

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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WELLESLEY MA 02482

2000 JUN 13 A 8:30

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ZBA 2000-44  
Petition of Eugenio and Julia Caruso  
15 Avon Road

Pursuant to due notice, the Permit Granting Authority and 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 EUGENIO AND JULIA CARUSO requesting the following relief for construction at their nonconforming dwelling with less than the required right and left side yard setbacks, at 15 AVON ROAD, in a Single Residence District:

1. 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 two-story addition 14 feet by 28 feet with less than the required right side yard setback.
2. A Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a full 40.3 foot by 24.4 foot second story addition with less than the required right and left side yard setbacks and a two-story 2 foot by 25 foot addition with less than the required left side yard setback, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 8, 2000, the petitioners filed a request for a hearing before these Authorities, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Eugenio and Julia Caruso. Mrs. Caruso said they were seeking permission to build a two-story addition in the back and a second story on the existing house and a two story 2 foot by 25 foot expansion on the front.

The Board asked if there was any reason that the two-story addition at the rear could not be moved in 6 inches to be conforming. Mrs. Caruso said there was a large piece of ledge. The Board asked if a basement would be constructed beneath the addition. Mrs. Caruso said that if they encountered substantial ledge, the basement would not be built.

The Board stated that while the amount of the variance requested is very small, but, by the same token, there is no basis for granting it. The only nonconformance is that the house is not 20 feet from the side line. The addition would only have to be moved back one tenth of a foot for the petition to become a Special Permit rather than a Variance.

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The Board was in agreement that if the petitioner submitted a new plot plan showing that the proposed two-story addition would come no closer than 19.8 feet from the right side lot line, a Special Permit could be granted, as by this change, the Board could find that the two-story addition would not increase the existing nonconformance and therefore, would not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Carusos agreed to move the addition in so it would be no closer than 19.8 feet at any point from the right side lot line, and to submit a revised plot plan showing the new setback.

The Board was of the opinion that neither the second story addition nor the two-story 2 foot by 25 foot front expansion presented a problem as there would be no change in the footprint due to the construction of the second story addition and the two-story addition at the front would encroach no farther on the left side line than the existing house.

No other person present had any comment on the petition.

#### Statement of Facts

The subject property is located at 15 Avon Road, in a Single Residence District, on a 9,190 square foot lot, and has a minimum right side yard clearance of 19.8 feet and a minimum right side yard clearance of 17.5 feet.

The petitioners are seeking a variance to construct a 14 foot by 28 foot two-story addition with a minimum right side yard clearance of 19.7 feet and a Special Permit/Finding that the construction of a full 40.3 foot by 24.4 foot second story addition with a minimum left side yard clearance of 19.9 feet and a minimum right side yard clearance of 19.8 feet; and the construction of a two-story 2 foot by 25 foot addition with a minimum left side yard clearance of 19.9 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated January 25, 2000, revised April 25, 2000, drawn by Paul J. Finocchio, Registered Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated January 31, 2000, drawn by Domenic Sicari Associates, LTD.; and photographs were submitted.

On May 23, 2000, the Planning Board reviewed the petition and was of the opinion that the application does not contain information to prove substantial hardship caused to the applicant due to soil condition, topography or shape of the lot to support the request for a variance for the two-story addition. The Board had no objection to the construction of the second story addition or to the 2 foot by 25 foot two-story addition.

#### 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 request for a variance for the two-story 14 foot by 28 foot addition is null and void, as the petitioners have agreed to decrease the size of the addition so that no point on the right side of the addition comes closer than 19.8 feet from the right side lot line.

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15 Avon Road

It is the finding of this Authority that with the reduction of the encroachment of the aforesaid addition, the request is for a Special Permit/Finding that said addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

It is the finding of this Authority that the proposed construction of the 14 foot by 28 foot two story addition, with a minimum right side yard clearance of 19.8 feet; the 2 foot by 25 foot two-story addition with a minimum left side yard clearance of 19.9 feet and the second story addition with a minimum left side yard clearance of 19.9 feet and a minimum right side yard clearance of 19.8 feet shall not be substantially more detrimental to the neighborhood as, although the existing nonconformance will be intensified as a result of the three additions, no new nonconformance will be created.

