

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2014-48  
Petition of Al Wiegman & Susan Morris  
16 Framar Road

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WELLESLEY MA 02482  
JUL 24 P 2:57

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 10, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of AL WIEGMAN & SUSAN MORRIS, requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a one-story mudroom with a bay and construction of a second story addition over an existing one-story structure and attic living space that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,600 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, at 16 FRAMAR ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 23, 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 Al Wiegman and Susan Morris, (the "Petitioner") and Bruce Miller, Architect. Ms. Morris said it is a nonconforming lot. She said that the proposal is to add a mudroom on the side of the house as well as square footage above an existing family room, and to renovate some attic space. She said that the house is approximately 2,400 square feet.

The Board said that the assumption that the bump out is conforming is based on its being a cantilevered bay which is a bay window without a foundation. The Board said that it has a rather substantial roof over it and does not read as a bay. The Board said that it was not shown on the elevation drawing. Mr. Miller said that was an oversight. He said that one of the challenges of putting a bay on such a small structure is that the bay sort of disappears. He said that they would like to work with the Building Inspector or the Board to come up with a bay that would meet the requirements. He said that the intent was to get as much square footage in the mudroom as possible. Ms. Morris said that they want to work within the parameters of the bylaw. She said that she wanted to get more light into the small room.

The Board said that the Building Inspector sent comments to the Board that discussed a potential problem with the landing, which is a Building Code issue.

The Board said that the setback is deficient by six inches. The Board said that part of the bay is a new nonconformity. Mr. Miller said that he looked at the definition of side yards in the Zoning Bylaw and it says that a bay is allowed in the setback. The Board said that the bylaw says that bay windows are allowed. Ms. Morris said that the intent is that it be a bay window. The Board said that the proposed

structure appears to be under a porch roof that comes out to the front of the bay and that is problematic. Mr. Miller said that they could pull the roof back and put a smaller roof on the bay. He said that they could pull the side of the bay in.

The Board asked if the Petitioner had spoken with the neighbor to the right about the plans. Ms. Morris said that they have signatures from other neighbors.

The Board said that the elevation shows the dimension to existing grade but there was no grade information submitted. The Board said that the height dimension should be calculated from average grade. Mr. Miller said that the grade is pretty level around the house. He said that he indicated the maximum height, which is clearly below the maximum height allowed. Ms. Morris said that what is there now is bluestone that goes out to the driveway and is level. The Board asked about the foundation for the rest of the mudroom. Mr. Miller said that it will be poured in place.

Emilio Rotondi, 7 Park Avenue, said that he has lived at that address for 35 years and in Wellesley for 53 years. He said that his wife has lived in Wellesley all of her life. He said that he is against the special permit. He said that the bylaw was implemented for encroachment to the neighbors. He said that the owners of 16 Framar Road made a room with a fireplace 25 years ago. He said that the fireplace was not conforming to specifications. He said that the stack was not working and smoke would get into the room. He said that the previous owners never used it. He said that the new owners put a vent on top of the stack and now smoke gets into his home. He said that he called the neighbors at 16 Framar and was told that it was the Rotondi's problem and that they should call an energy auditor. He said that he has Anderson windows. He said that smoke penetrates wherever it wants to go. The Board asked that Mr. Rotondi address the petition that is before the Board and discuss why it would be more detrimental. The Board said that nothing that the Petitioner is proposing has anything to do with the smoke. The Board said that is not part of the action that the Board is able to take at the hearing. The Board said that it is not a Zoning issue. The Board said that the proposal is to raise the stack higher. Mr. Rotondi said that there were three chimneys in the house. He said that they only use the one next to his house. He said that from November to April he and his wife cannot sleep in the house. The Board confirmed that Mr. Rotondi had spoken with a Building official. The Board said that this is a compliant chimney and there is nothing that a Building official or the Board can do to address Mr. Rotondi's problem. The Board said that the proposed chimney appears to be compliant as well. The Board said that typically when you raise a chimney higher it tends to dissipate smoke better. Mr. Rotondi said that he is higher, so the stack needs to be much higher. Mr. Rotondi said that he went to the town and was told that there was nothing that it could do to address the problem. He said that he went to the Fire Department and they suggested that Mr. Rotondi go to the State. He said that the State said that they have no jurisdiction over the Town of Wellesley. He said that he and his wife have been suffering for ten years. He asked that the Board not grant the special permit. He said that he was concerned about his right to complain in the future. The Board asked what Mr. Rotondi's objections are to the proposed project. Mr. Rotondi said that he was concerned that it will be too close. The Board said that the side of the Petitioner's house faces the back of Mr. Rotondi's house. Mr. Rotondi said that the Petitioner built two sheds on the property line at the fence. He said that they are not shown on the plot plan. He said that there is a 60 foot tree right on the line. The Board said that the Town does not get involved in issues about trees with neighbors. Mr. Rotondi said that the Town should mitigate it. The Board said that the reason that the Petitioners are before the Board is because the Zoning District in which their lot is located has a minimum lot size of 10,000 square feet and their lot is only 9,600 square feet. Mr. Rotondi said that the Board should not allow the special permit. He said that the

