



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman  
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ZBA 95-68

Petition of John and Amy Berylson  
38 Highgate Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 28, 1995 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 JOHN AND AMY BERYLSON requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of a one-story expansion approximately 8 feet by 22.3 feet to an existing garage at their premises at 38 HIGHGATE ROAD, in a Single Residence District. Said expansion will have less than the required front setback of 41.16 feet from HIGHGATE ROAD.

On September 11, 1995, the petitioners filed a request for 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 John and Amy Berylson, who were accompanied nby their attorney, Steven Astrove; their land surveyor, Verne Porter; and their architect, David Phillips. Mr. Astrove said that because the house is on a bend in the road, the expansion will appear to be on a side yard rather than a front yard. The locus, at 41 feet from the front property line, is the standard for three other houses on the street within 500 feet, but two of the affected houses have their standard also set by the house at 8 Highgate, which has a front setback of 36 feet. The Berylsons' house would set a new standard of 35.5 feet. He added that none of the neighbors have any objections.

Mrs. Berylson said that they did a major renovation when they moved into the house 15 years ago. This is the last part of the renovation.

One Board member stated that the Board does not like to allow petitions of this nature as a precedent is set for future petitions, and felt that there might be other solutions to the problem.

Mr. Astrove stated that in this case, the only house that is soley governed by the Berylson property, and not governed by 8 Highgate, had just completed a major addition at the rear of their home, and would be unlikely to take advantage of the new setback.

No other person present had any comment on the petition.

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Statement of Facts

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The subject property is located at 38 Highgate Road, in a Single Residence District, on a 43,199 square foot lot and has a front setback of 41.16 feet, which governs the setbacks within 500 feet of the locus, thereby affecting 16 Highgate at 41.5 feet, 24 Highgate at 43.5 feet and 44 Highgate at 71.3 feet.

The petitioners are requesting a variance to allow construction of a one-story garage expansion approximately 8 feet by 22.3 feet on the left side of the dwelling, which would have a minimum front clearance of 35.45 feet. This front setback would be the new governing front setback for the aforementioned Highgate Road properties.

A Plot Plan dated June 28, 1995, drawn by Verne T. Porter, Jr., Professional Land Surveyor; Floor Plans and Elevations (A-1 through A-7) dated 6/20/95, drawn by David Phillips; a Brief In Support of Application For Variance; and photographs were submitted.

On September 22, 1995, the Planning Board reviewed the petition and voted to offer no objection to granting the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject property, with a present controlling setback of 41.15 feet for all properties within a distance of 500 feet from the locus, would have a reduced front setback of 35.45 feet due to the proposed garage expansion approximately 8 feet by 22.3 feet, which would become the new controlling setback for said properties.

It is the opinion of this Authority that, as two of the three homes affected by the reduced front setback of 35.45 feet, are also governed by the setback of 36 feet at 8 Highgate Road, and that as the third home facing Highgate Road has a stable front facade, the additional .55 feet encroachment resulting from the proposed addition 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 petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

It is the unanimous decision of this Authority to grant the requested variance for the 8 foot by 22.3 foot garage expansion, subject to construction in accordance with the submitted plot plan and construction drawings.

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

If the rights authorized by this variance are not exercised within one year of the date of grant of said 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

