

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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2003 FEB 20 A 8:33

ZBA 2003-13

Petition of David and Karen Gasdia

12 Carver Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 13, 2003 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of DAVID AND KAREN GASDIA requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow the foundation of their 27 foot by 42 foot one-story addition to remain, as a 22 foot by 18.1 foot portion of the addition consisting of a side entrance garage has less than the required 30 foot setback from the left side lot line at their otherwise conforming dwelling at 12 CARVER ROAD, in a 15,000 square foot Single Residence District. A foundation permit allowing the foundation was issued by the Inspector of Buildings on December 5, 2002.

On January 24, 2003, 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 Marvin Kushner, attorney for the Gasdias, who were also present. Mr. Kushner said the Gasdias had wished to put an addition on their house for which they submitted plans to the Building Inspector. Subsequently, a foundation permit was issued and the foundation was poured. At that point, it became apparent to the Building Inspector that the foundation was not in compliance with the change in the Zoning Bylaw enacted in March, 2002, requiring that side-facing garages be set back 30 feet from the side line, rather than the 20 feet previously required. The neighbors have no problem with the garage. The Gasdias were acting in good faith. Unfortunately, the setback change did not come to light until after the foundation had been poured. The Gasdias are now seeking a variance to allow the garage to remain.

The Board asked if the drawings submitted to the Building Inspector were the same as those submitted to the Board. Mr. Kushner said all the construction plans and the plot plan had been submitted to the Building Inspector.

The Board commented that there is more than a foundation on the property at the present time. Mr. Kushner said there has been some framing done, but the garage portion has not been framed. The Gasdias have been in touch with the Building Inspector to ensure that the framing being done is allowable.

No other person present had any comment on the petition.

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The Board decided that the hardship was not self-created, but one created by the Building Department. The left side lot line cuts in at a sharp angle. A literal enforcement of the Zoning Bylaw would involve substantial hardship to the petitioners due to circumstances beyond their control.

Statement of Facts

The subject property is located at 12 Carver Road, in a 15,000 square foot Single Residence District, on a 10,250 square foot lot. The existing house conforms to the current Zoning Bylaw. The petitioners are requesting a variance to allow their one-story 22 foot by 18.1 foot left side facing garage to remain.

On December 5, 2002, the Inspector of Buildings issued a Foundation Permit for a 42 foot by 27 foot one-story addition of which a 22 foot by 18.1 foot portion was a left side facing garage with a minimum left side yard setback of 20.2 feet. After the foundation had been poured, the Inspector of Buildings realized the side-facing garage did not have the required 30 foot side yard setback, as required pursuant to Section XIX of the Zoning Bylaw. All work on the garage has ceased.

A copy of the Building Permit Application, the Foundation Permit issued on December 4, 2002, a Plot Plan dated 1/7/03 drawn by Peter M. Ditto, Registered Professional Land Surveyor; Floor Plans and Elevations dated 1/15/03 drawn by Advantage Construction Company; and photographs were submitted.

On January 28, 2003, the Planning Board reviewed the petition and did not object to the granting of the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. Although the existing house conforms to the current Zoning Bylaw, the garage portion of the proposed addition shall be nonconforming, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that due to the shape of the lot and the oversight of the Building Department, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted, as voted unanimously by this Authority at the Public Hearing, to construct the one-story 42 foot by 27 foot addition in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon his receipt and approval of a building application and detailed construction plans.

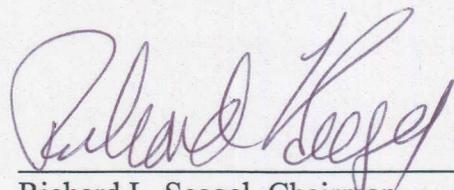
If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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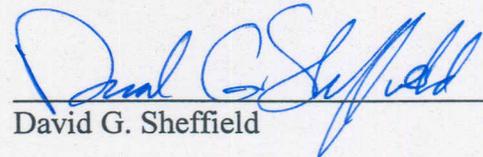
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

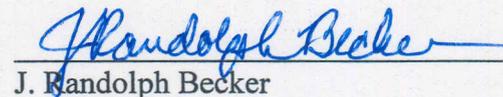
Cc: Planning Board
Inspector of Buildings
edg



