



## ZONING BOARD OF APPEALS

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

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ZBA 2014-55  
Petition of John Thompson  
10 Pickerel Road

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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 JOHN THOMPSON, JR. requesting a modification of a Variance, a Variance and a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII, Section XIX, Section XXIV and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required front and left side yard setbacks and construction of a new structure on the same footprint, on a 2,973 square foot lot in a Water Supply Protection District and a Single Residence District in which the minimum lot size is 10,000 square feet, at 10 PICKEREL 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 John Thompson, (the "Petitioner") and Joyce Hastings, Registered Professional Land Surveyor. Mr. Thompson submitted a letter of support that was signed by all of the abutters.

Ms. Hastings said that the request is for a special permit. She said that the house was originally constructed in 1930. She said that in 1978 a variance for an addition was granted. She said that the lot and the house are pre-existing nonconforming. She said that the proposal is to demolish the existing structure and to build on the exact footprint. She said that because the property is located on the pond, they had to go to the Wetlands Protection Committee (WPC) first. She said that one of the issues here is that parking is dangerous. She said that you cannot park a car here without sticking out onto the roadway. She said that there is no room to back up to turn around to exit the property without going down to Pickerel Terrace and turning around to come back. She said that the proposed structure will have a garage under so that cars can go in and out and turn around. She said that they worked with the WPC when they slightly increased the driveway area to accommodate a car. She said that they got an Order of Conditions that addressed infiltration of water off of the driveway. She said that the new structure will have an additional floor with overhangs and an overhang over the entry. She said that the yard will remain the same except for landscaping around the house. She said that no trees will be removed.

The Board said that it is a very attractive design. A Board member said that he was troubled about complete demolition of the structure and reconstruction in the same place. He said that this is not really modifying a variance because the building will be gone. The Board said that a variance was granted in

1978 for an addition. The Board said that for the portion that gets rebuilt that had the variance, there is no issue. The Board said that the difficulty is reconstruction of the main house. The Board said that the Petitioner should seek a new variance to allow a new building to be constructed on the site.

The Board discussed granting a special permit/finding versus a variance for teardowns and reconstruction on undersized lots.

The Board said that all of the neighbors signed the letter of support. A Board member said that the overhang will be two feet or closer to the property line. He said that if the plan is to build from scratch, he would rather see it moved further from the property line.

Michael Zehner, Planning Director, said that there is substantial flood plain and wetlands on the property. He said that the issue with this is that it is a proposed reconstruction on the same footprint. He said that if they were to alter where the impervious surface is, they would need WPC approval and a special permit under the Flood Plain Bylaw. He said that the Flood Plain Bylaw allows reconstruction. He said that if they are not changing the impervious cover they do not need an additional WPC permit. He said that the Planning Board recommended deferral to allow for input from the Building Inspector and from the Engineering Division in terms of the impacts of construction on the flood plain. Ms. Hastings said that they did an analysis of the flood plain and they are not filling in the flood plain. She said that they have changed the flood plain slightly and presented the proposed change to the WPC. She said that they have compensated for it. She said that they will not be changing any flood storage. She said that a corner of the house fell within the flood plain by 4 inches. She said that they changed that so that the new foundation will be outside the flood plain by four inches. She said that in the submittal to WPC they showed how they would be compensating for the flood plain. Mr. Zehner said that the only plan that he had seen was the survey that shows the flood plain bisecting the house. He said that the WPC has jurisdiction over the wetlands issues but not the flood plain issues.

Ms. Hastings said that the house will be on the same footprint. She said that the foundation will be demolished with the house. She said that they cannot move the house further out because of the flood plain, access to the lot and the wetlands. She said that if the house moves from where it is now, it will change the flood plain. She said that because the lot is flat there is no area to compensate for it.

