



ZONING BOARD OF APPEALS

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ZBA 2013-81
Petition of Lee Carpenter
72 Dover Road

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TOWN'S OFFICE
WELLESLEY MA 02482

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 7, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of LEE CARPENTER requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a two-story addition with less than required left side yard setbacks, on an existing nonconforming structure with less than required left side yard setbacks, on an 8,233 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 72 DOVER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 21, 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 Lee Carpenter, (the "Petitioner"), 9 Lowell Road. Ms. Carpenter said that she purchased the property last December with the hope of restoring it to be the cottage that it had been. She said that the request is for a Special Permit for a modest two-story addition for a first floor bathroom and a second floor laundry.

Also present at the hearing were Stephen Conti, Contractor and Chonchi Chen, Architect.

Mr. Chen said that the proposed footprint for the addition will be 9 feet by 13.5 feet with approximately 121 square feet per floor. He said that there will be no basement, just a crawl space. He said that they will be adding a bathroom and a pantry on the first floor, and a full bath with a laundry on the second floor. He said that the addition will be at the back of the house and will not be visible from the street. He said that Ms. Carpenter intends to protect all of the trees and to landscape around the property.

Mr. Chen said that the addition will be lower than the existing house. He said that they will be renovating the existing house for energy efficiency and to bring it up to current code.

The Board said that its biggest concern is for the neighbor next door because these properties are very close together. The Board said that the neighbors have some concerns about losing privacy with the addition because it will be 5 feet closer to the side lot line. Ms. Carpenter said that the addition will not come closer to the side lot line. The Board said that the addition will bring more mass to the rear of the property. The Board said that the addition would affect the neighbors' privacy from the second floor to their patio.

The Board said that there are vents shown on the addition parallel to the lot line on the first floor and perpendicular to the lot line on the second floor. Mr. Chen said that they can change that to the back of the property. The Board said that anything that reduces directional noise is helpful.

Mr. Conti said that the existing air conditioning compressors are on the side of the house. He said that they can move them to the back.

Shari O'Leary, 68 Dover Road, said that her husband sent a letter to the Board.

The Board said that it understands the O'Leary's concern. The Board said that the proposed addition is modest and that moving the air conditioning condensers to a different location will help to reduce noise.

Ms. O'Leary said that she had not seen the new plans. She asked if the addition will line up with the existing house. The Board said that the addition will be indented one foot. Ms. O'Leary said that the house is 9 feet from the side lot line. She said that the side door is approximately 6 feet from the side lot line.

Ms. O'Leary said that they cannot use the front of their house in the summer because of the golf course. She said that they use their back yard. She asked if there was any way to move the addition to the other side toward the brook.

Ms. O'Leary said that setbacks in town have been put forth for a reason. The Board said that this house existed before those requirements were put into place.

Ms. O'Leary said that the proposal is to increase the nonconformity. The Board said that the addition will improve the setback by one foot. The Board said that the Petitioner has offered to move the existing air conditioning units to the rear of the house and away from 68 Dover Road.

Ms. O'Leary said that the houses are so close that they can hear what goes on inside and outside of the house next door.

Ms. O'Leary asked about modifying the setbacks. The Board said that the house is nonconforming. The Board said that the Petitioner could not build closer to 68 Dover Road. The Board said that the addition will be set back so that it cannot be seen from the street.

Mr. Conti said that an issue that they are dealing with is the trees. He said that there are 100 year old oaks that they are trying to save. He said that they worked extensively with the Wetlands Protection Committee (WPC) for all of the approvals. He said that they already have put in the required tanks for drainage. He said that even though the original proposal was for a larger addition, they will still put in the larger tanks. He said that they are trying to keep the character of the house and bring everything up to code, which is not easy in a 20 inch rock house. He said that noise will be reduced substantially with the new windows. He said that insulation will also reduce sound. He said that keeping the original charm of the house and the property is the goal.

Mr. Conti said that a maple tree at the front had substantial rot. He said that the plan had been to prune it back for retaining wall work but it was decided that it was not salvageable. He said that they will probably replace that.