Richard L. Seegel, Chairman



David G. Sheffield

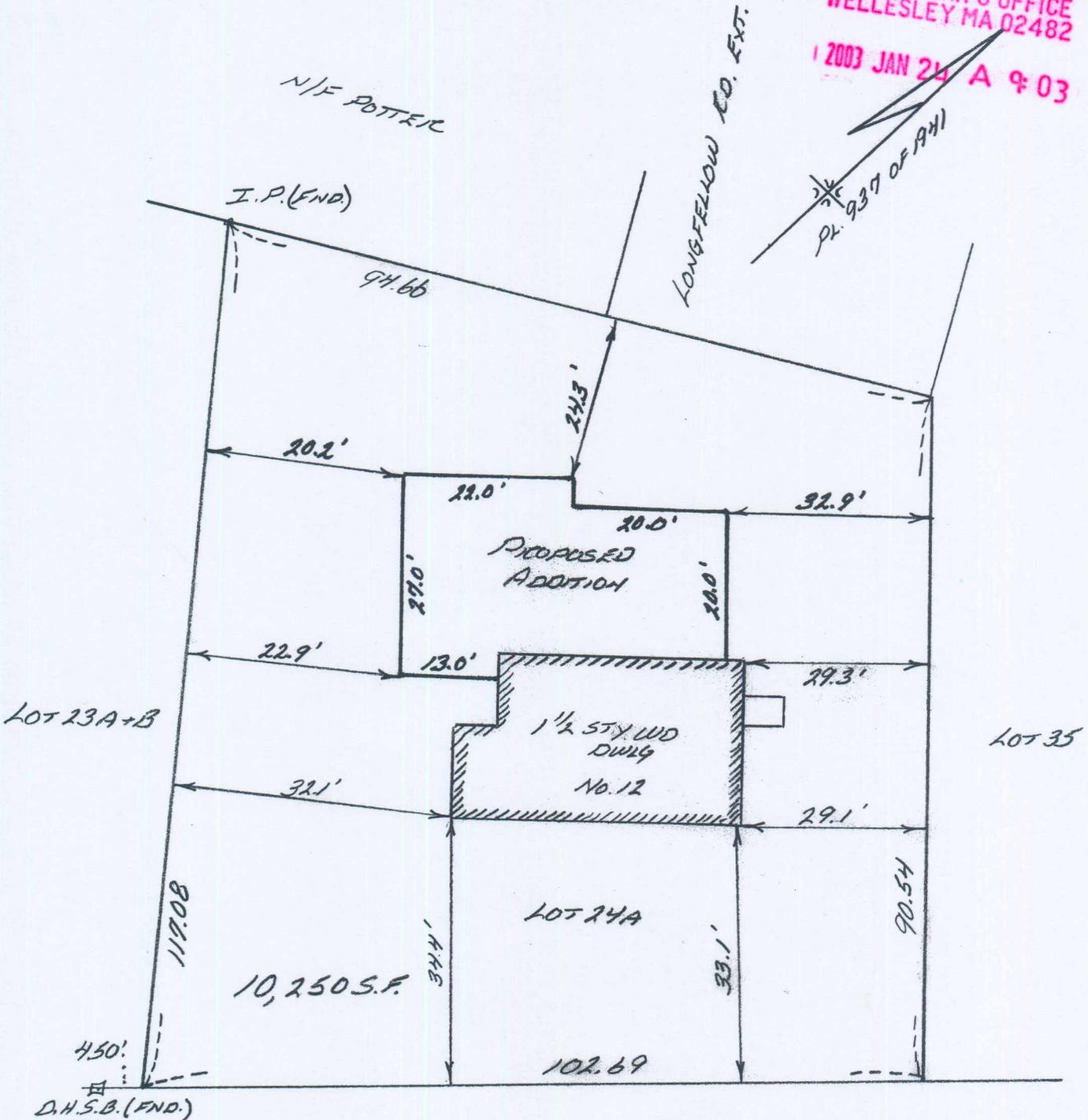


J. Randolph Becker

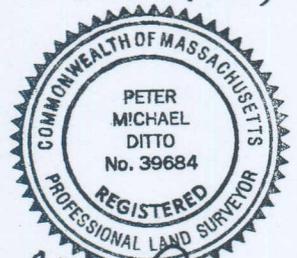
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LOT COVERAGE = 17.3%

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2003 JAN 24 A 9:03



CARVER ROAD



Peter M. Ditto
1/7/03

PREPARED BY: PETER M. DITTO
86 SEAVEN ST.
WELLESLEY, MA. 02481
(781) 237-6758

PLAN SHOWING
PROPOSED ADDITION
12 CARVER RD.
WELLESLEY, MA.
SCALE: 1"=20' DATE: 1/7/03