Mr. Thompson said that his understanding was that flood plain issues concerned people putting something extra in their yard that causes someone else's house to flood in the future. He said that they are using compensating volumes to make sure that does not happen. He said that the flood plain line goes through the house. He said that they will take a cut at the back of the house and fill in around the house. He said that it will be very close. He said that the dimensions are just a few inches. The Board said that the flood plain can be addressed by design. The Board said that they can design for the flood to go through the garage and part of the house and raise all of the mechanical equipment above that. Ms. Hastings said that in the existing house you walk into the basement, which is the kitchen. She said that it is living space down below and not all garage. Mr. Thompson said that there is no garage in the existing house. Ms. Hastings said that the proposed house will have living space below. She said that there are no proposed elevation changes of the house. She said that the livable area will be above the flood plain by inches. She said that the flood plain is the lowest adjacent grade to the house. She said that the floor area can be above the flood plain but if the ground adjacent to it is at flood plain level, you are considered to be in the

flood plain. She said that is why the contour wraps around the house. She said that they will work to raise the grade around the house, not the house itself.

Peter Mitchell, 8 Pickerel Road, said that he saw the plans for the proposed house and thinks that it will be a great addition to the neighborhood.

The Board said that this is a unique lot that could meet the standards of topography, shape and soil condition. The Board said that if the existing building including the foundation is removed, it can grant a variance to allow a house to be put back there. The Board said that Chapter 40A makes it clear that you can do that as long as the lot is at least 5,000 square feet and not in common ownership.

The Board discussed moving the house further away from the lot line even though the neighbor has no objection to the proposed construction. The Board said that the intent of zoning is to make things more compliant over time. The Board said that this could not meet the front and side yard setbacks but it might be possible to slightly improve them. The Board said that the Petitioner may be able to show that, because of the grade, this is the only place where the house can go. Ms. Hastings said that moving the house would involve moving the mass over the flood plain. She said that there is no place to compensate. The Board said that they could build the house with the garage with flow through and living space on the second floor. Mr. Thompson said that would become a house on stilts.

Mr. Thompson said that WPC approved the proposal for compensating volume. Ms. Hastings said that altering the grade around the house was done to deal with Flood Insurance issues. She said that three quarters of the house is already above the flood level. She said that because the patio area was raised and they are taking the patio out, they have to compensate at the same elevations that they are filling. She said that they are raising it by inches.

The Board said that the path forward is that there is additional information needed from the Building Inspector and the WPC. The Board said that the hearing should be continued so that the Petitioner will still have all of his options open. The Board said that the petition will be advertised for a variance and for a special permit for construction in a Flood Plain or Watershed District.

The Board voted unanimously to continue the petition to August 7, 2014.

### August 7, 2014

Presenting the case at the hearing were John Thompson and Joyce Hastings.

Ms. Hastings said that they had previously filed for a modification of a variance and a special permit/finding. She said that the petition has been changed to request a new variance. She said that it is a pre-existing nonconforming lot. She said that the front of the house was constructed in 1930's. She said that the addition on the back was built in the mid 1970's. She said that the proposal is to tear down the existing house and construct a new house on the exact same footprint. She said that they will be working in a flood plain where they will fill a small area and compensate incrementally with equal volume. She said that there will be no impact on the resource area.

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Ms. Hastings said that the house is outside of the flood plain now. She said that moving it in any direction will move it further into the flood plain. She said that they will just be filling inches in around the house. She said that all of the property is in the flood plain except for the patio and the front of the house. She said that moving the house would bring it closer to the pond. She said that the project was discussed with the Wetlands Protection Committee (WPC).

Ms. Hastings said that the structure will be four feet from the neighbor's property line and the overhang will be closer. The Board said that the neighbor signed the letter of support. Mr. Thompson said that the neighbor has two driveways and has offered him use of one of them. The Board said that it appears to be a tight knit neighborhood. A Board member said that he observed a number of younger people coming and going on the lot. He commended Mr. Thompson for making access to the pond available.

The Board said that the lot is unique to the neighborhood and it would be a hardship for the homeowner to not be able to replace the existing home and by granting the variance it will not be derogating from the intent of the bylaw.

