



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 92-15
Petition of Kathleen Arthur
1 Madison Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 20, 1992 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 KATHLEEN ARTHUR appealing the decision of the Inspector of Buildings to deny issuance of a building permit for the construction of a 30 foot by 30 foot detached garage at her premises at 1 MADISON ROAD, in a Single Residence District, as the size of the garage is larger than a "customary" accessory structure to a single family dwelling. Said appeal is taken pursuant to the provisions of Section XXIII-E and Section XXIV-C 2 of the Zoning Bylaw.

On January 29, 1992, the appeal was filed in the office of the Town Clerk and was received in the office of the Board of Appeals on the same day. Thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Kathleen and James Arthur. Mr. Arthur said that they would like to construct a two-story oversized garage which would be set into the side of the hill on their property. The roof line of the proposed garage will be well below the roof line of their house, so it will not be intrusive. The size of the garage is necessary to house and provide work space for his antique cars, and for his woodworking equipment. The two-car garage beneath the house is not large enough to provide space for their hobbies.

Mrs. Arthur added that the garage would be appropriate to the location as it would be set in a hollow. The Board commended the Arthurs on the architectural design of the proposed garage, but expressed concern about the future potential use of such a large detached structure, which has the dimensions of a small house. Mrs. Arthur said that the garage would not have plumbing or a sewer hookup.

Mrs. Arthur submitted letters of support from Cindi Gika, 2 Madison Road; Mr. and Mrs. Brooks, 7 Madison Road; and Mr. and Mrs. Owen, 8 Madison Road.

Paggy Jagoe, 19 Madison Road, spoke in support of the petition.

Statement of Facts

The subject property consisting of 16,500 square feet is located at 1 Madison Road, in a Single Residence District. At present, the only structure on the property is a one and one-half story conforming dwelling.

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On January 12, 1992, James Arthur applied for a building permit to construct a two-story detached garage, approximately 30 feet by 30 feet, which would conform to all zoning setback requirements. On January 15, 1992, the Inspector of Buildings notified Mr. Arthur that he could not issue a Building Permit for the project as the proposed size of the garage could not properly be determined to be a "customary" accessory structure to a single family dwelling, or "incidental" thereto.

On January 29, 1992, the petitioner filed an appeal to the decision of the Inspector of Buildings in the office of the Town Clerk, a copy of which was sent to the office of the Board of Appeals on the same day. On January 31, 1992, a letter was sent to the Inspector of Buildings from the office of the Board of Appeals notifying him of the appeal and requesting transmittal to the Permit Granting Authority of copies of all documents a papers constituting the record of the case. This request was complied with on February 5, 1992.

Section II A 7 of the Zoning Bylaw allows by right in a Single Residence District:

"Such accessory uses as are customary in connection with the uses enumerated in clauses 1, 2, 3, 4, 5, or 6, and are incidental thereto, including a private garage and a private stable."

In 1985, the Planning Board sponsored an article in the Annual Town Warrant which, if adopted, would have regulated the maximum size of garages allowed by right in a Single Residence District. The Advisory Board opposed the article stating "there would seem to be ample basis for the Building Inspector to refuse a permit in rare cases like those which lead to this article. In such cases it is doubtful that garages can be said to be 'accessory' to single family use, much less 'customary' or 'incidental' to such uses".

In this instance, it is the opinion of the Inspector of Buildings that the proposed garage is oversized and not "customary or incidental to" for the district in which it will be located.

The petitioner is appealing the decision of the Inspector of Buildings to deny issuance of the permit to construct the oversized garage, not on the basis that the size be considered "customary or incidental to" an accessory use in a Single Residence District, but on the basis that the size of the garage is necessary to house the activities for which the garage would be constructed.

A Plot Plan dated January 9, 1992, drawn by John J. McDonnell, Professional Land Surveyor; construction drawings and elevations; and a letter of appeal were submitted.

On February 11, 1992, the Planning Board reviewed the petition and voted to recommend that the Board of Appeals affirm the decision of the Inspector of Buildings not to issue a Building Permit.

