



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02181

JOHN A. DONOVAN
KENDALL P. BATES
WILLIAM E. POLLETTA

ELLEN D. GORDON
EXECUTIVE SECRETARY
TELEPHONE
(617) 431-1019 EXT. 208

SUMNER H. BABCOCK
ROBERTA A. BASTILLE

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ZBA 96-69

Petition of Brett Matthews and Virginia Salazar
11 Whittier Road

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, September 19, 1996 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 BRETT MATTHEWS AND VIRGINIA SALAZAR requesting a Special Permit/Finding that the proposed construction of a one-story addition approximately 20.65 feet by 13.77 feet, with less than the required right side yard setback, at their nonconforming dwelling with less than the required front and right side yard setbacks, at 11 WHITTIER ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is also requested to demolish the existing detached one-car garage and construct a detached two-car garage approximately 23 feet by 23 feet with less than the required right side and rear yard setbacks.

On September 3, 1996, the petitioners filed a request for a hearing before these Authorities, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Brett Matthews and Virginia Salazar. Ms. Salazar said that they have a 15 month old child and are expecting a second child. They would like the addition to accommodate the needs of their growing family. They have letters in support of the petition from the left and right side abutter, and one from a rear abutter. They would also like to build a two-car garage, as they have several automobiles that are currently uncovered.

The Board asked why the garage could not be moved further to the left to lessen the encroachment on the right side line. Ms. Salazar replied that there is a fieldstone retaining wall on the left. The garage has been pushed as far to the left as possible without disturbing the retaining wall. Although it appears that they have a great deal of land, except for the front, the rest is sloping and resembles a pit.

Mimi Rovito, 15 Tennyson Road, a rear abutter, said that they were never shown the plans prior to receiving the legal notice of the hearing, and strongly object to any new construction that is not in compliance with zoning. They sent a letter to all of the interested parties and have

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received seven letters in opposition to the petition. All of the homes on Tennyson and Whittier Roads have a ravine problem, which has been solved by individual owners making necessary adjustments.

The Board stated that it would like to discuss the garage and the addition separately, and asked what objections the Rovitos had to the addition. She replied that they object because it does not comply with zoning setbacks. The Board responded that this was the reason for the existing of the Board of Appeals.

The Board discussed the relevance of the submitted letters of opposition in regard to the distance of the property owners from the petitioners' property.

The Board commented that had the addition been conforming, the Matthews could have built it without ZBA approval. The addition will not impact the right side abutters because there is a fence which runs the length of the right side, and the right side abutters, who will be most affected, are in support of the petition.

Bruno Rovito, 15 Tennyson Road, objected to both the addition and garage. He stated that the zoning laws should be upheld. The Matthews could fill their backyard, which is not a "high tech" solution, and then build a conforming garage. He has no objection to any construction that conforms to zoning.

The Board noted that the variance for the garage would be for 3 inches from the rear, and about 7 feet from the right, which would be less nonconforming than the existing house.

Alex Anmahian, the Matthews' architect, stated that they have located the garage as far left as possible, and that it does not encroach any further on the right side than the proposed addition. He submitted a site survey showing a 6 foot difference between grade and the lowest level of the site. He added that Mr. Rovito's solution of filling in the property was not quite as simple as proposed, as it would result in the creation of different drainage patterns.

Statement of Facts

The subject property is located at 11 Whittier Road, in a Single Residence District, on a 17,100 square foot lot, with a two and 1/2 story dwelling which has a minimum front clearance of 28.8 feet, and a minimum right side yard clearance of 9.4 feet. A detached one-car garage, with a minimum right side yard clearance of 16.6 feet, is located at the right rear corner of the property. A network of retaining walls cover the left side of the property beginning at the left front corner of the dwelling and ending at the rear lot line.

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The petitioners are requesting a Special Permit/Finding to allow construction of a one-story addition approximately 20.85 feet by 13.77 feet, which will have a minimum right side yard clearance of 13.1 feet; and a variance to allow demolition of the existing garage, and construction of a detached two-car garage approximately 23 feet by 23 feet, which will have a minimum rear yard clearance of 14.9 feet and a minimum right side yard clearance of 13.1 feet.

