TOWN OF WELLESLEY MASSACHUSETTS

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ZONING BOARD OF APPEALS

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ZBA 2001-44
Petition of Peter L. Kelley and Karen G. Duggan
9 Upland Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, June 28, 2001 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 PETER L. KELLEY and KAREN G. DUGGAN requesting 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 3 foot by 11 foot 7 inch landing and a 3 foot 6 inch by 11 foot 7 inch stair which will have less than the required front setback at their nonconforming dwelling with less than the required front setback at 9 UPLAND ROAD, in a Single Residence District.

On July 11, 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.

Prior to the petitioner's presentation cf the case, Mr. Levy disclosed that Mr. Kelley was his daughter's soccer coach, and that he had served as assistant coach for the team.

Presenting the case at the hearing was Peter Kelley, who said their house presently has less than the required front setback. Their front stairs lead directly to the front door. They would like to repair these stairs, but the Building Inspector informed them that if the stairs were to be replaced, a landing should be built. They would like to add a three foot landing and new stairs which would come closer to the front line than the existing stairs.

The Board stated that there was no legal basis on which to grant a variance, However, the Board was of the opinion that the petition could be granted as a Special Permit. The Kelley's situation appeared to fall under Section XVII of the Zoning Bylaw that would allow the Board to make a finding that the construction of the landing would not be substantially more detrimental to the neighborhood than the existing nonconforming structure. If Mr. Kelley was in agreement, the Board would treat the petition as a request for a Special Permit/Finding rather than a variance. Mr. Kelley was in full agreement.

The Board noted that the Planning Board had no objection to granting the petition.

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Statement of Facts

The subject property is located at 9 Upland Road, in a Single Residence District, on a 17,720 square foot lot and has a minimum front setback of 20.5 feet.

The petitioners are requesting a Special Permit/Finding that the construction of a 3 foot by 11 foot 7 inch landing and a 3.5 foot by 11 foot 7 inch stair, which will have a minimum front setback of 14 feet from the last stair and 17.5 feet from the landing shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated May 22, 2001, drawn by John J. Caffrey, Registered Professional Land Surveyor; Front Elevation and Landing/Stair Detail dated May 31, 2001, drawn by Pamela Woodward, Registered Architect; and photographs were submitted.

On June 19, 2001, the Planning Board reviewed the petition and had no objections.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

As determined at the hearing, the Board decided to hear this petition as an expansion of a pre-existing nonconforming structure requiring a Special Permit/Finding pursuant to the provisions of Section XVII of the Zoning Bylaw rather than as a variance pursuant to the provisions of Section XIX of the Zoning Bylaw. Based on that decision, the Board made a finding that although the addition of the proposed landing and stair would intensify the existing nonconformance and create new nonconformance, it would not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as similar nonconforming landings were common in the neighborhood.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of the proposed landing and stair in accordance with the submitted plot plan and construction drawings.

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.

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9 Upland Road

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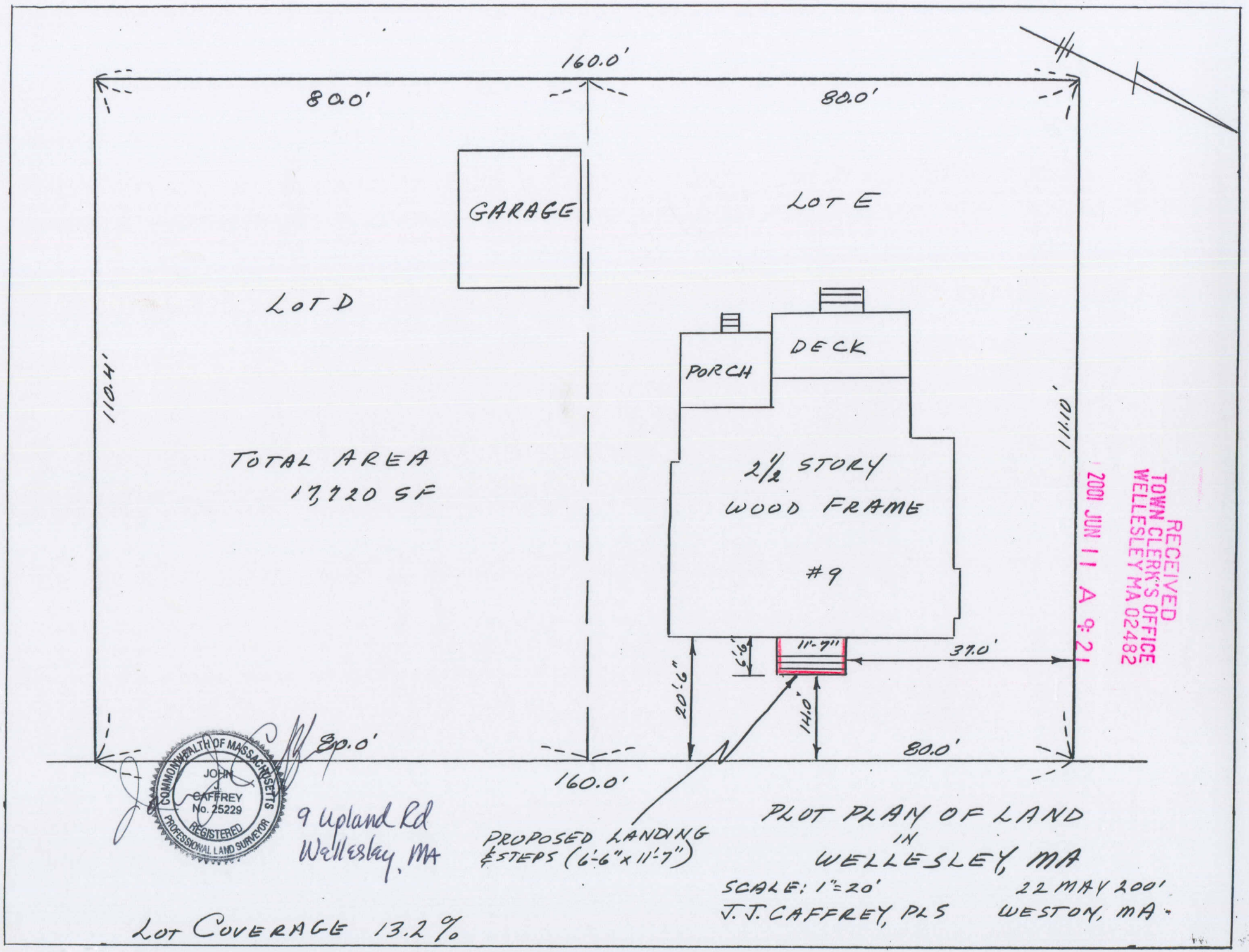
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Acting Chairman

Robert A. Bastille

Robert W. Levy

Cc: Planning Board
Inspector of Buildings
edg


160.0'
80.0'
80.0'
GARAGE
LOT E
LOT D
110.4'
111.0'
TOTAL AREA
17,720 SF
PORCH
DECK
2½ STORY
WOOD FRAME
#9
11'-7"
37.0'
20'-6"
14.0'
80.0'
80.0'
160.0'
PROPOSED LANDING
& STEPS (6'-6" x 11'-7")
9 Upland Rd
Wellesley, MA
COMMONWEALTH OF MASSACHUSETTS
JOHN J. CAFFREY
No. 25229
REGISTERED
PROFESSIONAL LAND SURVEYOR
PLOT PLAN OF LAND
IN
WELLESLEY, MA
SCALE: 1" = 20'
J.J. CAFFREY, PLS
22 MAY 2001
WESTON, MA.
LOT COVERAGE 13.2%
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