



ZONING BOARD OF APPEALS

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

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ZBA 2014-01
 Petition of Peter Genta
 13 Clovelly Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 9, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PETER GENTA requesting modification of a Variance and a Special Permit/Finding pursuant to the provisions of Section XVII, Section XIX, Section XXIV-D and Section XXV of the Zoning Bylaw that enclosure of a one-story porch and construction of a second story over the enclosed porch, demolition and reconstruction of an existing second floor addition that will meet all setback requirements, demolition of an existing deck and stairs with less than required side yard setbacks, and construction of a new deck and stairs with less than required side yard setbacks, on an existing nonconforming structure with less than required front yard and side yard setbacks, on a corner lot at 13 CLOVELLY ROAD, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The existing lot coverage is 29 percent and the proposed lot coverage will be 26 percent.

On December 23, 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 Christopher Hall, Architect, representing Karen and Peter Genta, (the "Petitioner").

Mr. Hall said that the request is for approval for a pre-existing nonconforming structure. He said that in 1984 a Special Permit was granted for a two-story addition that connected a two-story wood frame structure that was built in 1913 and a four-car garage. He said that, at same hearing, the Petitioners sought a Variance for an 18 foot by 20 foot deck that did not meet side yard setbacks. He said that the current request is for permission to renovate the two-story addition that was built in 1984 and remove the existing 10 foot by 30 foot deck and replace it with an 11 foot by 10 foot landing and deck down to a staircase. He said that the homeowners would like to have a small play area behind the house.

Mr. Hall said that the actual renovation will include a kitchen and a family room on the first floor between the two structures, and a master bedroom, master bathroom and small laundry room on the second floor.

Mr. Hall said that lot coverage will be reduced by three percent if the deck is allowed to be replaced.

TOWN OF WELLESLEY
 ZONING BOARD OF APPEALS
 525 WASHINGTON STREET
 WELLESLEY, MA 02482
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The Board said that there is a little bit of enlargement creep going on. The Board said that there has been a series of modifications that have taken place. The Board said that the request in 1984 was for a rec room which will now become closets or storage. Mr. Hall said that the rec room has a 6 foot 7 inch height at the ridge. He said that the space over the garage is not really useable. He said that the homeowners love the garage and the garage doors. He said that a mudroom will be created at one of the bays. He said that the house has signature wood doors that date back to the beginning of the construction. He said that the plan is to camouflage the mudroom door so that the structure remains the same. He said that the Genta's have three growing children and they are trying to make the house more workable by expanding it a little bit.

The Board asked how far the neighbors, the Broderick's, house is from the property line. Mr. Hall said that it is over 20 feet. He said that there is a driveway on that side. He said that it is probably 30 feet to the garage. The Board confirmed that there is a garage on that side of the Broderick's house.

The Board said that the Petitioner is seeking two different reliefs, each with different standards. The Board said that the request is for a Special Permit for the nonconforming structure where the Board is required to identify the nonconformity and then making a finding of whether it will be more detrimental to the neighborhood than the existing structure. The Board said that is typical relief that the Board grants. The Board said that the Variance is more problematic. The Board said that Wellesley is fairly stingy in granting Variances. The Board said that the legal standard is significantly different than a Special Permit/Finding under Section 6. The Board asked Mr. Hall to address the standards that would allow the Board to grant the requested relief.

The Board said that it appreciated that the plan is to create more green space by taking down the existing deck and replacing it with a substantially smaller deck. The Board said that the proposed deck will not encroach further into the rear setback than the existing deck. Mr. Hall said that the idea is that there is a very large deck that the Genta's would like to make smaller. He said that the proposed deck is not in the same location as the existing deck because it does not work well with the topography and with the plan for access to the back yard. He said that it is a corner lot and there is very little private land for the family to use without being wide open to the public. He said that the pre-existing shape of the house, the corner lot and the topography lend itself to a situation where the Board could find it to be an acceptable Variance. He said that the neighbors will be looking at less structure. He said that the deck will be farther away from the current setback.

The Board said that the previous Board in 1984 granted the Variance and it was not appealed. The Board said that the current Board would probably not have granted the Variance. The Board said that it is mindful of the fact that the project will be making the house more conforming.

The Board said that the request is for a modification of a Variance. The Board said that it can rely on the previous Board's findings. The Board said that the impact from the previous deck will be reduced.

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

Statement of Facts

The subject property is located on a corner lot at 13 Clovelly Road, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 25.1 feet and minimum side yard setbacks of 2.9 feet and 10.1 feet. The existing lot coverage is 29 percent.

