



ZONING BOARD OF APPEALS

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

RICHARD L. SEEDEL, CHAIRMAN
 J. RANDOLPH BECKER, VICE CHAIRMAN
 DAVID G. SHEFFIELD

LENORE R. MAHONEY
 EXECUTIVE SECRETARY
 TELEPHONE
 (781) 431-1019 EXT. 2208
 web: www.wellesleyma.gov

ROBERT W. LEVY
 WALTER B. ADAMS
 DEREK B. REDGATE

ZBA 2016-11
 Petition of Felicia Ellsworth & Timothy Smith
 46 Dover Road

RECEIVED
 TOWN CLERK'S OFFICE
 WELLESLEY, MA 02482
 2016 MAR 17 P 2:50

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 4, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Felicia Ellsworth & Timothy Smith requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing porch and construction of a one-story addition with an attached porch with less than required setbacks, on a 9,754 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, on an existing nonconforming structure with less than required side yard setbacks at 46 Dover Road. The project includes construction of a one-story addition that will meet all setback requirements.

On January 19, 2016, 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 Laurence Shind, Esq., Felicia Ellsworth and Timothy Smith, the Petitioner. Also present was Edwin Sargent, Architect.

Mr. Shind said that the request is for a special permit/finding for relief to build a modest family room and mudroom, for approximately 250 square feet of interior space. He said that the second request is for a variance for a small extension of the existing garage to connect directly to the house via the mudroom.

Mr. Shind said that the lot is slightly nonconforming at 9,754 square feet where a minimum of 10,000 square feet is required. He said that it is a corner lot that faces Dover Road and Roanoke Road. He said that existing lot coverage is 21.4 percent and the proposed lot coverage will be 24.6 percent. He said that the existing Total Living Area plus Garage (TLAG) is 3,550 square feet and the proposed TLAG will be 3,804 square feet. He said that the garage is nonconforming on the left and rear sides. He said that the existing house is compliant with all dimensional setbacks.

Mr. Shind said that the proposal is to add a 185 square foot family room addition at the right rear where the existing house is indented. He said that the plan is to fill that area out. He said that the Planning Board said that a special permit/finding was not required because of an exemption under State Case Law, Bjorklund v Norwell. The Executive Secretary said that the Building Inspector determined that a special permit/finding would not be required because the proposed one-story addition would be exempt under State Case Law, Bjorklund v Norwell. A Board member said that the Petitioner can ask the Board to go forward with a request for a special permit/finding.

Mr. Shind said that the Petitioner would like to add a small mudroom at the rear of the house to connect the garage to the house. He said that would allow direct access where the homeowner now has to go outside the garage, down a set of stairs and then up a set of stairs to get into the kitchen. He said that the modest scale of the family and mudroom, and the location of the family room at the right corner will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. He said that, although the proposed structure will exceed the threshold for Large House Review (LHR), it will be similar to the prevailing size of houses in the neighborhood.

Mr. Shind said that they attempted to minimize the rear setback for the garage extension. He said that they will expand toward the house because of how it sits on the lot. He said that extending the garage in the last few feet will go over into the setback in order to keep a straight line. He said that the request is for a di minimis variance for less than one foot because of the irregular shape of the lot and the angle of the lot. He said that granting the variance would allow direct connection of the garage to the house.

Mr. Sargent said that the major aspects of the project that will affect the exterior are the family room, the mudroom and a new stair to the backyard. He said that there will be an interior kitchen renovation. He said that the changes will make the house more user friendly. He said that the existing garage is sandwiched between the house and the lot line on the north. He said that there was only one way to expand to access the stairs to the mudroom.

The Board confirmed that the request is for a variance for 136 square feet.

The Board said that this is a corner lot with two front yards. The Board asked if the 500 Foot Rule is applicable. Mr. Shind said that, according to the Building Inspector, the 500 Foot Rule applies to the side of the house where the front door is.

The Board discussed the necessity of the variance. He said that the Petitioner is relying on the shape of the lot but this is not an irregularly shaped lot. He said that the house may not be sited squarely on the property but that does not give rise to a variance. He said that it could be construed as being self-imposed because a previous owner chose to put the house that way. He said that the Planning Board recommended against granting the variance based on the lack of criteria for topography, shape of the lot or soil conditions.

