

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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

2003 JUL 23 A 8:22

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ZBA 2003-52

Petition of Anne and Robert Murray
39 Atwood Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 10, 2003 at 7:30 p.m. in the Great Hall of the Town Hall, 525 Washington Street, Wellesley, on the petition of ANNE AND ROBERT MURRAY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw to allow a 17 foot by 18.9 foot deck, with less than the required left side yard setback, to remain at their nonconforming dwelling with less than the required left and right side yard setbacks, at 39 ATWOOD STREET, in a 10,000 square foot Single Residence District. Said deck was built without a building permit and in violation of the Zoning Bylaw.

On June 23, 2003, 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 Anne Murray, who asked that they be allowed to keep their deck.

The Board asked how the size of the new deck compared with the old deck. Mrs. Murray said the old deck was actually a small landing that came off the left side of the house. The landing had rotted and had to be replaced. They wanted to add a deck. The deck does not go any farther toward the left side line than the original landing, but continues down the left side and across the back of the house. The abutters on the right side complained to the Building Inspector.

The Board noted that the Planning Board had no objection to granting the Special Permit. The Board had received letters in support of the petition from Ann Melanson, 41 Atwood Street, the right side abutter, and from Jane Walsh, 38 Atwood Street.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 39 Atwood Street, in a 10,000 square foot Single Residence District, on a 11,715 square foot lot, and has a minimum left side yard clearance of 10.6 feet.

The petitioners are requesting a Special Permit/Finding to allow an 18.9 foot by 17 foot "L" shaped deck, with a minimum left side yard clearance of 10.3 feet to remain as the deck would not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Said deck was built without a building permit and in violation of the Zoning Bylaw.

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A Plot Plan dated July 9, 2003, stamped by Frank Iebba, Professional Land Surveyor; Elevation drawings and photographs were submitted.

Letters in support of the petition were received from Ann Melanson, 41 Atwood Road, and Jane Walsh, 38 Atwood Road.

The Planning Board reviewed the petition and had no objection to the granting of the request.

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.

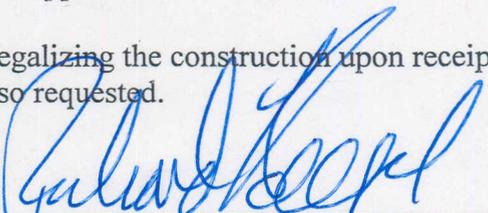
It is the finding of this Authority that the 17 foot by 18.9 foot deck shall be allowed to remain, for although this Authority does not condone construction without the issuance of a building permit, the deck shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it shall not increase the intensity of the nonconformance, and the additional encroachment of .3 feet is de minimus and can be allowed..

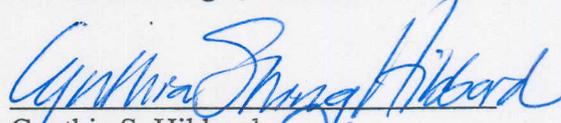
Therefore, a Special Permit is granted for the 17 foot by 18.9 foot deck, as voted unanimously by this Authority at the Public Hearing, subject to the condition that the petitioner apply for a building permit within 30 days after this decision has been recorded at the Norfolk Registry of Deeds, and a copy of the permit, once issued, shall be submitted to the office of the Board of Appeals.

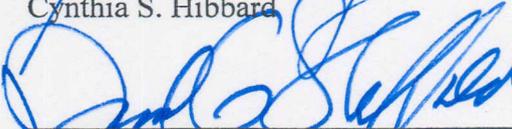
The Inspector of Buildings is hereby authorized to issue a permit legalizing the construction upon receipt and approval of a building application and any construction plans so requested.

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


Richard L. Seegel, Chairman


Cynthia S. Hibbard


David G. Sheffield

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PLOT PLAN OF
PROPOSED ADDITION
39 ATWOOD ST
WELLESLEY, MA.

