

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

1999 NOV -5 A 8:58

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ZBA 99-79
Petition of Sanjeev Singh
28 Damien Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 21, 1999 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 SANJEEV SINGH requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following additions to his nonconforming dwelling, with less than the required left, front and right side yard setbacks at 28 DAMIEN ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Demolition of an existing nonconforming 5.42 by 6 foot front landing and stair with less than the required front and left side yard setbacks at the left front corner of the dwelling, and construction of a new 5 foot by 10 foot landing and stair at the center front of the dwelling, with less than the required front setback.
2. Construction of a 7 foot by 2 foot two-story addition at the right front corner of the dwelling with less than the required front setback.
3. Raising the ridge line 15 feet above a 9 foot by 12 foot enclosed porch to accommodate a second story addition of the same dimensions with less than the required front setback. Said enclosed porch and addition will be incorporated into the internal structure of the dwelling.

On October 4, 1999, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice was given by mailing and publication.

Presenting the case at the hearing was Sanjeev Singh, who was accompanied by his builder, Micah Abramovich. Mr. Singh said that they were before the Board in August, and have incorporated the neighborhood recommendations into the new petition.

Mr. Abramovich said that they have reduced the size of the house and eliminated the garage. The Board said they still have a garage underneath the house on the left side. Mr. Abramovich replied that there was no choice as there is no space to build a garage above ground. The existing garage is too small for two cars, and to enlarge it would require a variance from the right side line.

The Board asked what is the current grade of the proposed driveway where it would turn into the garage. Mr. Abramovich said it was 4-5 feet. The Board asked what the proposed final grade of the driveway would be. Mr. Abramovich said it would be about 5-6 feet and the retaining wall would be about 5-6 feet.

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The Board requested specific information as to the grade of the proposed driveway and the height of the proposed retaining wall, and a topographical plan; and expressed concern that the grade would not conform to building code, as the driveway cannot have a 15 degree angle. The engineering should be done before the addition is built.

Mr. Abramovich stated that they were before the Board for the relocation of the stairs, the front addition and the addition over the porch. If they do not comply with the building code on the driveway, they will have to find a solution for the garage.

The Board responded that the construction will more than double the size of the house and will increase its height. The lot is being overloaded. The very deep cut for the driveway next to the left side abutter's land will be substantially more detrimental. There is no plan showing ground level and no topographical plans. The Board noted it had expressed concern regarding the driveway and elevation changes at the prior hearing.

Mr. Singh asked if the three items requested for relief are substantially more detrimental to the neighborhood. The Board responded that the result of the total construction will be more detrimental because of the overburden to the lot and the change of grade that will take place on the property.

Statement of Facts

The subject property is located at 28 Damien Road, in a Single Residence District, on an 8,667 square foot lot which contains an existing nonconforming dwelling with a minimum front setback of 24.92 feet, a minimum left side yard setback of 14.40 feet and a minimum right side yard setback of 18.44 feet; and a nonconforming detached 18 foot by 19.35 foot nonconforming garage with a minimum right side yard setback of 11.17 feet. The existing percentage of lot coverage is 13%.

The petitioner is requesting a Special Permit/Finding that the demolition of the existing nonconforming front stair and construction of a 5 foot by 10 foot landing and stair with a minimum front yard clearance of 19.92 feet; construction of a 7 foot by 2 foot two-story addition with a minimum front yard clearance of 24.92 feet; and raising the roof 15 feet above a 9 foot by 12 foot enclosed porch to accommodate a second story addition of the same dimensions with a minimum front setback of 26.92 feet and incorporation of said porch into the internal structure of the dwelling, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed percentage of lot coverage will be 22.4%.

The petitioner is planning to construct a conforming two-story addition 48.11 feet by 28.51 feet addition at the rear of the existing nonconforming dwelling, which will contain a two-car garage at the basement level on the left side of the dwelling. The present grade on the left side is approximately 4 feet at the proposed entrance to the driveway.

A plot plan dated July 7, 1999, drawn by David W. Preston, Registered Professional Land Surveyor; Existing floor plans and elevations dated August 3, 1999, and proposed floor plans and elevations dated September 29, 1999, drawn by Sanjeev Singh were submitted.

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On October 19, 1999, the Planning Board reviewed the petition and noted that the presentation of the applicant was not legible, the plan was not clear and difficult to read. The encroachments are minimal and the Board had no objection to the request.

Decision

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

It is the finding of this Authority that the construction of the stairs, two story addition and additional second story over the existing porch must be viewed in conjunction with the conforming two-story addition, as only two walls of the original dwelling will remain in tact, and of those two, the front façade will be considerably altered.

It is the finding of this Authority that, although the percentage of lot coverage conforms to the Zoning Bylaw, the addition of the substantial space over the existing nonconforming porch widens the house creating additional bulk, the total proposed construction bulks too large on the lot, is not in keeping with the neighborhood, and intensifies the existing nonconformance.

It is the finding of this Authority that the depth and length of the cut necessary to connect the proposed driveway to the two-car garage, and the height and length of the retaining wall necessary as a result of this cut, would be substantially detrimental to the left side abutter as both the drive and retaining wall would be constructed on the joint property line. It is the finding of this Authority that the submitted plans lack sufficient engineering design or topographical information for the Board to consider the driveway and retaining wall a safe solution to the problem of egress from the street to the garage.

