

**ZONING BOARD OF APPEALS**

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ZBA 2009-37

Petition of Robert & Martha Collins
17 Rices Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 11, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of ROBERT & MARTHA COLLINS requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure with a footprint of 1,545 square feet and construction of a structure with a footprint of 2,302 square feet that will meet all Zoning requirements on a lot with less than required frontage, at 17 RICE STREET, in a General Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On May 26, 2009 the Petitioner 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 was Laurence Shind, Esq. Also present were Robert & Martha Collins (the "Petitioner") and Frank Kao, Architect.

Mr. Shind said that the project involves a unique situation. He said that the proposal is to demolish the existing house which is located at 17 Rice Street and replace it with the existing house that is currently located at 57 Seaver Street. He said that the house will be moved from Seaver to Rice Street.

Mr. Shind said that the house at 57 Seaver Street is currently owned by the Town. He said that it was purchased in December, 2007, as part of the High School project. The house was then purchased by the Petitioner, as the successful bidder on a surplus property bid that the Selectmen's office conducted.

Mr. Shind said that the lot at 17 Rice Street has 20,683 square feet, and is located in a district in which the minimum lot size is 10,000. He said that the nonconforming aspect of the lot is that the frontage is only 44 feet, which is less than the 60 feet required.

Mr. Shind said that the existing house at 17 Rice Street has approximately 1,500 square feet of living area. He said that the left and front yard setbacks are nonconforming. He said that the right side and rear yard setbacks are nonconforming for the garage.

Mr. Shind said that the layout, size and condition of the house make it unfeasible to renovate or expand.

Mr. Shind said that the proposed house will not include the garage from 57 Seaver Street. He said that a new one will be constructed at 17 Rice Street.

Mr. Shind said that the new house will comply with all dimensional setbacks. He said that there will be approximately 2,950 square feet of living space on two floors.

Mr. Shind said that the Rice Street neighborhood is close to the Seaver Street neighborhood. He said that they are very similar neighborhoods. The lot on Rice Street is larger than the lot on Seaver Street.

Mr. Shind said that relocating the house will help the Town to recycle a house that it needs to clear for construction of the High School. He said that the agreement with the Selectmen is that the house must be moved off of the Seaver Street lot by August 1, 2009.

Mr. Shind said that most of the direct abutters approve of the project.

Frank Kao said that the proposal is to take as many usable portions of the structure at 57 Seaver Street as possible. He said that house was designed as a pre-fab house. He said that pre-fab is easier to relocate. He said that the garage and the porch were built on-site. He said that the integrity of those structures would be compromised if relocated.

Mr. Kao said that the only change that will be made to the original house design will be that the dormer over the garage will be relocated 180 degrees away so that it is no longer over the garage doors.

Mr. Collins said that a new foundation will be poured at Rice Street. He said that there will be a full basement.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 17 Rice Street, on a 20,683 square foot lot, with a minimum frontage of 44 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming structure with a footprint of 1,545 square feet and construction of a structure with a footprint of 2,302 square feet that will meet all Zoning requirements on a lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 5/19/09, stamped by Douglas L. Johnston, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/18/09, prepared by FKA Consultants, LLC, and photographs were submitted.

Decision

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

It is the finding of this Authority that demolition of an existing nonconforming structure with a footprint of 1,545 square feet and construction of a structure with a footprint of 2,302 square feet that will meet all Zoning requirements on a lot with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure with a footprint of 1,545 square feet and construction of a structure with a footprint of 2,302 square feet that will meet all Zoning requirements, in accordance with the submitted plot plan and construction drawings.

