

TOWN OF WELLESLEY



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WELLESLEY MA 02482

ZONING BOARD OF APPEALS

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

2001 AUG -8 A 8:14

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ZBA 2001-54
Petition of Keith and Denise Yocum
45 Howe Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 26, 2001 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of KEITH AND DENISE YOCUM requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the enclosure and integration into the internal structure of a 5.1 foot by 16.6 foot portion of their existing nonconforming deck with less than the required front setback from HOWE STREET, at their nonconforming dwelling with less than the required front setbacks from HOWE and CURVE STREETS and less than the required rear setback, at 45 HOWE STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. There shall 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 is requested to construct a one-story 2.3 foot by 18.6 foot cantilevered kitchen expansion and a 7.9 foot by 8.9 foot deck, both of which would have less than the required rear yard setback.

On July 9, 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 Keith Yocum, who said their house was built in 1920, along with three other homes on Howe Street. Theirs is the largest house on the smallest lot. They would like to expand the kitchen by using a portion of the cement deck, and to push out the side of the house by cantilevering it out 2.3 feet on the left. The neighbors have no problems with the project.

The Board noticed that the Yocums have an eave which comes down over the first floor level. Mr. Yocum said the 2.3 foot expansion is measured from the foundation and not from the eave. The expansion would not extend much farther than the gambrel eave.

The Board explained that there are different standards for variances and special permits. The grant of a variance requires that the Board find there is a hardship due to shape of the lot, soil conditions and/or topography of the lot.

Mr. Yocum said that within the space of their very small lot, the house drops a full story from the front door to the back door. The house is situated right on the street. They would also like to increase their privacy with a deck at the rear. The deck would square off the house, and allow them to put in another door. There is no other way to exit the kitchen.

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The Board stated that the existing cement deck creates a great deal of mass on the property. The variance request would add more mass to an already massive cement structure.

The Board was concerned that the hardship standards required for granting a variance had not been established, and that there was a danger of setting a precedent. The Board stated that it would not be prohibited from granting a Special Permit by finding that although the deck and cantilevered area will intensify the existing nonconformance, they will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Yocum requested that the Board consider the request for the cantilevered expansion and the deck as a Special Permit rather than as a variance. The Board voted unanimously to do that.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located on the corner of Howe and Curve Streets, in a Single Residence District, on a 5,692 square foot lot, with a minimum front setback from Howe Street of 13.9 feet; a minimum front setback from Curve Street of 13.2 feet and a minimum rear yard setback 16.9 feet.

The petitioners are requesting a Special Permit/Finding that the following nonconforming projects shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Enclosure and integration of a 5.1 foot by 16.6 portion of an existing nonconforming deck with a minimum front setback of 13.8 feet from Howe Street.
2. Construction of a 2.3 foot by 18.6 foot cantilevered kitchen expansion with a minimum rear yard setback of 14.6 feet.
3. Construction of a 7.9 foot by 8.9 foot deck with a minimum rear yard setback of 16.4 feet.

A Plot Plan dated June 27, 2001, stamped by Bruce Bradford, Professional Land Surveyor; Floor Plans and Elevations (A1-4) dated 6/29/01, drawn by Joseph L. Polito, Registered Architect; and photographs were submitted.

On July 24, 2001, the Planning Board reviewed the project and had no objection to the granting of the petition.

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.

It is the finding of this Authority that the proposed enclosure of a portion of the existing nonconforming deck and integration of said portion into the internal structure of the dwelling shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as there will be no change in the footprint or the height which would either intensify the nonconformance or create new nonconformity.

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It is the finding of this Authority that the proposed 2.3 foot by 18.6 foot nonconforming cantilevered kitchen expansion and the proposed 7.9 foot by 8.9 foot deck will both intensify the existing nonconformance and create new nonconformity, but not to a degree that would be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the enclosure and incorporation of a portion of the existing deck; and construction of the cantilevered kitchen expansion and new deck in accordance with the submitted plot plan and construction drawings and subject to the following conditions:

1. No second story shall ever be built above the enclosed portion of the existing deck.
2. The new deck shall never be enclosed, nor shall a second story ever be built above it.

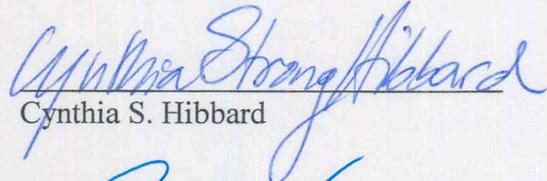
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

APPEALS FROM THIS DECISION,²
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.

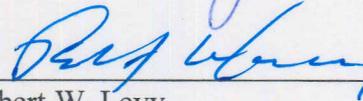
Cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Chairman



Cynthia S. Hibbard



Robert W. Levy

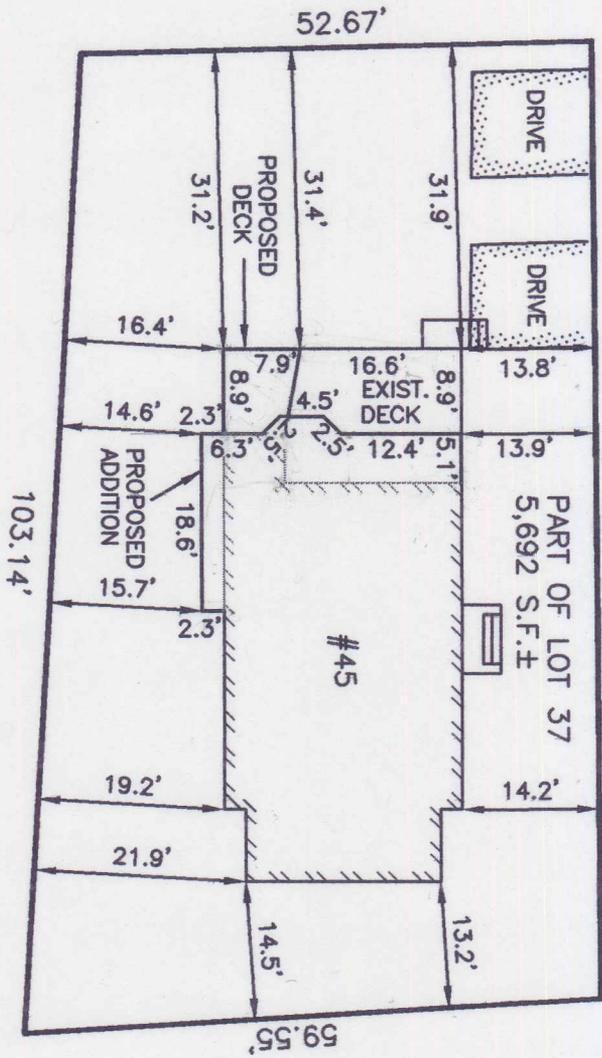
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HOWE STREET

100.42'



CURVE STREET

PLAN OF LAND IN
WELLESLEY, MA.

45 HOWE STREET
PROPOSED ADDITIONS

SCALE 1 IN. = 20 FT
JUNE 27, 2001

DEED REFERENCE:
BOOK 5883 PAGE 703

PLAN REFERENCE:
BOOK 9 PLAN 370

LOT COVERAGE 23.4% PRO.
22.7% EX



EVERETT M.
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49 LEXINGTON STREET
WEST NEWTON MA 02465
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