Town should protect its citizens. The Board said that it interprets and enforces the Zoning Bylaws. Mr. Rotondi said that the Petitioner said that stormwater from Mr. Rotondi's property is flowing into the Wiegman's house and that they were going to sue him. The Board asked for final comments. Mr. Rotondi asked that the Board not grant the special permit.

The Board said that a member attempted to draw out where the setback line is on the plans. The Board said that it appears that only a very small portion of the structure would be in the setback area. The Board said that they could pull the addition back six inches so that no part of the addition will be closer than 20 feet to the side lot line.

### Statement of Facts

The subject property is located at 16 Framar Road, on a 9,600 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 28.4 feet.

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 one-story mudroom and construction of a second story addition over an existing one-story structure and attic living space that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,600 square foot lot in a Single Residence 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 5/12/14, stamped by Wesley Guillaume, Professional Land Surveyor, Existing and Proposed Floor Plans & Elevation Drawings, dated 5/13/14, prepared by Bruce Miller, Architect, and photographs were submitted.

On July 8, 2014, 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 one-story mudroom and construction of a second story addition over an existing one-story structure and attic living space that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,600 square foot lot in a Single Residence 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 one-story mudroom with a bay and construction of a second story addition over an

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existing one-story structure and attic living space that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,600 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, subject to the following condition:

- At no point shall the mudroom be closer than 20 feet to side lot line

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.

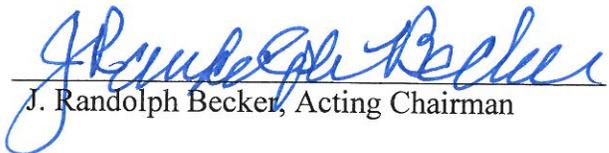
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16 Framar Road

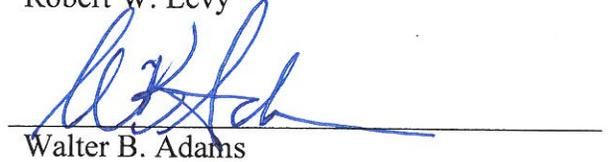
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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
\_\_\_\_\_  
J. Randolph Becker, Acting Chairman

