

TOWN OF WELLESLEY



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WELLESLEY MA 02462

ZONING BOARD OF APPEALS

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

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ZBA 2001-20  
Petition of Donald H. Hollings and  
Martha J. Castro  
50 Emerson Road

Pursuant to due notice, 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 DONALD H. HOLLINGS and MARTHA J. CASTRO requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following construction at their nonconforming dwelling with less than the required right side yard setback, at 50 EMERSON ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Change of use of the existing nonconforming 19.3 foot by 22 foot one-story garage, with less than the required right side yard setback, to a family room. There will be no change in the footprint.
2. Construction of a 14.8 foot by 22 foot second story addition above the proposed family room with less than the required right side yard setback. There will be no change in the footprint.
3. Construction of a 34.3 foot by 26.5 foot one-story attached garage with less than the required right side yard setback.

On March 12, 2001, 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 Donald Hollings, who said they would like to convert the existing two-car garage to a family room, add a fourth bedroom above the garage, and then add a one-story two-car garage behind the existing garage.

The Board said that the new garage is only .4 feet into the 20 foot side yard setback, and asked why it could not conform. Mr. Hollings said that he was trying to align the garage with the front of the house, which also encroaches .4 of a foot. The second floor over the garage has been set back 4.5 feet to measure 19.6 feet from the side line as well.

The Board asked if Mr. Hollings was the property owner and if this would be a "spec" house. Mr. Hollings replied that he owned the property, and may sell it at a later date.

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Maura Murphy, 52 Emerson Road, stated that she did not receive a legal notice as it had been sent to her mortgage bank, and requested that the Board continue the hearing so that she and her husband would have an opportunity to look at the plans. The Board suggested that she and Mr. Hollings confer on the plans outside of the hearing. The Board would not grant a continuance, which would set an unfortunate precedent, unless Mr. Hollings agreed. The two left the hearing. Mr. Hollings returned later and reported to the Board that he and Mrs. Murphy had come to an understanding which included additional landscaping between the two properties.

The Board stated it was still concerned with the .4 of a foot encroachment of the new garage, and decided to require that the new structure be set back a conforming 20 feet from the right side lot line. A new plot plan showing the revised setback would have to be submitted to the office of the Board of Appeals prior to the issuance of a building permit.

#### Statement of Facts

The subject property is located at 50 Emerson Road at the corner of Fiske Road, in a Single Residence District, on a 14,900 square foot lot, and has a minimum right side yard setback of 15.1 feet.

The petitioners are requesting a Special Permit/Finding that the change of use of the nonconforming 14.8 foot by 22 foot garage, with a minimum right side yard setback of 15.1 feet, to a family room; construction of a 14.8 foot by 22 foot second story addition, which a minimum right side yard setback of 19.6 feet; and construction of a one-story 34.3 foot by 22 foot garage, with a minimum right side yard setback of 19.6 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated March 5, 2001, drawn by George N. Giunta, Registered Land Surveyor; Existing and Proposed Floor Plans and Elevations dated 3/7/01, drawn by Donald Hollings; and photographs were submitted.

A Plot Plan dated March 5, 2001, revised March 30, 2001, drawn by George N. Giunta, Registered Land Surveyor, showing the proposed one-story garage set back 20.4 feet from the right side lot line, was submitted to the office of the Board of Appeals.

On March 20, 2001, the Planning Board reviewed the petition and had no comment on the petition.

#### 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 neither change of use of the nonconforming garage to a family room; the construction of a second story 14.8 foot by 22 foot addition or the construction of a conforming 34.3 foot by 26.5 foot garage with a 20 foot setback from the right side yard lot line shall be substantially more detrimental to the neighborhood than the existing nonconforming structure as the change of use and

2001-20

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DEC 13 A 8 08

the second story addition will not intensify the existing nonconformance, nor will they create new ZBA nonconformity as there will be no change in the footprint. The proposed garage, with a revised right side yard setback of 20.4 feet, conforms to all requirements of the Zoning Bylaw.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, to change the use of the nonconforming garage to a family room and to construct a 14.8 foot by 22 foot second story addition above the garage, according to the revised plot plan and submitted construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction for the garage alterations, the second story addition, and the conforming garage, 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  
edg

