TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
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431-1019

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FRANKLIN P. BARKER
SUMNER H. BABCOCK

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ZBA 90-64
Petition of Richard D. Webb
42 Cedar Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 26, 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 RICHARD D. WEBB requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to construct a one-story addition, approximately 9 feet by 13 feet at his non-conforming dwelling at 42 CEDAR STREET, in a Single Residence District, with less than the required front setback and less than the required right side yard.

On July 9, 1990, the petitioner 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 Richard Webb, who said that the "L" shaped house is only 1,400 square feet, and that he would like to fill in the "L" with a bathroom addition, as there is only one bathroom for a family of five. The house is about 17 feet from the right side lot line.

The Board commented on the non-conformity of the dwelling, noting that the left rear corner of the house appeared to be on the abutting property. Mr. Webb responded that there have been several surveys of neighborhood properties during the past few years, and depending on the monuments and angles used in the measurements, the house lies over or within the property lines. He added that the bank mortgage survey plan shows the house within the lot lines, and that the addition was requested for the right side of the dwelling, not the left side.

The Board stated that the Plot Plan presented had been signed by a Registered Land Surveyor and showed the house to be over the lot line, and that the Board would have a problem sanctioning an addition to a house already in question, thus compounding the non-conformance.

No other person present had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 42 Cedar Street, in a Single Residence District, on a 6,815 square foot lot, with a minimum front yard setback of 28.7 feet, and a minimum right side yard clearance of 17.2 feet. The Certified Plot Plan shows the left rear corner of the dwelling to be located on the abutting property at 40 Cedar Street.

The petitioner is requesting a variance to construct a one-story addition, approximately 9 feet by 13 feet at the right front corner of the dwelling, which

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would leave a minimum front setback of 27.9 feet and a minimum right side setback of 16.1 feet from the right side lot line.

A Plot Plan, dated June 25, 1990, drawn by John P. Hurney, Registered Land Surveyor; construction drawings and elevations; and photographs were submitted.

The Planning Board, on July 17, 1990, voted to recommend that the petition be denied, as the existing structure is seriously non-conforming, and the addition would aggravate the non-conforming status.

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.

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: 1) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning 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 this Zoning Bylaw."

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

It is the opinion of this Authority that approval of the petition would substantially derogate from the intent and purpose of the Zoning Bylaw as approval of the petition would allow further non-conformance on an already seriously non-conforming property.

