



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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

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Executive Secretary
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ZBA 93-11
Petition of John K. and Lorraine Cross
28 Appleby Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 25, 1993 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of JOHN K. AND LORRAINE CROSS requesting a Special Permit pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following projects will not intensify the existing nonconformities or create additional ones on their nonconforming propoerty with less than the required right and left side yard setbacks at 28 APPLEBY ROAD, in a Single Residence District:

1. A one-story addition approximately 14 feet by 24 feet with a 4 foot 4 inch areaway stair at the rear of their nonconforming dwelling. Said addition and stair will comply with all zoning requirements.
2. Relocation of an existing conforming garage approximately 18.5 feet by 19.3 feet to the rear of the property. Said relocated garage would comply with all zoning requirements.

A Special Permit Finding is also requested that the enclosure of an existing nonconforming porch approximately 20 feet by 8 feet, with less than the required left side yard, and change of use of said porch from three-season to year round, would not be substantially more detrimental to the neighborhood than the existing nonconforming structure and use.

On February 8, 1993, the petitioners 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 John Cross, who was accompanied by his architect, Michael Collins. Mr. Cross said that the addition would comprise an areaway, which would replace an existing stair going to the basement, a mudroom, lav and screened porch. The relocation of the garage is to increase the back yard area which would otherwise be lessened by the addition.

No other person present had any comment on the petition.

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Statement of Facts

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The subject nonconforming property is located at 28 Appleby Road, in a Single Residence District, on a 10,310 square foot lot containing a nonconforming dwelling with a minimum right side yard clearance of 14.93 feet and a minimum left side yard clearance of 15.63 feet; and a conforming garage at the rear of the property.

The petitioners are requesting a Special Permit to construct a one-story addition approximately 14 feet by 24 feet, which would have a conforming right side yard of 23.92 feet and a conforming left side yard of 37.50 feet. An areaway connecting the addition to the basement, approximately 8 feet by 4 feet 4 inches, of which 3 feet will be covered, is also proposed.

A Special Permit is also requested to relocate an existing garage approximately 19.3 feet by 18.5 feet toward the rear of the property. Said garage, in its new location, will have a conforming rear yard setback of 10.75 feet, a conforming right side yard setback of 30.25 feet, and a conforming left side yard setback of 35.45 feet.

A Special Permit Finding is requested that the enclosure of an existing nonconforming screened porch, approximately 8.8 feet by 20 feet with a minimum left side yard setback of 15.63 feet, and the change the use of the porch from three-season to year round will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The petitioners had applied for and were granted a variance in 1990 (ZBA 90-79) for said enclosure. As the variance was not exercised within one year of the date of grant, it lapsed, and permission to enclose the porch is being requested again.

A Plot Plan dated February 1, 1993 drawn by Alexander V. Zaleski, Registered Professional Land Surveyor; floor plans and elevation sketches dated February 2, 1993, drawn by D. Michael Collins & Associates; and photographs were submitted.

On February 17, 1993, the Planning Board reviewed the petition and voted to offer no comment.

Decision

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

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It is the opinion of this Authority that as the proposed one-story addition and the proposed garage relocation comply with all zoning requirements, as noted in the foregoing Statement of Facts, neither project will intensify the existing nonconformities or result in additional ones.

Although the proposed areaway and stair have a minimum right side yard clearance of 14.93 feet, they are allowed by right, as Section XIX of the Zoning Bylaw defines side yard as follows:

"An area, on the same lot with the building, measured from the side line of the lot to the building, extending from the front yard to the rear yard, and unoccupied above ground level **except by covered basement entrances not over four feet in height and not over 35 square feet in area, uncovered steps.....**"

Therefore, a Special Permit is granted for construction of the proposed one-story addition and relocation of the garage in accordance with the Plot Plan and construction sketches submitted.

In regard to the enclosure of the nonconforming screened porch and its subsequent change of use from three-season to year round, this Authority finds that, as there is no further encroachment involved, and as permission was granted for this identical project three years ago, said enclosure and change of use will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and use.

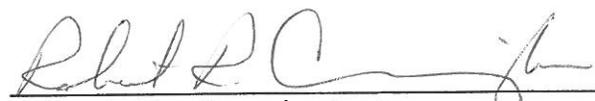
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and detailed construction plans.