Ms. Carpenter asked for clarification of the issue involving the window view and privacy for the patio at 68 Dover Road. She asked if it would be helpful to the neighbors at 68 Dover Road if there were no windows in the addition.

Mr. Chen said that the existing windows will stay. He said that they will not be enlarging them.

Ms. O'Leary said that it would be helpful if the addition was pushed away from her house. Ms. Carpenter said that they cannot do that because of the topography. The Board said that on the other side of the house is Fuller Brook. The Board said that there is State Law for a 100 foot buffer zone where there can be no construction without approval by the WPC. The Board said that the 100 foot buffer zone passes approximately through the middle of the house.

Ms. O'Leary said that the existing house goes up to a certain point on the Fuller Brook side. She asked why the new construction could not be moved closer to that edge of the house. The Board said that the WPC did not approve that.

The Board asked if Ms. O'Leary's concern is people looking down into their yard. Ms. O'Leary said that is part of their concern. She said that they are concerned about having the building right on top of them. She said that the people who lived in their house before them put trees up for privacy. She said that is still not enough of a barrier. The Board said that is a problem with most of the homes in Wellesley, particularly in that older area where there are undersized lots and nonconforming properties.

Ms. Carpenter asked if landscaping would help. Ms. O'Leary said that it has not helped in the past. Mr. Conti said that they could plant a vertical growing tree for more privacy.

Ms. O'Leary said that she was concerned about having the physical space so close to her lot line, a second story looking into her yard, and adding to the noise. She said that the plan is to add more to the side of the house.

Mr. Chen said that they can mitigate the noise somewhat by moving the air conditioning units. He said that the addition does not contain active spaces. He said that they can move the window from the bathroom on the second floor to the back.

Mr. Chen said that the existing houses are close. He said that the addition will be a little further away from the side lot line. He said that the wetlands limit the location of the addition. He said that the addition is very modest at 9 feet by 13.5 feet.

Ms. O'Leary said that the addition will be 10 feet from the lot line, which is extremely close. She said that the original house is 9 feet from the lot line.

The Board said that the provision of the Zoning Bylaw that this is proposed under tries to balance undersized lots and houses that are close to lot lines and neighbor concerns against the rights of the property owners to do something with their property.

The Board said that the next owner of 68 Dover Road may want to put an addition on the back of their house. Ms. O'Leary said that she believed that the prior owners did try for relief for an addition at the back and were denied. She said that the addition at the back that they do have is 15 feet from the lot line. She said that the second story addition is 20 feet from the lot line.

The Board asked if it would be possible to reduce the size of the pantry by moving the wall closest to the neighbor in an additional foot so that it will be 11 feet away from the lot line. Ms. Carpenter said that she would need to consult with her architect to see if that is possible.

Mr. Conti said that it is tight as is for useable space to make it work for bathrooms, hallways and accessibility. He said that the addition was located there because it will be the least detrimental for the property. He said that there is an existing back porch and bulkhead. He said that there are a lot of existing trees. He said that the stone is 18 to 20 inches. He said that he could possibly bring that wall into the interior wall plane. He said that it is not easy to move the stone. He said that it is a balancing act. He said that they want to put something there that will hold.

The Board said that it might be a reasonable compromise to eliminate the windows in the addition facing 68 Dover Road and move the vents out to the back.

Ms. O'Leary said that she would like to have her husband weigh in on the compromise.

The Board said that the neighbors should speak with each other about the plans.

The Board voted unanimously to continue the petition to December 5, 2013.

December 5, 2013

Presenting the case at the hearing were Lee Carpenter, (the "Petitioner") and Lynn Osborn, Architect.

Ms. Carpenter said that the plans were revised to make the proposed addition friendlier to the neighbor at 68 Dover Road.

Ms. Osborn said that they removed a window on the second floor of the small addition that will face the neighbors at 68 Dover Road. She said that there is a window below that they made more narrow because they wanted to keep a window on that side. She said that there were some vents that were shown as coming out on the side. She said that they can put any vents toward the rear instead. She said that there is an existing air conditioning condenser that will probably have to be replaced. She said that it will be relocated around the other side.

