



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

DEC 4 8 31 AM '91

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ZBA 91-52
Petition to Kristina and Gary E. Schmidt
72 Fairbanks Avenue

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, November 21, 1991 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 KRISTINA AND GARY E. SCHMIDT 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 deck, approximately 32 feet by 20 feet, with less than the required right side yard setback, at the rear of their nonconforming dwelling at 72 FAIRBANKS AVENUE, in a Single Residence District, with less than the required left and right side yard setbacks.

On October 7, 1991, the petitioners requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication. The petition was continued from the Public Hearing held on October 24, 1991, and renoticed on November 7th and November 14, 1991.

Presenting the case at the hearing were Kristina and Gary Schmidt. Mr. Schmidt said that they were requesting a variance to construct a deck at the rear of their house. The deck will not be visible to any neighbors, as it will be tucked into the right rear corner of the house. The deck will be less nonconforming than the existing house which was built about 35 years ago. The presence of a 6 foot stockade fence and a 10 foot hemlock hedge will provide both sight and sound barriers for the abutting right side neighbor.

No other person present had any comment on the petition.

Statement of Facts

The nonconforming dwelling is located at 72 Fairbanks Avenue, in a Single Residence District, on a 14,108 square foot lot, with a minimum left side clearance of 11.1 feet and a minimum right side clearance of 12.3 feet.

The petitioners are requesting a variance to construct a deck approximately 32 feet by 20 feet at the right rear corner of their dwelling. Said deck will have a minimum right side clearance of 13 feet.

A Plot Plan dated October 3, 1991, drawn by Joseph E. Marcklinger, Professional Land Surveyor; construction drawings and elevations drawn by D. Sevene; and photographs were submitted.

On October 15, 1991, the Planning Board reviewed the petition and voted to recommend that the variance be denied.

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Petition of Kristina and Gary E. Schmidt
72 Fairbanks Avenue

Decision

This Authority has made a careful study of the materials presented. The subject house does not conform to the present Zoning Bylaw as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that the proposed deck addition conforms to the present lines of the house, does not alter the relationship of the house to the right side lot line, and provides less encroachment on the right side yard than does the existing dwelling.

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.

Therefore, the requested variance is granted subject to construction in accordance with the plot plan and construction drawings as submitted and noted in the foregoing Statement of Facts, said deck coming no closer than 13 feet from the right side lot line.

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

If the rights authorized by a variance are not exercised within one year of the date of grant of such 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


Robert R. Cunningham

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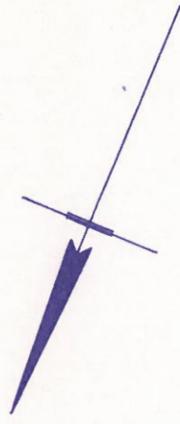
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PLAN OF LAND IN WELLESLEY, MASS.

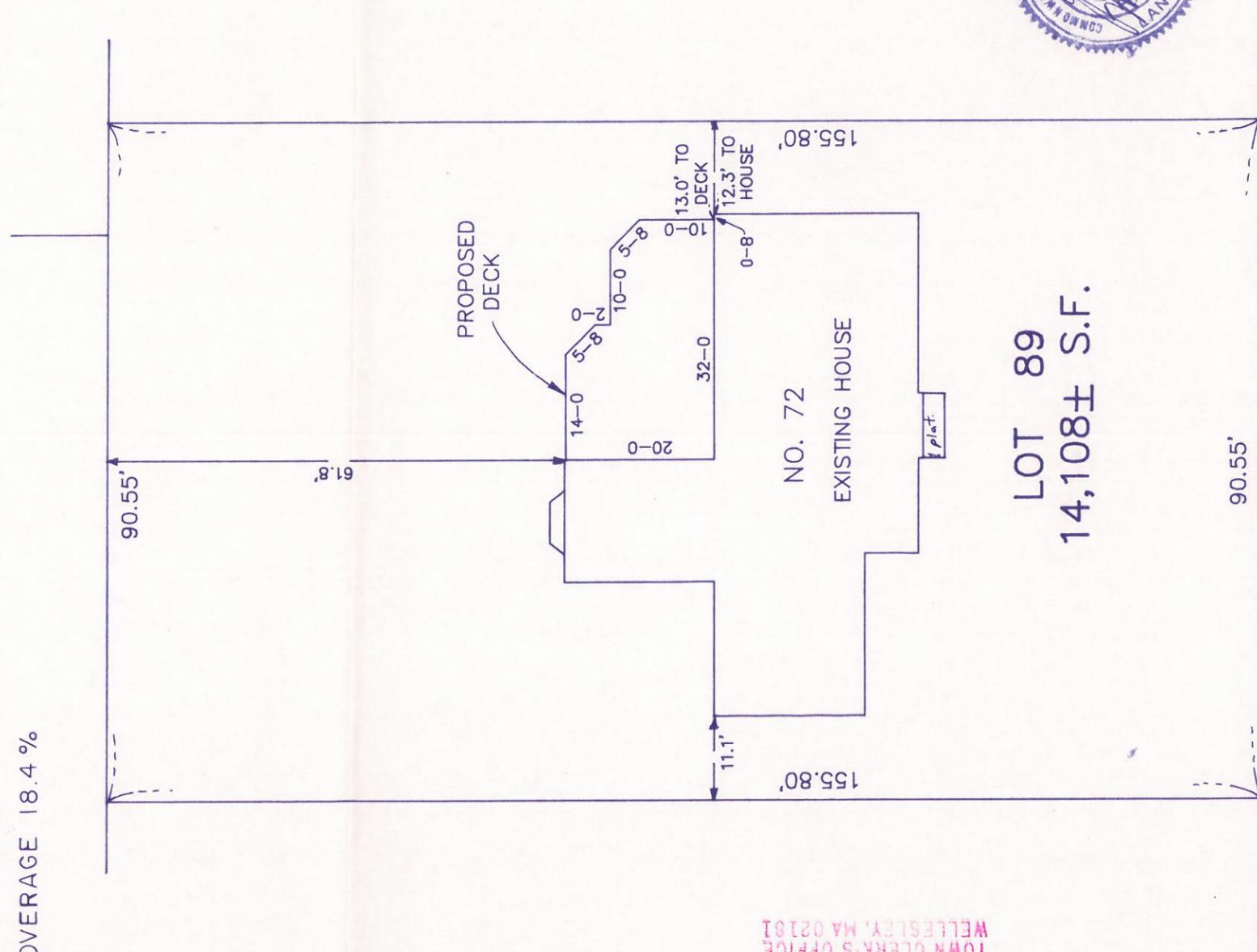
TO ACCOMPANY PETITION OF GARY & KRISTINA SCHMIDT

SCALE: 1 IN.= 20 FT. OCTOBER 3, 1991

EVERETT M. BROOKS COMPANY
259 WALNUT STREET
NEWTONVILLE, MA 02160
(617) 527-8750



LOT COVERAGE 18.4 %



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FAIRBANKS ROAD