



## ZONING BOARD OF APPEALS

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

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ZBA 2014-47  
 Petition of R. Scott Kirk  
 37 Livermore Road

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 WELLESLEY MA 02482  
 JUN 19 P 3:23

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 5, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of R. SCOTT KIRK requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure and expansion of an existing porch and construction of a three-story addition with less than required side yard setbacks, expansion of an existing nonconforming garage with less than required front yard setbacks, construction of a one-story addition and front porch that will meet all setback requirements, on an existing nonconforming structure with less than required front and side yard setbacks, on a 15,892 square foot corner lot in a district in which the minimum lot size is 20,000 square feet, at 37 LIVERMORE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 19, 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 John Burke, Esq., David Oliveri, and R. Scott Kirk, (the "Petitioner").

Mr. Burke said that the request is for a Section 6 finding for a nonconforming structure on a nonconforming lot. He said that it is a corner lot with two front yards.

Mr. Burke said that there is a large wooded area at the back of the house. He said that the addition will be toward the rear of property.

Mr. Burke said that the plan is to construct an addition and rehabilitate the existing nonconforming house. He said that the revised plan dated May 28, 2014 is the correct plan. He said that the revised plan makes the property more conforming.

Mr. Burke said that the property is located in a 20,000 square foot district and has 15,892 square feet. He said that the structure does not meet the minimum front yard setback on Franklin Road at 22 feet to the porch. He said that the side yard setback on the right side 16.9 feet. He said that the original plans that were submitted showed a garage that encroached into the front yard setback from Franklin Road. He said that the revised plans show that the garage was moved back beyond the 30 foot front yard setback.

Mr. Burke said that the house was built in 1910. He said that it currently has six bedrooms and two and a half bathrooms. He said that there is an attached two-car garage. He said that there is approximately 2,800 square feet of living space. He said that the renovated structure will remain as a single family, most of which will be on the existing footprint. He said that it will contain approximately 4,800 square feet of living space with five bedrooms, three full and two half baths, a new two-car garage with no change to the driveway. He said that the footprint will increase from the existing 13.13 percent to 16.86 percent. He said that the additions will either conform or will not increase any nonconformities.

Mr. Burke said that the side yard setback on the north side is 16.9 at its closest point but gets wider as you go further back. He said that the intention is to extend back four feet along the same plane with a setback of 18.9 feet.

Mr. Burke said that most of the addition to the rear will conform, having a rear yard setback of 55.2 feet at its closest point. He said that they will bring the garage plane back from the existing 29.4 feet to 30.3 feet.

Mr. Burke said that there will be a slight addition to the existing terrace. He said that area will be 8 feet by 7.8 feet. He said that it will not extend any closer to Franklin Road. He said that the existing setback to the terrace is 22 feet and the setback to the small addition will be 25.8 feet. He said that the steps are not included in the calculation under the bylaw.

Mr. Burke said that the proposed changes will not be substantially more detrimental to the neighborhood.

The Board said that the addition to the rear is lower in elevation but the roof comes down. The Board said that it had difficulty understanding what the height is. The Board said that by lowering the grade at the back changes the height of the existing structure. Mr. Burke said that this is an addition and it will not exceed the height of the existing house. The Board said that they will be changing the average grade around the structure. The Board said that heights are shown on the plans to different levels. The Board said that there is nothing in the plans that shows that the house will meet the height restrictions under the bylaw. The Board said that there are two dimensions on the plan that, when added together, give the worst case.

The Board said that on the west elevation the overall height to the ridge is 36 feet. The Board said that on the east elevation a digit is missing because it shows a dimension of 3.6 feet. The Board said that it appears that the missing digit should be 3 for a dimension of 33.6 feet. The Board said that the dimension from the terrace down to lowest floor grade is 2 feet. The Board said that is the lowest elevation to the ridge. The Board said that average grade will be a fair amount less there.

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 37 Livermore Road, on a 15,892 square foot corner lot in a district in which the minimum lot size is 20,000 square feet, with a minimum front yard setback from Franklin Road of 22 feet and a minimum side yard setback of 16.9 feet.

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The Petitioner is requesting that enclosure and expansion of an existing porch and construction of a three-story addition with less than required side yard setbacks, expansion of an existing nonconforming garage with less than required front yard setbacks, construction of a one-story addition and front porch that will meet all setback requirements, on an existing nonconforming structure with less than required front and side yard setbacks, on a 15,892 square foot corner lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 5/13/14, revised 5/28/14, stamped by Joseph R. Sullivan, Professional Land Surveyor, Existing & Proposed Floor Plans, dated 5/13/14, revised 5/19/14, Existing & Proposed Elevation Drawings, dated 5/12/14, revised 5/19/14, prepared by Andrew Consigli, and photographs were submitted.

On May 30, 2014, the Planning Department Staff reviewed the petition and recommended that the petition 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 enclosure of an existing porch and construction of a three-story addition with less than required side yard setbacks, expansion of an existing nonconforming garage and construction of a one-story addition and front porch that will meet all setback requirements, on an existing nonconforming structure with less than required front and side yard setbacks, on a 15,892 square foot corner lot in a district in which the minimum lot size is 20,000 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 enclosure of an existing porch and construction of a three-story addition with less than required side yard setbacks, expansion of an existing nonconforming garage and construction of a one-story addition and front porch that will meet all setback requirements, on an existing nonconforming structure with less than required front and side yard setbacks, on a 15,892 square foot corner lot in a district in which the minimum lot size is 20,000 square feet, subject to the following condition:

- Plans that show the calculation of height from average grade shall be submitted.

