

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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

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ZBA 99-30

Petition of Vernon and Deborah Ellinger  
49 Sawyer Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, May 27, 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 VERNON AND DEBORAH ELLINGER requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of a detached subterranean 22 foot by 22 foot garage with less than the required rear and right side yard setbacks, at their conforming dwelling at 49 SAWYER ROAD, in a Single Residence District.

On April 12, 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 Vernon and Deborah Ellinger, who were accompanied by their architect, Jim Weir. Mr. Ellinger said that the new plans show a reduction in the garage dimensions from 24 feet by 24 feet to 22 feet by 22 feet; the removal of the patio above the structure; additional landscaping; and a reduction in the height of the railing. Discussions with their rear abutter have resulted in revisions in the landscaping; namely, the change from hemlocks to bushy shrubs, and an agreement to install the bushes that will be at least as tall as the height of the structure from the onset. The railings will be reduced to a height of 3 feet which is the minimum height that will meet building code. There will be planting on the trellis at the end wall of the garage.

Cynthia Smithy, 38 Greenwood Road, the rear abutter, asked the Board to consider that this would be a third and fourth car garage, which would be 8.4 feet from both the rear and right side property lines at the right rear corner, and questioned whether this structure was a necessity on a street with one and two-car garages.

The Board noted that the Planning Board had no objections as long as no structure was built above the garage, and that this would be a condition of the grant of the variance.

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### Statement of Facts

The subject conforming property is located at 49 Sawyer Road, in a Single Residence District, on a 14,569 square foot lot, in a Single Residence District.

The petitioners appeared before the Board at a Public Hearing on April 29, 1999 requesting a variance for a detached 24 foot by 24 foot subterranean garage with a minimum rear yard setback of 6 feet and a minimum right side yard setback of 6.5 feet. In deference to their rear abutters' concerns regarding the size, setback, landscaping, railing height and use of the area above the garage, the Ellingers requested a continuance to return with amended plans, which the Board granted.

The petitioners are requesting a variance to allow construction of a detached subterranean 22 foot by 22 foot garage which will have a minimum rear yard setback of 8.4 feet and a minimum right side yard setback of 7 feet.

A Plot Plan dated April 5, 1999, revised May 4, 1999, drawn by Ronald J. Natoli, Registered Professional Land Surveyor; Proposed Site Plan (A-2) dated May 3, 1999, and Elevations & Sections (A-3), both drawn by East Design Architects; and photographs were submitted.

On May 25, 1999, the Planning Board reviewed the amended petition and had no objection to the granting of the request, provided there would be no habitable structure placed over the garage in the future.

### Decision

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

It is the opinion of this Authority that because of the topography 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.

Therefore, the requested variance is granted, as voted unanimously by this Authority at the Public Hearing on May 27, 1999, for construction of the 22 foot by 22 foot subterranean garage in accordance with the submitted May 4, 1999 plot plan and elevation drawings; and subject further

~~XXXXXX and Deborah Linger~~  
49 Sawyer Road

to the condition that no structure of any type shall ever be built above the area occupied by the underground garage.

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.

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 LAW, 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*  
Kendall P. Bates, Chairman

*Robert A. Bastille*  
Robert A. Bastille

*Cynthia S. Hibbard*  
Cynthia S. Hibbard

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From: Deborah & Vernon Ellinger  
49 Sawyer Road  
Wellesley Hills, MA 02481

To: Zoning Board of Appeals  
Town of Wellesley  
525 Washington Street  
Wellesley, MA 02481