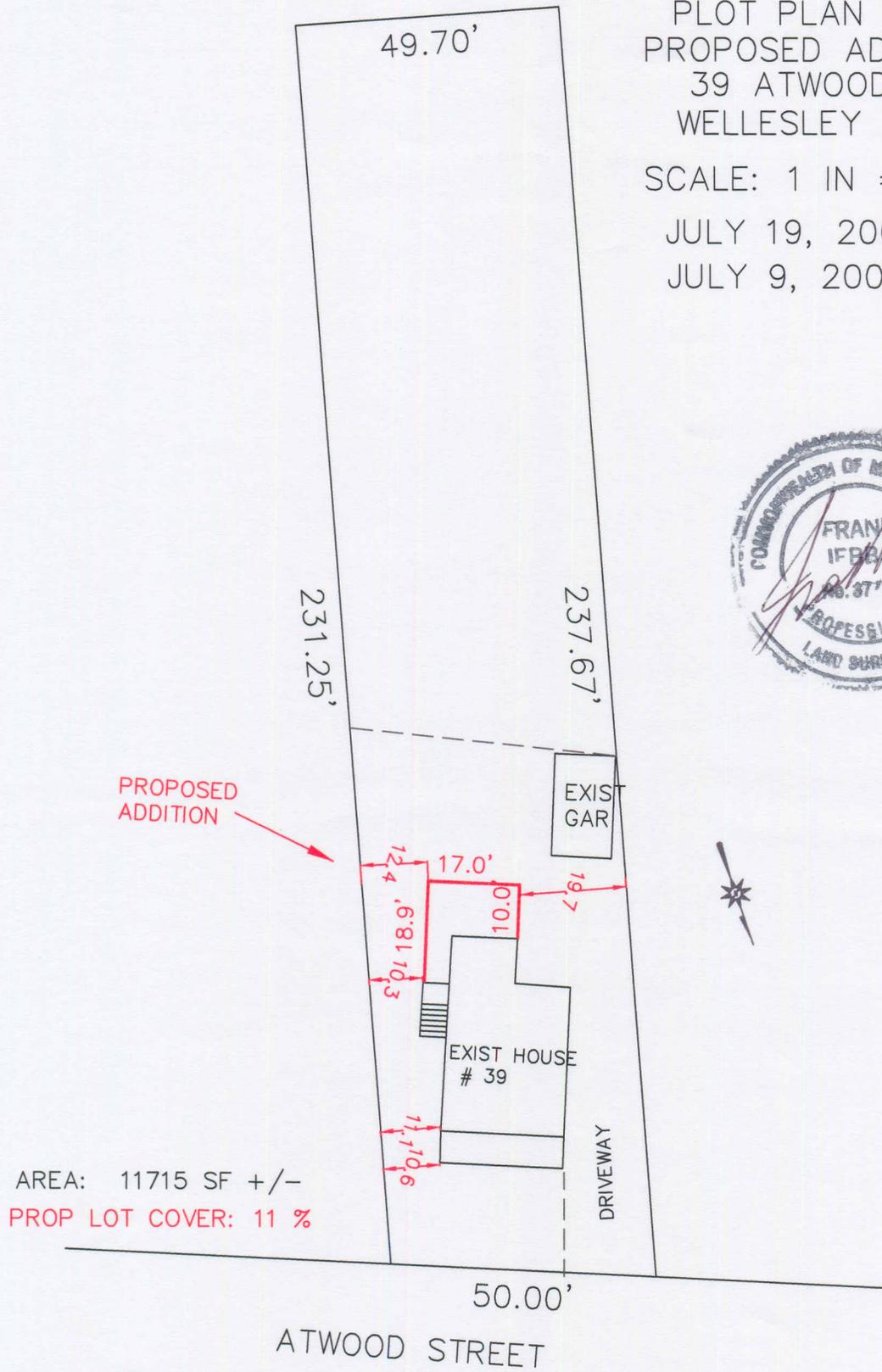
SCALE: 1 IN = 30 FT

JULY 19, 2001

JULY 9, 2003



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AREA: 11715 SF +/-
PROP LOT COVER: 11 %

ESSEX ENG & SURVEY
PO BOX 620622 NEWTON LOWER FALLS
MA. 02462-0622

617-965-3975
617-797-7342