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 10 Pickerel Road, on a 2,973 square foot lot, with a minimum left side yard setback of 4 feet and a minimum front yard setback of 5.8 feet.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV of the Zoning Bylaw for demolition of an existing nonconforming structure with less than required front and left side yard setbacks and construction of a new structure on the same footprint, on a 2,973 square foot lot in a Water Supply Protection District and a Single Residence District in which the minimum lot size is 10,000 square feet.

A Plot Plan and Existing Average Grade Plan, dated 6/5/14, Plan of Land and Plan of Land with Locus Map, Staked Filtermitt w/Construction Fence and Driveway Trench Drain Detail, dated 4/10/14, stamped by Joyce E. Hastings, Professional Land Surveyor, Floor Plans & Elevation Drawings, dated 6/1/14, prepared by David Carter, Letter to Zoning Board of Appeals, dated 7/16/14, re: Application for Variance, from Joyce E. Hastings, P.L.S, Letter of Authorization, dated 6/10/14, from John Thompson, Zoning History, and photographs were submitted.

On August 6, 2014, the Planning Board reviewed the petition and recommended that 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.

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It is the opinion of this Authority that a variance may be granted from the terms of the Zoning Bylaw with respect to lot area, lot coverage, side yard and front yard setbacks as the Board found that a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to the shape of the lot, the topography and the soil conditions of this lot, especially affecting this land but not generally affecting the zoning district in which it is located; and that the hardship has not been self-created. The Board found 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 for demolition of an existing nonconforming structure with less than required front and left side yard setbacks and construction of a new structure on the same footprint, on a 2,973 square foot lot in a Water Supply Protection District and a Single Residence District in which the minimum lot size is 10,000 square feet, 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 one year after the date time stamped on this decision.

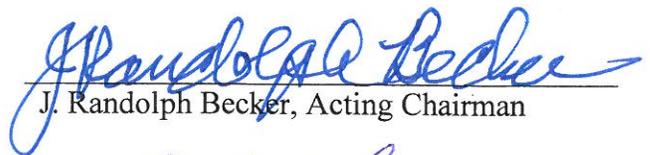
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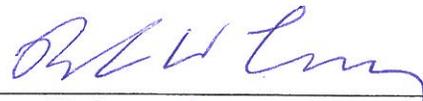
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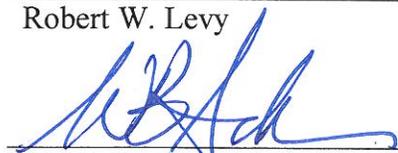
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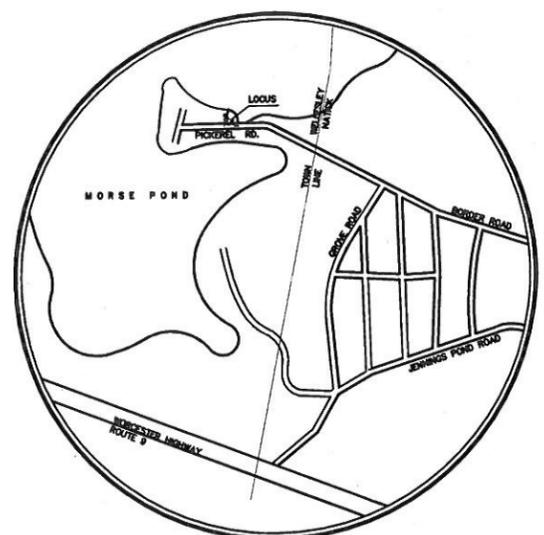
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
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J. Randolph Becker, Acting Chairman

  
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Robert W. Levy

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

cc: Planning Board  
Inspector of Buildings  
lrm



LOCUS MAP  
1"=500'

NOTE:  
THERE IS NO FILLING/LOSS  
OF FLOOD STORAGE AREA.