A Board member said that nine inches is a small area. He asked if the Architect could look to design the addition so that there is no need to wrestle with the issues. He asked if that would throw off the whole design. Mr. Shind said that they were looking to maintain a straight line along the rear. Mr. Sargent said that they would have to step the addition back.

A Board member said that when he overlaid Plan 3.2 with Plan A3.2, the impact of the addition was that the proposed garage is remarkably larger than the existing garage. He said that the ridge height goes half way up to the second floor. He said that under current conditions, the fence along the property line conceals the scale of the garage. He said that the proposed garage would not be well concealed by the fence. He said that there are ways to configure the roof of the garage that is more in keeping with the roof lines of the house and would minimize the impact.

The Chairman said that for the Board to make the findings for a variance it would need to hear what the hardship is, related to the three criteria. He said that it would be helpful to understand what other alternatives were considered. He said that he could understand why the Petitioner would want more space to get around the cars. He said that they could have opted to move the front door toward Dover Road. He said that would create a lesser problem at the rear lot line.

Mr. Sargent said that, to access the mudroom, they need to get around the cars to get to the staircase. He said that it is a narrow opening. He said that they currently park one car diagonally. He said that the proposal is to extend to the south for access to the mudroom and to make it functional. He said that bringing the garage forward did not seem to offer an advantage over what they have now. He said that it was explored thoroughly. He said that there is an option to step the east wall back for storage of bicycles.

Mr. Shind asked about making a jog in the garage to eliminate the variance and changing the request to one for a special permit/finding. Mr. Sargent discussed stepping the garage addition back a foot at the rear right corner.

The Board said that if the stairs were rotated for access to the east and the door was in line with the common east wall of the mudroom, the southern part of the extension would not be necessary. The Board said that it would not alleviate the setback encroachment but would help. Mr. Sargent said that option was explored and was decided against. He said that they could maintain the current setback with a jog.

Mr. Shind discussed hardship. He said that the design is an attempt to avoid going outside to access the house. He said that the rationale is to connect the two outside stairs. He said that if the right rear corner of the garage is stepped back by a foot or so, it would not be a variance. He said that the Petitioner would be happy to do that as a special permit/finding.

The Board discussed the argument about di minimis. A Board member that di minimis does not fit within a variance. Mr. Shind discussed having an agreed upon condition to create a jog under a special permit/finding. A Board member said that he would rather see a plan. He said that the roof should be looked at. He said that the proposed elevation pops out as a big mass. Mr. Sargent said that the existing garage roof was carved down at some point and was not well thought out. He said that this is a simple gable to carry the design. A Board member said that the proposed gable will face the side of the lot that is 1.7 feet from the lot line. He said that the garage does not seem to fit with the rest of the house.

The Board discussed allowing the petition to be withdrawn without prejudice versus continuing the petition. Mr. Shind said that the Petitioner would prefer to continue the petition.

The Board voted unanimously to continue the petition to March 3, 2016.

March 3, 2016

Presenting the case at the hearing were Laurence Shind, Esq. and Edwin Sargent, Architect. Mr. Shind said that they submitted a revised proposal that eliminated the prior variance request for the expanded garage and mudroom and the left rear. He said that they stepped it back so that the request is now for a special permit/finding. He said that they addressed a main concern at the previous hearing by reducing

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02158
2016 MAR 17 P 2:52

the height of the garage roof. He said that, when viewed from the rear, the bulk and visual impact is substantially reduced.

Mr. Shind said that the Board received a letter of support from the neighbor at the rear who would be most impacted by the project.

A Board member said that he appreciated that previous proposed height and the newly proposed height of the garage are shown on Plan A3.2. He said that the reduction dramatically improves the aspect to the neighbors.

A Board member said that the homeowner might want to consider relocating the window that is adjacent to the garage door. He said that it inhibits storage. He said that they could put the window on the other side on the short addition for light and circulation. He said that it is not a Zoning issue.