It is the finding of this Authority that, for all of the reasons stated above, the proposed construction will be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, the requested Special Permit is denied, as voted unanimously by this Authority at the Public Hearing, 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

Kendall P. Bates, Chairman

Richard L. Seegel

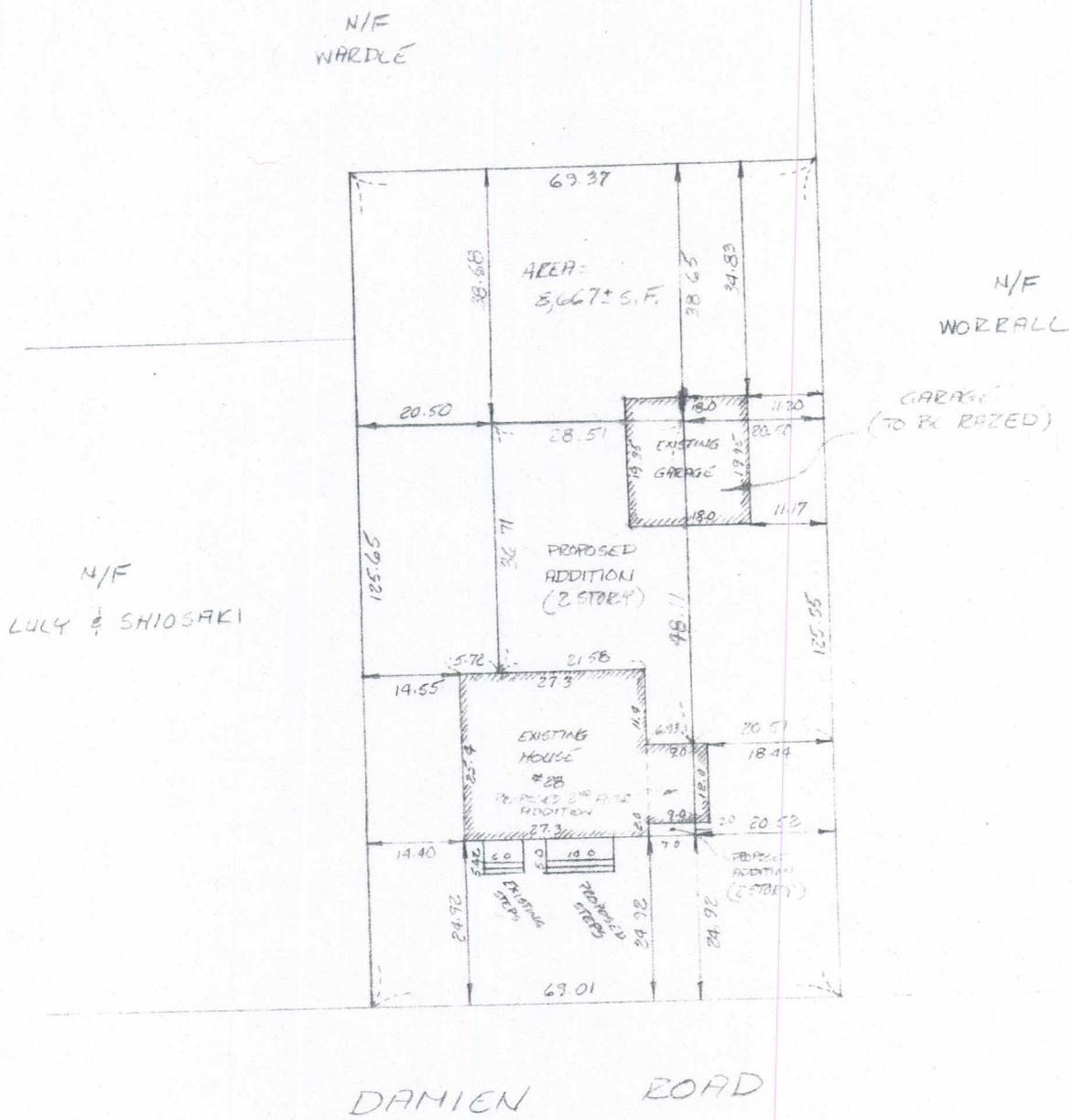
Richard L. Seegel

Cynthia S. Hibbard

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Cc: Planning Board
Inspector of Buildings
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TOTAL LOT AREA = 8,667[±] S.F.

EXISTING HOUSE = 801 S.F.
EXISTING GARAGE = 348 S.F.
1,149 S.F. LOT COVERAGE 13%

EXISTING HOUSE = 801 S.F.
ADDITION = 1,143 S.F.
1,944 S.F. LOT COVERAGE 22.4%

NOTE: THIS PLAN REFERS TO THE TOWN OF WELLESLEY ASSESSOR'S MAP 23 PARCEL 62.

"SPECIAL PERMIT"

"I CERTIFY THAT THE EXISTING STRUCTURES ARE LOCATED AS SHOWN."



DAVID W. PRESTON, P.L.S. #36389 DATE 7-7-99

PLOT PLAN OF LAND IN WELLESLEY, MASS.

SCALE: 1" = 20' FEET DATE: JULY 7, 1999*

D S C DEVELOPMENT SERVICE COMPANY
30 WOODLAND ROAD
ASHLAND, MA 01721
(508) 881-8776

*REVISED: 8/1/99 STEPS