



## ZONING BOARD OF APPEALS

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

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 DAVID G. SHEFFIELD

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ROBERT W. LEVY  
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 DEREK B. REDGATE

ZBA 2013-40

LM  
 3 Petition of Tyler Battaglia

3 28 Whittier Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 6, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of TYLER B. BATTAGLIA requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that renovation of and construction of a one-story addition on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, at 38 WHITTIER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 20, 2013, the Petitioner 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 David Himmelberger, Esq. and Blake Battaglia, (the "Petitioner").

Mr. Himmelberger said that the request is for a Special Permit for renovation and addition to an existing two car garage. He said that the existing home is nonconforming due to less than require side yard setbacks for the home and the garage. He said that it is an undersized lot that is located in a Water Supply Protection District.

Mr. Himmelberger said that the request is to extend the rear of the garage eight feet. He said that there was an unfortunate incident a few months ago with a vehicle driving through the front of the garage and exiting at the rear. He said that the building needs significant reconstruction. He said that the Petitioner would like to add a small addition on the garage for storage. He said that the Battaglia's have lived there for 10 years and have two small children. He said that having storage for yard equipment and sporting goods would be helpful.

Mr. Himmelberger said that the garage is not parallel to the left lot line. He said that it was necessary to slightly angle the extension away from the lot line to preserve the setback. He said that no portion of the garage will be closer to the lot line than the existing garage. He said that there is a lot of vegetation on that side. He said that they do not believe that the slight angling of the garage will be perceptible to neighbors.

Mr. Himmelberger said that there will be a slight increase in lot coverage from 17.97 percent to 19.12 percent. He said that they believe that the proposed construction will result in a garage that is more

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RECORDS & COMMUNICATIONS  
 TOWN OF WELLESLEY, MA 02488

functional but is not substantially more detrimental to the neighborhood than the existing nonconforming structure.

The Board asked if the Petitioner had looked at putting the addition toward the inside of the lot where it could be built by right. Mr. Himmelberger said that it would be more functional to lengthen the garage. He said that putting the addition on the side would put it close to the patio. He said that the area behind the garage is less utilized.

The Board said that there is a lot of vegetation along the side lot line. The Board said that making the side of the addition straight would have a negligible effect on the neighbor. The Board questioned how they would get the roof on properly on the angled addition. Mr. Himmelberger said that it is more carpentry work to make the angle.

The Board asked if anyone had done the calculation for having a straight side to the garage. Mr. Battaglia said that it would encroach one foot into the setback.

The Board said that it would consider an encroachment of a couple of inches as di minimis. The Board said that a six foot side yard setback would be acceptable. The Board said that if the setback is changed, a new plot plan must be submitted.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 38 Whittier Road, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet. The existing nonconforming garage has a minimum left side yard setback of 6.1 feet.

The Petitioner is requesting a Special Permit/Finding that renovation of and construction of a one-story addition on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/23/13, revised 5/3/13, stamped by Elliott J. Paturzo, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevations Drawings, dated 5/14/13, prepared by John Chapman, Architect, and photographs were submitted.

On June 4, 2013, the Planning Board reviewed the petition and recommended that the Special Permit be granted.

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.

2013 JUN 20 PM 2:51  
MILLSLEY MA 02182  
Elliott J. Paturzo  
Professional Land Surveyor

It is the opinion of this Authority that although renovation of and construction of a one-story addition on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet is increasing a nonconformity, such increase shall not 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 renovation of and construction of a one-story addition on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, subject to the following condition:

- If the angle of the addition to the garage is straightened on the left side, a new plot plan shall be submitted that shows a side yard setback from the left rear corner of the addition to be no less than 6 feet.

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

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

2013 JUN 20 P 2:51  
INSPECTOR'S OFFICE  
WILLETSLEY MA 02482

ZBA 2013-40  
Petition of Tyler Battaglia  
38 Whittier Road

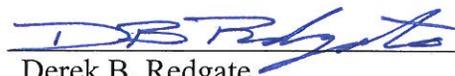
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2013 JUN 20 P 2:51  
TOWN CLERK'S OFFICE  
MILLSLEY MA 02482

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.