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

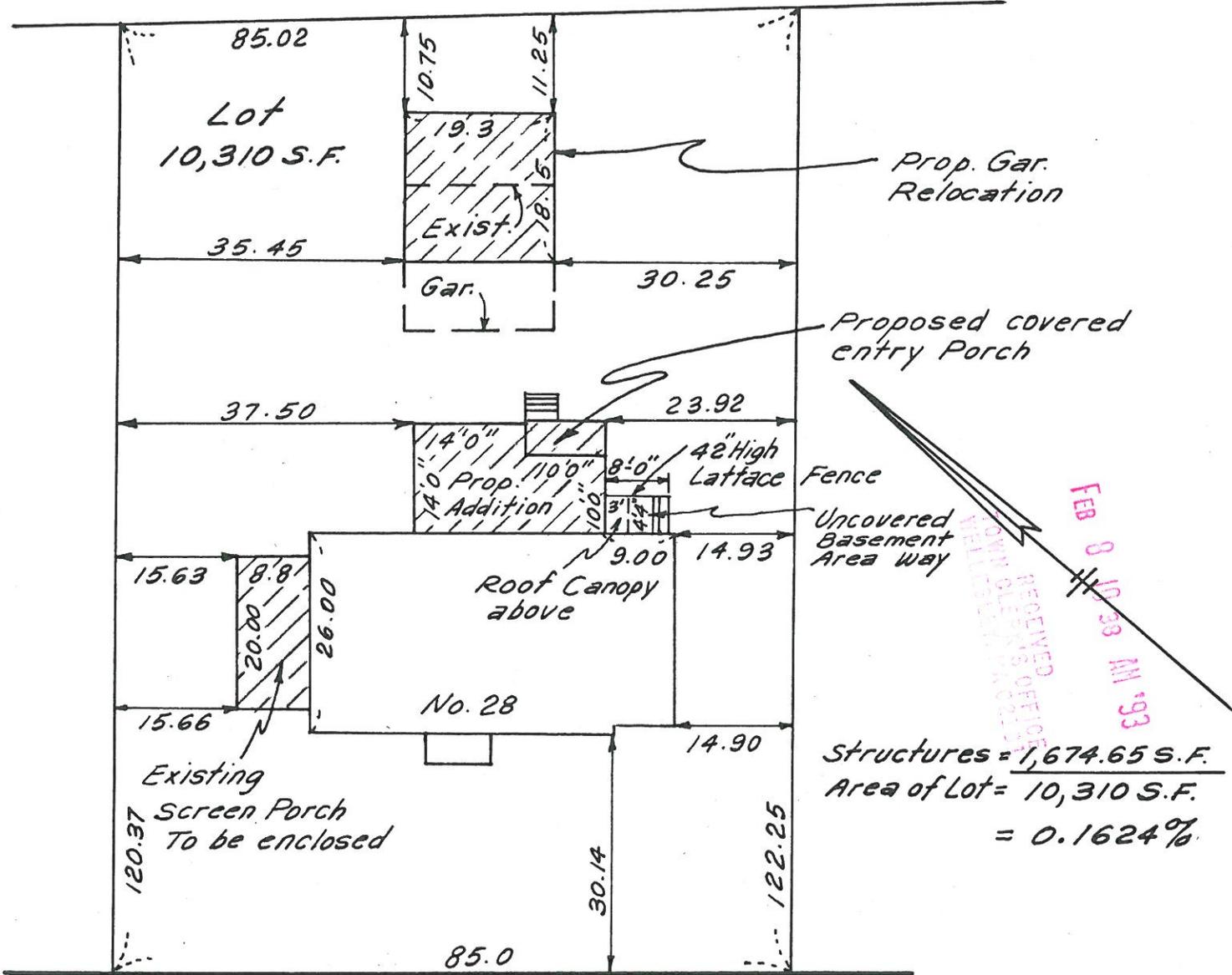
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Kendall P. Bates, Acting Chairman


Robert R. Cunningham


William E. Polletta

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 TOWN PLANNING DEPARTMENT

Structures = 1,674.65 S.F.
 Area of Lot = 10,310 S.F.
 = 0.1624%

APPLEBY

ROAD

PLAN OF LAND IN
 WELLESLEY, MASS.

SHOWING PROPOSED ADDITION AND RELOCATION
 OF EXISTING GARAGE AT NO. 28 APPLEBY ROAD
 FEBRUARY 1, 1993
 SCALE: 1" = 20'

ALEXANDER V. ZALESKI
 REG. LAND SURVEYOR

COMMONWEALTH OF MASSACHUSETTS
 ALEXANDER V. ZALESKI
 No. 10302
 REGISTERED PROFESSIONAL LAND SURVEYOR
Alexander V. Zaleski
 2/1/93