  
\_\_\_\_\_  
Robert W. Levy

  
\_\_\_\_\_  
Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm



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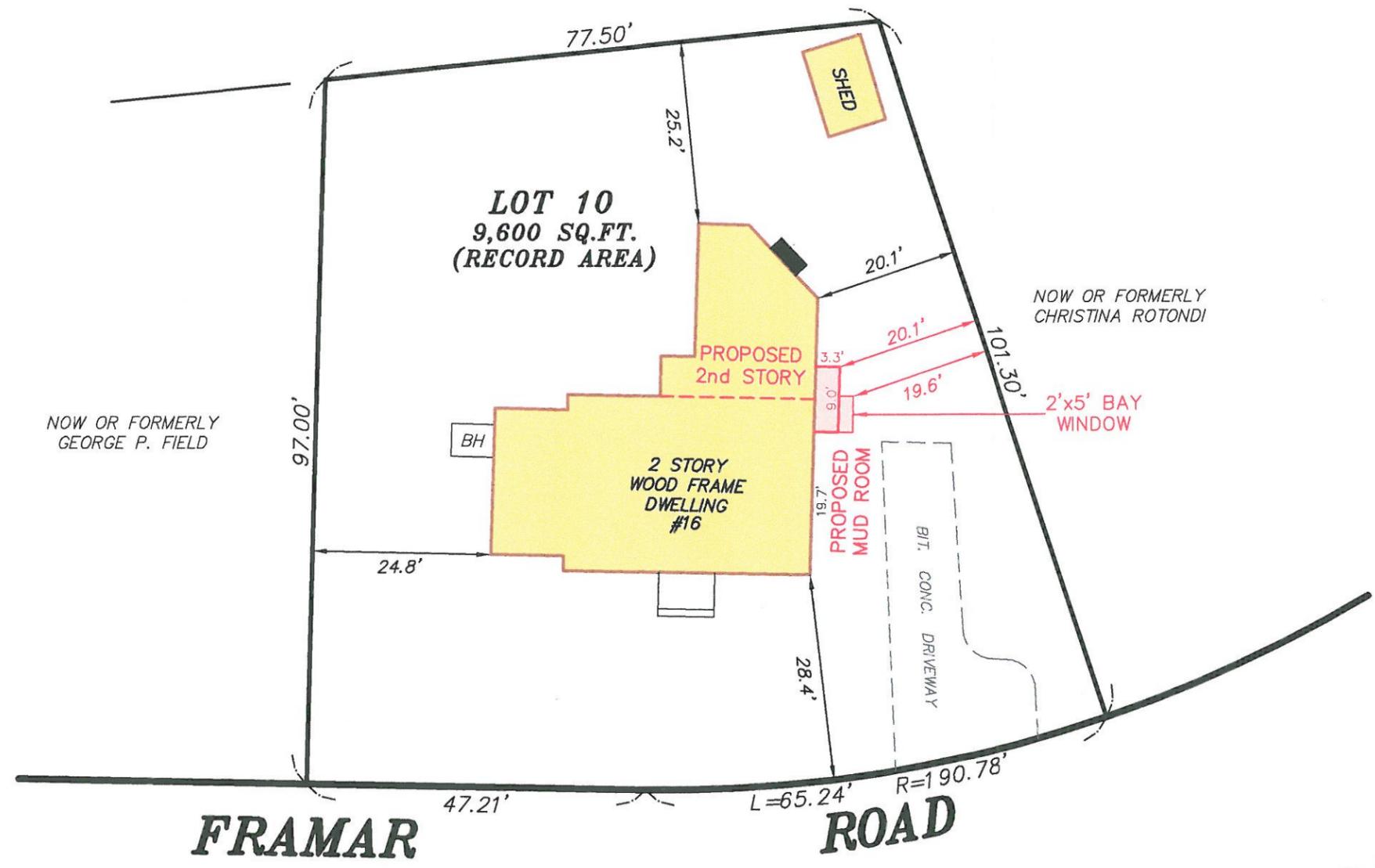
EXIST. BLDG. COVERAGE: 1,544 SQ.FT.±  
PROP. BLDG. COVERAGE: 1,584 SQ.FT.±  
EXIST. LOT COVERAGE: 16.1% ±  
PROP. LOT COVERAGE: 16.5% ±

**PARK AVENUE**

**REFERENCES:**

- 1. DEED IN BOOK 12687 AT PAGE 379
- 2. PLAN IN BOOK 1613 AT PAGE 541

NOW OR FORMERLY  
DESPINA BARTLETT



NOW OR FORMERLY  
GEORGE P. FIELD

NOW OR FORMERLY  
CHRISTINA ROTONDI

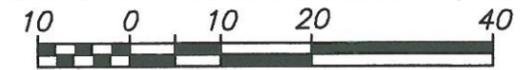
**NOTES:**

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 EXISTING STRUCTURE TO THE LOT LINES AS DEPICTED ON A PLAN RECORDED IN BOOK 1613 AT PAGE 379
4. THE SUBJECT PROPERTY IS DEPICTED AS Block 39 ON WELLESLEY ASSESSOR'S MAP 76
5. OWNERS OF RECORD ARE ALBERT L. WIEGMAN AND SUSAN M. MORRIS, 16 FRAMER RD, 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  
**SUSAN MORRIS**

SCALE: 1"= 20' DATE: March 26, 2014



**GRE**  
SURVEYING LLC

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

*[Red signature]*