



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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WELLESLEY, MASS.  
MAR 1 5 51 AM '88

ZBA 88-20

Petition of Peter B. and Susan P. Nichols  
25 Aberdeen Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 3, 1988 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of PETER B. AND SUSAN P. NICHOLS requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow construction of a two-story addition approximately 19 feet by 24 feet 6 inches at their presently conforming dwelling at 25 ABERDEEN ROAD, in a Single Residence District. Said addition would leave less than the required right sideyard.

On February 8, 1988 the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Peter B. Nichols who said that the addition was needed as another child is expected, and they now own two cars with only a one-car garage. Mr. Nichols wished to widen the breezeway to use as a mudroom, add another garage bay, and build a master bedroom and another bath above the garage. The home is presently 32 feet from the right side line; the proposed addition would be 13 feet from said line.

The Board stated that an encroachment of 7 feet was without precedent.

Mr. Nichols said that according to his architect, the space was necessary to make the addition viable. He added that the Zoning Bylaw states that no new construction can be built any closer than 10 feet to any public land held for park, playground or any recreational use, and felt that the intent of the Planning Board was to establish a minimum setback of 10 feet. As the petitioner abuts a parkland, this would be applicable.

The Board reiterated its objection to such a large encroachment, and questioned if the addition could be located elsewhere on the property. Mr. Nichols said that he could build by right on the left side, but that the left side was far more dense, whereas the right side was open.

The Board stated that the Natural Resources Commission had also objected to the request. Mr. Nichols again referred to the Zoning Bylaw regarding setback from parkland. The Board said that the Yard Regulations (Section XIX) would override that section of the Zoning Bylaw. In response to Mr. Nichols' example of two garages on his site plan that were closer than 10 feet to the parkland, the Board stated that these were pre-existing structures not to be used as precedent.

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Peter Barges, 21 Morton Street, the rear abutter, spoke in opposition to the request. Mr. Barges felt that no hardship was involved, and that the addition would increase the value of Mr. Nichols' property. If the variance were granted, a precedent would be established for all the homes along the brook line to move closer. Were Mr. Nichols to build on the left side of his property, he would not affect the parkland, nor would he encounter a wetland problem.

Mr. Nichols submitted a petition signed by ten of his neighbors in support of his petition.

No other persons had any comment on the petition.

Statement of Facts

The presently conforming dwelling is located at 25 Aberdeen Road, in a Single Residence District, on a 10,046 square foot lot which abuts Wellesley Parkland on the right side of the property and is within the 100-year floodplain of Fuller Brook.

The petitioners request a variance to allow construction of a two-story addition approximately 19 feet by 24 and one-half feet to their presently conforming dwelling. Said addition would leave a right side yard of 13 feet; the requirement being 20 feet.

A Plot Plan, dated December 1, 1987, drawn by Donald J. Forand, Registered Land Surveyor of the BSC Group, Bedford; Construction plans and elevations, dated January 28, 1988, drawn by Carl J. Frenning; photographs, site and locus plans were submitted.

The Natural Resources Commission, in a letter dated February 17, 1988, expressed opposition to the request as the encroachment of the proposed addition would detract from the public and private benefits of the parkland.

The Planning Board, at its regular meeting on February 16, 1988, voted to oppose the request for the same reasons, and because it would represent a substantial encroachment on a side lot line.

Decision

This Authority has made a careful study of the evidence presented.

Variances may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from the Zoning Bylaw):

"1...

- a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning

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district in which it is located; and the hardship shall not have been self-created; and

- b. 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."

This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw.

Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

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.

