



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

JUN 14 9 24 AM '90

JOHN A. DONOVAN, JR., Chairman  
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KENDALL P. BATES

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MA 02181

ZBA 90-47  
Petition of Pamela J. O'Neill  
141 Westgate Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, May 24, 1990 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 PAMELA J. O'NEILL requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow her non-conforming deck, approximately 12.5 feet by 13.8 feet, and to screen and roof said deck at her non-conforming dwelling at 141 WESTGATE ROAD, in a Single Residence District, with less than the required rear setback. Said deck was constructed as part of the original dwelling, but without a building permit and prior to rear yard setback requirements.

On May 7, 1990, the petitioner filed a request for 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 Pamela O'Neill, who stated that the house and deck were built ten years ago, but that the deck was not shown on the original plot plan, and is therefore illegal. When she purchased the house in August, 1988, the Mortgage Survey Plan showed the existing deck with a legal rear setback. The recent survey she had done now shows the deck as non-conforming in regard to current rear yard zoning setback requirements. The deck was built as part of the original construction and prior to the current rear yard setbacks. Ms. O'Neill requested that the deck be allowed and that she be permitted to screen it.

No other person present had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 141 Westgate Road on the corner of Worcester Street, in a Single Residence District, on a 20,335 square foot lot, with a minimum rear setback of 10.6 feet. The dwelling and the subject deck were constructed in 1980, although the plot plan accompanying the building permit does not show the deck, which is approximately 12.5 feet by 13.8 feet with a minimum rear yard clearance of 12.2 feet. In 1981, the Town adopted rear yard setback requirements which, in a 20,000 square foot district, was 15 feet from the rear lot line. The pre-existing deck is now both illegal, as it was built without a building permit, and non-conforming as it has a rear yard setback of 12.2 feet.

The petitioner is requesting a variance to allow the continued existence of the deck, and, if allowed, to screen and roof said deck. The dimensions of the deck would remain unchanged, as would the rear yard setback.

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A Plot Plan dated May 2, 1990, drawn by George Giunta, Registered Land Surveyor; construction drawings and elevations; a letter dated May 4, 1990, signed by Patricia Davis, the original owner of the property, attesting that the deck was part of the original construction of the dwelling; a copy of the survey record dated October 13, 1979, drawn by Carmelo Frazetti, Registered Land Surveyor; a copy of the Mortgage Inspection Plan dated June 26, 1988, drawn by Vartan T. Mooradian, Registered Land Surveyor; and photographs were submitted.

The Planning Board, on May 15, 1990, voted to oppose the granting of the variance.

Decision

This Authority has made a careful study of the evidence submitted and is of the opinion that the existing deck at 141 Westgate Road is not in conformance with the current Zoning Bylaws as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that as the deck was constructed prior to the adoption of rear yard setbacks; as the lot was not held in common ownership at the time of the adoption of the new zoning requirements; and as the construction of the deck without a building permit was not authorized or known to the present owner, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the petitioner.

It is the opinion of this Authority that the allowance of a variance to permit the existing deck, and further, to screen and roof said deck would not be detrimental to the neighborhood, nor would it be in derogation of the intent or purpose of the Zoning Bylaw.

Therefore, a variance is granted from the terms of Section XIX of the Zoning Bylaw to allow the continued existence of said deck, approximately 12.5 feet by 13.8 feet, with a minimum rear yard setback of 12.2 feet; and to screen and roof said deck subject to conformance with the submitted Plot Plan and construction drawings.

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.