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

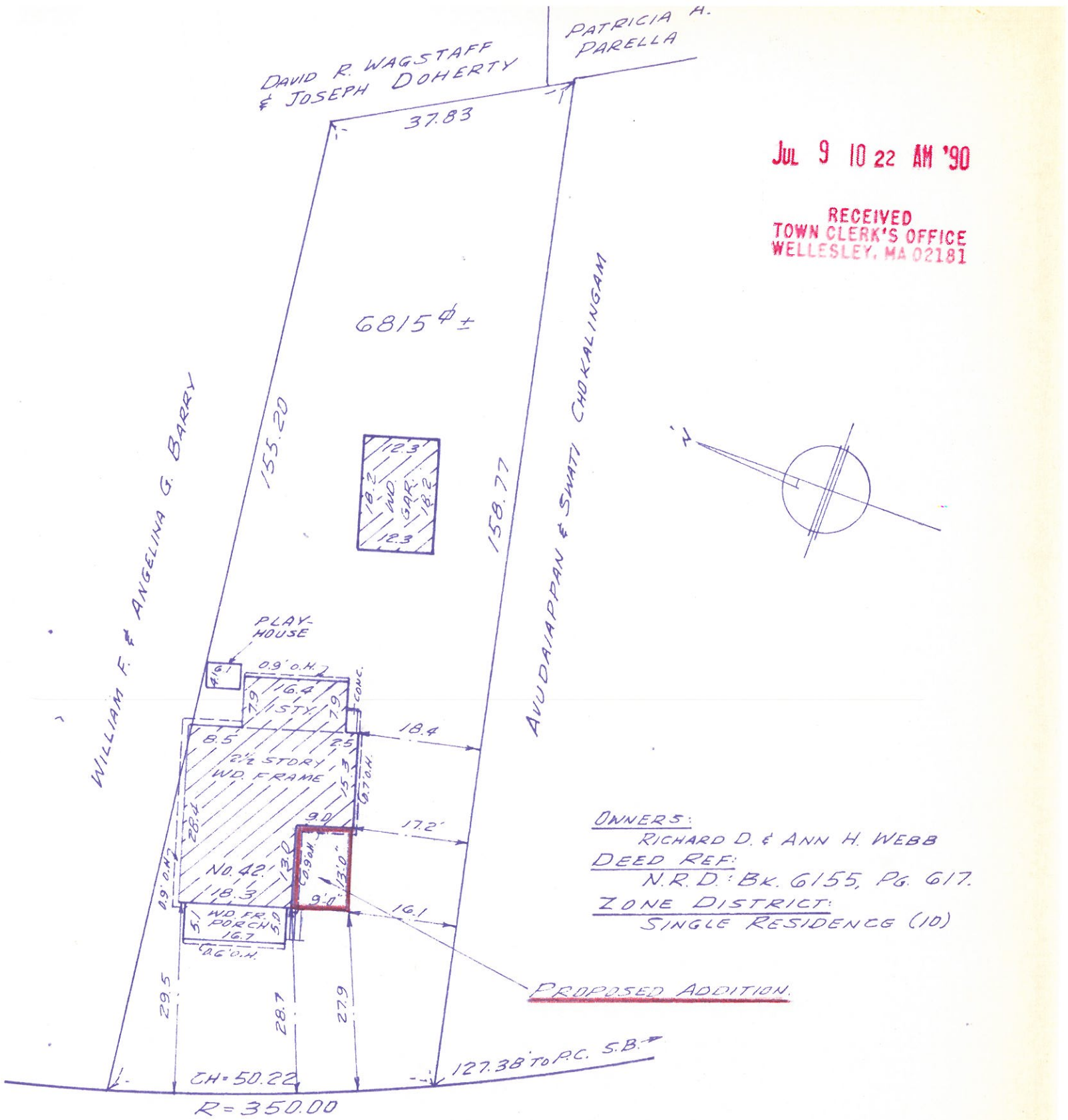
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

Kendall P. Bates, Acting Chairman

Franklin P. Parker

William E. Polletta

cc: Planning Board
Inspector of Buildings
edg



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OWNERS:
RICHARD D. & ANN H. WEBB

DEED REF:
N.R.D.: BK. 6155, PG. 617.

ZONE DISTRICT:
SINGLE RESIDENCE (10)

CEDAR STREET

I CERTIFY THAT THIS BUILDING IS LOCATED AS SHOWN.

COMMONWEALTH OF MASSACHUSETTS
JOHN P. HURNEY
No. 8743
REGISTERED LAND SURVEYOR

John P. Hurney
#8743

PLOT PLAN
OF LAND IN
WELLESLEY, MASS.

SCALE 1 IN. = 20 FT JUNE 25, 1990

BARNES ENGINEERING COMPANY, INC
411 LEXINGTON ST. AUBURNDALE, MASS.

16477 591/74

BARNES ENGINEERING COMPANY, INC.
CIVIL ENGINEERS
411 LEXINGTON STREET AUBURNDALE MASSACHUSETTS 02166
TELEPHONE 332-8210
JOSEPH A. BODIO JOHN P. HURNEY

March 26, 1991

Mr. Richard D. Webb
42 Cedar Street
Wellesley, MA 02181

Dear Mr. Webb:

Enclosed, please find a revised plot plan of your property, dated March 22, 1991.

This plan supercedes the plot plan made on June 25, 1990.

The directions of the side lot lines of the earlier plot plan were based on the recorded plan of the abutting property to the south. Upon further investigation we discovered the stone monument at the north east corner of your lot, which is shown on an earlier plan of the area.

The monument generally agrees with others found along the rear property lines of the lots on Cedar Street and the lines shown on the plot plan, dated March 22, 1991 represent their correct location, according to your deed.

If you have any questions regarding this, please give us a call.