A Plot Plan dated August 27, 1996, drawn by John R. Snelling, Professional Land Surveyor; Floor Plans and Elevations (A.1-A.5) dated August 20, 1996, drawn by Anmahian Winton Architects; and photographs were submitted.

On September 17, 1996, the Planning Board reviewed the petition and voted to recommend no objection to the one-story addition, but opposed the granting of the variance for the garage, as it appears there is adequate room on the land for a two-car garage meeting zoning requirements.

Decision

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

It is the finding of the Special Permit Granting Authority that the proposed one-story addition will not be substantially more detrimental to the neighborhood than the existing non-conforming structure, as it will not create any new nonconformity, nor will it intensify the existing nonconformity, as it presents less bulk than would a two-story addition or a one-story, gable-roof design. Furthermore, the affected right side abutter is in support of the addition.

Therefore, a Special Permit is hereby granted, as voted unanimously by the Board at the Public Hearing, for the construction of the one-story addition in accordance with the submitted Plot Plan and construction drawings noted in the foregoing Statement of Facts.

It is the opinion of the Permit Granting Authority in regard to the variance request to demolish the existing detached one-car garage, and construct a detached two-car garage, that there are sufficient topographical problems on the site to allow relief, and that the amount of fill necessary to eliminate a six foot grade differential in order to build a conforming garage would create a financial hardship for the petitioners.

Furthermore, in the opinion of this Authority, the rear yard encroachment of 3 inches is de minimus and the right side yard encroachment will not exceed the aforesaid one-story addition and will be less than that of the existing nonconforming dwelling.

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It is the opinion of this Authority that for the foregoing reasons, 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.

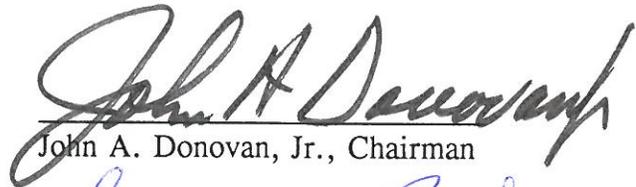
Therefore, the requested variance to demolish the existing detached garage and construct a two-car detached garage is granted, as voted unanimously by this Authority at the Public Hearing, subject to construction in accordance with the submitted Plot Plan and construction plans noted in the foregoing Statement of Facts.

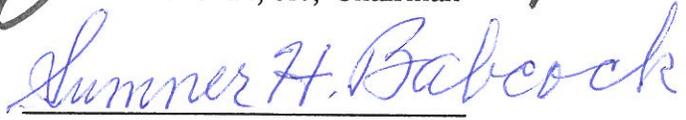
If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

The Inspector of Buildings is hereby authorized to issue permits for the construction of the one-story addition and the detached two-car garage upon his receipt and approval of building applications and detailed construction plans.

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


Sumner H. Babcock


Robert A. Bastille

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PLAN SHOWING PROPOSED STRUCTURES

WELLESLEY MASS.

1" = 20' AUGUST 27, 1996

JOHN R. SNELLING ASSOCIATES
PROFESSIONAL LAND SURVEYORS
4 FARRAR ROAD LINCOLN, MASS.

