

TOWN OF WELLESLEY



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WELLESLEY MA 02482

2001 SEP -5 A 8:07

ZONING BOARD OF APPEALS

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

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ZBA 2001-60

Petition of Maria Palasis and Andreas Harsch  
65 Martin Road

Pursuant to due notice, the Special Permit Granting Authority and the 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, Wellesley, on the petition of MARIA PALASIS and ANDREAS HARSCH 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 65 MARTIN ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. A two-story 16 foot by 14.5 foot addition with less than the required right side yard setback.
2. A second story 11 foot by 3.5 foot balcony with less than the required right side yard setback.

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 an 18.5 foot by 17.9 foot deck with 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 of the hearing was given by mailing and publication.

Presenting the case at the hearing were Maria Palasis and Andreas Harsch. Ms. Palasis said they proposed to add a two-story addition, which would be 16 feet by 14.5 feet to the right side of their house; a 4 foot by 13.9 foot conforming addition behind the kitchen; and an 18.9 foot by 17.9 foot deck behind the addition. They need space for their expanding family.

The Board noted that the Planning Board had no objection to the two-story addition or the balcony, but did object to the variance request for the deck, as there appeared to be no hardship due to shape, soil or topography.

Mr. Harsch said they would like to add stairs from the kitchen to step down to the deck. The Board stated it had a problem with the variance request. If 3 feet were removed from the deck and the stairs were relocated, they could still exit from the kitchen. The steps could extend from the rear rather than from the left side. The deck would then be conforming and a 25 square foot landing and stair could be added at the rear of the deck.

The Board suggested that the petitioners request to withdraw the variance request for the deck without prejudice, and submit a new plot plan showing the conforming deck and relocated landing and stair to the Building Inspector when applying for the building permit.

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The petitioners requested to withdraw the petition for the variance without prejudice. The Board voted unanimously to allow them to do so.

Gerald Sullivan, son of Eleanor Sullivan, 73 Martin Road, said that his mother had sent a letter to the Board objecting to the proposal for the deck as submitted. If the deck were to be conforming, there would be no objection.

#### Statement of Facts

The subject dwelling is located at 65 Martin Road, in a Single Residence District, on a 12,528 square foot lot, with a minimum right side yard setback of 11.7 feet.

The petitioners are requesting a Special Permit/Finding that the construction of a two-story 16 foot by 14.5 foot addition with a minimum right side yard setback of 12.2 feet and a second story 11 foot by 3.5 foot balcony with a minimum right side yard setback of 14.3 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The petitioners are also requesting a variance to construct an 18.5 foot by 17.9 foot deck with a minimum left side yard setback of 17 feet.

A Plot Plan dated July 31, 2001, drawn by Henry E. Thomas, Jr., Registered Professional Land Surveyor; Existing and Proposed Floor Plans and Elevations dated 7/30/01, drawn by David Hajan; and photographs were submitted.

On May 31, 2001, the Wetlands Protection Committee voted to issue an Order of Conditions (DEP 324-353) for the proposed project.

On August 21, 2001, the Planning Board reviewed the project and had no objection to the granting of the Special Permit for the two-story addition and the balcony. The Board did object to the granting of the variance request for the deck as there was no hardship owing to topography, soil condition or shape of the lot cited in the application.

#### 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 construction of the proposed two-story addition and second story balcony will not be substantially more detrimental to the neighborhood than the existing nonconforming structure as neither addition will intensify the existing nonconformance, nor will either addition create new nonconformity, as both additions are less nonconforming than the existing structure.

As the variance request for the deck was withdrawn by the petitioners at the Public Hearing, the Board makes no finding or decision in regard to this petition. However, if the petitioners propose to construct a deck with a conforming left side yard setback of 20 feet, a revised plot plan showing the new dimensions

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of the deck and the left side yard setback must be submitted to the office of the Board of Appeals and to the Inspector of Buildings prior to the issuance of a building permit for the conforming deck.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for construction of a two-story 16 foot by 14.5 foot addition and a second story 11 foot by 3.5 foot balcony in accordance with the submitted Plot Plan, construction drawings and conditions in the Order of Conditions (DEP 324-353) issued by the Wetlands Protection Committee on May 31, 2001.

The Inspector of Buildings is hereby authorized to issue a permit for construction of the two-story addition and the second story addition 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  
Wetlands Protection Committee  
Inspector of Buildings  
edg

Kendall P. Bates, Chairman

Cynthia S. Hibbard

Richard L. Seegel

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20769

63.94'

N/F PLOUFF

LOT 5  
12,528 ± SQ. FT.

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2001 AUG -6 A 9 19'

30' WIDE  
WATERSHED PROTECTION  
DISTRICT

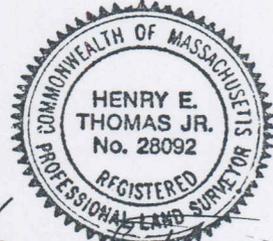
BOULDER BROOK

20' SEWER EASEMENT  
FROM TOWN ASSESSOR'S  
MAP

10' DRAINAGE  
EASEMENT

201.13'

201.15'



*Henry E. Thomas Jr.*  
7/31/01

LOT 6

N/F SULLIVAN

N/F HORAN

FLOOD ZONE  
(147' ELEVATION)  
PER TOWN OF WELLESLEY  
FLOOD STUDY MAPS

100' BUFFER  
FROM WETLANDS

PLOT PLAN OF LAND  
IN WELLESLEY, MASS.  
Prepared For:  
Ms. Maria Palasis

MARTIN ROAD  
(40' PUBLIC)

STEPS  
TO BE  
REMOVED

2 STY W/F  
HSE #65  
F.F. ELEV. = 152.8

ENTRY VESTIBULE

MARTIN ROAD

SCHOFIELD BROTHERS  
OF NEW ENGLAND, INC.  
ENGINEERING SURVEYING PLANNING

1071 WORCESTER ROAD  
FRAMINGHAM, MASS. 01701  
DATE: JULY 31, 2001 SCALE: 1"=20'  
TEL. # (508) 879-0030  
FAX # (508) 879-1797  
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