



ZONING BOARD OF APPEALS

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 2015 JAN 22 P 3:00

ZBA 2015-02
 Petition of Amalia VonRichthofen
 7 Hampden Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 8, 2015 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of AMALIA VONRICHTHOFEN requesting a Variance, pursuant to the provisions of Section XIX and Section XXIV of the Zoning Bylaw, to extend the previously approved garage and addition under ZBA 2006-59, with less than required right side yard setbacks, a 7 HAMPDEN STREET, in a 10,000 square foot Single Residence District.

On December 22, 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 Amalia and Alexander VonRichthofen, (the Petitioner). Ms. VonRichthofen said that the Board previously granted a special permit for an addition. She said that they encountered minor problems in terms of going forward with the project. She said that the special permit was for a modest addition off of the first floor bedroom and garage that would allow them to stay in the house as they age. She said that the special permit was extended. She said that when they looked at the plans to go forward, they were advised that garage was too conservative and not functional. She said that they would not be able to open the car doors. She said that they need a minimum of two feet along the east line of the already approved addition. She said that will give them the amount of space to make the garage functional and also increase the space in the bedroom which would have been very cramped.

Ms. VonRichthofen said that showed the plans to the neighbors and abutters and 96 percent of them were supportive. She said that the neighbors liked the renovations that have been done. She said that she has lived in the neighborhood for 30 years and would like to continue to enhance it. She said that this will not be more detrimental. She said that they do have an inherent hardship with the lot being so narrow.

The Board asked if the immediate neighbor to the right signed the letter of approval. Ms. VonRichthofen said that all three abutters are supportive and are among the signators. The Board said that the initial request was approved in 2006 and extensions were granted in 2009 and 2011. Ms. VonRichthofen said that the first survey was incorrect and had to be redone. She said that they are now ready to go forward.

The Board asked about the actual amount of additional projection to the east. Ms. VonRichthofen said that it will be two feet along the side. She said that they had originally planned a screened porch at the back that they will not pursue. She said that will reduce the square footage by 121 square feet. She said that the proposed addition will add 70.5 square feet, for a net reduction in construction.

The Board confirmed that it will be a two-story addition upon completion. The Board confirmed that this is the first application with the reduction of work in the back. Ms. VonRichthofen said that this request is for a variance.

The Board discussed the shape of the lot. The Board said that there is a significant topographical issue with the dramatic drop off at the back of the property. The Board said that the desirability of building further back would be reduced because a significant part of the new construction would be lower than the existing house.

Ethan Parsons, Assistant Planning Director, said that he was asked to speak on behalf of the Planning Board. He said that the Planning Board is of the opinion that the basis for the variance is one of convenience not hardship and that there is a two step test required for a Zoning Board to issue a variance. He said that the first step is to determine a hardship due to soil condition, shape of lot or topography. He said that the Planning Board is of the opinion that none of those conditions are met in this instance and that relief will result in harm to the public good because the basis is one of convenience and not a hardship.

The Board discussed the procedures at a Zoning Board of Appeals (ZBA) public hearing. The Board said that under the bylaw the ZBA receives recommendations from the Planning Board. The Board said that the decision to grant or deny a request is solely within the authority of the Zoning Board.

A Board member said that he thought that there were two bases for the uniqueness of the lot with respect to topography and narrowness of the lot. He said that, in terms of this being detrimental to the neighborhood, the amount of support that this petition has is a statement that a large number of neighbors in this area do not agree with the Planning Board.

The Board said that, in addition to making a finding as to one of the three requirements of soil condition, shape or topography, those conditions have to affect this land but not generally the Zoning District in which it is located. The Board said that this Zoning District does not have a lot of lots of this size and topography. A Board member said that he said is concerned with piecemeal permits creeping to becoming more nonconforming. Ms. VonRichthofen said that when they sat down to get it done, they realized that what they had proposed was not functional. She said that they would like to make it functional and go forward with the project. Mr. VonRichthofen said that they need to be able to open two car doors in the garage.

