



## ZONING BOARD OF APPEALS

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

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ZBA 2001-57

Petition of Donald H. and Sybil F. Smith  
19 Elm Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 23, 2001 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, on the petition of DONALD H. AND SYBIL F. SMITH 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 left side yard setback, at 19 ELM STREET, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Demolition of existing 9 foot by 5.5 foot porch and construction of a one-story addition of the same dimensions with less than the required left side yard setback. There will be no change in the footprint.
2. Construction of a deck along the rear and right side of the dwelling of which the 27.96 foot by 10.83 foot rear portion has less than the required left side yard setback.

On August 6, 2001, the petitioners filed a request for a hearing before this Authority, and thereafter, due notice was given by mailing and publication.

Presenting the case at the hearing were Donald and Sybil Smith. Mr. Smith said that the project included replacement of an existing small back porch with a bathroom expansion and a rear hall. The steps will be removed.

Mrs. Smith said that they plan to wrap the proposed deck around the rear and right sides of the house and attach it to the existing porch at the right front corner of the house. They are also planning to extend the living room, which is conforming.

The Board noted that the Planning Board had no objection to the replacement of the porch, but recommended that the deck be reconfigured to meet the left side yard setback. The Board suggested that the deck be set in four feet or that a corner of the deck be removed.

Mr. Smith said that the steps to the deck will provide egress from the back hall. Without the deck, there would be no egress from the rear of the house. The existing steps will be removed and relocated. The view of the abutting neighbors, who support the petition, will be screened by the fence and the trees.

The Board commented that the deck would be less nonconforming than the existing house. It appeared that the Planning Board was more concerned that the deck never be built upon. The Board agreed to

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include a condition in the decision that the deck never be enclosed or built upon. The Smiths had no problem with this condition.

No other person present had any comment on the petition.

Statement of Facts

The subject dwelling is located at 19 Elm Street, in a Single Residence District, on a 21,387 square foot lot with a minimum left side yard clearance of 14.2 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of a 9 foot by 5.5 foot porch, with a minimum left side yard clearance of 15.3 feet and construction of a one-story addition with the same dimensions and setback, and construction of a deck along the rear and right side of the dwelling, of which the 27.96 foot by 10.83 foot rear portion has a minimum left side yard clearance of 15.8 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated July 25, 2001, drawn by Edward J. Farrell, Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated July 25, 2001, prepared by Larrabee Associates, Inc.; and photographs were submitted.

On August 21, 2001, the Planning Board reviewed the petition and had no objection of the construction of the one-story addition, but recommended that the deck be reconfigured to meet the left side yard setback requirement.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public 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 porch demolition and construction of a one-story addition with the same footprint and setback shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the nonconformity will not be intensified, nor will new nonconformity be created because there will be no change in the footprint.

It is the finding of this Authority that the proposed nonconforming portion of the deck extending across the rear of the dwelling will neither intensify the existing nonconformance, nor will it create new nonconformity, as it will be less nonconforming than the existing structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the demolition of the porch, construction of a one-story addition on the same footprint and construction of the wrap around deck of which the rear portion is nonconforming in accordance with the submitted plot plan and construction drawings, and subject to the condition that the nonconforming portion of the deck for which the Special Permit is granted, shall never be enclosed or built upon.

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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,  
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