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Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

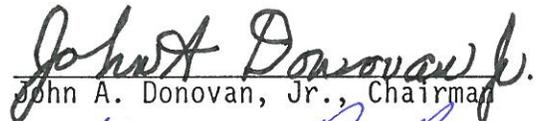
This Authority studied the submitted plan of the garage which depicted the storage of two family cars as well as two antique cars with additional space to work on the remodeling of the antique cars. An upper level is also shown which would be the location of a full scale woodworking shop. The petitioners plan to install heat and electricity in this structure. The dwelling unit presently contains a two-car garage below ground level. This Authority is of the opinion that a detached garage with the dimensions of 30 feet by 30 feet constitutes an "oversized" garage, and that such a garage, capable of storing four automobiles and a potential woodworking business, is not a customary accessory structure in a Single Residence District.

In addition, although not the basis of this petition, this Authority recognizes the potential for future use of a structure of this size as a second dwelling unit or as the premises of a small business.

Therefore, it is the unanimous decision of this Authority to uphold the decision of the Inspector of Buildings to deny issuance of a Building Permit for the proposed oversized garage, to deny the appeal of the petitioner, and to dismiss this petition.

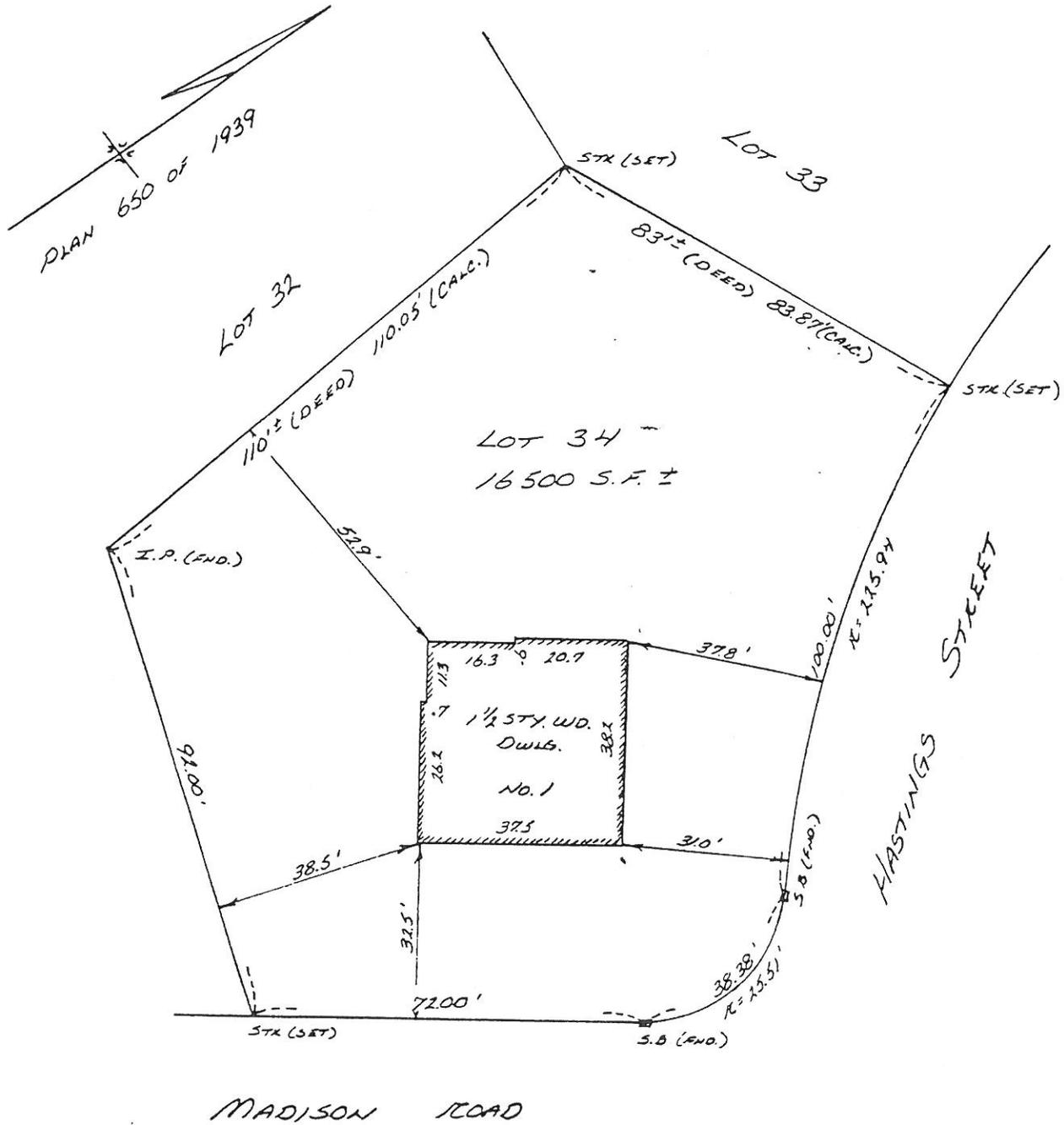
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings
edg