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 46 Dover Road, on a 9,754 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with minimum side yard setbacks of 1.7 feet and 7.4 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 186 square foot one-story addition that will meet all setback requirements and demolition of an existing porch and construction of a one-story addition with an attached porch with less than required setbacks, on a 9,754 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, on an existing nonconforming structure with less than required side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 12/30/15, revised 2/19/16, stamped by Christopher C. Charlton, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/4/16 & 1/5/16, revised 2/22/16, prepared by ES Design, and photographs were submitted.

On February 4, 2016, 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.

RECEIVED
TOWN OF FRENCH CREEK
WELLS FLETCHER
2016 MAR 17 PM 2:31

It is the opinion of this Authority that although construction of a 186 square foot one-story addition that will meet all setback requirements and demolition of an existing porch and construction of a one-story addition with an attached porch with less than required setbacks, on a 9,754 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, on an existing nonconforming structure with less than required side yard setbacks 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 186 square foot one-story addition that will meet all setback requirements and demolition of an existing porch and construction of a one-story addition with an attached porch with less than required setbacks, on a 9,754 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in accordance with the revised 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.

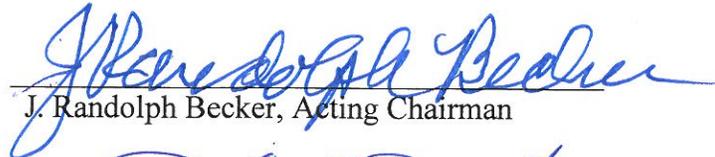
If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2016 MAR 17 P 2:53

ZBA 2016-11
Petition of Felicia Ellsworth & Timothy Smith
46 Dover Road

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2016 MAR 17 P 2:53

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



David G. Sheffield



Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm

No. 2 ROANOKE ROAD

N/F

WALTER BIBB

EXISTING PORCH
TO BE REMOVED

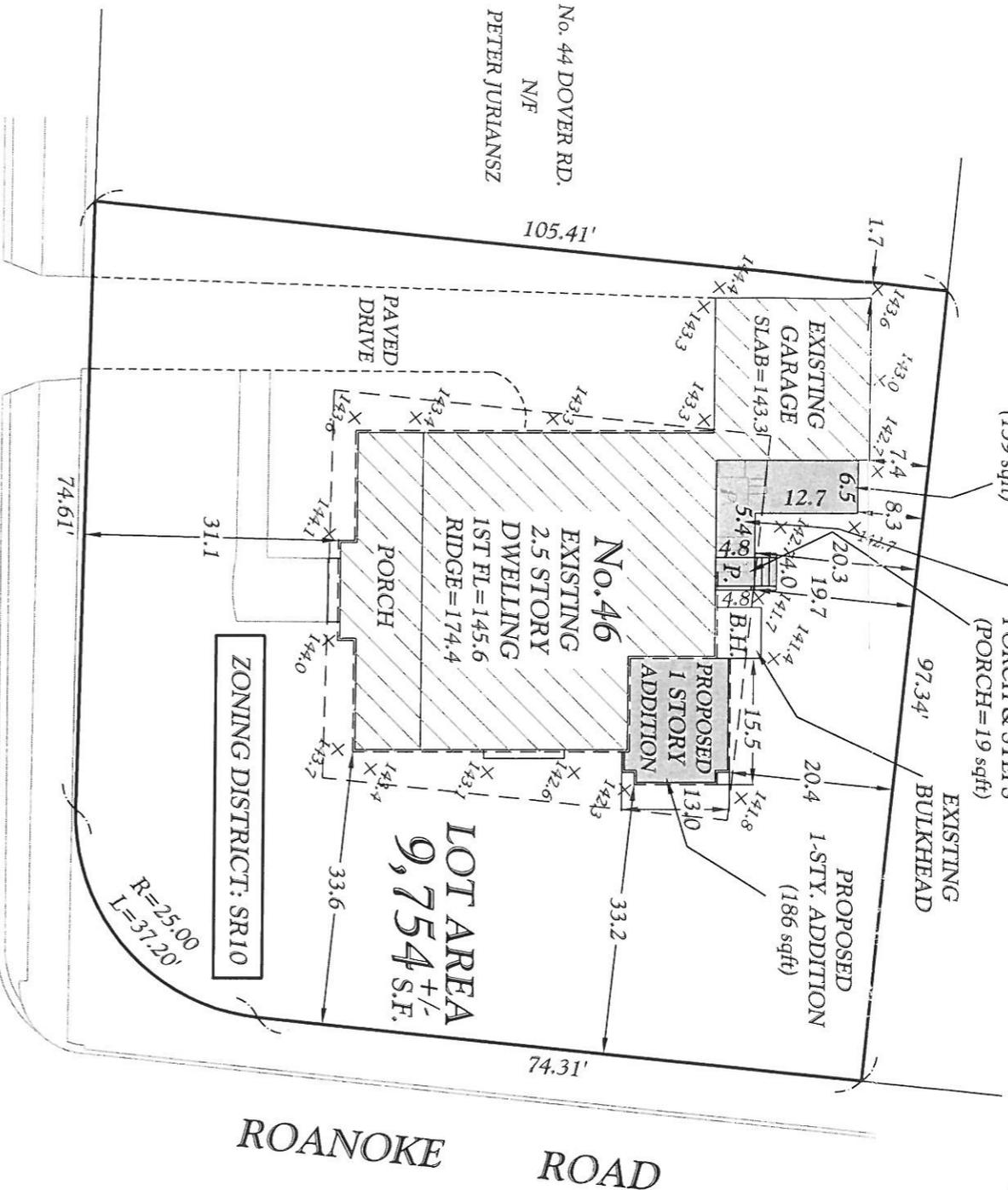
PROPOSED
1-STY. ADDITION
(139 sqft)