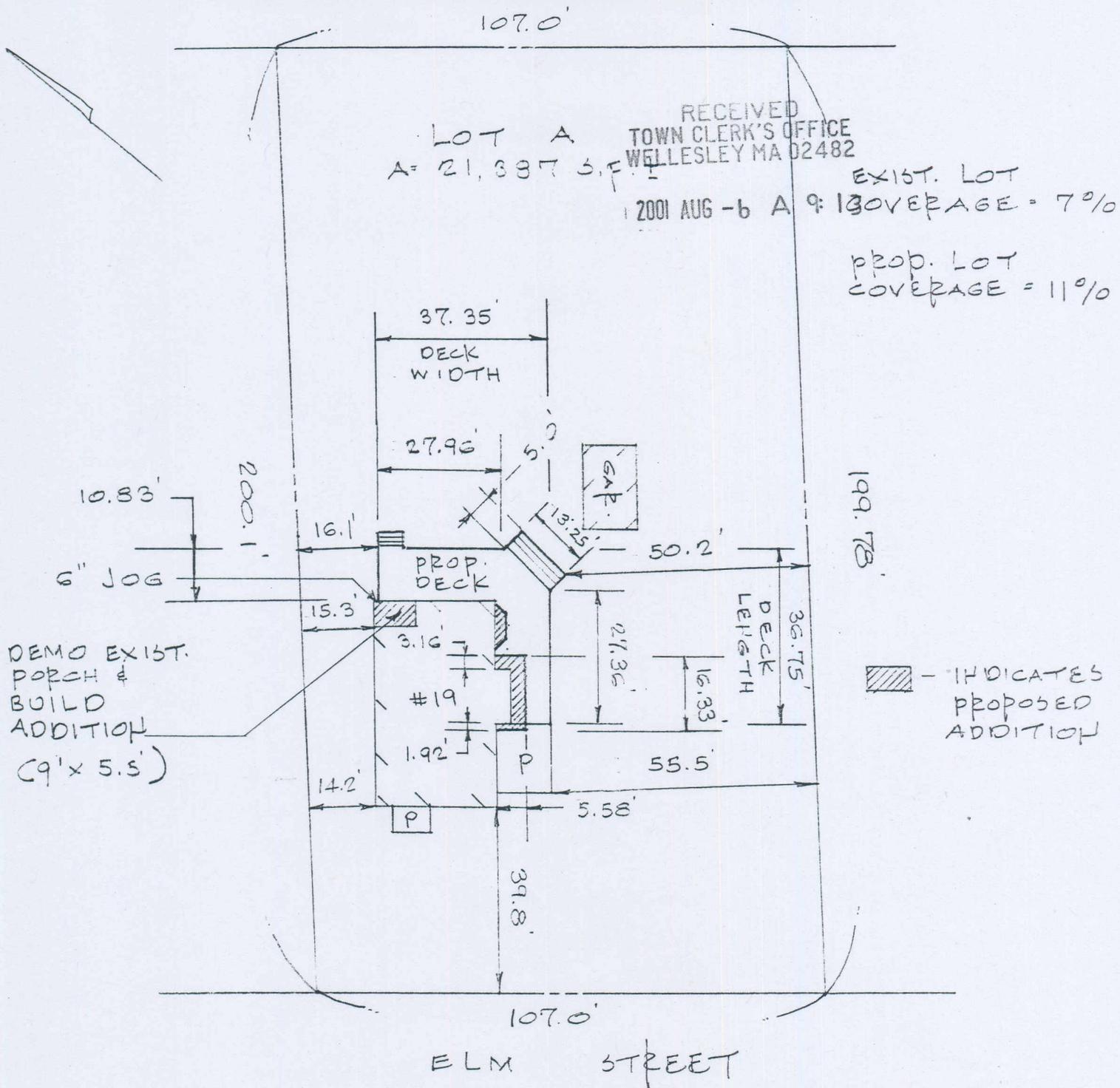
*Cynthia S. Hibbard*

Cynthia S. Hibbard

*Richard L. Seegel*

Richard L. Seegel

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2001 SEP -5 A 8:05



I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED FROM AN ACTUAL INSTRUMENT SURVEY.

*Edward J. Farrell*

COMMONWEALTH OF MASSACHUSETTS  
EDWARD J. FARRELL  
No 34613  
PROFESSIONAL  
LAND SURVEYOR

PLOT PLAN  
FOR  
PROPOSED ADDITIONS  
19 ELM STREET WELLESLEY, MA.  
SCALE: 1" = 30' JULY 25, 2001

PREPARED BY  
EDWARD J. FARRELL, P.L.S.  
110 WILKIN ST., SUITE 207, WOBURN, MA.  
(781) 933-9012  
PREPARED FOR  
DONALD & SYBIL SMITH  
19 ELM STREET WELLESLEY, MA.