FLOOD STORAGE VOLUME CALCULATION:

Elevation (feet)	Existing Area (s.f.)	Proposed Area (s.f.)
128.5	2774	2774
128.6	2825	2470
128.7	2283	2207
128.8	2088	1978
128.9	1905	1783
129.0	1825	1657
129.1	1894	1487
129.2	1688	1287
129.3	1434	1250
129.4	1244	1138
129.5	1050	1025
129.6	873	918
129.7	648	814
129.8	485	713
129.9	330	615
130.0	215	527
130.1	132	467
130.2	88	397
130.3	58	348
130.4	35	307
130.5	18	270
130.6	9	237
130.7	5	207
130.8	2	180
130.9	1	155
131.0	0	132
131.1	0	110
131.2	0	90
131.3	0	72
131.4	0	57
131.5	0	45
131.6	0	36
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## ZONING BOARD OF APPEALS

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DEREK B. REDGATE

ZBA 2014-55 - Extended  
Petition of John Thompson  
10 Pickerel Road

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FILED  
 TOWN CLERK'S OFFICE  
 WELLESLEY MA 02458  
 2015 AUG 20 P 3:11

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 6, 2015, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of JOHN THOMPSON requesting extension of a Variance, ZBA 2014-55, that was granted on August 21, 2014, pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing nonconforming structure with less than required front and left side yard setbacks and construction of a new structure on the same footprint, on a 2,973 square foot lot in a Water Supply Protection District and a Single Residence District in which the minimum lot size is 10,000 square feet, at 10 PICKEREL ROAD. The decision was recorded at the Norfolk County Registry of Deeds on September 16, 2014.

On July 21, 2015, 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 John Thompson, the Petitioner. Mr. Thompson said that the request is for an extension of the variance that was granted on August 21, 2014. He said that there were a couple of things that took longer than expected. He said that after the ZBA hearing they had to go through Adequacy of the Way hearings, which took a while. He said that they are also starting over with contractors. He said that contractors got very busy after the winter. He said that they have had discussions with two contractors who should be submitting final proposals in the next few weeks. He said that the request is for a one year extension. He said that the best times to dig the foundation are in June, October or November when it is warm enough and the water level in Morses Pond is fairly low.

The Board said that this was a project that it had discussion on and approved. The Board said that the Applicant should be able to follow through with his plans.

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 10 Pickerel Road, on a 2,973 square foot lot, with a minimum left side yard setback of 4 feet and a minimum front yard setback of 5.8 feet.

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The Petitioner is requesting extension of a Variance, ZBA 2014-55, that was granted on August 21, 2014, pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing nonconforming structure with less than required front and left side yard setbacks and construction of a new structure on the same footprint, on a 2,973 square foot lot in a Water Supply Protection District. The decision was recorded at the Norfolk County Registry of Deeds on September 16, 2014.

On August 5, 2015, the Planning Board reviewed the petition and recommended that extension 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.

The subject variance was granted by the Zoning Board of Appeals on August 21, 2014, pursuant to Section XIX and Section XXIV-D of the Zoning Bylaw, and was recorded at the Norfolk County Registry of Deeds on September 16, 2014.

Extension of the variance, ZBA 2014-55, that was granted on August 21, 2014 and recorded on September 16, 2014 is granted, as voted unanimously by this Authority at the Public Hearing, subject to the following condition:

- Extension of the Variance shall expire on August 21, 2016, which is one year from the date that the Variance would have expired.

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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ZBA 2014-55 - Extended  
Petition of John Thompson  
10 Pickerel Road

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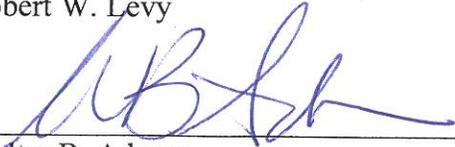
2015 AUG 20 P 3:12

REC'D  
TOWN CLERK'S OFFICE  
WILLESTON, MA 02152

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.

  
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J. Randolph Becker, Acting Chairman

  
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Robert W. Levy

  
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Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm