



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

May 4 10 20 AM '94  
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WELLESLEY, MA 02181

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

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Executive Secretary  
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WILLIAM E. POLLETTA  
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SUMNER H. BABCOCK

ZBA 94-23

Petition of Wayne Marasco and Jennifer M. Brown  
43 Rice Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 21, 1994 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 WAYNE MARASCO AND JENNIFER M. BROWN requesting a variance from Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to make the following changes to their nonconforming dwelling with less than the required front, left and right side yard setbacks and to their nonconforming garage with less than the right side yard setback at 43 RICE STREET, in a Single Residence District:

1. Construction of a two-story addition approximately 53.4 feet by 32.8 feet with less than the required left side yard setback.
2. Construction of a deck approximately 21 feet by 12 feet with less than the required left side yard setback, at the rear of the proposed addition.
3. Relocation of a nonconforming garage approximately 20.2 feet by 19.2 feet to a new location with a minimum right side yard setback of 10 feet.

On April 4, 1994, the petitioners requested a hearing before this Authority, and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Wayne Marasco and Jennifer Brown, who were accompanied by their architect, Maureen Giattino. Dr. Marasco said that they purchased the property in 1990, but it does not have enough room for a family. They intend to have 4 children, and both sets of parents live out of state. The addition, which is conforming on the right side, has been designed to meet these requirements. The location of an existing greenhouse has necessitated relocating the garage, which is presently 5 feet from the right side line, to its proposed site 10 feet from the right side line.

The Board noted that the addition would more than double the size of the existing house, and questioned if the addition would block the view of the school property from the abutting house. Dr. Marasco responded that the abutting home was located closer to the street, and that their addition would be at the rear.

ZBA 94-23  
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43 Rice Street

MAY 4 10 20 AM '94

The Board asked why the garage could not be relocated 20 feet from the lot line. Dr. Marasco said that to do that, the greenhouse would have to be demolished, or the garage located at the right rear corner of the property, which would require a very long driveway.

The Board expressed strong concern that the size of the addition would create a visual impediment to the right side abutter, and a negative visual impact on adjacent properties on the street.

The Board was also concerned that as the addition was the size of a single family dwelling, the potential existed for a future owner to come before the Board requesting permission to use the dwelling as a two-family dwelling, on the basis that it could no longer be maintained as a single family residence.

Marc Schectman, 41 Rice Street, the right side abutter, was opposed to the petition, as the addition, in his opinion, would obstruct his view, would create a shadow problem, and would result in a garage located 10 feet from his property. He presented a series of bar graphs to the Board showing the relationship of the proposed addition to other additions on the street. He noted that the scale of the addition is huge, and is no way comparable to other additions built on the street, as it would be about triple the size. He did not consider the proposed construction was not an addition as there would be more new construction than the total size of the existing house.

Mr. Schectman also submitted photographs of his home and others on the street, and stated that the addition would impact all the homes on the street.

J. Scott Hansen, 16 Rice Street, expressed support for the petition.

#### Statement of Facts

The subject property is located at 43 Rice Street, in a Single Residence District, on a 19,815 square foot lot, and abuts recreational land owned by the Town of Wellesley School Department on the left side. The lot contains a nonconforming two and one-half story dwelling, approximately 30 feet by 37 feet, which has a minimum front setback of 29.6 feet, a minimum left side setback of 5.6 feet and a minimum right side setback of 11.9 feet. The nonconforming detached garage has a minimum right side setback of 5 feet.

The petitioners are requesting variances to construct a two story addition approximately 53.4 feet by 32.8 feet, which would have a minimum left side clearance of 11 feet; a deck approximately 21 feet by 12 feet, which would have a minimum left side clearance of 13.9 feet; and relocation of a garage approximately 20.2 feet by 19.2 feet to a site which would have a minimum right side yard clearance of 10 feet.

ZBA 94-23  
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A Plot Plan dated March 28, 1994, drawn by Paul J. Sawtelle, Registered Land Surveyor; Floor Plans and Elevation dated 2/22/94, revised 3/24/94, drawn by M.C. Giattino; and photographs were submitted.

The Planning Board reviewed the petition, and offered no objection to the request to construct the addition and deck, but opposed the relocation site for the garage.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling and garage do not conform to the current Zoning Bylaw as noted in the foregoing Statement of Facts.

Variations 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 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 to allow construction of an "addition" that is almost two times the size of the existing dwelling, to allow construction of a deck that could be built in conformance with the Zoning Bylaw; or to allow relocation of a detached garage to a nonconforming site, when location to a conforming position is possible.

It is the opinion of this Authority that the grant of a variance for the proposed addition and deck would substantially derogate from the intent and purpose of the Zoning Bylaw and would be a detriment to the public good due to its size and visual impact on the other neighborhood homes. It is the opinion of this Authority that to allow the relocation of the garage to a substantially nonconforming site would be setting a precedent which would derogate from the intent and purpose of the Zoning Bylaw.

ZBA 94-23  
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43 Rice Street

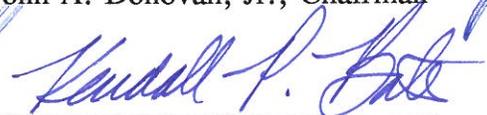
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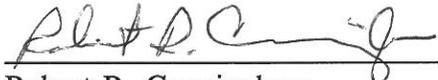
Therefore, it is the unanimous opinion of this Authority that this request for a variance for all three projects be denied, and this petition is dismissed.

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

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

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

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TOWN OF WELLESLEY HUNNEWELL FIELD

OWNER :

WAYNE A. MARASCO  
43 RICE STREET  
WELLESLEY, MA

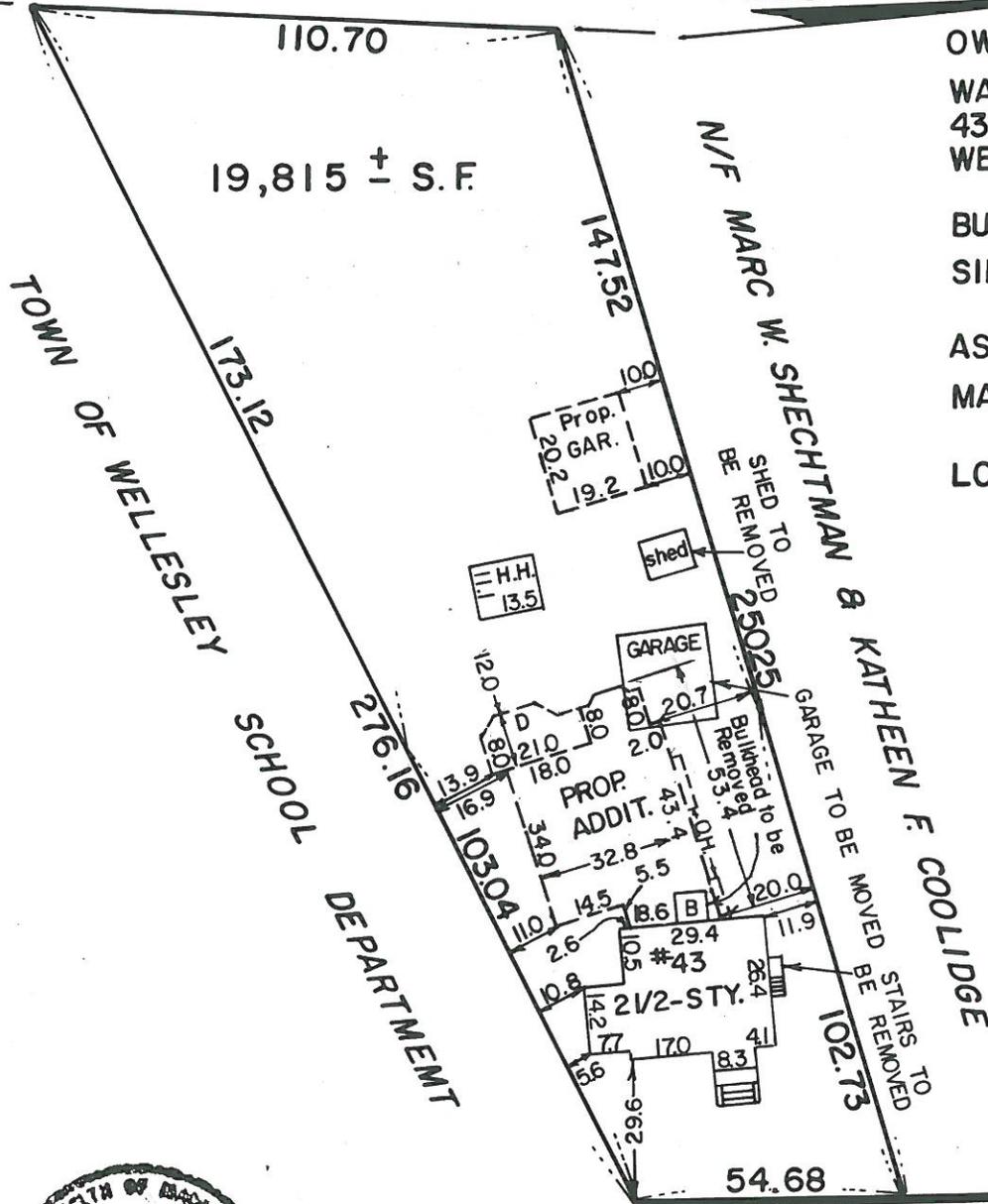
BUILDING ZONE :

SINGLE RES. 10,000 S.F.

ASSESSORS REF. :

MAP 087, ROUTE 020

LOT COVERAGE = 16.3 %



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Apr 4 10 47 AM '94

RICE STREET



*Paul Sawtelle*

PLAN OF LAND  
IN

**WELLESLEY, MASS.**

SCALE : 1" = 40'  
MASS BAY SURVEY, INC.

MARCH 28, 1994  
NEWTON, MASS.