



ZONING BOARD OF APPEALS

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

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ZBA 2013-43
 Petition of Rakesh & Jacqueline Samson-Jain
 14 Squirrel Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 11, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of RAKESH & JACQUELINE SAMSON-JAIN requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that installation of an air conditioning condenser with a rear yard setback of 13.80 feet, behind a structure that has existing air conditioning condensers with a rear yard setback of 12.70 feet, at 14 SQUIRREL ROAD, in a 15,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 24, 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 Jacqueline Samson-Jain (the "Petitioner"). Ms. Samson-Jain said that they are in the process of putting a dormer onto the home to create another room and a bathroom upstairs. She said that they hope to put in a new cooling system for which they will need to place a condenser at the back of the house. She said that the new condenser will be 13.8 feet from the rear property line. She said that the existing condensers will stay in place.

The Board said that one of the issues that is clearly identified in the bylaw with respect to putting things like condensers in the setback area is noise emissions. The Board said that nothing in the product data that was submitted related to noise emissions. Ms. Samson-Jain said that she could provide more data about the condenser from an online brochure.

Ms. Samson-Jain said that they have an unusual arrangement on their property in that the house is at the base of a ledge. She said that their nearest neighbor is at the top of the ledge. She said that they thought that having a condenser at the bottom of the ledge would be less intrusive than having a window unit higher up.

The Board discussed the Building Inspector's analysis of the Zoning Bylaw to treat a condenser as a structure. The Board said that the purpose of the bylaw is not so much the structure but the noise emanating from the structure. The Board said that putting in an additional condenser will result in more noise.

2013 JUL 25 P 2:40
 PLANNING DEPARTMENT
 WELLESLEY MA 02482

A Board member said that his initial reaction was that the condenser could be put in a compliant location. He said that when he looked at the backyard and the nearest adjacent house, he saw that putting the condenser in the side yard would be putting it closer to the adjacent house. He said that the retaining wall and hedge already provide a buffer.

Thomas Carey, Architect submitted data sheets (entered into the record) that showed the sound power level for the proposed condenser at 76 dBA.

The Board said that the two existing condensers are boxed in. The Board asked if the intent is to put any sound deadening materials around the proposed condenser. Ms. Samson-Jain said that the existing condensers were boxed in for aesthetic reasons.

The Board asked if the proposed condenser operates a higher, lower or average noise level. Mr. Carey said that the condenser will not be noisier than average. He said that the high retaining wall will block the sound.

The Board asked if the condenser will service a new zone. Mr. Carey said that they will be adding some space to the upper level. He said that the existing condensers cannot handle the addition.

The Board said that if the condenser is considered a structure, it could grant a Special Permit.

The Board said that placing the condenser in a compliant location would exacerbate the problem.

The Board asked when the existing condensers were put in. Ms. Samson-Jain said that the condensers were put in at the time the house was built in 1998. The Board said that those condensers predated the bylaw.

The Board said that adding a condenser will be an exacerbation because it will be creating more noise. The Board said that it could make a finding that it will not be substantially more detrimental to the neighborhood because the proposed location is better than having the condenser in a compliant location.

The Board discussed requiring the Applicant to determine the existing noise level and possibly requiring sound deadening material around the condenser so that it will not exceed the existing noise level. The Board said that Ms. Samson-Jain should take a sound meter reading of the existing two condensers while operating.

Ms. Samson-Jain said that the units are not usually operating at the same time. She said that the condensers will operate in three zones.

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 14 Squirrel Road, on a 9,998 square foot lot in a district in which the minimum lot size is 15,000 square feet, with a minimum rear yard setback of 12.70 feet.

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PLANNING DEPARTMENT
CITY OF BOSTON
OFFICE OF THE PLANNING COMMISSIONER
JACQUELINE SAMSON-JAIN
02482

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that installation of an air conditioning condenser with a rear yard setback of 13.80 feet, behind a structure that has existing air conditioning condensers with a rear yard setback of 12.70 feet, on a 9,998 square foot lot in a 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 5/22/13, stamped by Robert Bibbo, Professional Land Surveyor, Product Data Sheets for PA16NA, 16 SEER Split System Air Conditioner, and photographs were submitted.

On July 9, 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.

It is the opinion of this Authority that although installation of an air conditioning condenser with a rear yard setback of 13.80 feet, behind a structure that has existing air conditioning condensers with a rear yard setback of 12.70 feet, on a 9,998 square foot lot in a 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 installation of an air conditioning condenser with a rear yard setback of 13.80 feet, behind a structure that has existing air conditioning condensers with a rear yard setback of 12.70 feet, on a 9,998 square foot lot in a district in which the minimum lot size is 15,000 square feet, subject to the condition:

- The decibel level of the existing condition of two condensers shall not be increased by the addition of a third condenser.

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.

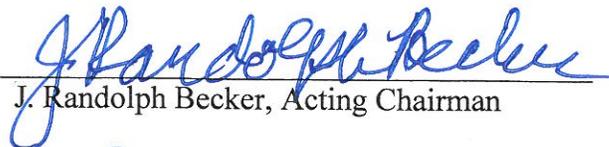
If installation of the unit has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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INSPECTOR'S OFFICE
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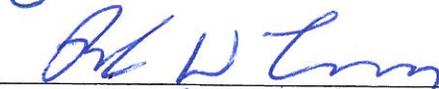
ZBA 2013-43
Petition of Rakesh & Jacqueline Samson-Jain
14 Squirrel Road

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TOWN CLERK'S OFFICE
WILLETSLEY MA 02482