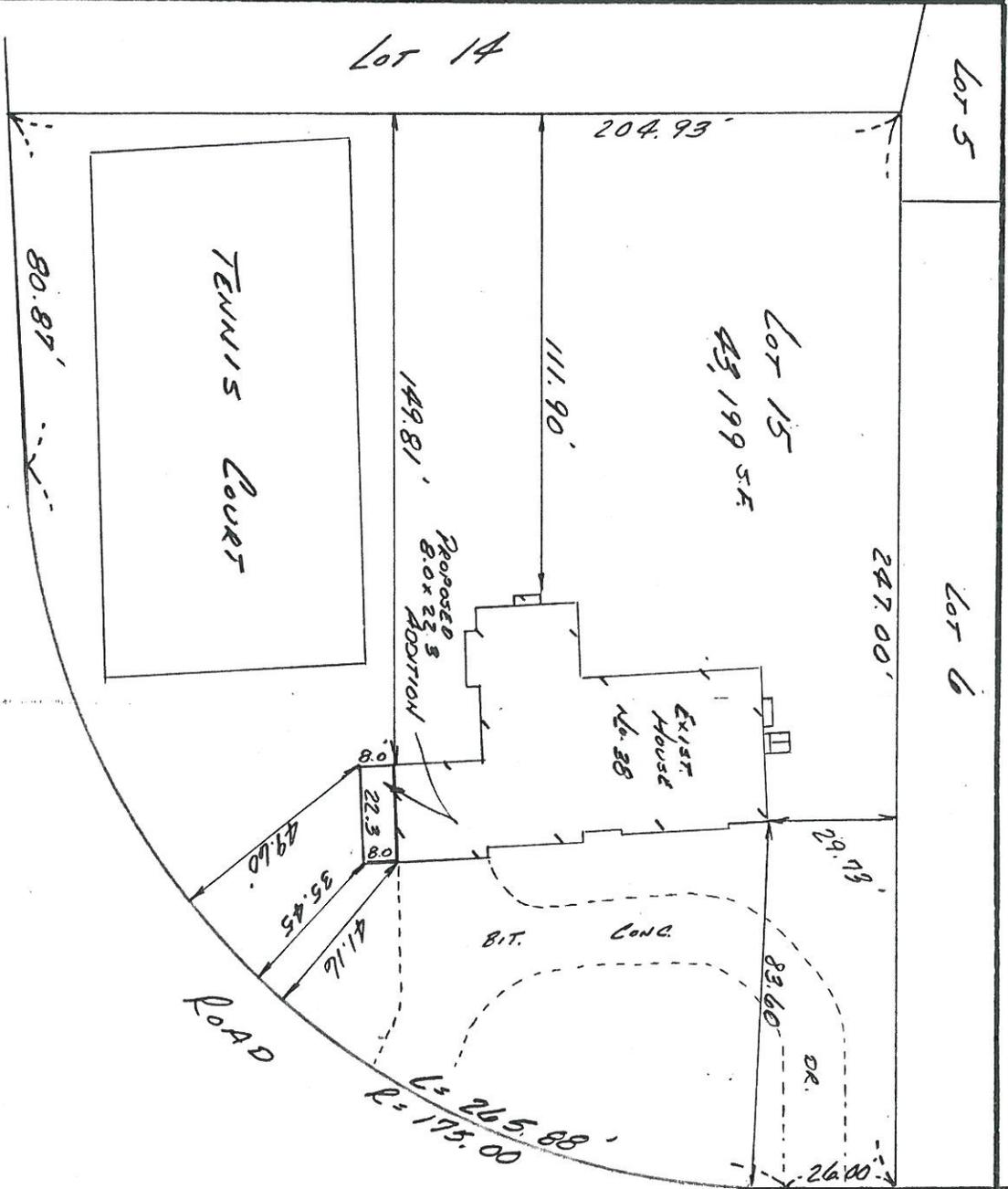


Kendall P. Bates



William E. Polletta

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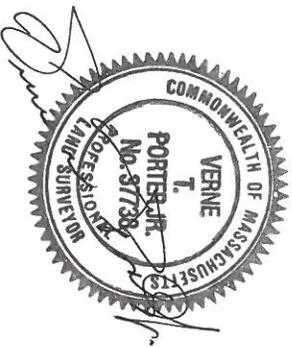


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CERTIFIED PLOT PLAN  
IN  
WELLESLEY, MASSACHUSETTS

SCALE: 1" = 40' JUNE 28, 1995  
VERNE T. PORTER, JR. PLS  
154 NEEDHAM ST. SUITE 1 NEWTON, MA



NOTE: SETBACKS WITHIN 500' FT. OF LOCUS  
#16 HIGHGATE ROAD 41.5 FEET  
#24 HIGHGATE ROAD 43.5 FEET  
#44 HIGHGATE ROAD 71.3 FEET

OWNER: JOHN & AMY BERYLSON

DEED REFERENCE: BK. 5773 PG. 145  
PLAN REFERENCE: PL # 300 OF 1939 BK. 125