May 5, 1999

**Revision of Original Request:**

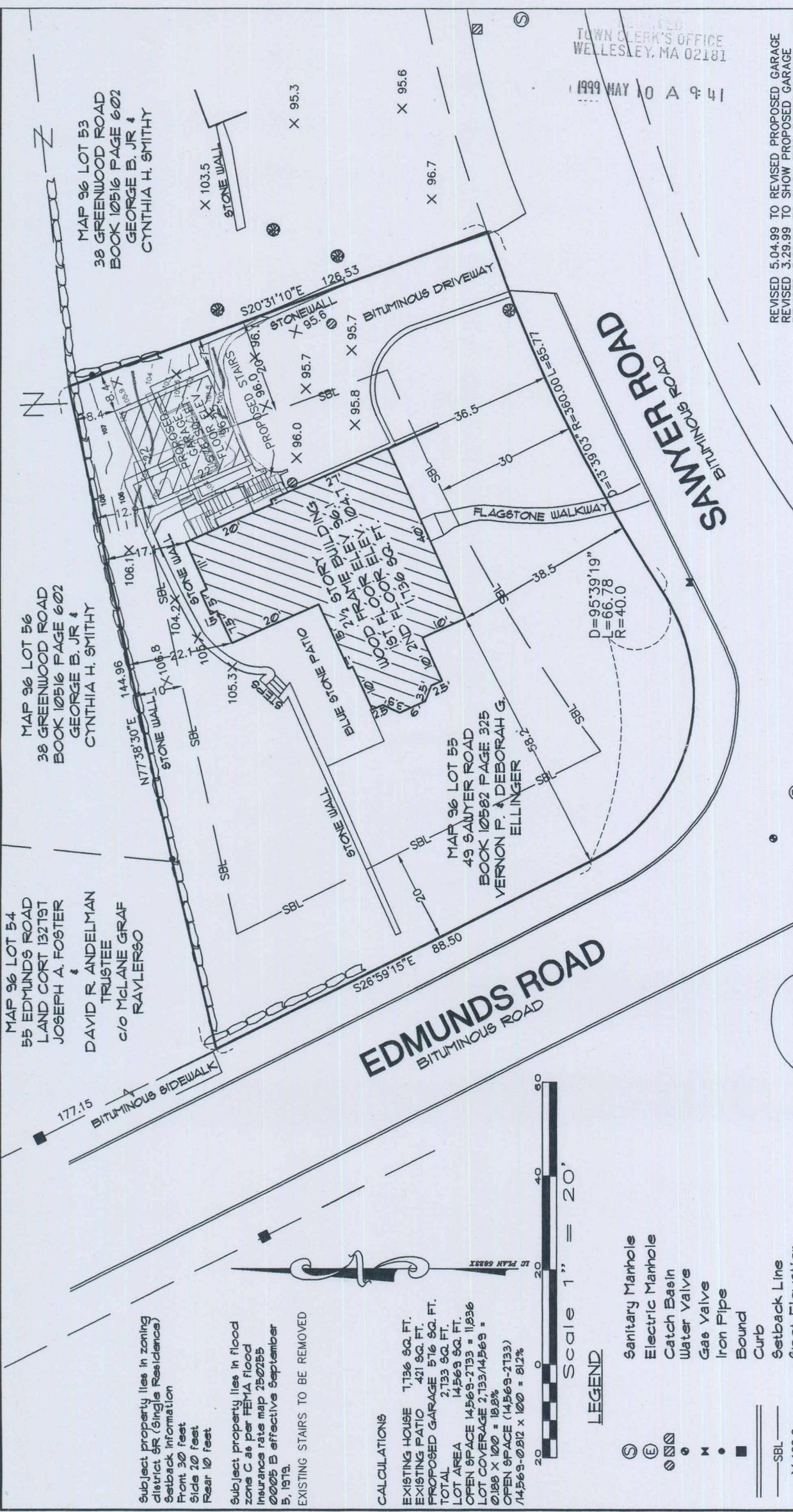
We present two revised drawings and a revised plot plan in support of our proposed subterranean garage as discussed at the April 29, 1999 hearing

The following changes have been incorporated into the new drawings:

- Structure has been reduced to 22' by 22', increasing clearance to the property lines
- Patio has been removed in favor of an ivy-covered slope
- Front elevation design has been changed to show less railing
- Landscaping elements have been added to provide visual barriers to the rear and side of the garage

We are advised that safety concerns dictate that a railing be included on the front and sides of the garage. Therefore, we request that the railing as presented be approved as a maximum height. We will undertake to reduce the front height and minimize the side railings as safety considerations permit.

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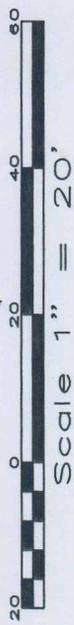
Subject property lies in zoning district SR (Single Residence) Setback information Front 30 feet Side 20 feet Rear 10 feet

Subject property lies in flood zone C as per FEMA flood insurance rate map 250255 0005 B effective September 5, 1975.

EXISTING STAIRS TO BE REMOVED

**CALCULATIONS**

EXISTING HOUSE 7,136 SQ. FT.  
EXISTING PATIO 421 SQ. FT.  
PROPOSED GARAGE 516 SQ. FT.  
TOTAL 2,133 SQ. FT.  
LOT AREA 14,569 SQ. FT.  
OPEN SPACE 14,569-2,133 = 11,236  
LOT COVERAGE 2,133/14,569 = 0.146 X 100 = 14.6%  
OPEN SPACE (14,569-2,133) / 14,569 = 0.812 X 100 = 81.2%



**LEGEND**

- Sanitary Manhole
- Electric Manhole
- Catch Basin
- Water Valve
- Gas Valve
- Iron Pipe
- Bound
- Curb
- Setback Line
- Spot Elevation

**AMERICAN SURVEYING COMPANY  
OF BOSTON INC.**

1264 MAIN STREET WALTHAM, MA 02451  
PH. (781) 893-6477 FAX (781) 893-7091

I DO HEREBY CERTIFY THAT THIS PLAN REPRESENTS A SURVEY MADE UNDER MY SUPERVISION.

DATE 04. May. 95  
JOB # 20096655



COMMUNITY	WELLESLEY	COUNTY	NORFOLK	STATE	MASSACHUSETTS	DEED REF:	BOOK 10582 PAGE 325	PLAN REF:	LC PLAN 5823X
ADDRESS CLIENT	49 SAUYER ROAD VERNON ELLINGER								
PROJECT NAME	CERTIFIED PLOT PLAN								
FIELD WORK	FJS	DATE	3/1/99						
DRAFTING	STA	DATE	3/8/99						
STAKE OUT		DATE							
FINAL CHECK	RN	DATE	3/8/99						

REVISED 5.04.99 TO REVISED PROPOSED GARAGE  
REVISED 3.29.99 TO SHOW PROPOSED GARAGE  
REVISED 3.29.99 TO SHOW TIES TO PROPERTY LINES