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

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

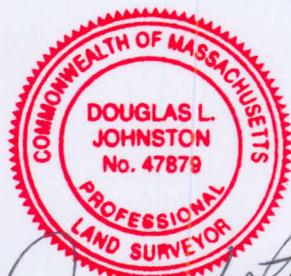
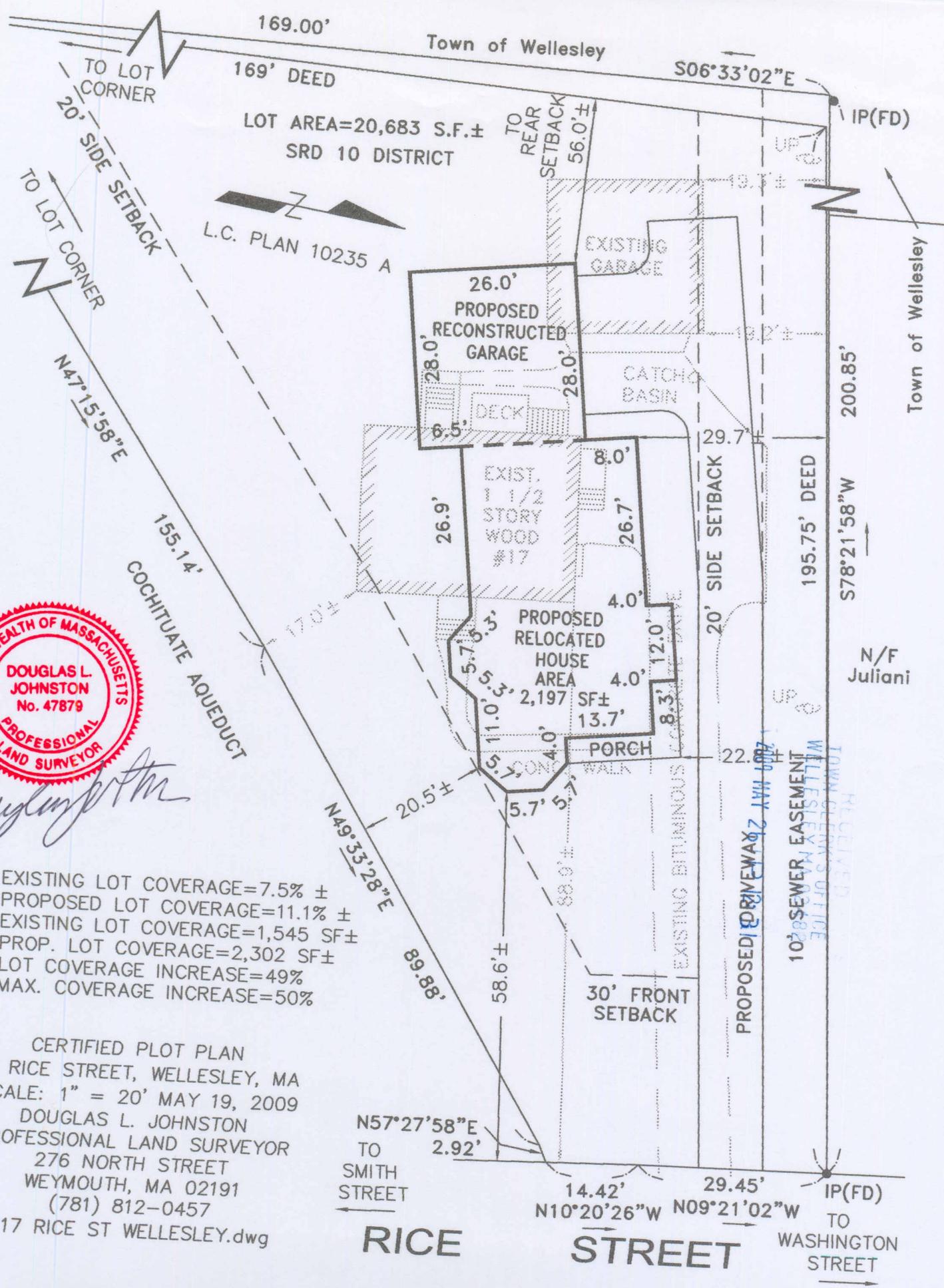
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm



Douglas L. Johnston

EXISTING LOT COVERAGE=7.5% ±
 PROPOSED LOT COVERAGE=11.1% ±
 EXISTING LOT COVERAGE=1,545 SF±
 PROP. LOT COVERAGE=2,302 SF±
 LOT COVERAGE INCREASE=49%
 MAX. COVERAGE INCREASE=50%

CERTIFIED PLOT PLAN
 17 RICE STREET, WELLESLEY, MA
 SCALE: 1" = 20' MAY 19, 2009
 DOUGLAS L. JOHNSTON
 PROFESSIONAL LAND SURVEYOR
 276 NORTH STREET
 WEYMOUTH, MA 02191
 (781) 812-0457
 17 RICE ST WELLESLEY.dwg

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