TOWN OF WELLESLEY MASSACHUSETTS

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ZONING BOARD OF APPEALS

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2000 JUN 13 A 8:23

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ZBA 2000-35
Petition of David P. and Maura Spellman
42 Cedar Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 25, 2000 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 P. AND MAURA SPELLMAN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the demolition of an existing nonconforming 16.5 foot by 5.5 foot front porch with less than the required left side yard setback, and construction of a new porch with the same dimensions at their nonconforming dwelling with less than the required left and right side yard setbacks, at 42 CEDAR STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There will be no change in the footprint.

On May 8, 2000, 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 David Spellman, who said they were seeking permission to reconstruct their porch with the same dimensions, the same roof line and the same stairs. They are only replacing the roof line down to the ground.

The Board stated that the Planning Board had no objection to the request. The Board was of the opinion that the porch should never be enclosed without returning for further approval. Mr. Spellman said they had no intention to enclose the porch. They are only moving the bannister in order to comply with the building code.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 42 Cedar Street, on a 6,815 square foot lot, with a minimum front setback of 25 feet and a minimum left side yard setback of 2.2 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of an existing 5.5 foot by 16.5 one-story porch with a minimum left side yard clearance of 6.1 feet; and construction of a new one-story porch with the same dimensions and the same minimum left side yard setback, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There will be no change in the footprint.

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A Plot Plan dated 2/8/00 drawn by Dennis O'Brien, Registered Professional Land Surveyor; Floor Plan and Front Elevation Drawings done by Colony Home Improvement; and photographs were submitted.

On May 23, 2000, the Planning Board reviewed the petition and had no objection to the request as there will be no change in the footprint.

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 current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that the demolition of the existing 16.5 foot by 5.5 foot front porch and construction of a new porch with the same dimensions will not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the new structure will neither intensify the existing nonconformance, nor will it create new nonconformity, as there will be no change in the dimensions or footprint of the new porch.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the demolition and reconstruction of the front porch in accordance with the submitted plot plan and construction sketches, and further subject to the following condition:

1. The 16.5 foot by 5.5 foot porch allowed by this Special Permit shall not be enclosed or altered in any way without approval by the Zoning Board of Appeals.

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.

Kendall P. Bates

Kendall P. Bates, Chairman

William E. Polletta

William E. Polletta

Richard L. Seegel

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Cc: Planning Board
Inspector of Buildings
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2000 MAY -8 A 9:24

PROPOSED CONSTRUCTION

CERTIFIED PLOT PLAN

LOT SIZE 6815 SQ FT

GARAGE 225 SQFT

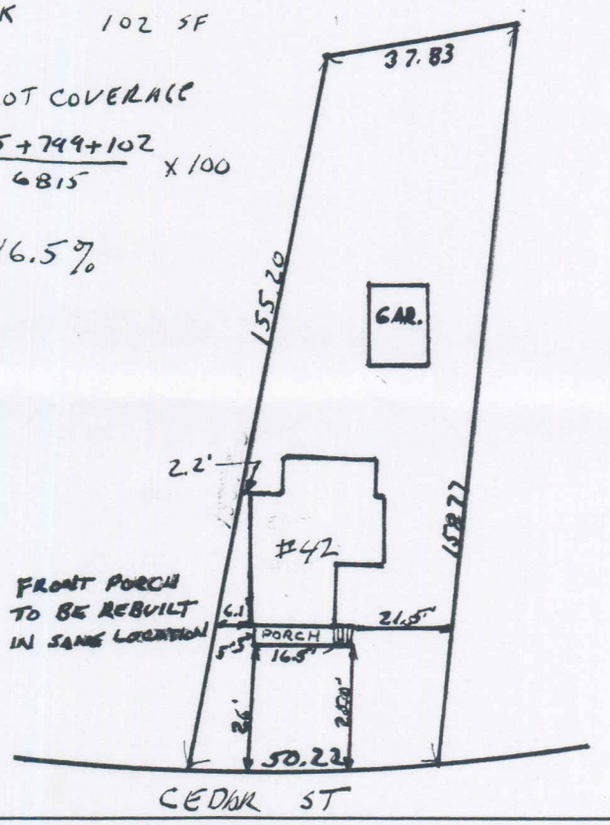
HOUSE 799 SQFT

DECK 102 SF

LOT COVERAGE

$\frac{225+799+102}{6815} \times 100$

$= 16.5\%$



COMMONWEALTH OF MASSACHUSETTS
DENNIS B. O'BRIEN
No. 40046
PROFESSIONAL LAND SURVEYOR

Dennis B. O'Brien

02/08/00
Date

DENNIS OBRIEN
Reg. Land Surveyor
11 CONCORD ST.
FRANKLIN MA 02038
Address