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ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-11
Petition of Daniel and Rose Mary Fuss
44 Longfellow Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 16, 1989 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of DANIEL AND ROSE MARY FUSS, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow the following at their non-conforming dwelling at 44 LONGFELLOW ROAD, in a Single Residence District: 1) Removal of an existing deck and construction of a one-story addition approximately 12.6 feet by 14 feet with less than the required right side yard; and 2) raising the ridge line of their roof approximately 2 feet to accommodate a second story addition approximately 15 feet 4 inches by 21 feet 4 inches above an existing garage which has less than the required right side yard.

On January 30, 1989, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Rose Mary Fuss, who stated that she and her husband wished to proceed with the construction of the first floor addition and the addition of the room over the garage. Mrs. Fuss explained that both the original plot plan and the plot plan done in 1985 for the construction of the deck showed a 20 foot right side yard. Based on the 1985 plot plan, a foundation permit for the new construction was issued by the Building Department, as well as a permit for the construction of the addition over the garage. When the surveyor did a new plot plan certifying the foundation, it was discovered that the existing garage and the new foundation were non-conforming on the right side. Mrs. Fuss added that they had no intent at any time to violate the Zoning Bylaw.

John Atwood, 46 Longfellow Road, the right side abutter, spoke in favor of the request.

Statement of Facts

The non-conforming dwelling is located at 44 Longfellow Road, in a Single Residence District, on a 22,562 square foot lot with a minimum right side yard clearance of 19.7 feet.

The Plot Plan accompanying the Building Permit dated January 23, 1950, for the original construction of the dwelling, showed a right side yard clearance of 20.25 feet. The Plot Plan, dated May 22, 1985, drawn by John R. Andrews, III, Registered Land Surveyor, which accompanied the Building Permit to construct the existing deck, showed a right side yard clearance of plus or minus 20 feet. Based on this plot

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plan, a Building Permit was issued on November 8, 1988 to demolish the deck, build a sunroom addition and add a second story over the garage. A Plot Plan, dated January 4, 1989, drawn by George N. Giunta, Registered Land Surveyor, showed the front corner of the garage to be 19.9 feet from the right side line; the rear corner of the garage to be 19.7 feet and the rear corner of the addition to be 19.6 feet from the right side line.

The petitioners request a variance to construct a one-story addition approximately 12.6 feet by 14 feet with a minimum right side yard of 19.6 feet and to raise the ridge line of the roof approximately 2 feet to accommodate a second story addition approximately 15 feet 4 inches by 21 feet 4 inches over an existing garage which has a minimum right side yard of 19.7 feet.

A Plot Plan, dated January 4, 1989, drawn by George N. Giunta, Registered Land Surveyor; unsigned, undated construction plans and elevations; and photographs were submitted.

The Planning Board, on February 7, 1989, voted to offer no objection to the request.

Decision

This Authority has made a careful study of the evidence presented. The subject house does not conform to the present Zoning Bylaw as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that the proposed one-story addition and the proposed second-story addition over the existing garage conform to the existing line of the house, and the alteration of the relationship of the house to the right side line is de minimus and can be allowed.

It is the opinion of this Authority that because of the shape of the lot and the location of the house on the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted for the first-story addition and for the raising of the roof to accommodate the construction of a second-floor addition above the existing garage subject to construction in accordance with the Plot Plan and construction plans noted in the foregoing Statement of Facts.

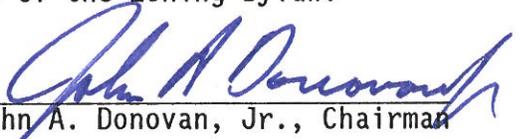
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

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If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