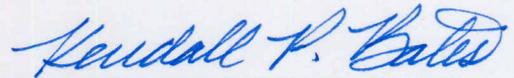
Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the construction of the two-story addition at the rear, the two-story addition at the front and the addition of a second story over the entire first story of the dwelling on the following condition:

1. Prior to the issuance of any building permit, a revised plot plan showing the right side yard setback at all points of the two-story addition to be no greater than 19.8 feet from the right side property line, and the revised dimensions of the proposed addition, if changed from the 14 foot by 28 foot dimensions shown on the original plot plan, shall be submitted to the office of the Board of Appeals.

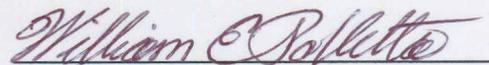
Subsequent to compliance with the aforesaid condition, the Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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



Kendall P. Bates, Chairman



William E. Polletta



Richard L. Seegel

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LOT E6

LOT E5

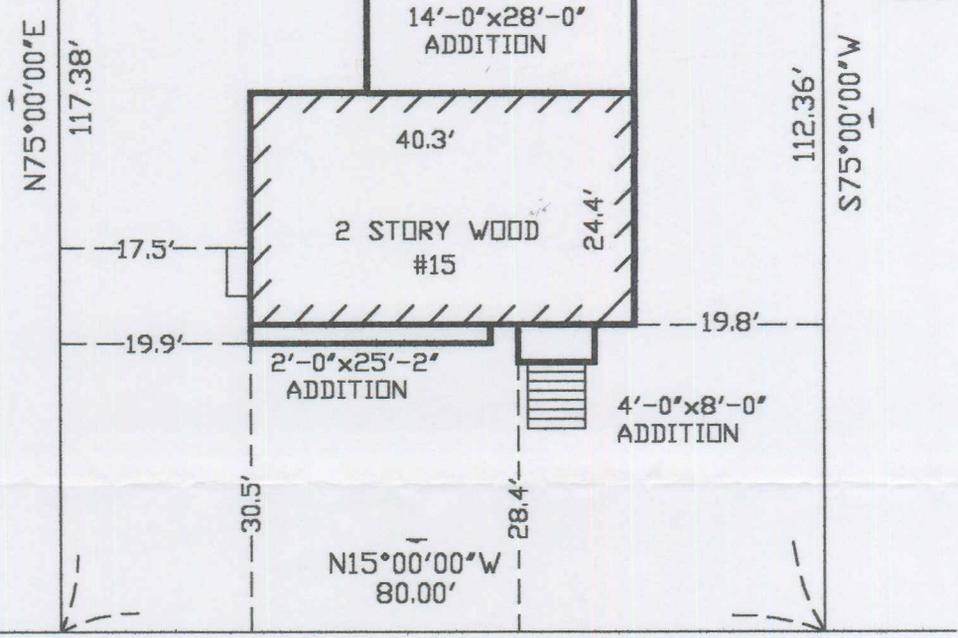
80.16'  
S11°24'34"E

LOT 23  
9,190 S.F.

LOT COVERAGE  
EXISTING = 11.2%  
PROPOSED = 16.3%

LOT 24

LOT 22



AVON ROAD

APPLICANTS

JULIA & EUGENIO CARUSO  
15 AVON ROAD  
WELLESLEY, MA. 02482

NOTE: BEARING SYSTEM IS ASSUMED

REVISED: JUNE 6, 2000  
REVISED: APRIL 25, 2000

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED FROM AN ACTUAL ON THE GROUND SURVEY.

PROPOSED PLOT PLAN OF LAND  
IN  
WELLESLEY, MASS.



PREPARED BY:  
PJF & ASSOCIATES  
11 GLEASON ST. MEDFORD, MA.  
PAUL J. FINOCCHIO-P.L.S.  
(781)395-7662

SCALE: 1" = 20'

DEED REF.: BK 8970 PG 637

DATE: JANUARY 25, 2000

FILE No.: 4427-A

6/6/10

PAUL J. FINOCCHIO P.L.S. No.36115 DATE