

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2000-88
Petition of Nancy L. and F. Lester Fraser
178 Oakland Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 16, 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 NANCY L. AND F. LESTER FRASER 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 two-story dwelling, with less than the required front and right side yard setbacks, and construction of a nonconforming 22.1 foot by 27.1 foot two-car garage on the foundation of said dwelling at 178 OAKLAND STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 30, 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 were Nancy and Lester Fraser. Mr. Fraser said they would like permission to raze the existing structure and construct a two-car garage on the existing foundation. The purpose is a vision to enhance and improve the neighborhood and to reflect the purpose of building a home on the property, which has been approved by the Planning Board.

The Board stated that the Planning Board opposes this request, as stated in its letter of review, it would seem the garage for the new house could be located in compliance with zoning requirements. An 11.7 foot sideyard is an imposition on the neighboring property.

The Board agreed with the recommendation of the Planning Board, and stated that the Frasers, after removing the house, have over an acre on which to build an adequate garage. Mr. Fraser agreed, but stated that they have a vision to improve the neighborhood. He has lived in Wellesley all his life, and feels that the nonconforming structure will not deter, but will increase the value of the neighborhood.

Presenting a topographical foam model of the property on which the proposed new house and garage and adjacent homes were located, Mr. Fraser said they had purchased the property recently and are trying to enhance the neighborhood with beautification. The purpose of the property was to have a new residence for themselves and a garage as shown.

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The Board asked how many garages there would be on the property. Mr. Fraser said there would be a two car garage in the new house, and the proposed two car garage on the foundation of the existing house, totaling four garage bays.

The Board stated that when a property is redeveloped, it tries very hard to make sure that all new structures conform, if at all possible, and questioned why this was not possible in this situation. Besides the fact that the new house will have garage space, the Frasers have sufficient land to build a conforming detached garage, if they want a second garage. Mr. Fraser said the land is quite hilly. He feels their proposal is suitable, enhancing and a beautification.

The Board noted that the proposed house would be set back 112 feet from Oakland Street. Mr. Fraser said he could move the garage back, but does not want to do that. The Board asked what prevented the Frasers from moving the proposed garage closer to the house, particularly as the elevation is lower, and the structure would be less visible from both Oakland Street and the right side abutter. Mr. Fraser said it is an existing structure on an existing poured foundation structurally suitable for the intent.

The Board stated that if it approved the petition, it would have to place conditions in the decision that the garage not be used for residential purposes, and that no plumbing connections would be allowed. Mr. Fraser responded that the garage is not for the benefit of any inhabitants. It would be their desire that the garage contain heat and electricity, and water, as they would like to wash their cars there.

Mr. Fraser offered to submit a notarized statement regarding the use of the garage, post a security bond, and/or place a deed restriction on the use. The Board stated that it has to look to the future. Properties are sold, and new owners may not be as scrupulous about the use as the Frasers would be.

The Board stated that the existing dwelling violates both the front and right side yard setbacks. As it is going to cease being used for a home, this is the time to bring the property into conformance.

No other person present had any comment on the petition. As there was no further discussion, the Board voted unanimously to deny the Special Permit.

Statement of Facts

The subject property is located at 178 Oakland Street, in a Single Residence District, on a 53,342 square foot lot that presently contains a two story dwelling, 22.1 feet by 27.1 feet, with a minimum front setback of 19.6 feet and a minimum right side yard setback of 11.7 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of the existing nonconforming structure and construction of a nonconforming one story, two-car garage with the same dimensions and the same minimum front and right side yard setbacks, on the existing foundation, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated July 12, 2000, drawn by Bruce Bradford, Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated June 26, 2000, drawn by Joseph Kennard Architects; and photographs were submitted.

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ZBA 2000-88
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On November 14, 2000, the Planning Board reviewed the petition and opposed the granting of the request. The owner is making a substantial investment in this lot which comprises over an acre of land. It would seem that the garage for the new house could be located in compliance with zoning requirements. An 11.7 foot side yard is an imposition on the neighboring property.

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.

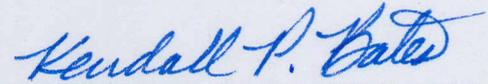
It is the finding of this Authority that the proposed construction of a new two-car garage on the foundation of the existing nonconforming dwelling to be demolished would be substantially more detrimental to the neighborhood than the existing nonconforming dwelling for the following reasons:

1. As noted at the Public Hearing, in prior cases involving demolition and rebuild, the Board has not approved construction of nonconforming new structures, unless the lot is of a configuration and/or size such that a conforming structure could not be built. It would be substantially more detrimental to the neighborhood to vary from this precedent.
2. In prior cases involving the change of use of detached nonconforming structures, the Board has been vigilant in the protection of the neighborhood in not allowing said structures to contain heat, electricity and plumbing connections, as the connection of all three utilities would allow the detached structure to become habitable. Section XVIII Area Regulations of the Zoning Bylaw requires that there be only one dwelling per lot in a Single Residence District.
3. In this particular case, there is more than sufficient land on which to construct a conforming two-car garage. It would be substantially more detrimental to the neighborhood to allow construction of a new nonconforming two-car garage 11.7 feet from the right side line, when a 20 foot side yard setback could easily be maintained; and 19.6 feet from the front property line, when a 30 foot front setback could also be maintained, as the proposed new dwelling will be set back 112.4 feet from the front property line.

