

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2014-53
Petition of 50 Prospect Street LLC
50 Prospect Street

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 50 PROSPECT STREET LLC requesting Modification of a Variance and a Special Permit/Finding pursuant to the provisions of Section XIV, Section XVII Section XIX, Section XXIV and Section XXV of the Zoning Bylaw that construction of a second story addition with less than required front yard setbacks, and construction of a two-story addition and deck that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,042 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, and in an Industrial A District, at 50 PROSPECT STREET, 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 Tim Walls, owner, 50 Prospect Street LLC, (the "Petitioner"), Barry Ganek, and Paul Beaulieu. Mr. Walls said that the proposal is to renovate and build an addition on a house on a nonconforming lot. He said that he was seeking relief for an addition at the back and a second story. He said that it is a sloped lot. He said that this was originally going to be a project for a family member but that family member has since decided not to live there. He said that he still wants to move forward with the plans.

The Board said that comparing the dimensions on the 1952 plan to the plot plan that was submitted, the frontage is significantly longer and the area is greater. The Board said that it was 72.32 feet on the 1952 plan and 76.10 on the 2014 plan. Mr. Beaulieu said that they found that there was a considerable overage, particularly in the street. He said that there are several lots at this location that are larger than the records state. He said that may have been a function of rounding at the time or that the subdivision was hastily prepared. He said that they found overages that the local monumentation identified where they went based on corner monuments that they found for each lot, in addition to the street monuments.

The Board asked if all the land around it is privately owned. The Board said that there is a portion of land that comes up to the street to the right of this parcel. The Board said that 57 River Street sits on both streets.

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The Board said that the lot slopes down. The Board asked about the additional impervious areas and what happens to rain water that lands on the areas. Mr. Beaulieu said that the additional impervious surface will be insubstantial. He said that there will be a 16 foot by 27.9 foot addition and a small addition of pavement to facilitate turning around in the driveway. He said that they will be flattening out the lot behind the addition at the rear for 15 to 20 feet of plateauing. He said that minimal additional runoff will infiltrate through the natural surfaces on the ground. He said that because the lot slopes so radically, the only other alternative would be to dig a deep hole to catch it with a single Cultec XL 150. The Board asked if the subsoil conditions have been determined. Mr. Beaulieu said that he had not done test pits yet. He said that will be done when they do the work for the addition and the additional utility work that has to be done.

The Board said that one of the plans calculated the basement Total Living Area plus Garage (TLAG). The Board asked about the rest of the calculation. Mr. Ganek said that it will be 2,975 square feet.

The Board asked about the pump chamber. Mr. Beaulieu said that is proposed. He said that the Engineering Department recommended it as the best solution on site. Mr. Walls said that Engineering looked at the proposal and said that it will be possible to connect to sewer. He said that it is currently a cesspool.

Mr. Walls said that the original intention was to have second garage bay in the basement. He said that would not meet the side yard setback requirement. The Board confirmed that the garage door on the west elevation is existing. Mr. Beaulieu said that they originally added the extra driveway for the second garage bay but decided to keep it for a better turnaround situation.

The Board discussed the original variance that was granted to create the lot in 1952. The Board said that under the present state of Zoning, there is no legal basis to create an undersized lot by variance. The Board said that a variance does not make a property nonconforming within the context of Section 6, Chapter 40A. The Board said that Section 6 did not exist at that time and that conditions are different now. The Board said that the variance was granted and was not appealed. The Board said that the variance was granted and authorized the Inspector of Buildings to issue a permit for the construction of a dwelling on each of said lots number 50 and 54 Prospect Street.

The Board said that there is an existing nonconforming front corner. Mr. Beaulieu said that they thought that was a function of the monumentation of the street that resulted in the different lots.

The Board said that the variance was granted on October 1, 1952 and the Building Permit was issued on October 3, 1952. The Board said that it is not a pre-existing nonconforming lot but it is a legal lot today.

The Board discussed granting a variance versus a special permit/finding.

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 50 Prospect Street, on a 9,042 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, and in an Industrial A District, with a minimum front yard setback of 29.7 feet.

The Petitioner is requesting Modification of a Variance and a Special Permit/Finding pursuant to the provisions of Section XIV, Section XVII Section XIX, Section XXIV and Section XXV of the Zoning Bylaw that construction of a second story addition with less than required front yard setbacks, and construction of a two-story addition and deck that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,042 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, and in an Industrial A District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, Height Plan & Basement TLAG Evaluation Plan, dated 6/9/14, stamped by Bradley J. Simonelli, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 6/2/14, prepared by Ganek Architects, Inc., and photographs were submitted.