PROPOSED 4.0x4.8
PORCH & STEPS
(PORCH = 19 sqft)

EXISTING
BULKHEAD

PROPOSED
1-STY. ADDITION
(186 sqft)

No. 44 DOVER RD.
N/F
PETER JURIANSZ

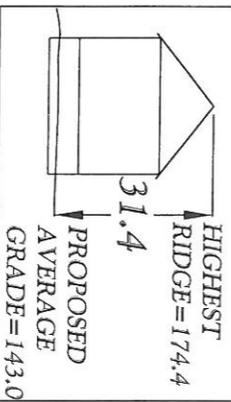


DOVER ROAD

ROANOKE ROAD

HEIGHT PROFILE

NOT TO SCALE



500 FOOT RULE: DOES NOT APPLY SINCE THERE ARE ONLY TWO BUILDINGS BETWEEN THE TWO INTERSECTING STREETS.

EXISTING LOT COVERAGE %	21.4
PROPOSED LOT COVERAGE %	24.6
EXISTING LOT COVERAGE (sqft)	2,087
PROPOSED LOT COVERAGE (sqft)	2,401

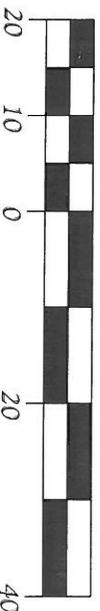
ZONING DISTRICT: SR10

ZONING DISTRICT: SR10

PREPARED FOR:
TIMOTHY SMITH &
FELICIA ELLSWORTH
46 DOVER ROAD
WELLESLEY, MA 02482
REFERENCES:
DEED: BOOK 29021, PAGE 175
PLAN: BOOK 1001, PAGE 492

I CERTIFY THAT THIS PLAN WAS CREATED BY AN INSTRUMENT SURVEY ON THE GROUND AND THAT ALL STRUCTURES ARE LOCATED AS SHOWN HEREOF.

CHRISTOPHER C. CHARLTON, PLS



CERTIFIED PLOT PLAN

LOCATED AT

46 DOVER ROAD

ASSESSORS PARCEL # 0126-0002

WELLESLEY, MA

NORFOLK COUNTY

CONTINENTAL LAND SURVEY, LLC

105 BEAVER STREET, FRANKLIN, MA

(508) 528 - 2528

SCALE: 1"=20' FEBRUARY 19, 2016