



ZONING BOARD OF APPEALS

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ZBA 2014-64
 Petition of Florence Sheikh
 34 River Ridge

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 7, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of FLORENCE SHEIKH requesting a Variance pursuant to the provisions of Section XIVE, Section XIX, and Section XXIV of the Zoning Bylaw for installation of an air conditioning condenser with less than required left side yard setbacks, on a 3,470 square foot lot, with less than required frontage, in a Water Supply Protection and Single Residence District in which the minimum lot size is 10,000 square feet, at 34 RIVER RIDGE.

On July 21, 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 was Florence Sheikh, (the "Petitioner"). She submitted letters of support from the neighbors. She said that the request is to put a single air conditioning condenser at the rear of a nonconforming house on a nonconforming lot. She said that she has lived at 34 River Ridge for the past 35 years and raised her three children through the Wellesley School System. She said that she has worked at Newton Wellesley Hospital for the past 35 years.

Ms. Sheikh said that the pre-existing lot is a hardship in that there is no place to put an air conditioning condenser that will meet the side yard setback. She said that she came before the Board in 1987 requesting a Variance for a small addition. She said that, at that time, the unique condition of a 3,300 square foot lot was recognized and the Variance was granted. She said that placing a single air conditioning condenser outside the required rear yard setback would not substantially derogate from the intent of the bylaw. She said that the restriction on placement of air conditioning condensers is intended to reduce sound. She said that her home and rear yard are within 200 feet of Route 128. She said that, with the 200,000 vehicles that pass by daily, she did not think that the air conditioning condenser will increase the ambient noise level or cause any more disturbance to her neighbors. She said that she had access to a digital recording device and took some measurements over several days and times. She said that the average reading was 65-67 decibels. She said that the spec sheet for the proposed air conditioning condenser lists a minimum of 55 decibels and a maximum of 70 decibels. She said that she discussed her plans with the abutters and the abutters to abutters, and they were supportive of the project.

The Board said that this is a good example of a well intentioned bylaw not having a well intentioned application. The Board said that the condenser will have little or no impact to the drivers on Route 128. The Board said that due to the siting of the house and the narrow area in the rear yard, it could make a

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finding that, due to the shape of the lot, there is sufficient hardship to meet the criteria for granting a Variance.

Fred Klingmeyer, 32 River Ridge, said that he and his wife endorse the proposal of Ms. Sheikh, who is their long and valued friend. He said that he is an abutting neighbor. He said that the wall that faces the house has no windows, so there will be no impact to them.

Marcia Stein-Adams, 36 River Ridge, said that she is the abutting neighbor on the other side. She said that she does have windows on the side of the house facing Ms. Sheikh. She said that she does not open the windows because the sound from Route 128, 7 days a week and 24 hours a day is so substantial and disruptive that it makes the house inhabitable. She said that she would welcome the more even sound of a condenser because it would counteract the more erratic and disruptive sound from the highway. She said that she probably will not hear Ms. Sheikh's condenser. She said that a number of homes in the neighborhood were built in the late 19th Century as mill workers' homes and were built for function not for pleasure. She said that many of the second floor bedrooms have only one window. She said that putting an air conditioning unit in that one window would block the one fire exit. She said that the houses there get really hot and are difficult to live in. She said that she is in full support of the Board granting a Variance to Ms. Sheikh. She said that Ms. Sheikh should have the same pleasure of enjoying the comforts that her neighbors and probably a majority of Wellesley residents do. She said that the Board granted relief to her in 1999. She said that, Wellesley as a community, wants to support diversity and wants to support inclusion of a range of people in the community and make sure that they have the same privileges that the rest of the community has. She urged the Board to support the community value and express particular awareness to the challenges for those who live on undersized lots. She said that they make an important contribution to the Town and the community.

Olimpiu Dejeu, 30 River Ridge, said that he is not a direct abutter but lives close by. He said that he was in full support of the project.

