



ZONING BOARD OF APPEALS

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

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ZBA 2014-27

Petition of Maria Palasis & Andreas Harsch
 65 Martin Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 3, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of MARIA PALASIS & ANDREAS HARSCH requesting a Variance and a Special Permit pursuant to the provisions of Section XIVE, Section XVII, Section XIX, Section XXIV and Section XXV of the Zoning Bylaw for construction of a side-facing garage with a deck above with less than required left side yard and right side yard setbacks, on an existing nonconforming structure with less than required front and right side yard setbacks, at 65 MARTIN ROAD, in a 10,000 square foot Single Residence Water Supply Protection District.

On March 17, 2014, 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 Maria Palasis and Andreas Harsch (the "Petitioner").

Ms. Palasis said that the request is to put a garage at the rear of the house. She said that the setback on the left side is 20.5 feet. She said that they are asking for relief to build a side facing garage. She said that she submitted a justification for the variance. She said that the purpose of the garage is to accommodate elderly parents who are living with them. She said that it is hard to get her parents safely in and out of house. She said that they worked with their neighbors on the left side. She said that they looked at their options of putting the garage at the side or on the back. She said that the neighbors preferred that the garage be at the back. She said that part of their dilemma was that the house is sitting in wetlands. She said that they have the flood plain going through there. She said that the lot is very narrow.

Ms. Palasis said that they worked with the architect who did their original addition. She said that they have Wetlands Protection Committee (WPC) approval for the garage. She said that they are now seeking relief for the side yard setbacks.

The Board said that there is a sewer easement at the back of the yard and it appears that the addition is on the sewer line. Ms. Palasis said that Schofield Engineering will put together a plan to move that. She said that they will work with the Building Department.

The Board asked if the sewer line is for the Petitioners. Mr. Harsch said that it is theirs and it is also for the neighbors. He said that there is a major easement that goes through the property at the back. The Board said that there were no sizes shown for the sewer line.

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Mr. Harsch said that the sewer line will have to be moved.

The Board said that the sewer line goes under the proposed garage and goes to the neighbor on the right side. Mr. Harsch said that it comes from the neighbors on the right. He said that it is connected and then drains to the main sewer line at the back.

The Board asked if the Petitioner applied to do work on the sewer line in their WPC application. Ms. Palasis said that they discussed putting up haybales while the work is going on.

Ms. Palasis said that they moved the sewer line once before when they built the previous addition. The Board said that a problem is that they will be doing work in the no disturb area. The Board said that it did not see anything in the Order of Conditions that talks about the sewer line.

The Board said that a special permit was granted in 2001. The Board asked if the Order of Conditions addressed moving the sewer line at that time. The Board said that a variance was granted in 1950 but was not used.

The Board said that the relief would be for a side facing garage with a 25.6 foot setback instead of 30 feet. The Board said that, due to the shape of lot, the Petitioner cannot do anything else. The Board said that the lot is 60 feet wide. The Board said that it did not see any other solution.

The Board said that the Planning Board was not in favor of granting the variance. Ethan Parsons, Assistant Planning Director, said that the bylaw requires 30 feet for a side facing garage. He said that there is another issue with the right side yard setback. He said that the back part of the garage will continue the nonconforming plane. He said that the side facing component of the garage is a variance and extension along the other side is a special permit.

The Board discussed having a condition that nothing can be built on top of the garage. The Board said that the 12.8 foot down to the 12.5 foot setback on the right side is shown as a partial story above grade.

Statement of Facts

The subject property is located at 65 Martin Road, in a 10,000 square foot Single Residence Water Supply Protection District, with a minimum front yard setback of 28.7 feet and a minimum right side yard setback of 11.7 feet.

The Petitioner is requesting a Variance and a Special Permit pursuant to the provisions of Section XIVE, Section XVII, Section XIX, Section XXIV and Section XXV of the Zoning Bylaw for construction of a side-facing garage with a deck above with less than required left side yard and right side yard setbacks, on an existing nonconforming structure with less than required front and right side yard setbacks, in a 10,000 square foot Single Residence Water Supply Protection District.

Justification for Relief, Proposed Conditions Plan of Land, dated 9/21/00, revised 3/6/14, prepared by Schofield Brothers of New England, Inc., Proposed Conditions Plan of Land, dated 9/21/00, revised

3/10/14, stamped by David W. Humphrey, Professional Land Surveyor, and Existing and Proposed Floor Plans and Elevation Drawings, dated 2/1/14, prepared by Hajian Architects were submitted.

On December 13, 2013, the Wetlands Protection Committee issued Order of Conditions, MassDEP File #:324-0726.

On March 25, 2014, the Planning Board reviewed the petition and recommended that the petition be denied.

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 with regard to the side facing garage with less than a 30 foot setback, the Board grants a variance as literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to shape of the lot, especially affecting this lot but not generally affecting the zoning district in which is it located, and the hardship is not self-created, 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 the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted to allow construction of a side-facing garage with a deck above with less than required left side yard setbacks, on an existing nonconforming structure with less than required front and right side yard setbacks, in a 10,000 square foot Single Residence Water Supply Protection District, in accordance with the submitted plot plan and construction drawings.

It is the opinion of this Authority that although construction of a side-facing garage with a deck above with less than required left side yard and right side yard setbacks, on an existing nonconforming structure with less than required front and right side yard setbacks, in a 10,000 square foot Single Residence Water Supply Protection District 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 side-facing garage with a deck above with less than required left side yard and right side yard setbacks, on an existing nonconforming structure with less than required front and right side yard setbacks, in a 10,000 square foot Single Residence Water Supply Protection District, in accordance with the submitted plot plan and construction drawings.

If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

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

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.

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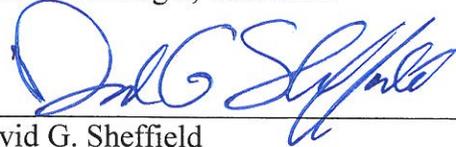
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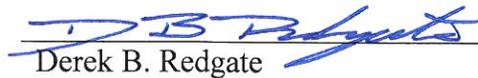
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



Richard L. Seegel, Chairman



David G. Sheffield



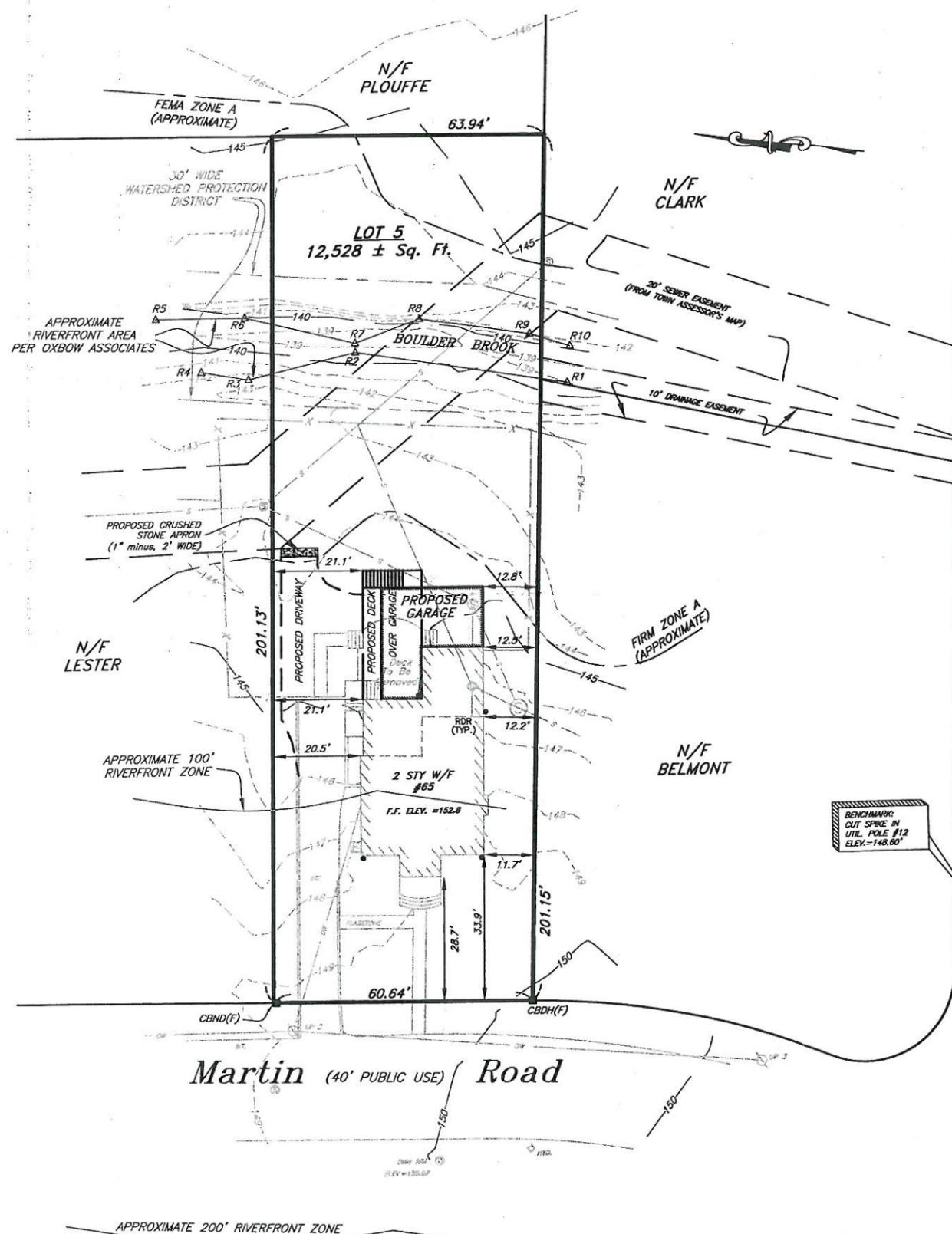
Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

RESEARCH BY: KAG
 FIELD CHIEF: KAG
 COMPUTED BY: LAP

DRAFTED BY: LAP
 CHECKED BY: DWH
 APPROVED BY: DWH

20769



Existing Lot Coverage = 12.2 %
 (1,524 Sq.Ft.)

Proposed Lot Coverage = 14.7 %
 (1,843 Sq.Ft.)

LEGEND

SYMBOLS AND ABBREVIATIONS SHOWN ON THIS PLAN.

OW	OVERHEAD WIRES
132	EXISTING CONTOUR
139x7	SPOT GRADE
WF	WETLAND FLAG
W/	WITH
BM	BENCHMARK
BIT.	BITUMINOUS
UP	UTILITY POLE
CB(F)	CONCRETE BOUND, FOUND
STY.	STORY
MH	MANHOLE
DRAIN	DRAIN SPOUT
W/F	WOOD FRAME
HYD.	HYDRANT



65 Martin Road
 Wellesley, Massachusetts

PROPOSED CONDITIONS PLAN OF LAND
 IN
WELLESLEY, MASSACHUSETTS

(NORFOLK COUNTY)
 Prepared For: Ms. Maria Palasis
 Revised: March 10, 2014
 Date: Sept. 21, 2000
 Scale: 1" = 20'

SCHOFIELD BROTHERS OF NEW ENGLAND, INC.

ENGINEERING SURVEYING PLANNING
 1071 WORCESTER ROAD
 FRAMINGHAM, MASSACHUSETTS 01701

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