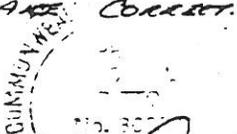

John A. Donovan, Jr., Chairman


Kendall P. Bates


Franklin P. Parker



I HEREBY CERTIFY THAT THE DIMENSIONS
 AND OFFSETS AS SHOWN ON THIS PLAN
 ARE CORRECT.



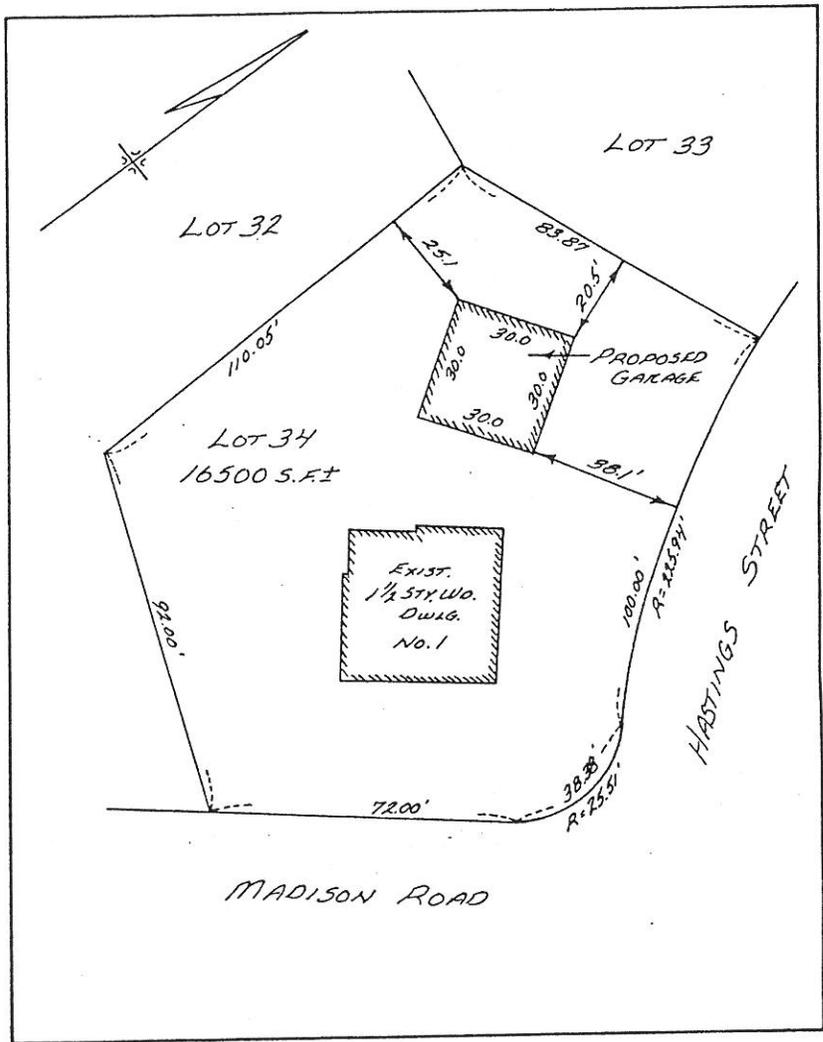
[Signature]

8/20/90

PLOT PLAN
 WELLESLEY, MASS
 SCALE: 1" = 30' DATE 8/20/90

PROPOSED CONSTRUCTION

CERTIFIED PLOT PLAN



1-9-92

Date

John J. McDonnell

Reg. Land Surveyor

9 NORTH BORDER ROAD
STONEHAM, MA 02180

Address