Statement of Facts

The subject property is located at 34 River Ridge, on a 3,470 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, with less than required left side yard setbacks, a minimum rear yard setback of 6.1 feet, a minimum right side yard setback of 6.8 feet, and 43 feet of frontage.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIVE, Section XIX, and Section XXIV of the Zoning Bylaw for installation of an air conditioning condenser with less than required left side yard setbacks, on a 3,470 square foot lot, with less than required frontage, in a Water Supply Protection and Single Residence District in which the minimum lot size is 10,000 square feet.

A Plot Plan, dated 7/2/14, stamped by Bradley J. Simonelli, Professional Land Surveyor, Basis for Appeal signed by Florence Y. Sheikh, American Standard Heating & Air Conditioning Specification, Floor Plan, dated 7/11/14, and photographs were submitted.

On August 6, 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.

It is the opinion of this Authority that a variance may be granted from the terms of the Zoning Bylaw with respect to side 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, 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 installation of an air conditioning condenser with less than required left side yard setbacks, on a 3,470 square foot lot, with less than required frontage, in a Water Supply Protection and 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 construction plans.

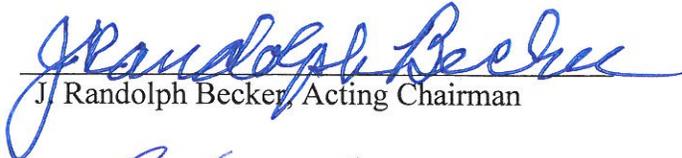
If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

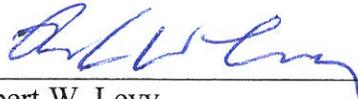
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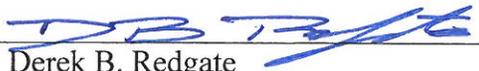
ZBA 2014-64
Petition of Florence Sheikh
34 River Ridge

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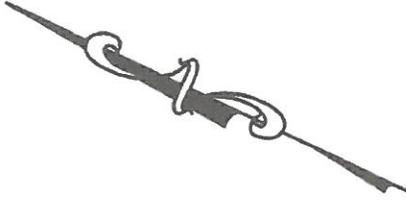
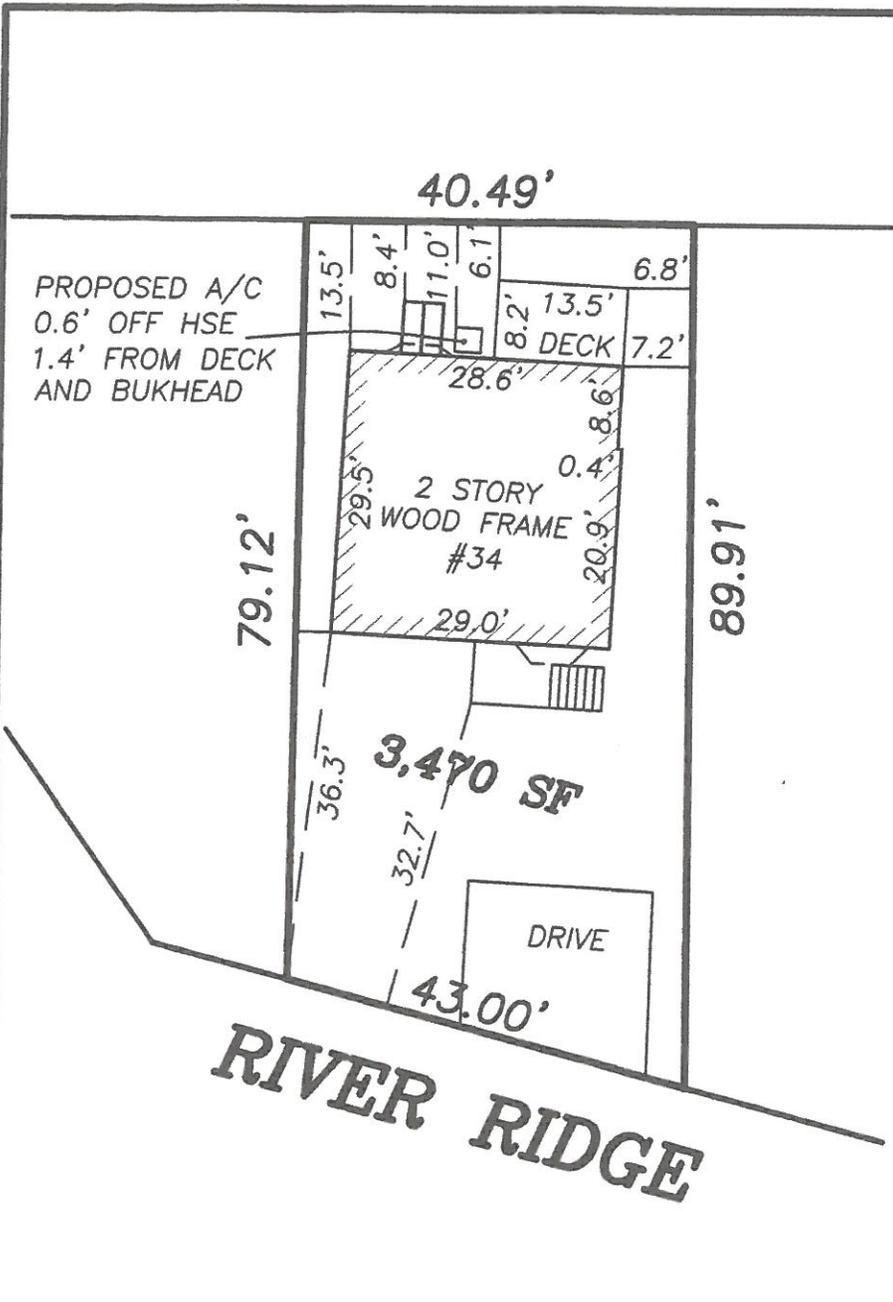
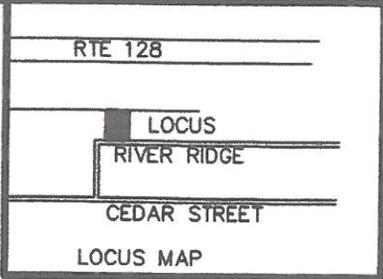
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