The Board said that the plan shows two condensers, both of which will be located at the rear of house. Ms. Osborn said that the new system will have two zones. She said that both units will be located at the rear of the house.

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TOWN OF DOVER
PLANNING & ZONING OFFICE
DOVER MA 02482

Ms. Osborn said that a previous plan was for a one story addition. She said that the house is so small and they needed room to get a bathroom on the first floor. She said that when they looked at putting in a staircase that would meet code, the second floor bedroom was so small. She said that the walk in closet that is shown on the plans used to be a bathroom. She said that the dimensional size of the stairs crept into that space. She said that the only practical way to get a closet for that bedroom as well as a bath and laundry was to do a two story addition. She said that the original plan for an addition was larger and would have triggered a lot of work to the front of the house and retaining walls. She said that Ms. Carpenter chose to stay with the concept of a small stone house.

The Board confirmed that all of the changes including the second floor were reviewed with the neighbors.

Ms. Osborn said that use of this addition will not impact the neighbor or disturb the peace of the neighborhood in any way.

The Board said that the changes that were made reasonably reflect the comments that the Board made at the previous hearing.

Kevin O'Leary, 68 Dover Road, said that he is a direct abutter to the Petitioner. He said that he had some concerns with plans that were approved in the 1980's. He said that the Petitioner has made modifications to the plans that are satisfactory to his family. He said that the changes were tasteful and considerate of the neighbors. He said that he is supportive of the proposed plans.

Statement of Facts

The subject property is located at 72 Dover Road, on an 8,233 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum left side yard setback of 6.2 feet for the dwelling and a minimum front yard setback of 23.7 feet for the garage.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a two-story addition with less than required left side yard setbacks, on an existing nonconforming structure with less than required left side yard setbacks, on an 8,233 square foot lot in a district in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 8/19/13, stamped by Bruce Bradford, Professional Land Surveyor, Floor Plans, dated 10/10/13, Elevation Drawings, dated 9/11/13, revised 12/2/13, prepared by Osborn Studio +, and photographs were submitted.

On October 31, 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 construction of a two-story addition with less than required left side yard setbacks, on an existing nonconforming structure with less than required left side yard setbacks, on an 8,233 square foot lot in a district in which the minimum lot size is 10,000 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 construction of a two-story addition with less than required left side yard setbacks, on an existing nonconforming structure with less than required left side yard setbacks, on an 8,233 square foot lot in a district in which the minimum lot size is 10,000 square feet, in accordance with the revised plans of December 2, 2013.

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.

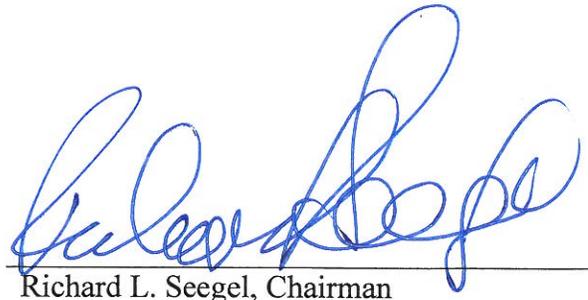
If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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INSPECTOR'S OFFICE
150 STATE STREET
SOMERSET MA 02482

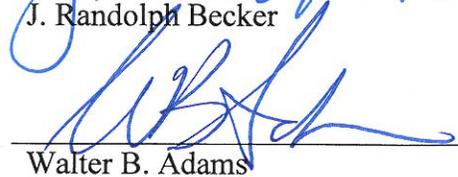
ZBA 2013-81
Petition of Lee Carpenter
72 Dover Road

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TOWN CLERK'S OFFICE
WILMINGTON MA 02482

