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ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-16
Petition of Frederic and Linda Nitschelm
114 Brook Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 23, 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 FREDERIC AND LINDA NITSCHELM, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow removal of an existing second story over the garage with less than the required front setback and less than the required left side yard at their non-conforming dwelling at 114 BROOK STREET, in and the corner of RADCLIFFE ROAD, in a Single Residence District; and construction of a new second story approximately 19 feet by 23 feet over said garage which would include raising the ridge line of the roof approximately 2 feet in this area to accommodate said addition.

On March 3, 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 were Frederic and Linda Nitschelm, who were accompanied by their architect, Marshall Audin. Mr. Nitschelm said they wish to remove a small room approximately 9 and 1/2 feet by 13 feet, located over the garage and construct a new family room with interior dimensions of 17 feet by 21 feet. In order to construct the new room, they would like to raise the ridge line of the roof and relocate it 90 degrees to allow more light.

Discussion followed regarding the letter from the Planning Board recommending denial of the request due to a concern regarding a more intensive use of a non-conforming area brought into closer proximity to a side lot line.

Mr. Nitschelm said that presently about 70 square feet are involved in the non-conforming portion. The addition to the non-conforming area would involve about 35 square feet.

Mr. Audin said that the ridge line change was to add headroom as the existing headroom is less than 7 feet.

Mr. Nitschelm presented letters from Mr. and Mrs. Robert Magliozzi, 108 Brook Street, the left side abutters; and Mr. and Mrs. Charles Edwards, 189 Benvenue Street; supporting the petition.

No other person present had any comment on the petition.

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Statement of Facts

The non-conforming dwelling is located at 114 Brook Street and Radcliffe Road, in a Single Residence District, on a 16,469 square foot lot, with a minimum front setback from Brook Street of 28.7 feet, a minimum front setback of 29.5 feet from Radcliffe Road and a minimum left side yard clearance of 13.2.

The petitioners are requesting a variance to remove an existing second story and construct a new second story approximately 19 feet by 23 feet over the non-conforming garage with a minimum left side yard setback of 13.2 feet and a minimum front setback of 27.1 feet from Brook Street due to the cantilevered construction which will involve a 1.6 foot overhang; and to raise the ridge line of the roof approximately 2 feet to accommodate the addition.

A Plot Plan, dated February 27, 1989, drawn by George N. Giunta, Registered Land Surveyor; construction plans and elevations, dated February 28, 1989, drawn by Marshall Audin; and photographs were submitted.

The Planning Board, on March 7, 1989, voted to oppose the granting of the variance request as it would be a significant change in conditions where living space is brought into close proximity to the side lot line where it presently does not exist.

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 second story addition conforms to the present lines of the house and does not alter the relationship of the house to either the front lot line or the left side lot line.

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 petitioners 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 to construct the new second story cantilevered addition and to raise the ridge line of the roof approximately 2 feet above the addition subject to construction in accordance with the Plot Plan and construction plans as submitted and noted in the foregoing Statement of Facts.

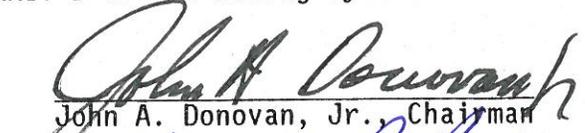
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

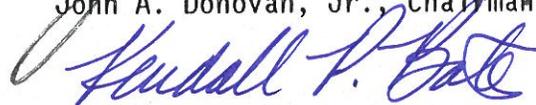
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If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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

