

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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1999 NOV -9 A 8: 03

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ZBA 99-81

Petition of Lawrence and Carol Schwartz

7 Louis Drive

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, November 4, 1999 at 7 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of LAWRENCE AND CAROL SCHWARTZ requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw, or a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a one-story 20 foot by 20 foot conforming addition at the rear of their dwelling at 7 LOUIS DRIVE, in a Single Residence District shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, which exceeds the allowed percentage of lot coverage by 1.4%. Said addition will exceed the allowed 20% lot coverage on a lot in excess of 10,000 square feet by and additional 2.8%, as the total lot coverage will be increased from 21.4% to 24.2%.

On October 20, 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 were Lawrence and Carol Schwartz, who were accompanied by their builder, Ray Wiese. Mrs. Lawrence said that in July, their son had suffered a spinal cord injury which left him a quadriplegic. As they currently don't have a handicap accessible bedroom and bath on the first floor, they would like to add a bedroom and bath to accommodate their son's needs in the house in which they have been living for 17 years.

The Board noted that the door from the family room to the bedroom does not meet the handicap code, as the doorknob is supposed to be at least 18 inches from the wall. The Board suggested that if there is any problem, the Schwartzs can claim hardship, as the code can be relaxed. The Building Inspector can grant a waiver, if necessary.

Joe Grignaffini, 23 Louis Drive, stated that he built the home in which the Schwartzs live, as well as all the other homes on the street. At the time of construction in 1980-81, the allowed percentage of lot coverage was 25%. The design for the addition has been tactfully drawn so that it will not be visible from the front of the house, and hardly visible from the sides. The addition is conforming as to setbacks. The abutting neighbor's home is at the front of the lot, so the addition will not be visually detrimental to the abutter. All of the neighbors on the street strongly support the addition.

Mr. Lawrence added that the rear abutter fronting Weston Road supported the petition.

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The Board was of the opinion that the petition should be treated as a Special Permit/Finding rather than as a variance request, as the change in the Zoning Bylaw rendered the previously conforming property nonconforming, and the request was for an expansion of a pre-existing nonconforming structure, resulting in an increase in the pre-existing nonconforming percentage of lot coverage.

The Board noted that the Planning Board had recommended approval, provided that, in the future, the addition should remain single story. The Board decided to make this a condition of the approval.

Statement of Facts

The subject property is located at 7 Louis Drive, in a Single Residence District, on a 10,295 square foot lot, and has a pre-existing nonconforming percentage of lot coverage of 21.4%. The subject structure is conforming in regard to all setbacks.

The petitioners are requesting a Special Permit/Finding that the construction of a 20 foot by 20 foot conforming one-story addition, which will expand the pre-existing nonconforming lot coverage from 21.4% to 24.2%, on a lot on which the maximum lot coverage allowed is 20%, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The dwelling was constructed in 1980-81, at which time the maximum percentage of lot coverage was 25% for all lots regardless of area. In April, 1997, Town Meeting passed an amendment to the Zoning Bylaw which reduced the maximum percentage of lot coverage on 10,000 to 20,000 square foot lots from 25% to 20%. The effect of this amendment was to render the previously conforming property at 7 Louis Drive nonconforming with a 21.4% of lot coverage.

A plot plan dated October 13, 1999, drawn by Bruce Bradford, Registered Professional Land Surveyor; Existing and Proposed floor plans and elevations dated 10/14/99, drawn by Raymond J. Wiese; and photographs were submitted.

A petition dated October 19, 1999, in support of the request, signed by C. Joseph and Rita Grignaffini, 23 Louis Drive; Agnes J. Crook, 457 Weston Road, and Mr. & Mrs. DeSimoniau, 3 Louis Drive was also submitted.

Letters in support of the petition were received from Gertrude B. Hughes, 11 Louis Drive, and Richard and Helen Hegblom, 8 Woodfield Road.

On November 3, 1999, the Planning Board reviewed the petition and recommended that it was aware of the circumstances relative to the petition, and absent those circumstances, would likely recommend against approval. The Town's current lot coverage requirements were only recently amended by Town Meeting. However, the immediate family need, when combined with the fact that the existing structure is nonconforming, and the fact that the addition itself meets all setback requirements and is at the rear of the house, leads the Board to recommend approval, provided that for the future of the structure, this addition should remain single story.

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7 Louis Drive

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling does not conform to the maximum percentage of lot coverage allowed in a 10,000 square foot district, as noted in the foregoing Statement of Facts, but is conforming in regard to all setback requirements.

It is the finding of this Authority that, due to the unusual circumstances regarding the need for this petition, and the support of the neighborhood, that the construction of the conforming one-story 20 foot by 20 foot addition, which will increase the nonconforming percentage of lot coverage from 21.4% to 24.2%, will intensify the existing nonconformance, and will create additional nonconformity, but will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

It is the further finding of this Authority that, in agreement with the recommendation of the Planning Board, absent the unusual circumstances regarding the need for the petition, this Authority would not have approved the request, and therefore, this approval shall not be considered as a precedent case allowing expansion of structures that are nonconforming as to percentage of lot coverage.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the construction of the 20 foot by 20 foot one-story addition, subject to construction in accordance with the submitted plot plan and construction drawings, and further subject to the condition that the allowed addition remain single residence for the future.