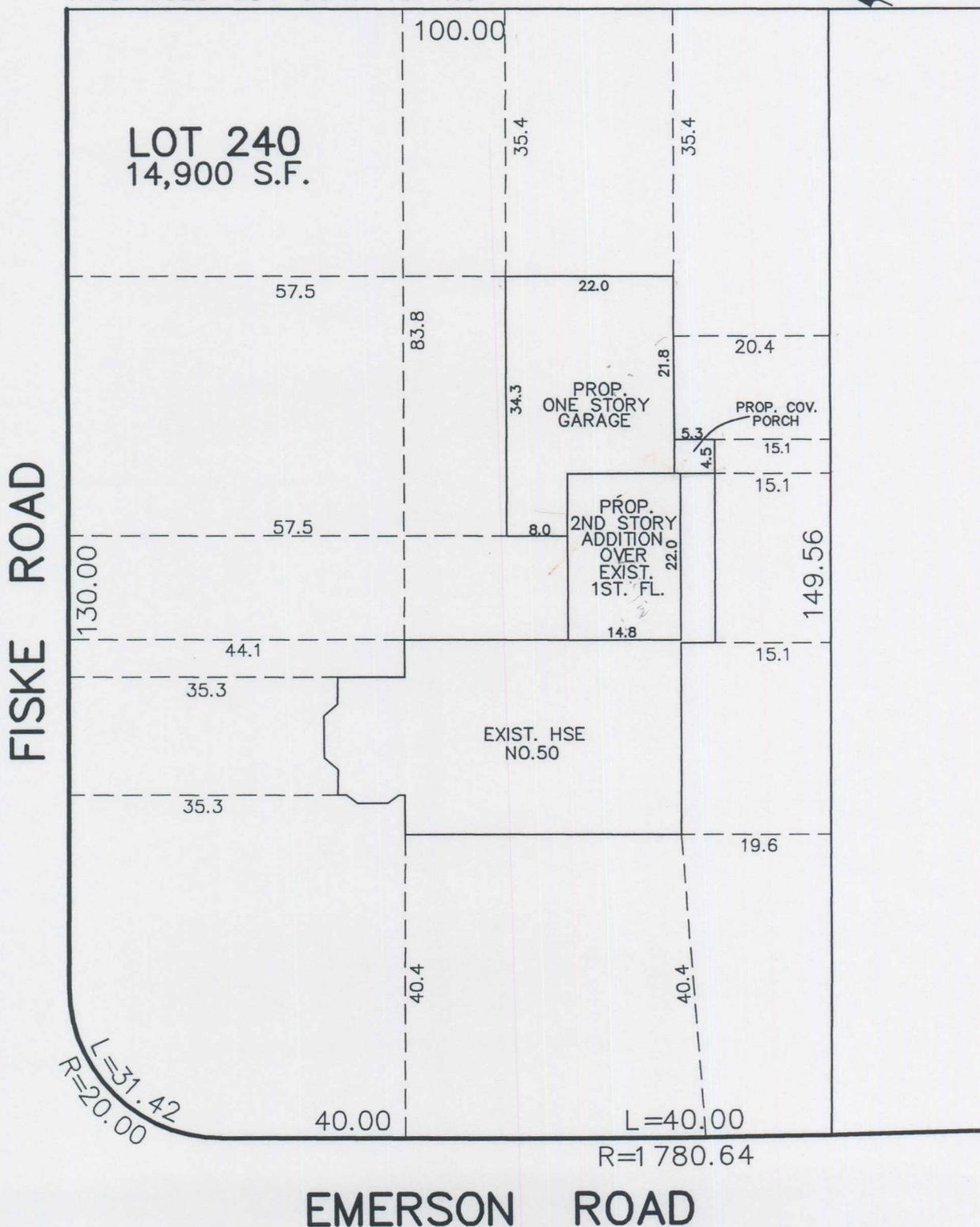
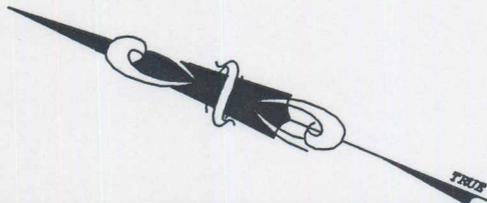
Kendall P. Bates  
Kendall P. Bates, Chairman

Cynthia S. Hibbard  
Cynthia S. Hibbard

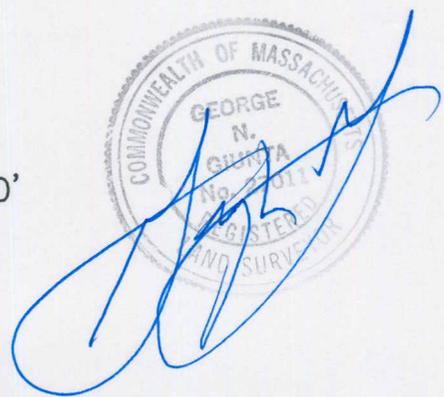
Robert W. Levy  
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2001 APR 13 A 9:35  
EXISTING LOT COV.=10.18%  
PROPOSED LOT COV.=13.41%



**PLOT PLAN OF LAND**  
**WELLESLEY-----MASS.**  
 MARCH 5, 2001 SCALE 1"=20'  
 REV. MARCH 30, 2001  
 NEEDHAM SURVEY ASSOCIATES, INC.  
 281 CHESTNUT ST.  
 NEEDHAM MA. 02492



OWNER- DON HOLLINGS