The Petitioner is requesting modification of a Variance and a Special Permit/Finding pursuant to the provisions of Section XVII, Section XIX, Section XXIV-D and Section XXV of the Zoning Bylaw that enclosure of a one-story porch and construction of a second story over the enclosed porch, demolition and reconstruction of an existing second floor addition that will meet all setback requirements, demolition of an existing deck and stairs with less than required side yard setbacks, and construction of a new deck and stairs with less than required side yard setbacks, on an existing nonconforming structure with less than required front yard and side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed lot coverage will be 26 percent.

A Plot Plan dated 11/22/13, stamped by Wesley Guillaume, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 11/25/13, prepared by Christopher Hall, Architect, and photographs were submitted.

On January 7, 2014, the Planning Board reviewed the petition and recommended, 4 in favor and 1 against, that the Special Permit be granted and that a new Variance 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, to the extent this Special Permit is modifying a Variance that it will be deemed a modification of the existing Variance, granted on March 13, 1984 and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw.

The Board is of the opinion that granting modification of a previously granted Variance, ZBA 84-11, to allow the previously approved deck to be removed and replaced with a substantially smaller deck that provides required egress from the building will significantly reduce the impact to the neighboring properties. The narrow lot configuration and it being a corner lot with greater setback requirements provides uniqueness. It was determined by a previous Board in 1984 that a hardship existed.

It is the opinion of this Authority that although enclosure of a one-story porch and construction of a second story over the enclosed porch, demolition and reconstruction of an existing second floor addition that will meet all setback requirements, demolition of an existing deck and stairs with less than required side yard setbacks, and construction of a new deck and stairs with less than required side yard setbacks is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it will not add substantial bulk to the building.

Therefore, modification of the Variance, ZBA 84-11, and a Special Permit are granted, as voted unanimously by this Authority at the Public Hearing, for enclosure of a one-story porch and construction of a second story over the enclosed porch, demolition and reconstruction of an existing second floor addition that will meet all setback requirements, demolition of an existing deck and stairs with less than required side yard setbacks, and construction of a new deck and stairs with less than required side yard setbacks, subject to the condition:

- The original deck shall be demolished.

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.

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

2014 JAN 23 P 2:48
INSPECTOR'S OFFICE
13 CLOVELLY ROAD 02482

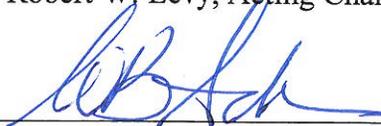
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TOWN CLERK'S OFFICE
MILLISLEY MA 02482

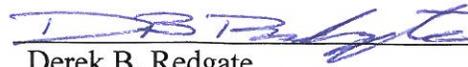
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



Robert W. Levy, Acting Chairman



Walter B. Adams



Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

APPROX. LIMITS OF 100' WETLAND BUFFER LINE AS SCALED FROM THE TOWN OF WELLESLEY WETLANDS MAP.

