TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MASS.
AUG 5 9 29 AM '88

ZBA 88-65
Petition of Kenneth and Michaela McIntyre
19 Shelley Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 21, 1988 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, on the petition of KENNETH AND MICHAELA MCINTYRE requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow conversion of an existing garage to a family room and construction of an attached garage approximately 21 feet by 23 feet at their non-conforming dwelling at 19 SHELLEY ROAD, in a Single Residence District, said garage to leave less than the required left side yard.

On July 5, 1988, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Kenneth McIntyre who said that his home is the last one on a cul-de-sac. Their wooded left side yard abuts property owned by Temple Beth Elohim which the McIntyres have attempted to purchase. Mr. McIntyre said that they would like to add a first floor den, converting the existing garage for this use and adding a new garage, one corner of which would encroach on the left side yard.

The Board questioned if the proposed garage could be kept within the 20 foot setback. Mr. McIntyre responded that part of the proposed garage would be within the existing dwelling, but without the encroaching extension, the garage would be inadequate or the den would be very small. Shifting the garage to the right would bring it too close to the front entrance. Skewing the garage in order to conform would be architecturally unattractive. Relocation at the rear would necessitate the loss of a screened porch.

No other persons present had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 19 Shelley Road, in a Single Residence District, on a 11,393 square foot lot, with a minimum right side yard clearance of 19.8 feet.

The petitioners are requesting a variance for the construction of an attached garage approximately 21 feet by 23 feet which would leave a minimum left side yard clearance of 15.3 feet on a presently conforming left side yard.

A Plot Plan dated June 29, 1988, drawn by John P. Hurney, Registered Land Surveyor; undated construction plans drawn by D. Michael Collins & Associates; and photographs were submitted.

ZBA 88-65
Petition of Kenneth and Michaela McIntyre
19 Shelley Road

The Planning Board, on July 12, 1988, voted to oppose the variance on the basis that the garage would encroach on the currently conforming side yard.

Decision

This Authority has made a careful study of the evidence presented.

Variances 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 harship" sufficient enough to allow an encroachment of 4.7 feet on a presently conforming side yard. It is the further opinion of this Authority that the granting of said variance would substantially derogate from the intent and purpose of this Zoning Bylaw.

Therefore, it is the unanimous opinion of this Authority that this request for a variance 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.

Robert R. Cunningham, Acting Chairman

Kendall P. Bates

William E. Polletta

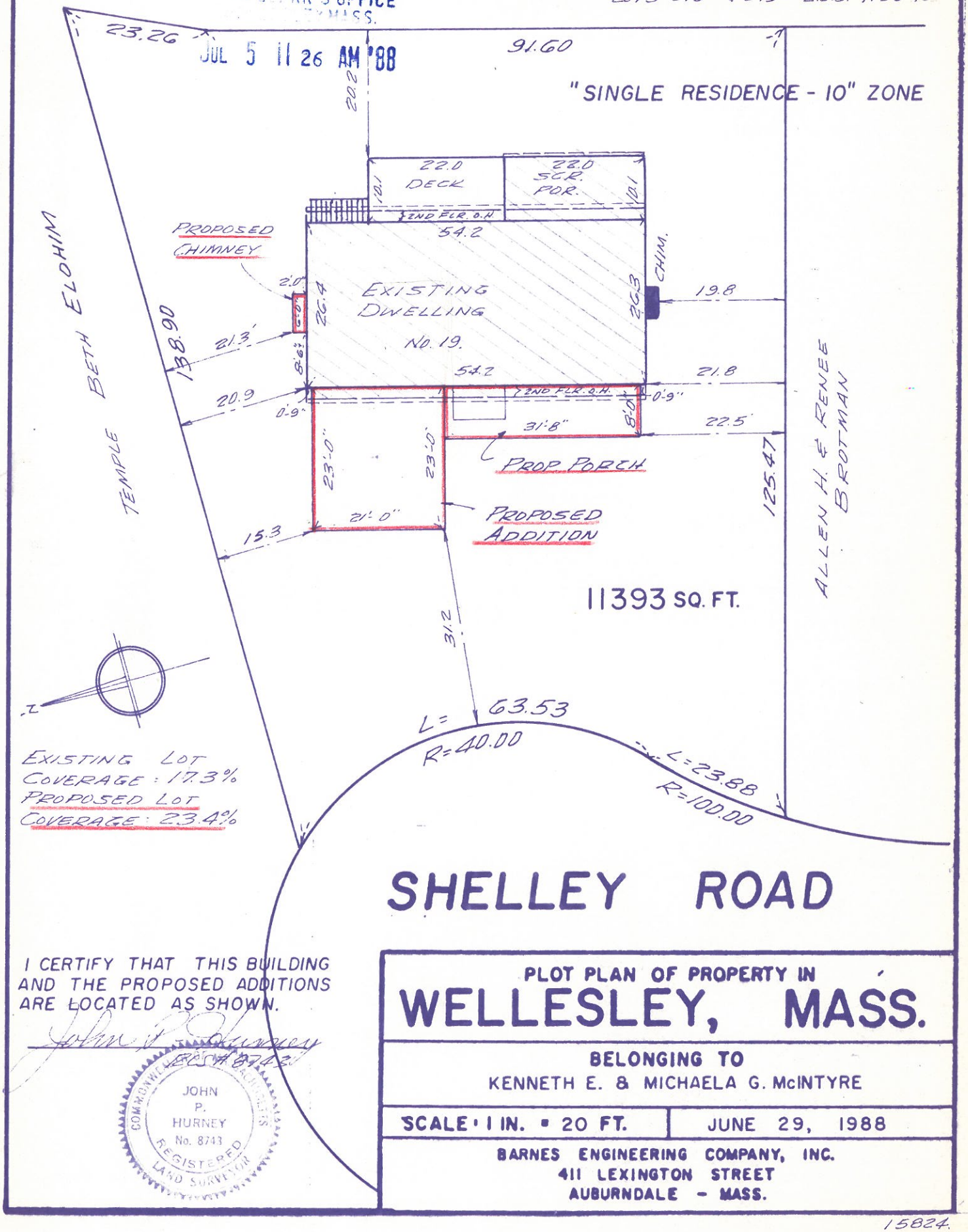
cc: Planning Board
Inspector of Buildings
edg

RECEIVED
TOWN CLERK'S OFFICE
AUG 5 9 29 AM '88

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MASS.
JUL 5 11 26 AM '88

BARBARA S. ALPERT

PLAN REF.: NORFOLK REGISTRY OF DEEDS.: REG. BK. 137, PG. 3.
LOTS 278A & 279B L.C.C. 7129-10



I CERTIFY THAT THIS BUILDING AND THE PROPOSED ADDITIONS ARE LOCATED AS SHOWN.

John P. Hurney
REG. 8743

COMMONWEALTH OF MASSACHUSETTS
JOHN P. HURNEY
No. 8743
REGISTERED LAND SURVEYOR

PLOT PLAN OF PROPERTY IN

WELLESLEY, MASS.

BELONGING TO
KENNETH E. & MICHAELA G. McINTYRE

SCALE: 1 IN. = 20 FT. | JUNE 29, 1988

BARNES ENGINEERING COMPANY, INC.
411 LEXINGTON STREET
AUBURNDALE - MASS.

15824.