



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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DEC 7 1 33 PM '92

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TOWN BOARD OF APPEALS
WELLESLEY, MA 02181

ZBA 92-54
Petition of Gregory C. Faulkner
47 Garden Road

Pursuant to due notice the Special Permit Granting Authority held a Public Hearing on Thursday, November 19, 1992 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley on the petition of GREGORY C. FAULKNER requesting a Special Permit/Special Permit Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following proposed additions to his pre-existing nonconforming dwelling at 47 GARDEN ROAD, with less than the required left side yard, in a Single Residence District, shall not intensify the existing nonconformities or result in additional ones:

1. A one-story addition approximately 23.5 feet by 20 feet with a bay window, which complies with all required zoning setbacks, at the rear of the nonconforming dwelling.
2. A deck approximately 28 feet by 30 feet, which conforms to all required zoning setbacks, at the rear of the nonconforming dwelling.

On November 2, 1992, the petitioner requested 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 Gregory Faulkner, who was accompanied by his architect, Michael William, and his builder, Jack Marshall. Mr. Marshall stated that although the left corner of the garage was nonconforming, the addition and deck would conform. The property slopes down about 5-6 feet from the deck, which would be about 47 feet from the nearest rear abutters.

Discussion followed regarding the use of the hot tub proposed to be located on the requested deck. Mr. Faulkner stated that the existing deck, which would be demolished, contained a hot tub, and that the neighbors on both sides had never had problems with the use of the hot tub, but that the Jacobs, on Colburn Road, whose property abuts his at the deep right rear corner, had objections. He added that the location of the new hot tub would be approximately the same as the old one.

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Mitchell Jacobs, 20 Colburn Road, submitted a letter stating his objections to the petition with exhibits. He voiced his objections, which centered on the proposed hot tub. Due to the bowl shaped configuration of the back yards, the Faulkner deck is at the level of his bedroom windows, and the noise of the guests, when the hot tub was in use, was projected at these windows. In order to build the deck, the existing shrubbery will have to be removed, which will allow the lighting from the hot tub to shine into his bedroom windows. He requested that the Board either deny the petition, or include conditions that the shrubbery not be removed, that a 5 foot solid fence be constructed around the hot tub, and that it could not be used after 10 p.m.

Mr. Marshall responded that a fence surrounding the hot tub would block all view of the back yard, and that landscaping would be added upon completion of the deck.

June Fish, 53 Garden Road, spoke in support of the petition.

Terry Tuytschaevers, 21 Colburn Road, stated that there is an audio problem during the summer when the hot tub is in use.

Statement of Facts

The nonconforming dwelling is located at 47 Garden Road, in a Single Residence District, on 14,800 square foot lot, with a minimum left side yard clearance of 11.12 feet.

The petitioner is requesting a Special Permit/Special Permit Finding to allow construction of a one-story addition approximately 20 feet by 23.5 feet which will have a conforming right side yard clearance of more than 50 feet and a conforming left side yard clearance of 22 feet from the chimney and 24 feet from the left rear corner.

A Special Permit/Special Permit Finding is also requested to allow construction of a deck approximately 28 feet by 30 feet which will have a conforming right side setback of 23.24 feet and a conforming left side setback of 47.5 feet.

A Plot Plan dated October 16, 1992, drawn by John J. Regan, Registered Land Surveyor; construction drawings and elevations; and photographs were submitted.

On November 17, 1992, the Planning Board reviewed the petition and stated that the application qualifies for a Special Permit as the proposed additions appear to conform to all zoning requirements.

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Petition of Gregory C. Faulkner
47 Garden Road

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The existing dwelling is nonconforming due to its left side yard minimum clearance of 11.12 feet.

It is the opinion of this Authority that the proposed one-story addition and deck conform to all zoning requirements as noted in the foregoing Statement of Facts. It is the further opinion of this Authority that because the proposed construction is conforming, neither the one-story addition nor the deck would intensify the existing nonconformity or result in additional ones.

It is the opinion of this Authority that the petitioner requested a Special Permit for construction of a deck which will conform to all required zoning setbacks. It is not within the jurisdiction of this Authority to determine what can be placed on the conforming deck, as whatever is located on said deck is not a separate structure requiring approval of the Board of Appeals.

Therefore, a Special Permit is granted for construction of the requested one-story addition and deck subject to construction in accordance with the plot plan and drawings submitted as noted in the foregoing Statement of Facts.

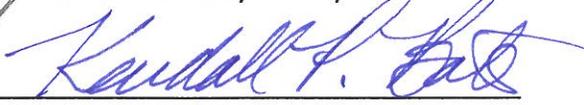
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and detailed construction plans.

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.