The Board said that it was mindful of all of the abutters' support for the project. Ms. VonRichthofen said that all of the neighbors were enthusiastic and agreeable. She said that, effectively, the project has already been approved and the current request is for a small modification to what has already been approved. The Board said that it is more complicated by the fact that the request is now for a variance as opposed to a special permit. The Board said that the standards are much stricter. The Board said that it is good that they shared their plans with the neighbors. Ms. VonRichthofen said that it is neighborly to tell them ahead of time and sometimes the neighbors have input. She said that sometimes things are doable if they are discussed up front. She said that they have been conservative with the plans. She said that it is a small house and they are just looking for a little more. She said that there is a hardship due to the narrowness of the lot. She said that there is no other way to accomplish what they need.

The Board clarified that the request is for two feet along the side. A Board member said that the Applicant stated that they needed the two feet to be able to open car doors in the garage. He asked about the request for two feet further back. Ms. VonRichthofen said that the bedroom area is very cramped. She said that they were following the architect's recommendation. She said that previously there were no closets. She said that adding closets would make the bedroom very cramped.

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 7 Hampden Street, on a 12,354 square foot lot, with a minimum right side yard setback of 14 feet and a minimum left side yard setback of 9.1 feet.

The Petitioner is requesting a Variance, pursuant to the provisions of Section XIX and Section XXIV of the Zoning Bylaw, to extend the previously approved garage and addition under ZBA 2006-59, with less than required right side yard setbacks.

A Plot Plan, dated 7/10/07, stamped by John R. Andrews III, Registered Land Surveyor, a Plot Plan, dated 11/10/14, stamped by Byron J. Andrews, Registered Land Surveyor, and Floor Plans and Elevation Drawings, prepared by Steven Pedro, Architect, were submitted.

On December 11, 2014, the Wetlands Protection Committee voted to approve changes to the plan for 7 Hampden Street, DEP #324-518, as a minor plan change. The changes extend the proposed addition on the east side by 2 feet and remove the screened porch and deck area.

On January 7, 2015, the Planning Board reviewed the petition and recommended that the Variance be denied.

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 literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to shape and topography of the land, which does not generally affect the zoning district that it is in, and 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 extend the previously approved garage and addition under ZBA 2006-59, with less than required right side yard setbacks.

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.

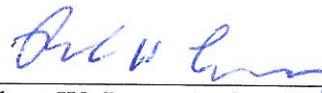
If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

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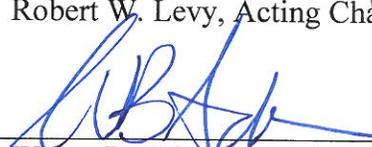
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