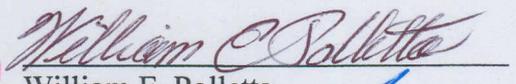
It is the finding of this Authority for all of the aforesaid reasons, as voted unanimously by this Authority at the Public Hearing, that the request for a Special Permit be denied; and this petition is hereby dismissed.

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 PETITION IN
THE OFFICE OF THE TOWN CLERK

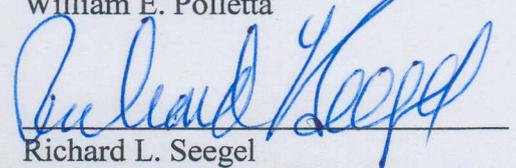
Cc: Planning Board
Inspector of Buildings



Kendall P. Bates, Chairman



William E. Polletta

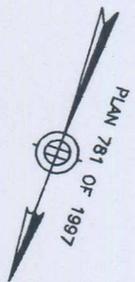


Richard L. Seegel

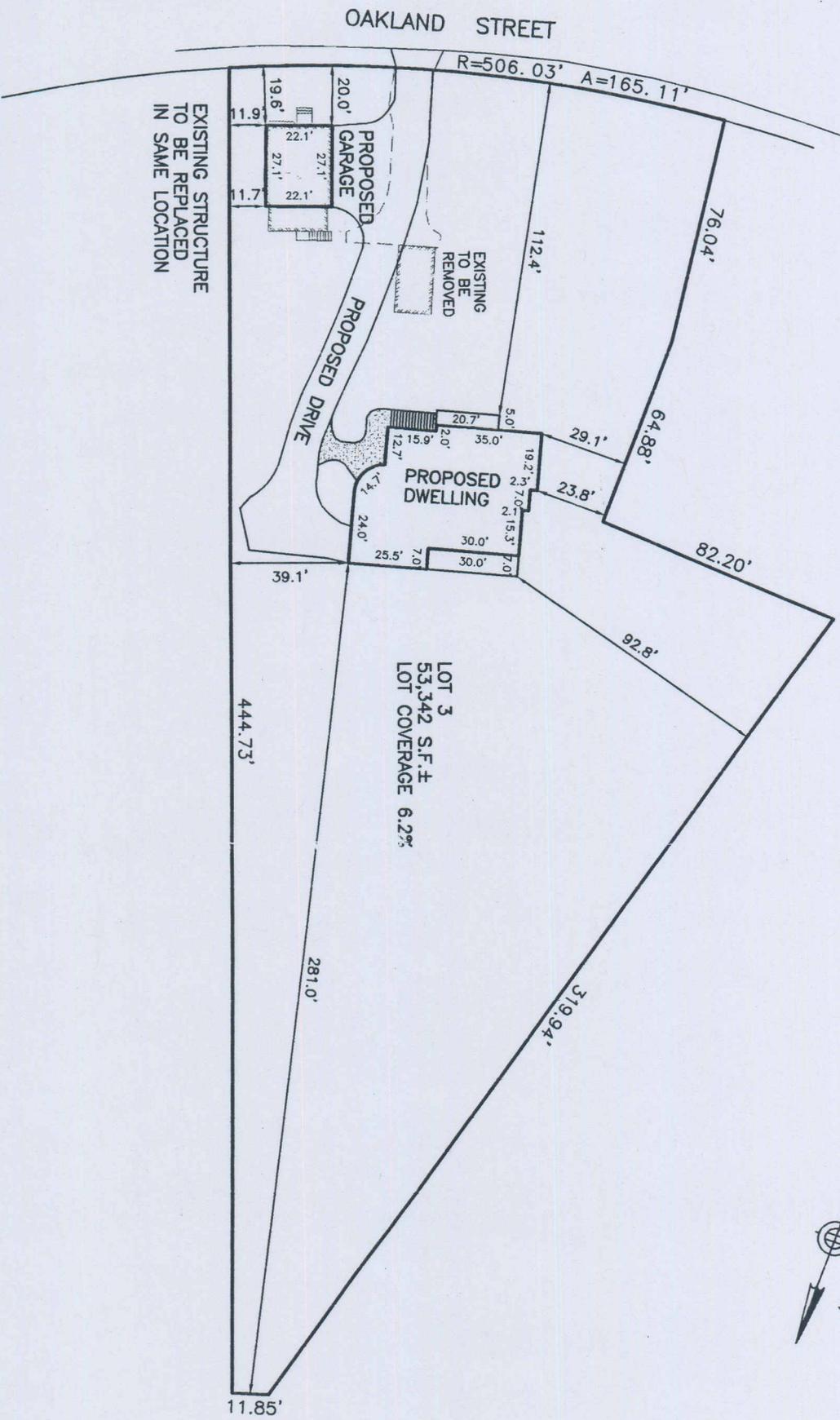
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PLAN OF LAND IN
WELLESLEY, MA
178 OAKLAND STREET
PROPOSED ADDITIONS
SCALE 1 IN. = 40 FT
JULY 12, 2000



EVERETT M.
BROOKS
COMPANY
ENGINEERS & SURVEYORS
49 LEXINGTON STREET
WEST NEWTON MA 02465
(617) 527-8750
PROJECT NO. 20065boo