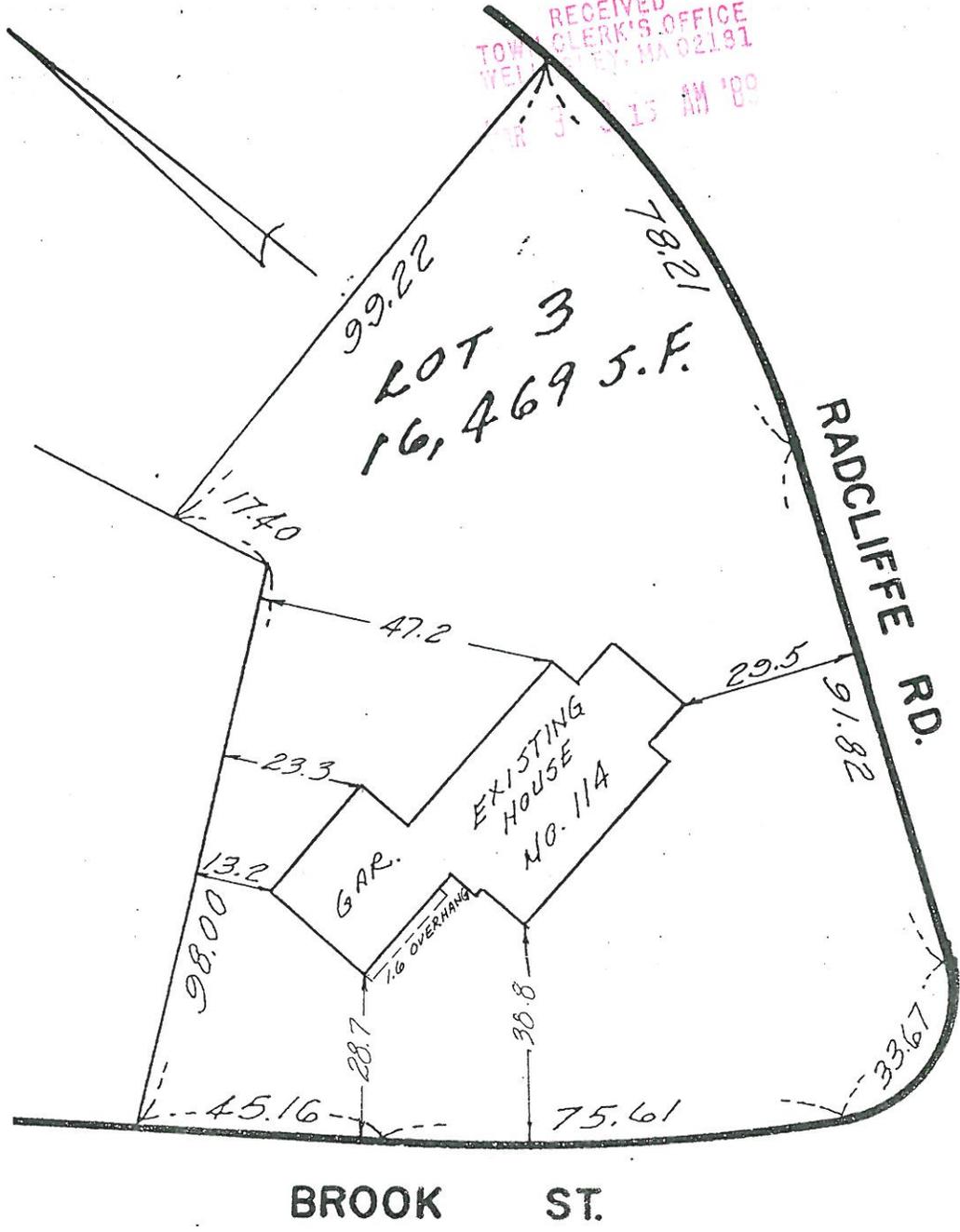

John A. Donovan, Jr., Chairman


Kendall P. Bates


William E. Polletta

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FEB 27 10 15 AM '89



PLOT PLAN OF LAND
IN
WELLESLEY — MASS.

FEB. 27, 1989 SCALE 1" = 30'
NEEDHAM SURVEY ASSOCIATES
76 NEHOIDEN ST.
NEEDHAM, MASS.