Robert W. Levy, Acting Chairman



Walter B. Adams

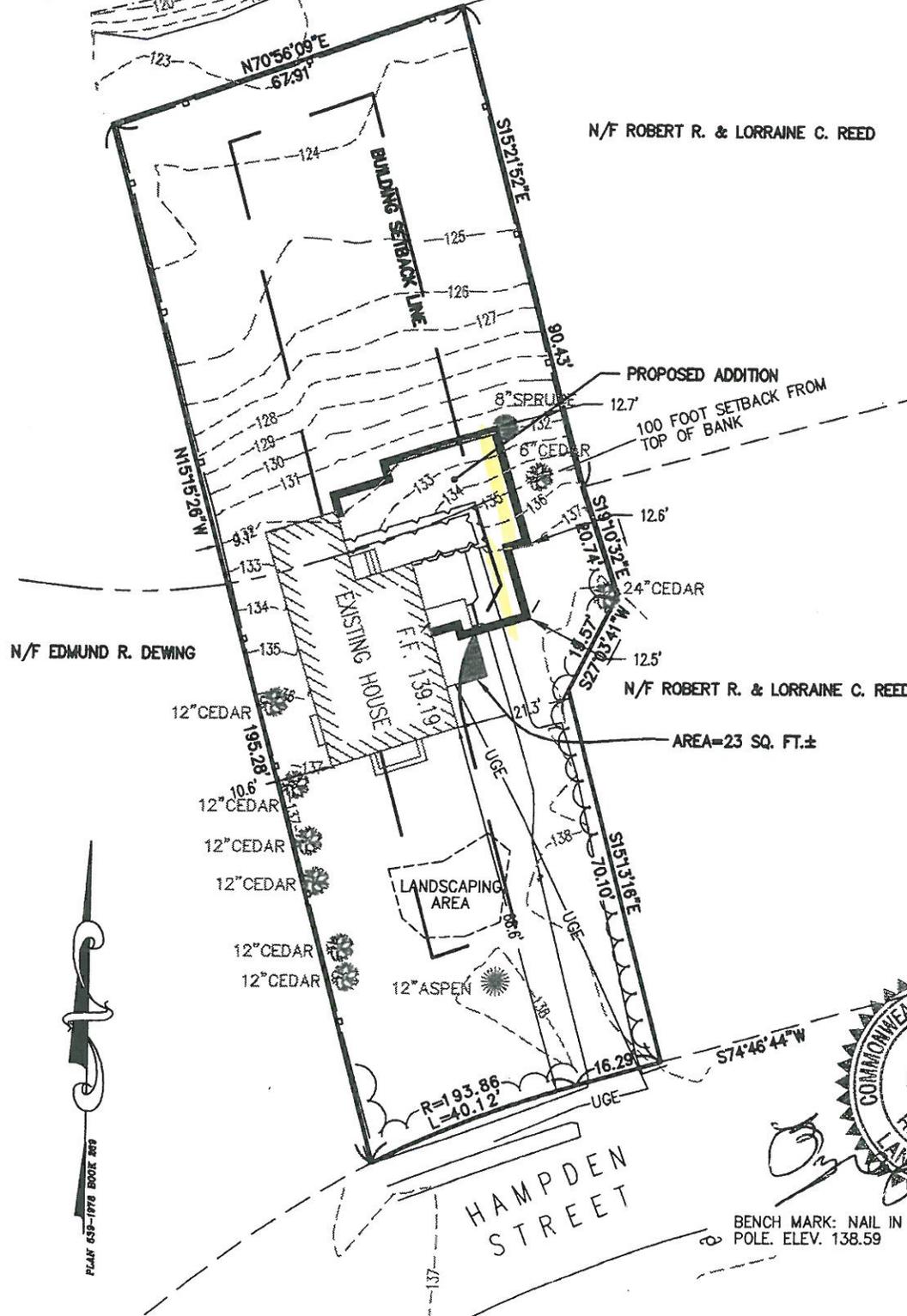


Derek B. Redgate

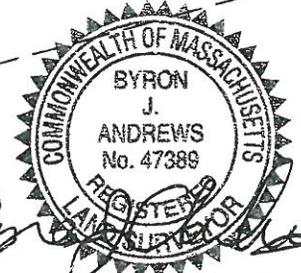
cc: Planning Board
Inspector of Buildings
lrm

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11/10/14

PREPARED BY: BJA/WCR



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 Land Surveying - Civil Engineering - Site Planning
 P.O. Box 312, 104 Mendon Street
 Uxbridge, Massachusetts 01569-0312
 P.508-278-3897 F.508-278-2289

TITLE:	BUILDING PERMIT PLAN		
	7 HAMPDEN STREET, WELLESLEY, MA		
PREPARED FOR:	Amalia Von Richthofen Wellesley, Massachusetts		
DATE:	7/10/07	DWG NO.:	2007-148-rev
JOB NO.:	2007-148	FILE NO.:	2007-148
		SCALE:	1" = 30'
		REVISED:	11/10/14