any comment on the petition.

### Statement of Facts

The subject property is located at 12 Wilson Street, in a Single Residence District, on a 10,473 square foot lot, and has a minimum left side yard clearance of 19.82 feet and a minimum front yard clearance of 10.52 feet from a paper street which is an unconstructed extension of Cottonwood Road. The pre-existing nonconforming lot coverage is 20.1%.

In March, 1997, the petitioner requested and received a Special Permit from the Board of Appeals (ZBA 97-21) that the construction of said deck would not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling in regard to the nonconforming setback from the paper street and the right side lot line.

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At the hearing, the petitioner stated that she was aware of the potential change in the Zoning Bylaw that would make her existing lot coverage nonconforming, and the increased lot coverage due to the deck more nonconforming. The Board granted the Special Permit with the proviso that if the amendment (Article 28) to the Zoning Bylaw restricting the percentage of lot coverage was passed by Town Meeting, the petitioner would have to return to the Board to seek additional relief in regard to the increase in the nonconforming percentage of lot coverage due to the construction of the proposed deck.

The petitioner is now requesting a Special Permit/Finding that the increase in the nonconforming lot coverage from 20.1% to 22.6% due to the construction of a 23.9 foot by 14 foot deck will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A plot plan dated February 21, 1997, drawn by Verne T. Porter, Registered Professional Land Surveyor was submitted. Construction drawings and photographs had been submitted and approved with the previous petition.

On May 20, 1997, the Planning Board reviewed the petition and voted to recommend denial of the request and that there be adherence to the recently adopted lot coverage limitations.

Decision

This Authority has made a careful study of the material submitted and the information presented at the hearing. The subject dwelling does not conform to the current Zoning Bylaw in regard to the percentage of lot coverage and the setbacks as noted in the foregoing Statement of Facts.

It is the finding of this Authority that although the proposed deck will increase the nonconformity of the percentage of lot coverage from 20.1% to 22.6%, the situation is unique in that the plan for the deck had been originated in October of 1996, but submission of the plan had been delayed, during which time the proposed amendment changing a conforming project into a nonconforming project had been published.

It is the further finding of this Authority that, in this instance, the increase in the nonconforming percentage of lot coverage due to the addition of the proposed deck will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is hereby granted, as voted unanimously by this Authority at the Public Hearing, for the construction of said deck in accordance with the submitted plot plan and the construction plans submitted with the previous petition (ZBA 97-21) and in accordance with the Order of Conditions (DEP 324-238) issued by the Wetlands Protection

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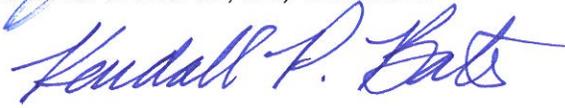
Committee on March 6, 1997.

The Inspector of Buildings is hereby authorized to issue a permit for the 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  
Wetlands Protection Committee  
edg

  
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John A. Donovan, Jr., Chairman

  
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Kendall P. Bates

  
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William E. Polletta

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