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

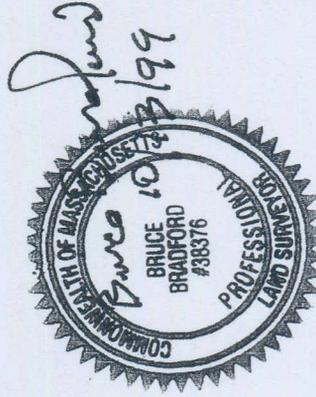
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PLAN OF LAND IN
WELLESLEY, MA.

7 LOUIS DRIVE

SCALE 1 IN. = 20 FT
OCTOBER 13, 1999

LOT COVERAGE 21.4% EXIST
LOT COVERAGE 24.2% PROP

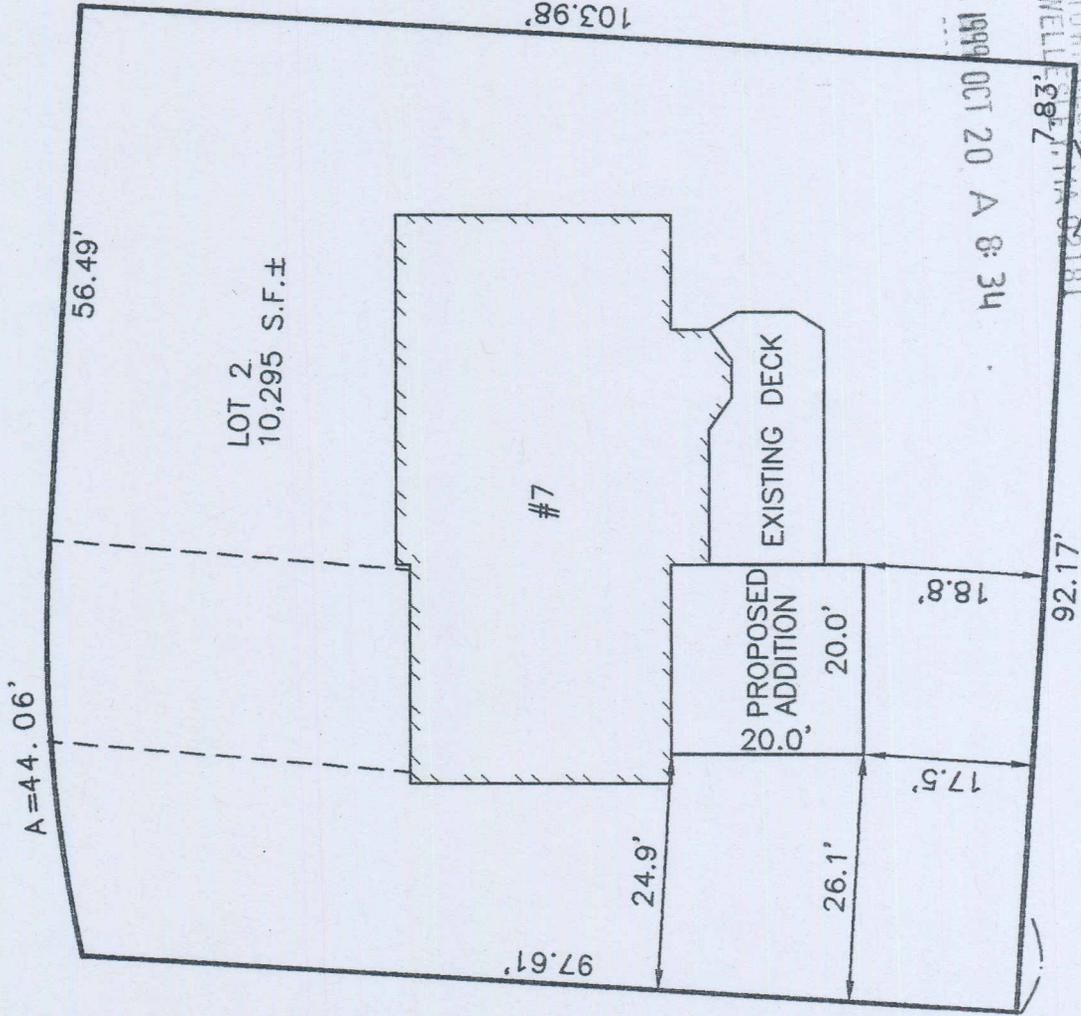


EVERETT M.
BROOKS
COMPANY
ENGINEERS & SURVEYORS

49 LEXINGTON STREET
WEST NEWTON MA 02465
(617) 527-8750

PROJECT NO. 19919boa

LOUIS DRIVE



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