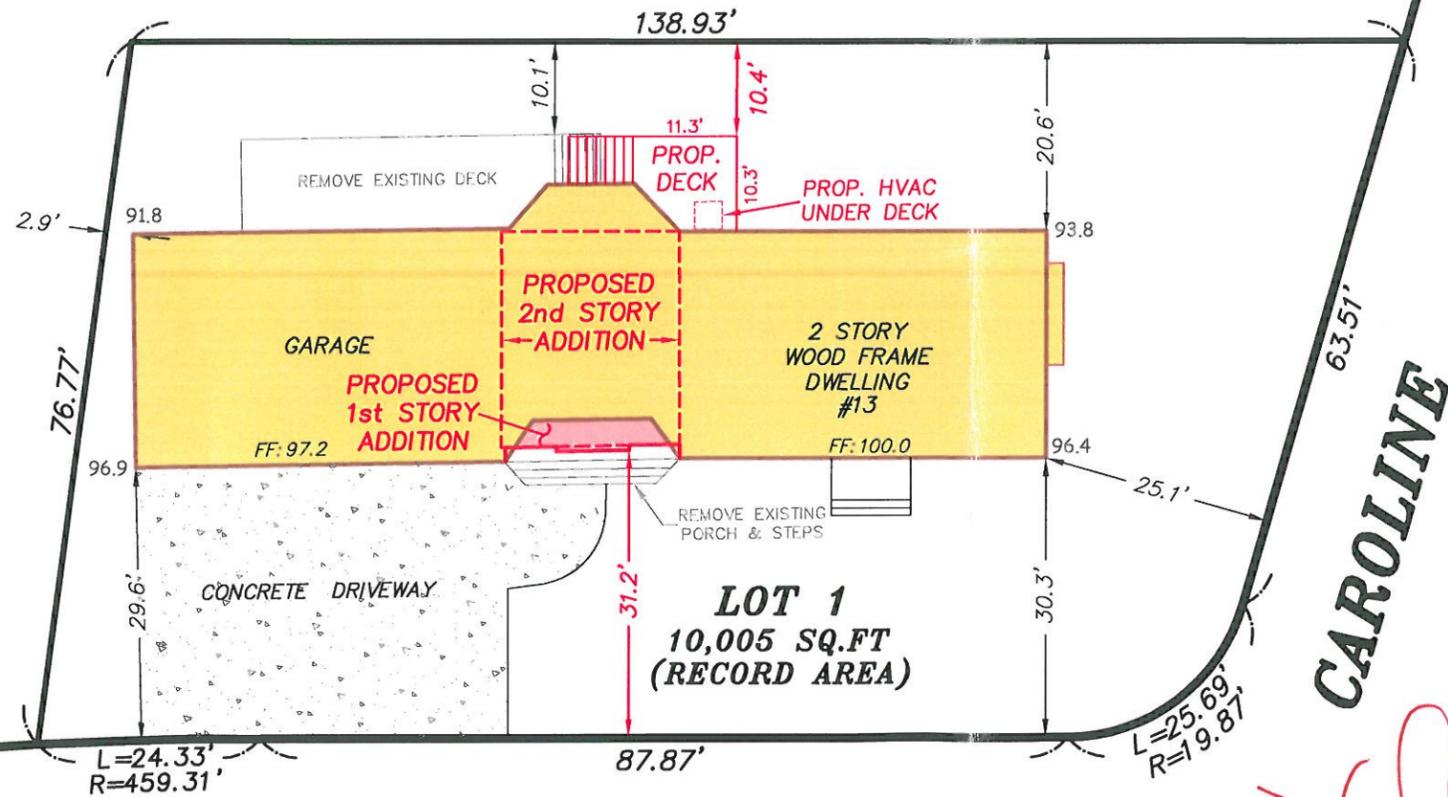
EXIST. BLDG. COVERAGE: 2,903 SQ.FT.±
 PROP. BLDG. COVERAGE: 2,650 SQ.FT.±
 EXIST. LOT COVERAGE: 29% ±
 PROP. LOT COVERAGE: 26% ±
 AVERAGE GRADE: 94.7
 EXIST. PEAK: 128.2

REFERENCES:

1. DEED IN BOOK 31918 AT PAGE 177
2. PLAN IN BOOK 5836 AT PAGE 259
3. PLAN 968 OF 1983

NOW OR FORMERLY
 PAUL D. GALLESE

NOW OR FORMERLY
 JAMES W. BRODERICK



NOTES:

1. PHOTO REPRODUCTION OF THE SEAL AND SIGNATURE HEREON IS INDICATIVE OF UNAUTHORIZED REPRODUCTION AND USE OF THIS PLAN. IF THIS PLAN DOES NOT CONTAIN AN ORIGINAL SIGNATURE IN RED TOGETHER WITH AN EMBOSSED SEAL, IT IS NOT AN AUTHORIZED PLAN FROM GRE SURVEYING AND CANNOT BE USED FOR ANY PURPOSE WHATSOEVER. ANY UNAUTHORIZED USE OR MODIFICATION OF THIS PLAN MAY CONSTITUTE FRAUD AND WILL RENDER THIS PLAN NULL AND VOID.
2. THIS PLAN IS NOT TO BE USED FOR THE RECONSTRUCTION OF BOUNDARY LINES NOR FOR TITLE INSURANCE PURPOSES.
3. THIS PLAN DOES NOT REPRESENT A CONFIRMATION OF BOUNDARY LINES NOR A DETERMINATION OF TITLE BUT IS SOLELY INTENDED TO DEPICT THE OFFSET DIMENSIONS OF THE PROPOSED STRUCTURE TO THE LOT LINES AS DEPICTED ON A PLAN RECORDED IN BOOK 5836 AT PAGE 259
4. THE SUBJECT PROPERTY IS DEPICTED AS LOT 65-11 ON WELLESLEY ASSESSOR'S MAPS
5. OWNER OF RECORD IS PETER GENTA, 13 CLOVELLY ROAD, WELLESLEY, MA
6. ALL OFFSETS SHOWN HEREON ARE TO THE NEAREST ONE TENTH (1/10) OF A FOOT.
7. ZONING DISTRICT IS SRD 10

PLOT PLAN of LAND
 LOCATED IN
WELLESLEY, MASSACHUSETTS
 (NORFOLK COUNTY)

PREPARED FOR
 PETER GENTA

SCALE: 1" = 20' DATE: NOV. 22, 2013



GRE
 SURVEYING LLC

24 Raymond Place, Winchester, MA 01890
 Telephone 781-721-1944

DWG No. 131103PP

GRE No. 131103

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