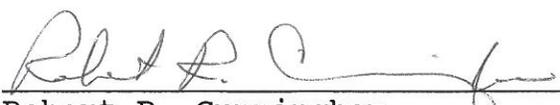
cc: Planning Board
Inspector of Buildings
edg



John A. Donovan, Jr., Chairman



Kendall P. Bates



Robert R. Cunningham

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Brown School

Peter Howard & Patricia D. Johnson

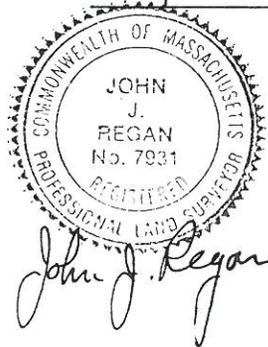
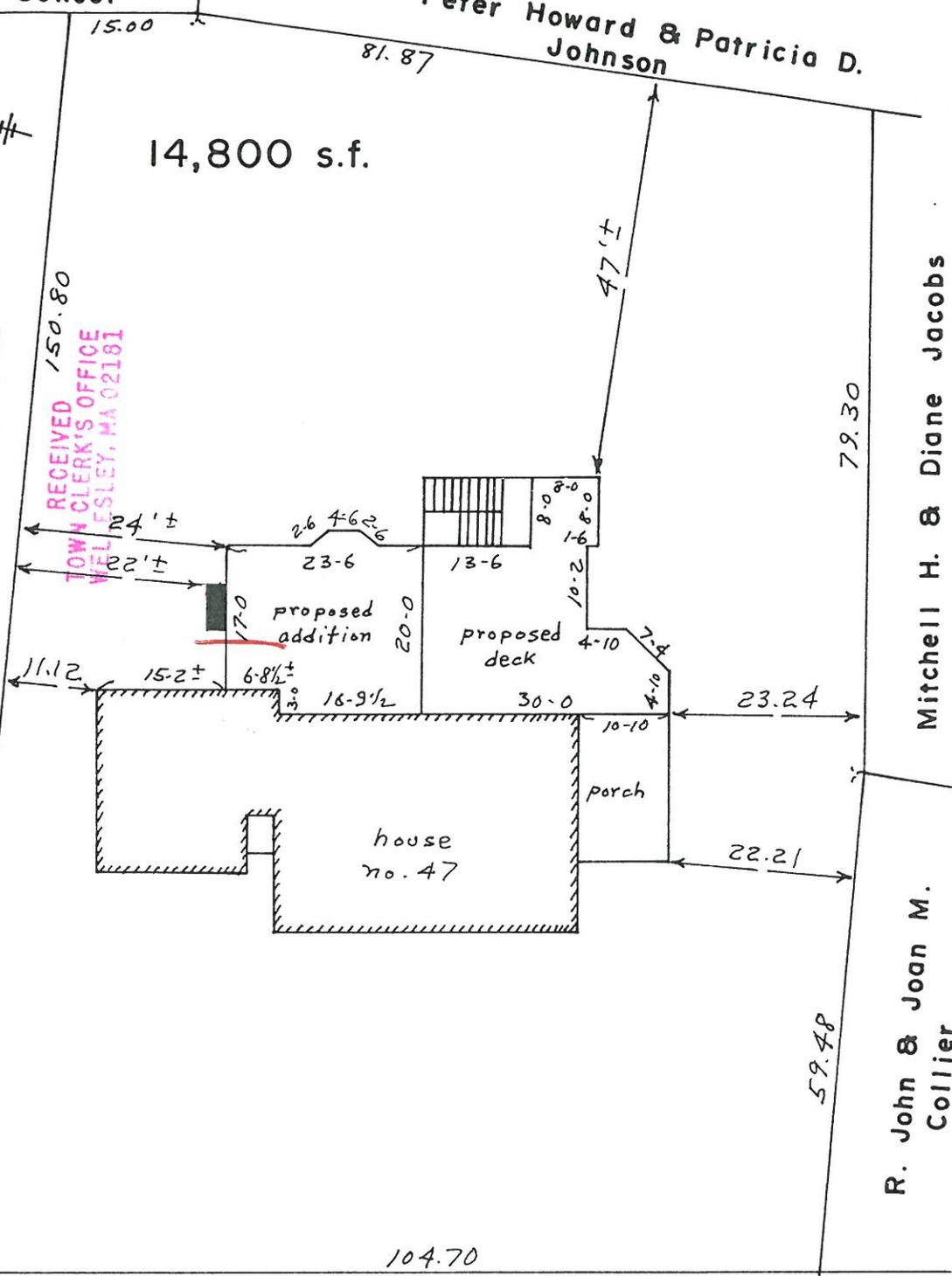
14,800 s.f.

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David R. & June K. Fish

Mitchell H. & Diane Jacobs

R. John & Joan M. Collier



GARDEN ROAD
 PLAN OF LAND
 IN
 WELLESLEY MASS.
 TO ACCOMPANY THE PETITION OF
 GREGORY C. FAULKNER
 47 GARDEN ROAD, WELLESLEY

Note:
 Building coverage
 will be 2625± s.f.
 or 17.7%.

SCALE 1 IN = 20 FT
 JOHN J. REGAN
 NEWTON HIGHLANDS

OCT. 16, 1992
 LAND SURVEYOR
 MASS.