



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 X208

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

ZBA 93-75  
Petition of Robert Borden and Susanna Peters  
6 Boulder Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 23, 1993 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of ROBERT BORDEN AND SUSANNA PETERS requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow legalization of demolition of a pre-existing nonconforming one-story dwelling with a footprint of 25.9 feet by 50.6 feet and a pre-existing nonconforming deck with a footprint of 13.5 feet by 25.7 feet in violation of a Special Permit (ZBA 93-36); and construction of a two-story dwelling on the original footprint of 25.9 feet by 50.6 feet, a 5 foot by 5 foot rear landing and stair, and a front porch approximately 8.6 feet by 4 feet at 6 BOULDER ROAD, in a Single Residence District. The proposed two-story dwelling will have less than the required rear yard setback.

On September 7, 1993, the petitioners requested a hearing before this Authority, and thereafter due notice of the hearing was given by mailing and publication.

Chronology

Public Hearing - April 22, 1993

The Board of Appeals heard the petition of Robert Borden requesting a Special Permit/Finding to add a second story above an existing nonconforming one-story dwelling with a minimum rear yard clearance of 10 feet at 6 Boulder Road, in a Single Residence District. The Board voted unanimously to allow the proposed construction.

The decision granting a Special Permit (ZBA 93-36) for the proposed construction was filed in the office of the Town Clerk on May 5, 1993.

Interim - On June 9, 1993, in violation of the Mass State Building Code and of the Special Permit (ZBA 93-36) granted by the Board of Appeals, Mr. Borden demolished the existing dwelling and deck at 6 Boulder Road without a demolition permit. A Notice of Violation was issued to Mr. Borden by the Inspector of Buildings on June 11, 1993.

At about the same time, Mr. Borden was responsible for removal of several large trees on the property of Jeffrey Clark, 121 Glen Road, the rear abutter to 6 Boulder Road.

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Public Hearing - July 15, 1993

The Board of Appeals heard the petition of Robert Borden requesting legalization of the demolition of the nonconforming dwelling and a variance to construct a new 2 1/2 story dwelling and a new deck on the same footprint with less than the required rear yard setback.

As there was a discrepancy between the plans originally submitted for the Special Permit and the plans submitted for the variance, and as the second set of plans did not include dimensional measurements to ensure that the proposed dwelling would not exceed the foundation dimensions shown on the submitted plot plan, the Board of Appeals suggested the petition be withdrawn or continued. Mr. Borden requested withdrawal of the petition without prejudice, which was granted by the Board.

At this Public Hearing, the neighborhood was well represented. Concern was expressed that the proposed dwelling would be too large for the undersized lot, and that the present site represented a hazardous situation as the existing foundation was not enclosed.

Public Hearing - August 26, 1993

The Board of Appeals heard the petition of Robert Borden and Susanna Peters requesting legalization of the prior demolition and construction of a two-story dwelling on the original footprint, a 25 square foot rear landing and stair and an 8.2 foot by 4 foot front porch. The proposed dwelling would have a minimum rear yard setback of 10 feet.

Mr. Borden requested to be allowed to withdraw the petition, as he had received input from the neighbors that a one and one-half story cape would be more appropriate to the site, but that this information had not been received in time to redraw the plans. The Board of Appeals voted to allow Mr. Borden and Ms. Peters to withdraw their petition without prejudice.

Public Hearing - September 23, 1993

The Board of Appeals heard the petition of Robert Borden and Susanna Peters which was identical to that heard on August 26, 1993, with the exception that the construction plans showed a two-story rather than a two and one-half story dwelling.

The case was presented by Susanna Peters, who was accompanied by her architect, Sam Streibert. Ms. Peters said that in response to neighborhood input, the house has been reduced in height and dormers have been shown. The existing foundation will be used, but structural support will be added. The site is presently an eyesore, and they would like permission to restore the property.

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Wilson Piper, 14 Boulder Road, said that the house should be smaller, with a smaller footprint. The rear landing is close to the rear lot line and will be difficult to construct without trespass onto the abutting property.

Julie Messervey, 11 Boulder Road, said she had no objection to the plans as long as what was built was what was depicted on the plans.

Len Brown, 19 Boulder Road, expressed strong opposition to the petition. He said the lot is half the size of other neighborhood lots, but the proposed house would be the same size as other houses in the neighborhood, and has twice the area of the demolished house. He doubted that the house would ever be built, and that the petitioners had behaved in an irresponsible manner.

