

TOWN OF WELLESLEY



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WELLESLEY MA 02482

ZONING BOARD OF APPEALS 2001 APR 13 A 8:06

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

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ZBA 2001-16
Petition of Robert M. and Jean K. McTighe
24 Wellesley Avenue

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, March 29, 2001 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of ROBERT M. AND JEAN K. McTIGHE requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the enclosure and incorporation into the internal structure of their dwelling or a 12.5 foot by 10 foot first floor screened porch, with less than the required left side yard setback, at their nonconforming dwelling with less than the required left and rear yard setbacks, at 24 WELLESLEY AVENUE, 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.

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 10 foot by 7 foot 2 inch deck and stair connected to the existing porch, which will have less than the required rear yard setback.

On March 12, 2001, the petitioners filed requests for hearings before these Authorities, and thereafter, due notice of the hearings were given by mailing and publication.

Presenting the case at the hearing were Robert and Jean McTighe. Mrs. McTighe said they would like to enclose the existing porch and incorporate it into the kitchen. It has a second story above it, but the enclosure will not change the footprint. They would also like to extend the porch by 7 inches to allow safer access into the house.

The Board noted that the Planning Board had no objection to the Special Permit, but objected to the variance request. The recently adopted corner lot requirements should be maintained. It does not appear that the prerequisites for granting a variance are met.

The Board explained that the petition includes two different requests with different standards for granting each request. The deck is closer to the rear line than the porch, increases the nonconformity, and requires a variance for which the standards involve demonstration of hardship resulting from shape of the lot, soil conditions, and/or topography. None of these conditions have been demonstrated. The Board is concerned with allowing a greater nonconformance than currently exists.

Mr. McTighe said that there is an existing stairway into the house. This stairway is being enlarged and converted to a deck so the door can be relocated closer to the corner of the house.

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The Board suggested that the McTighes withdraw the deck petition without prejudice, redesign the deck to be no more nonconforming than the porch, and return with a new petition at a later date.

The McTighes requested to withdraw the petition for a variance for the deck without prejudice, which the Board unanimously granted.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 24 Wellesley Avenue at the corner of Aberdeen Road, in a Single Residence District, on an 8,155 square foot lot, and has a minimum left side yard clearance of 10.7 feet and a minimum rear yard clearance of 12 feet.

The petitioners are requesting a Special Permit/Finding that the enclosure of a 12.5 foot by 10 foot porch, with a minimum left side yard clearance of 10.7 feet and a minimum rear yard clearance of 12 feet, and its incorporation into the internal structure of their dwelling, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The petitioners are also requesting a variance to construct a 10 foot by 7 foot 2 inch deck and stair connected to the existing porch which will have a minimum rear yard clearance of 10 feet.

A Plot Plan dated February 14, 2001, stamped by Philip L. Patterson, Registered Land Surveyor; Floor Plans and Elevations dated February 12, 2001, signed by Vincent Codispoti, Jr., Registered Architect; and photographs were submitted.

On March 20, 2001, the Planning Board reviewed the petition and had no objection to the granting of the Special Permit, but objected to the granting of the variance for the reasons detailed at the hearing.

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 enclosure of the nonconforming 12.5 foot by 10 foot deck and its incorporation into the internal structure of the dwelling shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as said enclosure shall neither intensify the existing nonconformance, nor will it create new nonconformity as there will be no change in the footprint.

As the petitioners requested and were allowed by unanimous vote of this Authority at the Public Hearing to withdraw their request for a variance, the Board makes no finding on this issue.

Therefore, the requested Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, to enclose the existing nonconforming 12.5 foot by 10 foot porch and incorporate it into the internal structure of the dwelling in accordance with the submitted plot plan and construction drawings.

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The Inspector of Buildings is hereby authorized to issue a permit only for incorporation of said porch upon receipt and approval of a building permit and detailed construction plans.

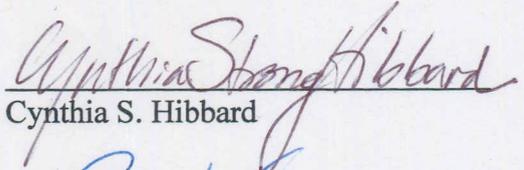
APR 13 A 8:06

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.