J. Randolph Becker, Acting Chairman

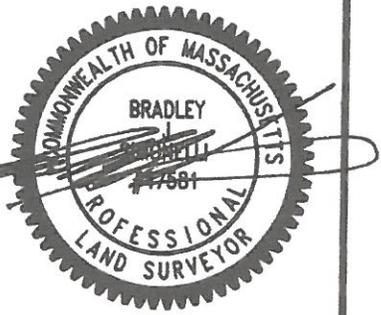

Robert W. Levy


Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm



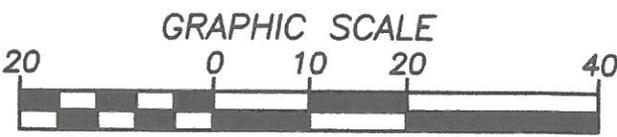
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**ZBA PLAN FOR
PROPOSED A/C CONDENSER
34 RIVER RIDGE
WELLESLEY, MA**

ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)
 MINIMUM LOT AREA10,000 SF.
 MINIMUM LOT FRONTAGE.....60 FEET
 MINIMUM FRONT SETBACK.....30 FEET*
 MINIMUM SIDE YARD.....20 FEET
 MINIMUM REAR YARD10 FEET
 MAXIMUM BUILDING COVERAGE.....25% FOR 10000 SF LOTS**
 MAXIMUM BUILDING HEIGHT.....36 FEET
 MAXIMUM BUILDING HEIGHT.....2 1/2 STORIES
 *FRONT SETBACK TO BE DETERMINED BY 500 FOOT RULE
 **SEE CHART BASED UPON AREA.

Field Resources, Inc.
LAND SURVEYORS



JULY 2, 2014 SCALE 1" = 20'
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 AUBURN, MA NEEDHAM, MA.
 508 832 4332 781 444 5936
 fieldresources@hotmail.com

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