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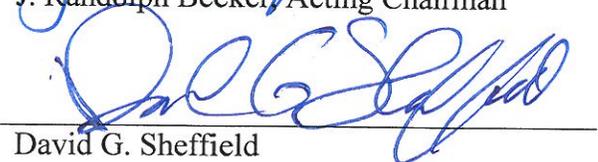
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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

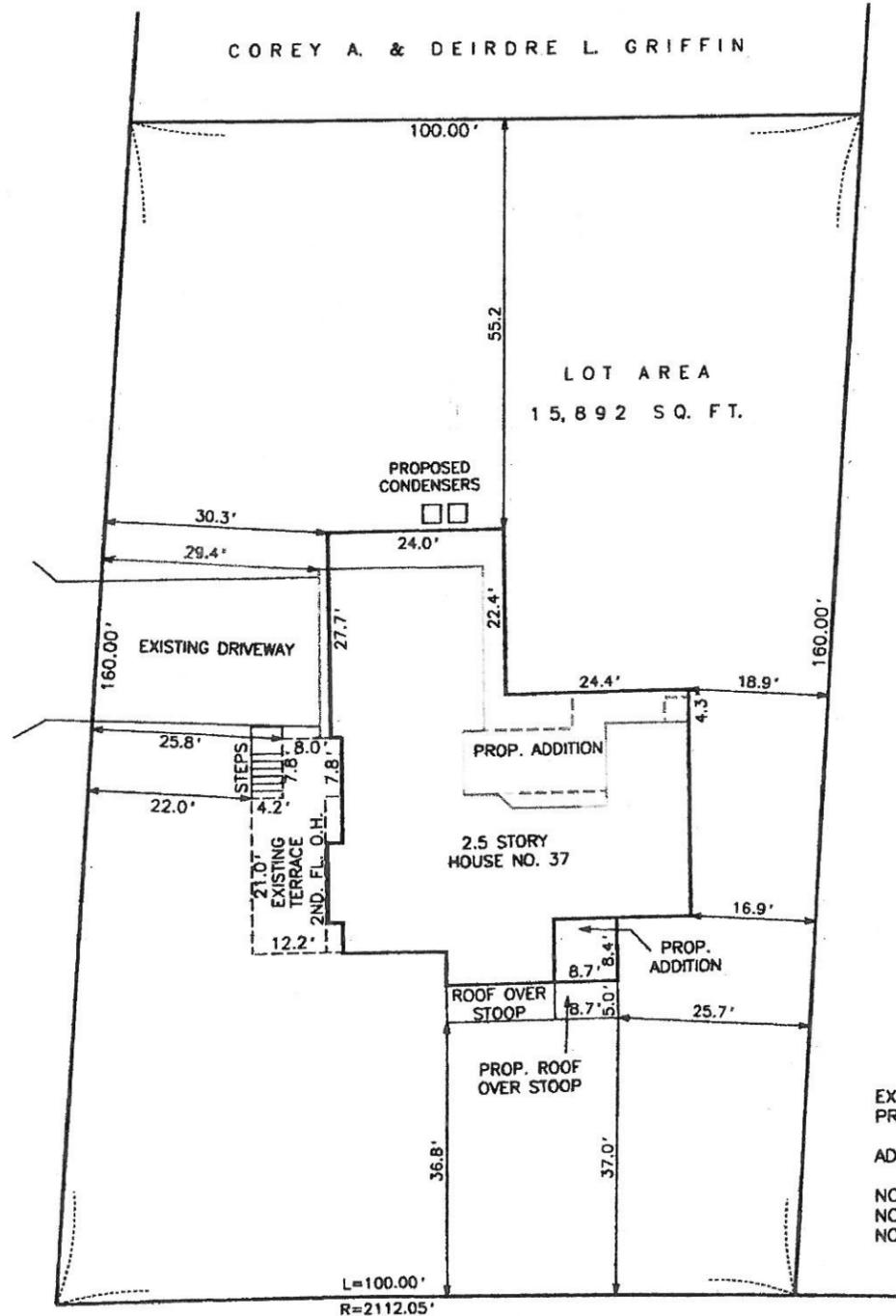
  
J. Randolph Becker, Acting Chairman

  
David G. Sheffield

  
Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm

FRANKLIN ROAD



RICHARD J. & VIRGINIA N. RADEMACHER

EXISTING LOT COVERAGE = 2,087 SQ. FT. = 13.13%  
 PROPOSED LOT COVERAGE = 2,680 SQ. FT. = 16.86%

ADJACENT BUILDING SETBACKS

NO. 25-27 = 36.25 FT.  
 NO. 31 = 41.00 FT.  
 NO. 37 = 36.80 FT.

LIVERMORE ROAD

REVISED MAY 28, 2014



SULLIVAN SURVEYING  
 COMPANY, LLC  
 209 WEST CENTRAL ST.  
 NATICK, MA. 01760  
 PHONE : 508-655-0082  
 FAX : 508-655-0083

**BOARD OF APPEALS PLAN  
 OF LAND IN  
 WELLESLEY, MASS.**

OWNED BY : RICHARD S. KIRK

DEED REFERENCE : BOOK 29480, PAGE 488

NORFOLK REGISTRY OF DEEDS

ASSESSORS MAP REFERENCE MAP 66, LOT 43

ZONING CLASSIFICATION : SRD-20



JOSEPH R. SULLIVAN  
 REG. PROFESSIONAL LAND SURVEYOR

SCALE : 1" = 20' | DATE : MAY 13, 2014

DRAWING NO. 15,969