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

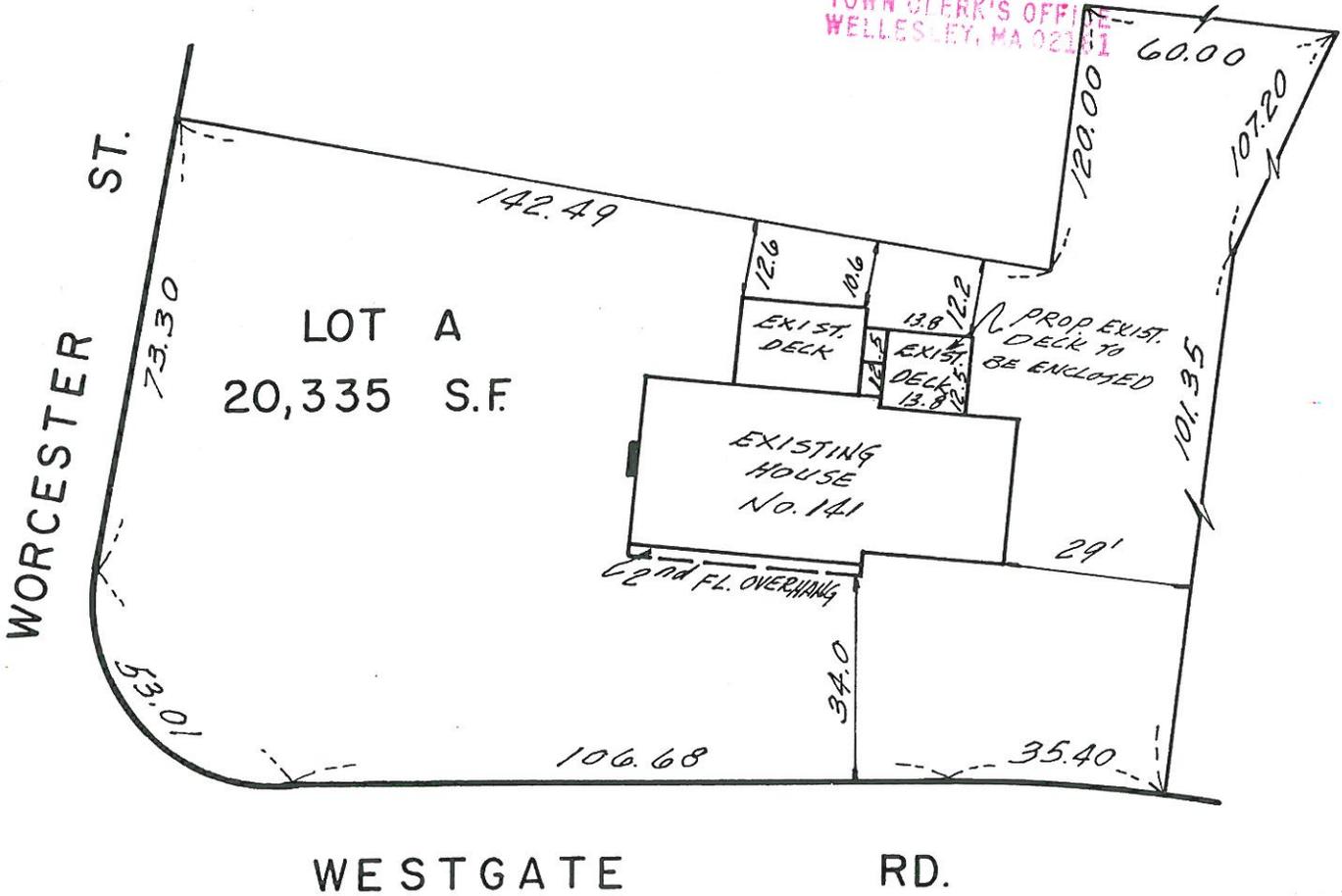
edg

*John A. Donovan, Jr.*  
John A. Donovan, Jr., Chairman  
*Kendall P. Bates*  
Kendall P. Bates  
*Robert R. Cunningham*  
Robert R. Cunningham

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JUN 24 9 11 AM '90

MAY 7 1 38 PM '90

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WELLESLEY, MA 02151



PLOT PLAN OF LAND  
IN  
**WELLESLEY — MASS.**

MAY 2, 1990 SCALE 1" = 30'  
NEEDHAM SURVEY ASSOCIATES, INC.  
281 CHESTNUT ST  
NEEDHAM, MASS.

May 7 1 39 PM '90

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**JK SURVEY RECORD**  
10-19-78 JEd