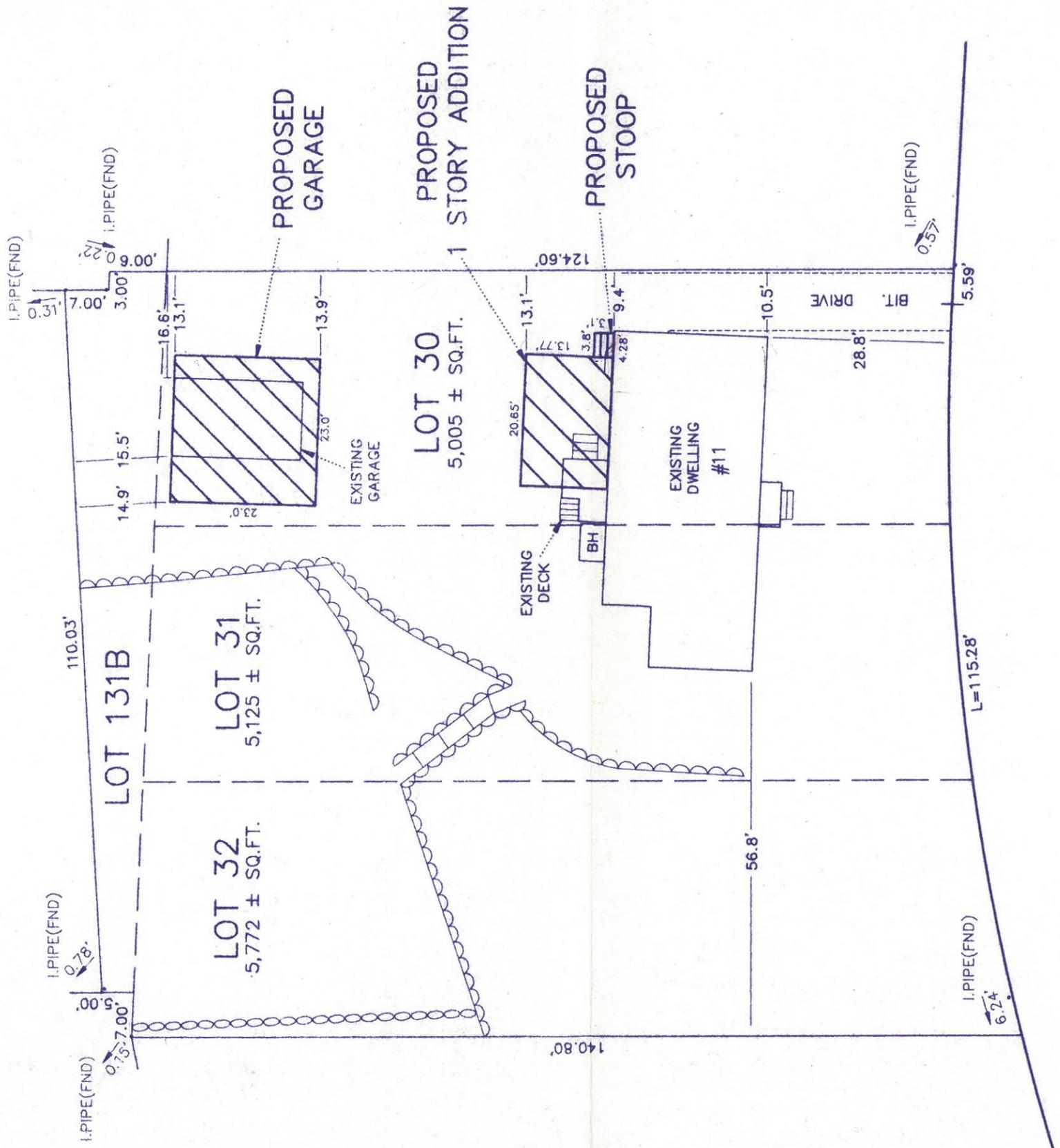
PREPARED FOR:

BRETT H. MATTHEWS

&

VIRGINIA M. SALAZAR

SCALED FROM PLAN 4376, PLAN BOOK 90



REFERENCES:

- DEED BOOK 10880 PAGE 248
- CERTIFICATE OF TITLE NUMBER 13879 BOOK 70
- PLAN BOOK 90 PLAN 4376, LOTS 30,31 & 32
- LAND COURT PLAN NUMBER 7129D, LOT 131B

I HEREBY STATE THAT THE LOCATION OF THE STRUCTURES SHOWN HEREON IS THE RESULT OF A FIELD SURVEY PERFORMED ON DECEMBER 29, 1995

John R. Snelling
JOHN R. SNELLING
PROFESSIONAL
LAND SURVEYOR



August 27, 1996
DATE

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