TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2004-29
Petition of David P. and Jane P. Neilson
10 Belair Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 13, 2004 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of DAVID P. AND JANE P. NEILSON requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the construction of a two-story 20 foot by 24 foot addition with less than the required right side yard setback, at their nonconforming dwelling with less than the required right, front and left side yard setbacks, at 10 BELAIR ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On April 27, 2004, 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 David Neilson, who said they would like to add a family room on the first floor and a master bedroom on the second floor. They have shifted the addition to the right side of the house because, if the addition were centered on the back of the house, it would be too close to the driveway, and create difficulty entering the garage. His neighbor on the right side is about 30 feet away.

The Board noted that the Planning Board was opposed to the request, stating that the extension of the house on the right side at a distance of ten feet from the abutting lot presents an unreasonable imposition on that lot. The addition could be modified so that it is closer to the existing bulkhead at the rear of the house. It is estimated that a 15 foot setback on the right side could be created.

The Board was not certain that a 15 foot setback could be created, but was of the opinion that the addition could be inset at least 2 feet. It appeared that the current kitchen design was driving the location of the addition. Mr. Neilson agreed, and said the addition probably could be inset further.

The Board expressed concern about the trees along the right side property line, particularly a huge maple that would be in danger if the addition were sited 10 feet front the right side line. Mr. Neilson said construction equipment would enter from the left side.

The Board noted that the dimensions of the addition on the application were 20 feet by 24 feet, but on the plot plan and construction drawings, they were 20 feet by 22 feet. Mr. Neilson said the application dimensions were for the original addition. However, in order to meet the allowed percentage of lot coverage, they had to reduce the dimensions of the addition, as the bulkhead had not been included in the original lot coverage calculations.

The Board decided that the addition should be set back a minimum of 12.7 feet from the right side line, and that a revised plot plan showing the new setback be submitted to the office of the Board of Appeals prior to the issuance of any building permit.

Statement of Facts

The subject property is located at 10 Belair Road, in a 10,000 square foot Single Residence District, on a 7,500 square foot lot, and has a minimum left side yard clearance of 15.1 feet, a minimum front yard clearance of 23 feet, and a minimum right side yard clearance of 10.2 feet.

The petitioners are requesting a Special Permit/Finding that the construction of a 20 foot by 22 foot two-story addition with a minimum right side yard clearance of 10.7 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated April 9, 2004, stamped by James P. Troupes, Registered Professional Land Surveyor; Existing and Proposed Floor Plans and Elevation drawings dated April 1, 2004; and photographs were submitted.

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On May 11, 2004, the Planning Board reviewed the petition, and was opposed to the granting of the request for the reasons stated at the Public Hearing.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the Public Hearing. The existing 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 two-story 20 foot by 22 feet addition shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, if and only if the structure is set back a minimum of 12.7 feet from the right side lot line, as in that location, it shall not intensify the existing nonconformance, nor shall it create new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the construction of the 20 foot by 22 foot two-story addition under the following conditions:

1. Prior to the issuance of any building permit, a revised plot plan showing the addition to be sited a minimum of 12.7 feet from the right side lot line shall be submitted to the office of the Board of Appeals.
2. Should the relocation of said addition result in any revisions to the submitted floor plans and elevation drawings, revised floor plans and elevation drawings shall be submitted to the office of the Board of Appeals prior to the issuance of any building permit.

Subsequent to compliance with the aforesaid conditions, 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