Permit No. 18498

Street Westgate Rd No. 141

Builder George Schallah

Address Arlington

Owner George Schallah

Address Arlington

Building dimensions

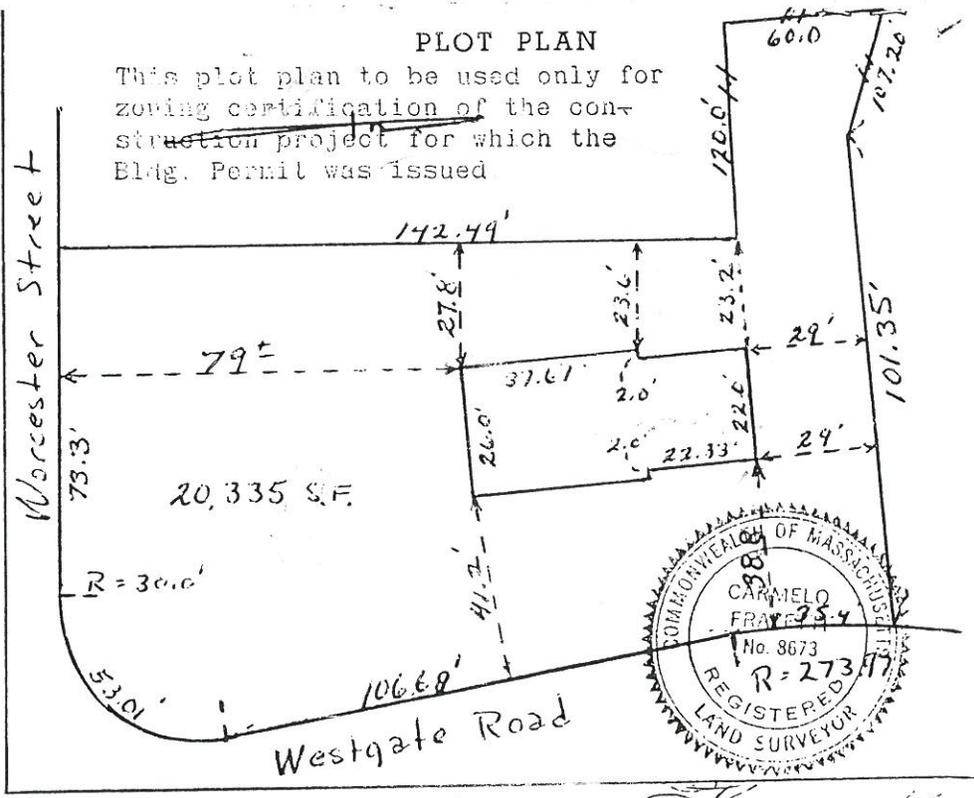
Distances:  
Adjoining Bldgs.

Center of street

Front Yard 38.0 Rear Yard 23.2

Side Yard Lt 79± Side Yard Rt 29'

Area of Lot 20,335 S.F.



COMPLETE INSTRUCTIONS ON REVERSE SIDE  
OF DUPLICATE COPY

Signed By: *Carmelo Fray*  
Registered Engineer or Surveyor

Date Oct. 13, 1979 Address 455 Worcester St. Wellesley, Mass

ORIGINAL.

Arthur LaConte - Bldg Inspector

NEWTON SURVEYING SERVICES  
114 A PEARL STREET, NEWTON, MA TEL: (617) -964-3658

MAY 7 1 39 PM '90

MORTGAGE INSPECTION PLAN

MORTGAGOR: Pamela J. O'Neill  
LOCATION: 141 Westgate Road, Wellesley, MA

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N/F PORTER INC.

N/F ABRUZZESE

N/F ABRAMO MARCHETTI

LOT B

WORCESTER ST.  
(ROUTE . 9)

LOT A  
20,335 S.F.



WESTGATE ROAD

TO: Commonwealth Mortgage Company

I HEREBY CERTIFY THAT THE BUILDINGS SHOWN ON THIS PLAN ARE APPROXIMATELY LOCATED ON THE GROUND AS SHOWN AND THEY DO CONFORM TO THE ZONING ORDINANCES OF THE TOWN OF WELLESLEY, MA AND THAT THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN. I FURTHER STATE THAT THE PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA.

NOTE: THIS CERTIFICATION IS BASED ON SURVEY MARKERS OF OTHERS AND IS FOR MORTGAGE PURPOSES ONLY. THIS PLAN HAS NOT MADE FOR RECORDING PURPOSES. FOR PREPARING DEED RECORDATION OR SUBSTITUTION, VERIFICATION OF PROPERTY LINE DIMENSIONS, BUILDING OFFSETS, FENCES, OR LOT CONFIGURATIONS MAY BE ACCOMPLISHED ONLY BY AN ACTUAL INSTRUMENT SURVEY.

DEED: 5725  
PG. 462  
PLAN: BK. 269  
PG. \_\_\_\_\_  
NO. 620  
SCALE: 1" = 40'  
DATE: 6/26/1988