Yours very truly,

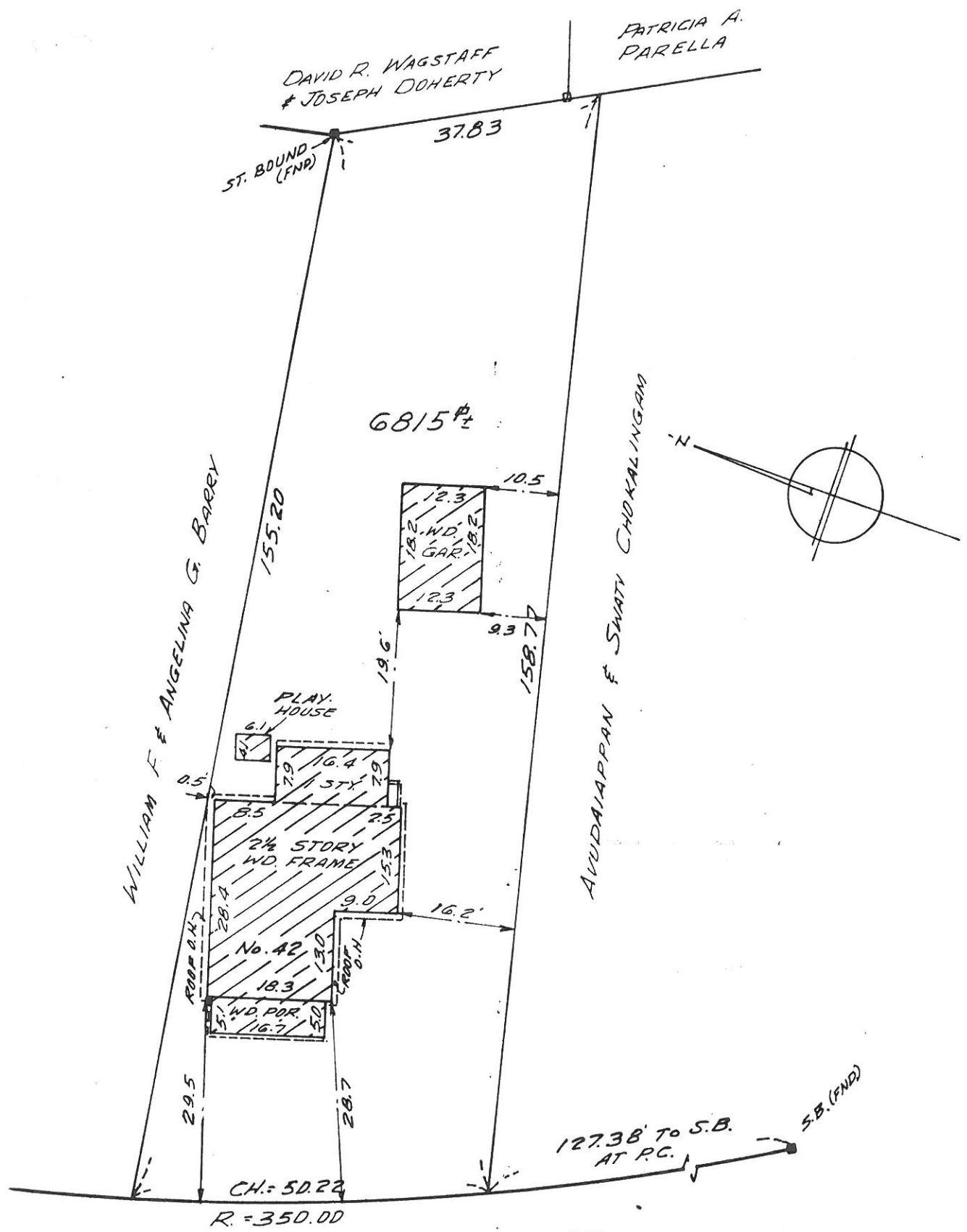
BARNES ENGINEERING COMPANY, INC.

John P. Hurney

John P. Hurney, P. E.

JPH/emw

Enclosure: Plot Plan



CEDAR STREET

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JOHN P HURLEY No. 8743 REGISTERED LAND SURVEYOR

John P. Hurley
#8743

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OF LAND IN

WELLESLEY, MASS.

SCALE 1 IN. = 20 FT. MAR. 22, 1991

BARNES ENGINEERING COMPANY, INC.
411 LEXINGTON ST. AUBURNDALE, MASS.