Richard L. Seegel, Chairman

David G. Sheffield

J. Randolph Becker

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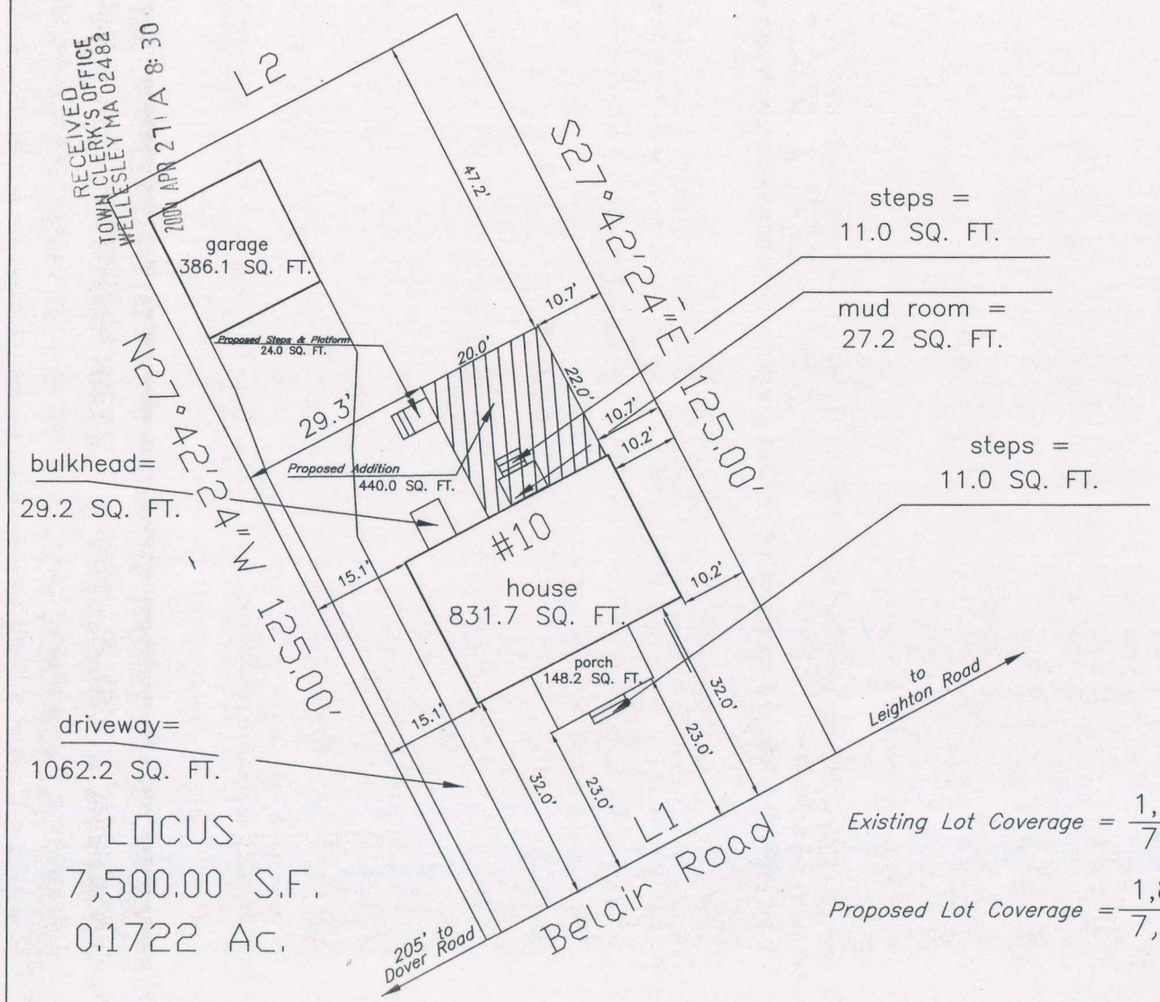
No.	Bearing	Distance
L1	S62°17'36"W	60.00'
L2	N62°17'36"E	60.00'



PROPOSED CONSTRUCTION
Certified Plot Plan
of Land in
Wellesley, MA
April 9, 2004
Scale: 1 inch = 20 Feet

0' 20' 40' 60'

prepared for:
record owners:

Ms. Jane P. Neilson
Mr. David R. Neilson
10 Belair Road
Wellesley, MA 02482

Book 19464 / Page 228
Plan in Book 597 / Page 502
Lot 3

prepared by:
Jim Troupes, R.L.S.
Post Office Box 9
Woodville, MA 01784
508-435-6592

James P. Troupes
Registered Professional Land Surveyor
#31323

Existing Lot Coverage = $\frac{1,444 \text{ SQ. FT.}}{7,500.00 \text{ S.F.}} = 19.3\%$

Proposed Lot Coverage = $\frac{1,870 \text{ SQ. FT.}}{7,500.00 \text{ S.F.}} = 24.9\ \%$