  
Richard L. Seegel, Chairman

  
J. Randolph Becker

  
Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm



## ZONING BOARD OF APPEALS

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2013  
 JUN 22 P 3:15  
 ROBERT W. LEVY  
 WALTER B. ADAMS  
 PEREK B. REDGATE

ZBA 2013-40 - Modified  
 Petition of Tyler Battaglia  
 38 Whittier Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 8, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of TYLER BATTAGLIA requesting modification of a Special Permit/Finding that was granted on June 20, 2013 pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw to permit an additional door to be added to the right side elevation and move the previously approved window to the center of the right side elevation on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, at 38 WHITTIER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 22, 2013, the Petitioner 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 Himmelberger, Esq., representing Tyler Battaglia, (the "Petitioner").

Mr. Himmelberger said that the matter was previously before the Board as a request for a Special Permit for extension of a pre-existing nonconforming garage. He said that, subsequent to the Board's granting of the Special Permit, the homeowner had some further thought about the treatment of the side elevation that faces the interior of the lot. He said that the homeowner would like to install a second door and place the window in the middle. He said that the approved plan had a single door and window. He said that the proposed change will not be substantially more detrimental than the existing nonconforming structure.

The Board said that it appears that the garage doors were also changed. Mr. Himmelberger said that the newly proposed garage doors appear to be more aesthetically pleasing.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 38 Whittier Road, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet. The existing nonconforming garage has a minimum left side yard setback of 6.1 feet.

The Petitioner is requesting modification of a Special Permit/Finding that was granted on June 20, 2013 pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw to permit an additional door to be added to the right side elevation and move the previously approved window to the center of the right side elevation on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 4/23/13, revised 5/3/13 & 6/28/13, stamped by Elliott Paturzo, Professional Land Surveyor, Approved Elevations Drawings, dated 6/25/13, and Revised Elevation Drawings, dated 7/10/13, prepared by John Chapman, Architect, and photographs were submitted.

On August 6, 2013, the Planning Board reviewed the petition and recommended that modification of the Special Permit be granted.

#### 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 opinion of this Authority that modification of a previously granted Special Permit that was granted on June 20, 2013, to permit an additional door to be added to the right side elevation and move the previously approved window to the center of the right side elevation on an existing nonconforming garage with less than required left side yard setbacks, on a 13,988 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for modification of a previously granted Special Permit that was granted on June 20, 2013, to permit an additional door to be added to the right side elevation and move the previously approved window to the center of the right side elevation, in accordance with the submitted plot plan and construction drawings.

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

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

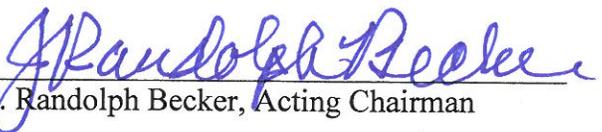
2013 AUG 22 P 3:15  
INSPECTOR'S OFFICE  
WILMINGTON MA 02482

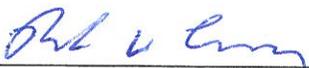
ZBA 2013-40 - Modified  
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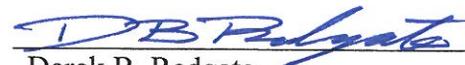
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2013 AUG 22 P 3:15  
TOWN CLERK'S OFFICE  
MILLSLEY MA 02482

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
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WITHIN 20 DAYS AFTER THE DATE  
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OFFICE OF THE TOWN CLERK.