On July 8, 2014, the Planning Board reviewed the petition and recommended that the Special Permit be granted and should the ZBA be of the opinion it is necessary to modify the variance, despite the lot size and shape not changing, modification of the 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 although construction of a second story addition with less than required front yard setbacks, and construction of a two-story addition and deck that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,042 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, and in an Industrial A 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 are granted, as voted unanimously by this Authority at the Public Hearing, for construction of a second story addition with less than required front yard setbacks, and construction of a two-story addition and deck that will meet all setback requirements, on an existing nonconforming structure with less than required front yard setbacks, on a 9,042 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, and in an Industrial A District, in accordance with the submitted plot plan and construction drawings.

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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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

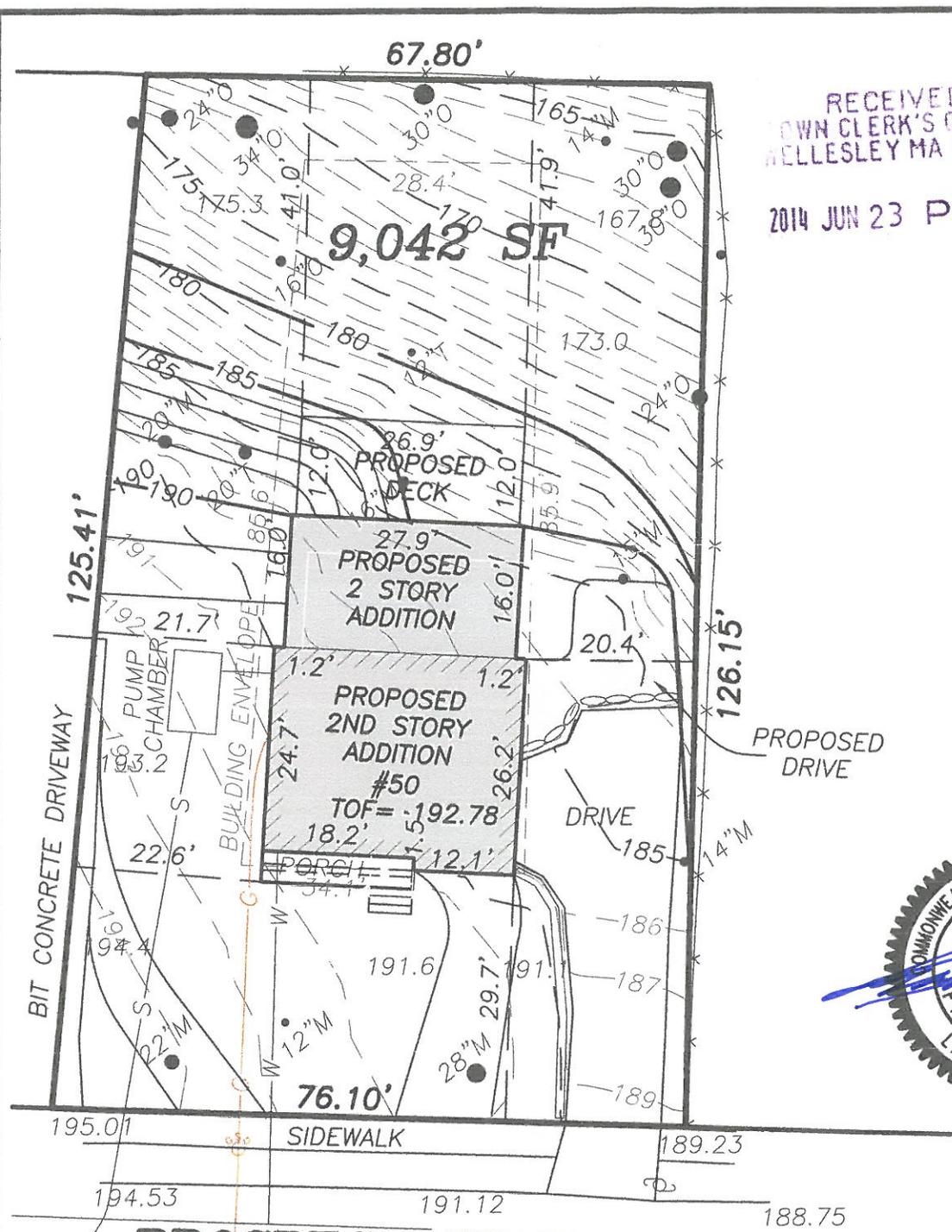

Robert W. Levy


Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm

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PROSPECT STREET

ZONING BOARD OF APPEALS
PLAN OF LAND
50 PROSEPECT STREET
WELLESLEY, MASS.

EXISTING LOT COVERAGE = 8.5%
PROPOSED LOT COVERAGE = 14.2%
EXISTING BUILDING COVERAGE = 767 SF
PROPOSED BUILDING COVERAGE = 1281 SF

Field Resources, Inc.
LAND SURVEYORS

JUNE 9, 2014 SCALE 1"=20'
P.O. BOX 324 281 CHESTNUT ST.
AUBURN, MA NEEDHAM, MA.
508 832 4332 781 444 5936
fieldresources@hotmail.com

MAP 28 PARCEL 23
SINGLE RESIDENCE 10 (SR10)

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