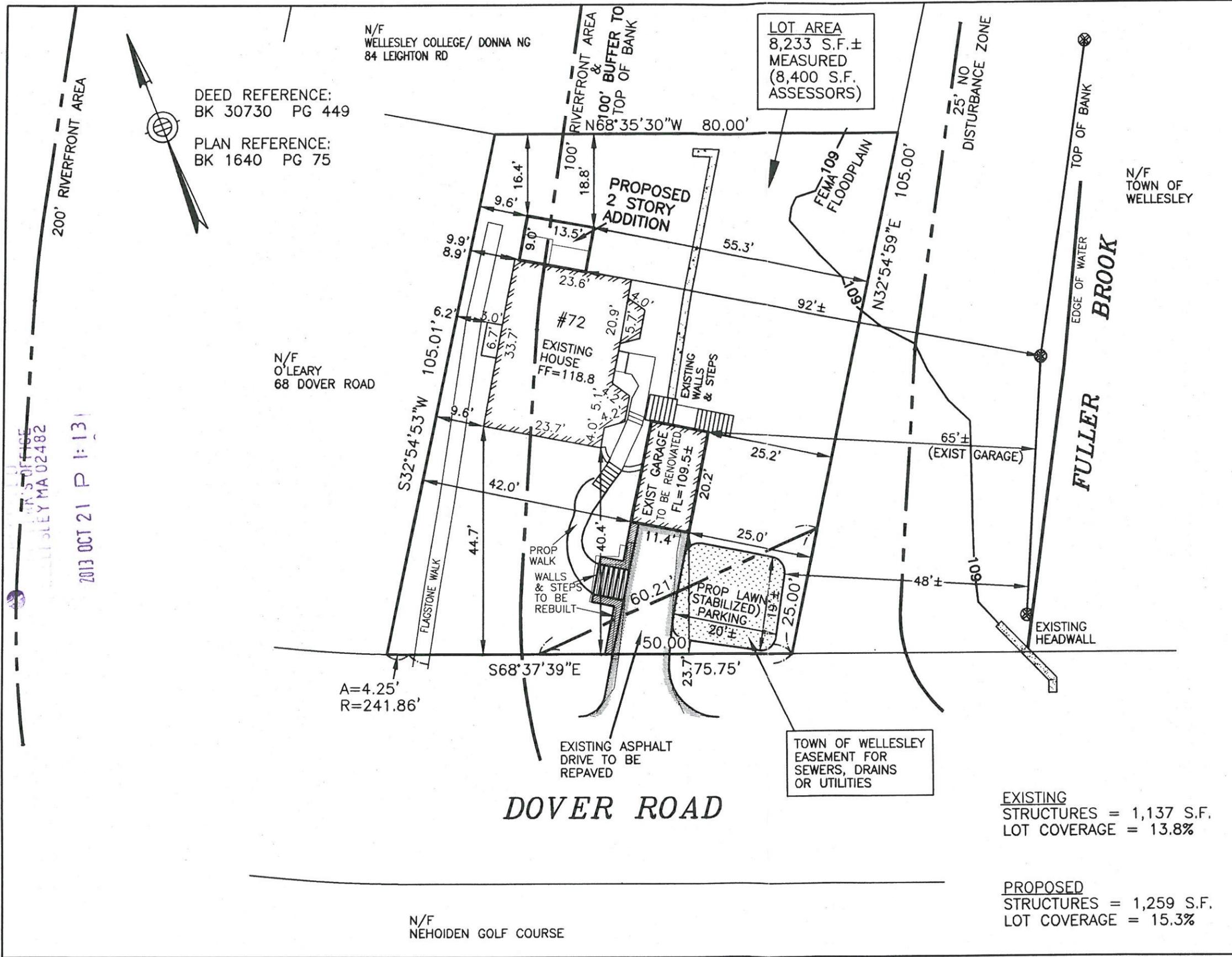
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


Richard L. Seegel, Chairman


J. Randolph Becker


Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



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PLAN OF LAND IN WELLESLEY, MA

72 DOVER ROAD
PROPOSED ADDITIONS

PREPARED FOR:
ALMA CARPENTER
72 DOVER ROAD
WELLESLEY, MA

SCALE: 1 IN. = 20 FT.
DATE: AUGUST 19, 2013
DRAWN: ES
CHECK: BB

REVISIONS:

9/17/13	REVISED ADDITION	ES
10/15/13	VARIOUS REVISIONS	ES

PROJECT NO. 24123