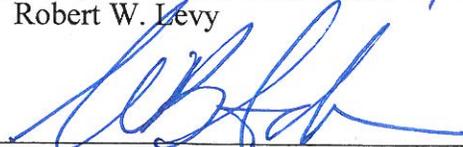
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



J. Randolph Becker, Acting Chairman

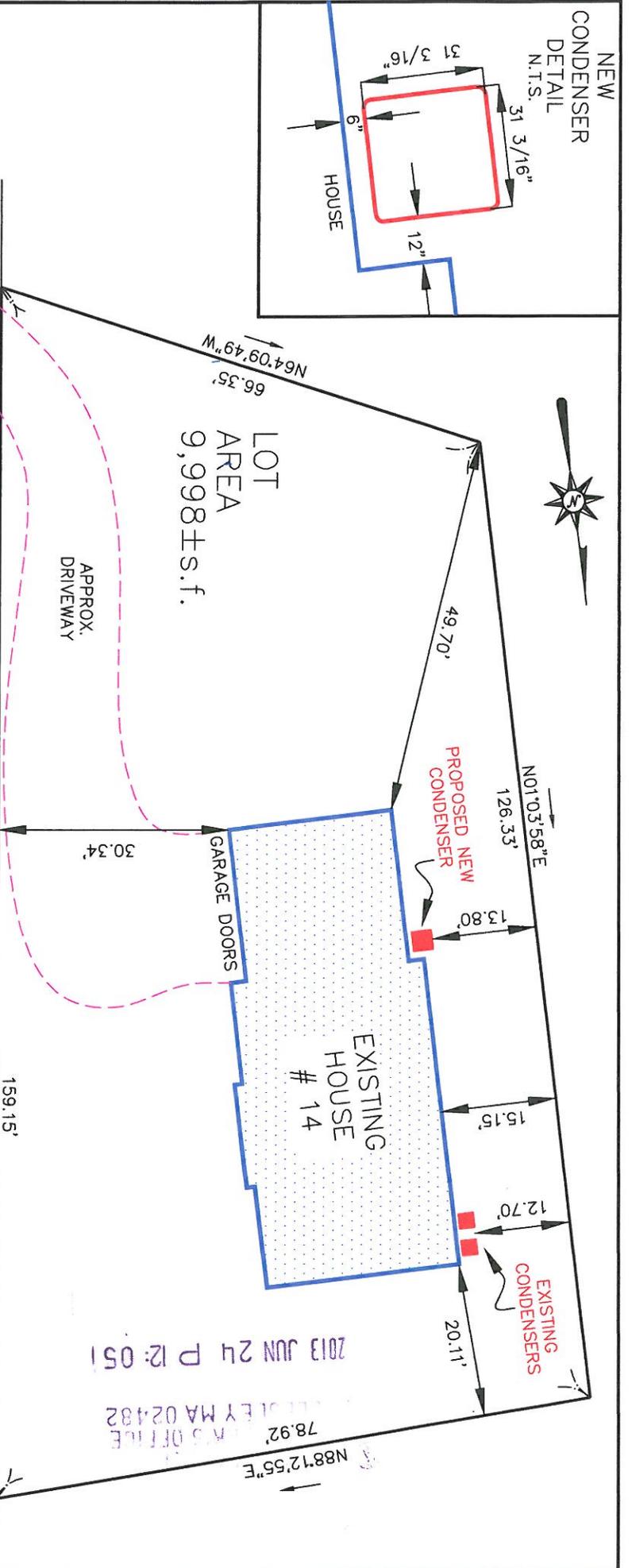
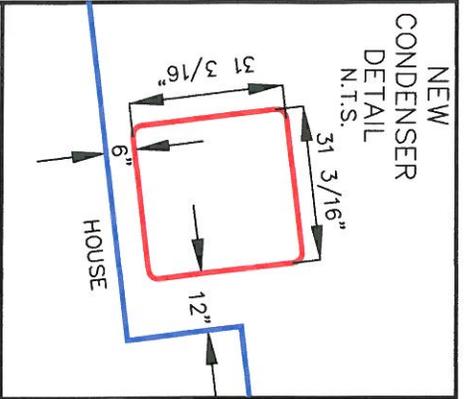


Robert W. Levy



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



DEED REF:
BOOK 25421 PAGE 46

PLAN REF:
BOOK 1494 PAGE 139

I HEREBY CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE LOCATION OF THE BUILDING DIMENSIONS AS SHOWN



PROPERTY LOCATED IN THE SRD 15 ZONING DISTRICT.

THE PROPERTY SHOWN ON THIS PLAN IS IN FLOOD ZONE "X", AREA ON MINIMAL FLOODING AS DESIGNATED BY THE FLOOD INSURANCE RATE MAP PANEL #25021C0009E 7/17/12.

EXISTING LOT COVERAGE:
HOUSE = 1,460±SF
2 CONDENSERS = 8±SF
TOTAL = 1,468±SF OR 14.6%

PROPOSED LOT COVERAGE
HOUSE = 1,460±SF
2 CONDENSERS = 8±SF
NEW CONDENSER = 7±SF
TOTAL = 1,475±SF OR 14.7%

**PLAN OF LAND ~ WELLESLEY, MA
SHOWING A NEW
AIR CONDENSER UNIT
14 SQUIRREL ROAD**

DATE: 5/22/13 SCALE: 1" = 20'

PREPARED BY:
**BIBBO BROTHERS AND ASSOCIATES
SURVEYING, ENGINEERING &
CONSTRUCTION CONSULTING**
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TEL: 781-891-0417 - bibbobrothers@comcast.net
RALPH BIBBO, JR., MANAGER, OWNER
ROBERT BIBBO, P.L.S., OWNER

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WELLESLEY MA 02482
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