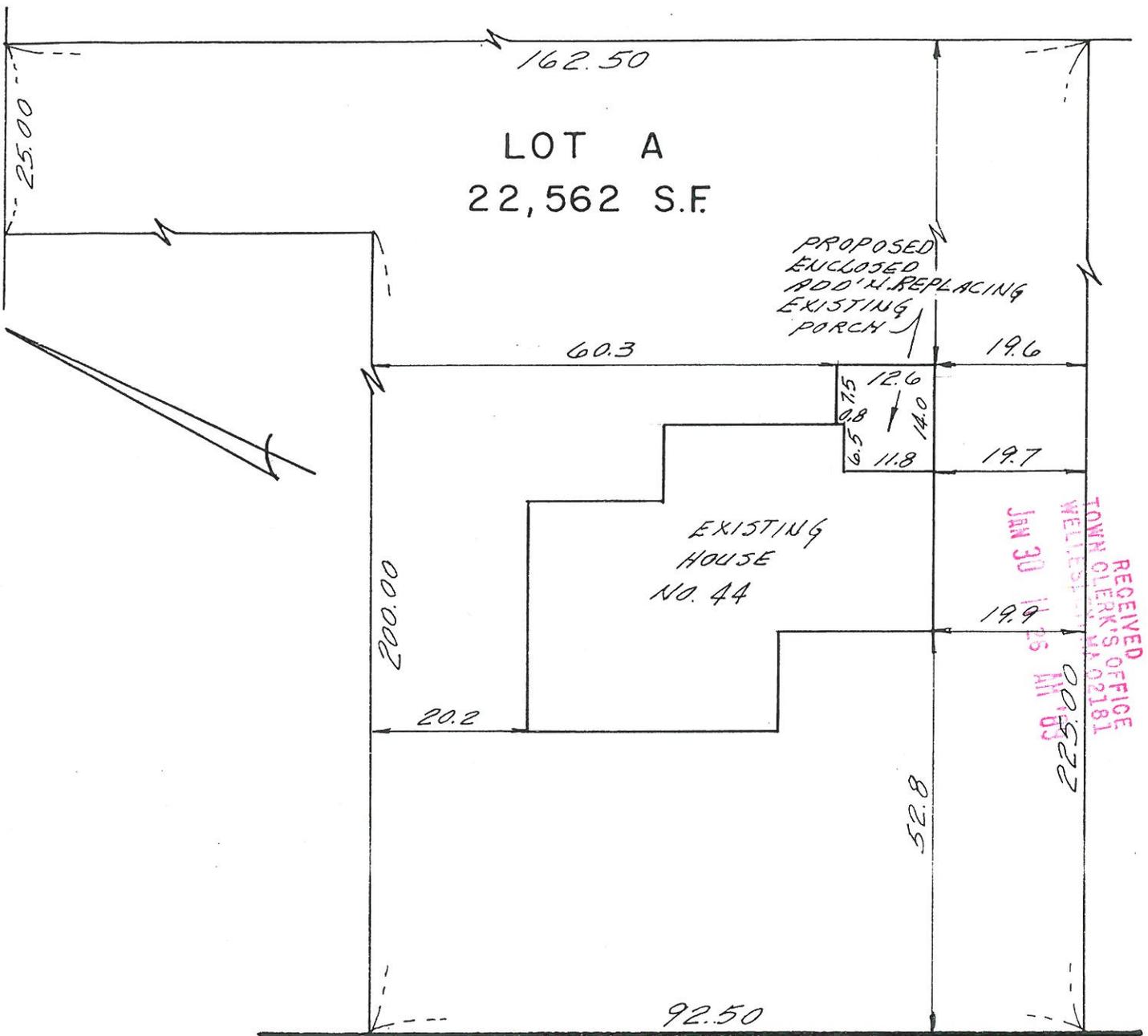
cc: Planning Board
Inspector of Buildings
edg


John A. Donovan, Jr., Chairman


Robert R. Cunningham


Kendall P. Bates

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 JAN 30 1989 AM 05:22

LONGFELLOW ROAD

PLOT PLAN OF LAND
 IN
 WELLESLEY — MASS.

JAN. 4, 1989 SCALE 1" = 20'

NEEDHAM SURVEY ASSOCIATES, INC.
 76 NEHOIDEN ST.
 NEEDHAM, MASS.