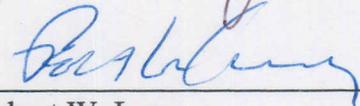
Cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Chairman



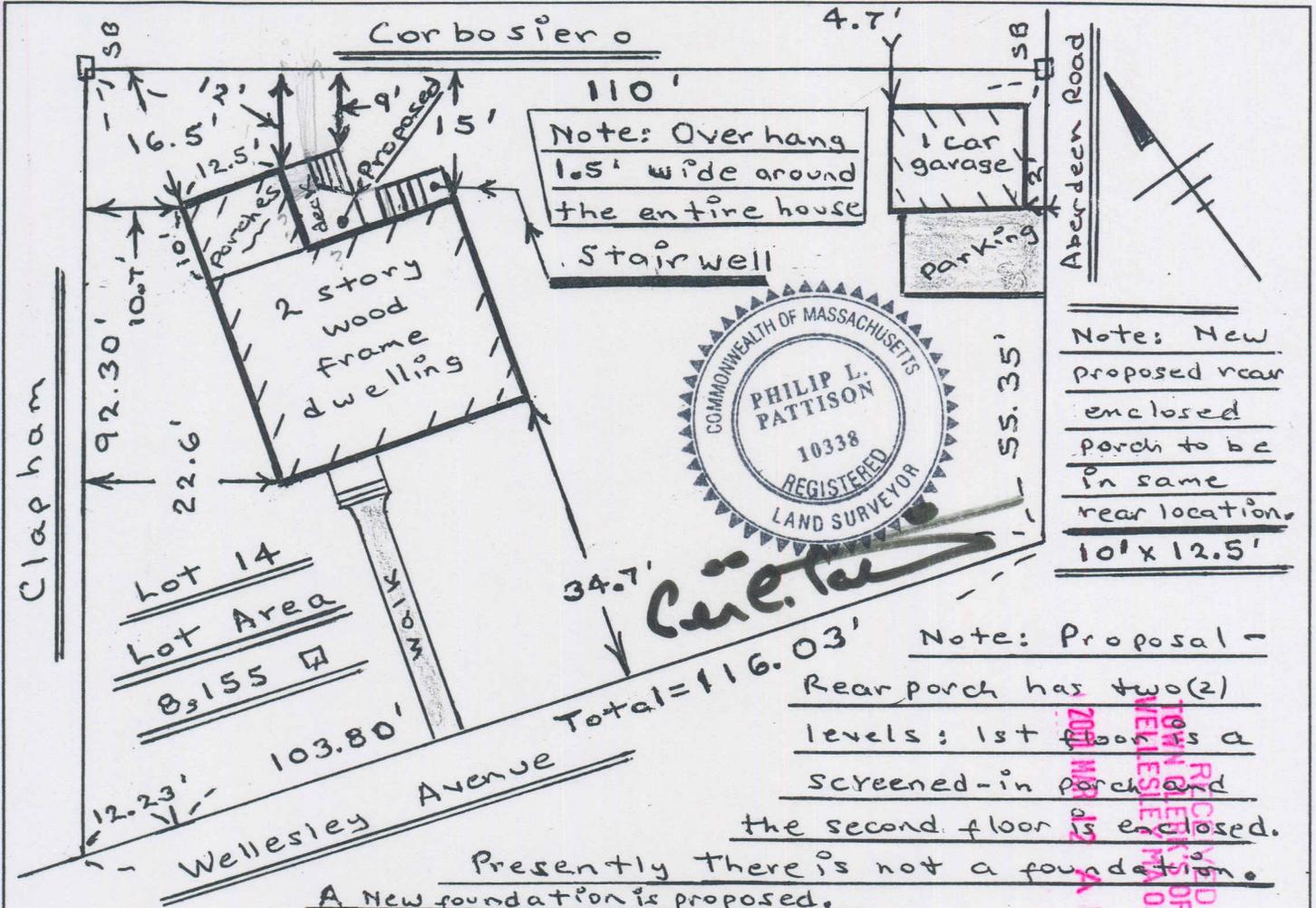
Cynthia S. Hibbard



Robert W. Levy

10.2'

2001 MAR 12 A 10:08



The dwelling/building setbacks (if any) shown on this plot plan are measured from building siding* unless otherwise noted.

This plot plan is to be used only by the owner listed below, and contains only as much accuracy as is required to obtain a permit for the proposed improvements shown hereon (if any). Setbacks (distances shown from proposed or existing improvements to property lines) cannot be used to establish property lines or to locate fences, landscaping, or any other improvements not shown on this plan.

The surveyor is not responsible for takings, easements or conveyances not contained in the deed provided (or referenced) by client or by the local municipal Assessor or Engineer.

Name: Robert M. + Jean K. McTigue
Address: 24 Wellesley Avenue
Wellesley, Mass. 02482

Deed Book: 3581 Page: 524
Plan: See Land Court Decision
No. 83897 - May 13, 1977
County Registry: Norfolk

* Zoning District: General Residence *

Scale: 1" = 20' Date: February 14, 2001

Philip L. Pattison, P.E. & P.L.S.
17 Snake Brook Road
Wayland, MA 01778