cc: Planning Board  
Inspector of Buildings  
edg

  
\_\_\_\_\_  
John A. Donovan, Jr., Chairman

  
\_\_\_\_\_  
Robert R. Cunningham

  
\_\_\_\_\_  
Kendall P. Bates

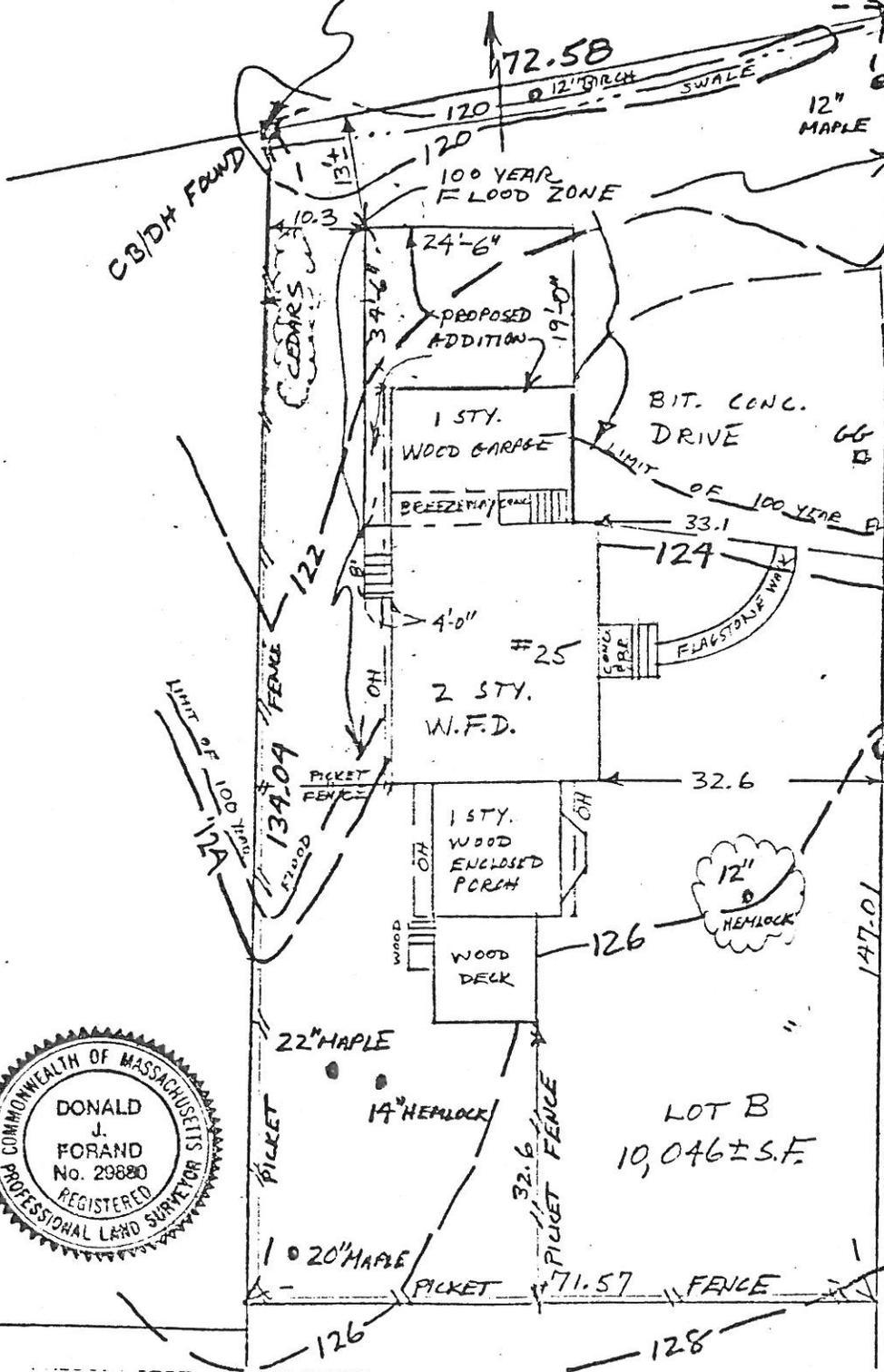
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BENCH MARK  
TOP OF CONC. BOUND  
ELEV. = 127.24

BENCH MARK  
TOP OF CONC. BOUND  
ELEV. = 126.23

PLAN 1201 OF 1950

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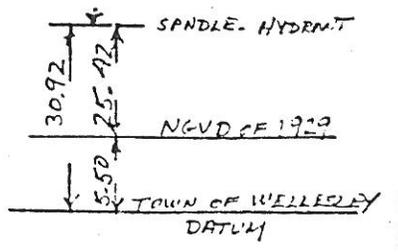


CONC WALK.  
GUTTER  
CB R=122.95  
BIT. CONC. W.G. MH R=123.71  
CONC WALK  
GUTTER  
EGG D.W.G.

NOTE:  
ALL ELEVATIONS REFER TO  
NATIONAL GEODETIC VERTICAL  
DATUM OF 1929.

UTILITIES ARE NOT SHOWN

BENCH MARK USED:  
TOP SPINDLE HYDRANT  
NEAR FOOTBRIDGE  
OVER FULLERS BROOK



1/26/88  
DATE

*Donald J. Forand*  
PROFESSIONAL LAND SURVEYOR

PLOT PLAN  
IN  
WELLESLEY, MASS.  
SCALE: 1" = 20'  
DEC. 1, 1987

THE BSC GROUP - BEDFORD, INC.  
CIVIL ENGINEERS LAND SURVEYORS  
18 NORTH ROAD BEDFORD, MASS.

NOTE: THIS PLAN IS NOT INTENDED TO BE USED FOR PROPERTY LINE PURPOSES