  
J. Randolph Becker, Acting Chairman

  
Robert W. Levy

  
Derek B. Redgate

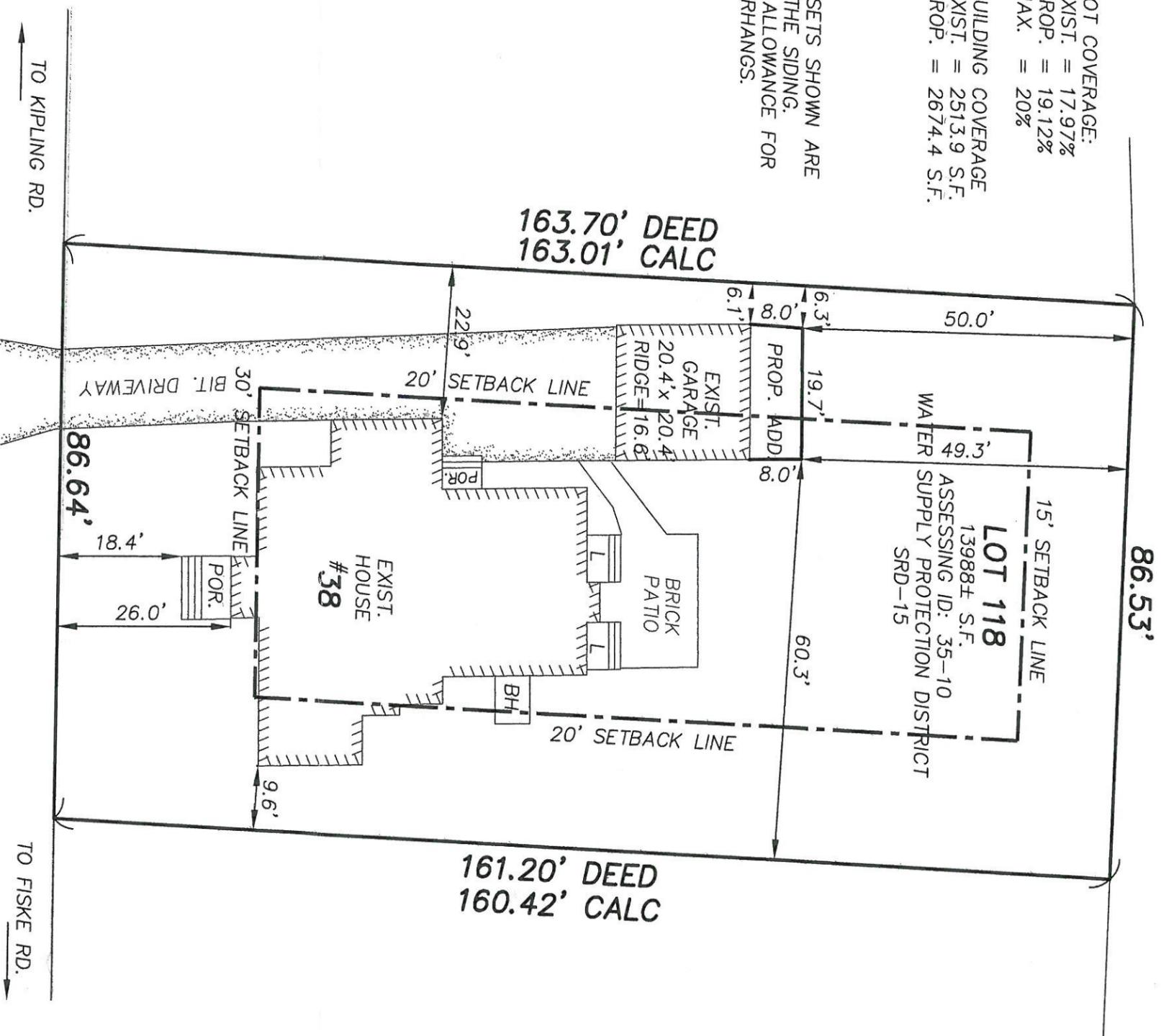
cc: Planning Board  
Inspector of Buildings  
lrm



LOT COVERAGE:  
EXIST. = 17.97%  
PROP. = 19.12%  
MAX. = 20%

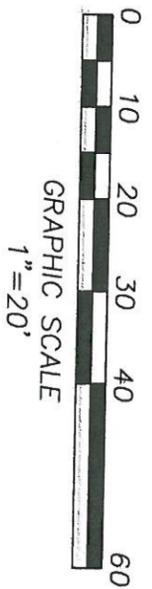
BUILDING COVERAGE  
EXIST. = 2513.9 S.F.  
PROP. = 2674.4 S.F.

OFFSETS SHOWN ARE  
TO THE SIDING.  
NO ALLOWANCE FOR  
OVERHANGS.



# WHITTIER ROAD

(PUBLIC - 40' WIDE)



I CERTIFY THAT THIS PLAN IS BASED ON  
AN ACTUAL FIELD SURVEY AND THE  
LATEST PLANS AND DEEDS OF RECORD.

DATE: 4/23/2013, REV. 5/3/2013

JOB #5870



## PROPOSED ADDITION PLAN

#38 WHITTIER ROAD  
WELLESLEY, MA  
AS PREPARED FOR  
BLAKE BATTAGLIA

**CHENEY**  
ENGINEERING CO., INC.

4 WALPOLE STREET  
DOVER, MA 02030  
OFF. 508-785-2100  
FAX 508-785-2140