Mr. Brown asked how the petitioners were going to construct a building which is out of square by 5 inches. The first floor plan does not match the foundation plan.

Mr. Streibert responded that the house is square, and that a square house could be built on a skewed foundation if there were only a few inches difference. On a two foot wide foundation, 5 inches are not critical.

William Mullahy, 116 Glen Road, said that the demolished building was in disrepair, was a rental property and had been for twenty years. He noted that one eyesore has been exchanged for a temporary eyesore.

Jo Ellen Ojeda, 25 Oxbow Road, was concerned about the execution of any plan by these particular applicants, and about the condition of the site, which is a safety hazard. She expressed opposition to the plan as the house is still too large for the site, and she is opposed to the back landing and stair. Her primary concern was with the execution of the plan without any assurances that the applicants can carry through and build an appropriate house which will be an improvement to the neighborhood.

Jeff Clark, 121 Glen Road, said that he still had concerns regarding the trees removed on his property, and the height of the house. He is also opposed to the petition as the rear landing and stair are too close to his property.

The Board stated that approval cannot be conditioned on satisfaction of Mr. Clark's claim for tree damage. The proposed plans reflect the neighborhood requests, and if any neighbor is opposed, he can file his objections in court by appealing the decision.

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### Statement of Facts

The subject property is located at 6 Boulder Road, in a Single Residence District in which the minimum lot size is 20,000 square feet, and contains 10,500 square feet. The lot is on the corner of Boulder Road and Glen Road. Pursuant to the provisions of Section XIX of the Zoning Bylaw, any conforming dwelling constructed on the lot would need 30 foot setbacks from both Boulder and Glen Roads, and 20 foot rear and right side yard setbacks. The lot has a right side depth of 60 feet, a rear width of 153.68 feet and a left side line of 112 feet fronting Glen Road. The 60 foot depth is maintained for approximately 60 feet.

The petitioners are requesting a variance to legalize the demolition of a pre-existing nonconforming one-story dwelling with a footprint of 50.6 feet by 25.9 feet which had a minimum rear yard clearance of 10 feet and a pre-existing nonconforming deck with a footprint of 13.5 feet by 25.7 feet with a minimum rear yard clearance of .3 feet; and construction of a two-story dwelling with the same footprint on the existing foundation, with a minimum rear yard clearance of 10.1 feet; a 25 square foot landing and stair at the rear of the dwelling; and a 4 foot by 8.6 foot front porch.

A Plot Plan dated August 3, 1993, drawn by Robert F. Drake, Registered Professional Land Surveyor; and Floor Plans and Elevations dated September 1, 1993, drawn by Streibert Associates, were submitted.

On September 14, 1993, the Planning Board reviewed the petition and voted to recommend denial of the request, as it was still concerned with the height of the proposed building, and further questioned whether the prerequisite conditions for the granting of a variance were present.

### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The proposed dwelling will not conform to the current Zoning Bylaw as it will have a rear yard setback of 10.1 feet in a district in which a 20 foot rear yard setback is required.

It is the opinion of this Authority that because of the shape of the lot with frontage on two streets, it would be difficult to construct any dwelling that would not require relief. It is the further opinion of this Authority that 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.

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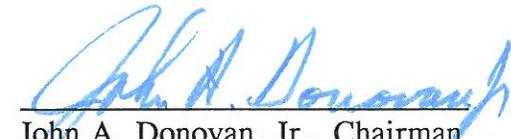
Therefore, the requested variance is granted to construct a two-story dwelling 50.6 feet by 25.9 feet with a 25 square foot rear landing and stair, and a 4 foot by 8.6 foot front porch, subject to construction in accordance with the submitted plot plan and construction drawings as noted in the foregoing Statement of Facts.

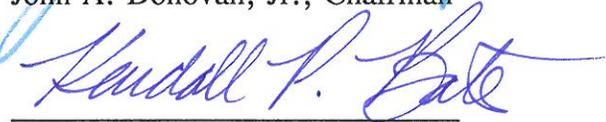
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon receipt and approval of a building application and detailed construction plans.

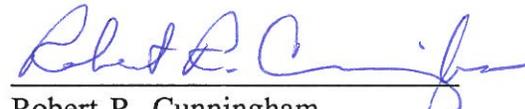
If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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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GLEN ROAD

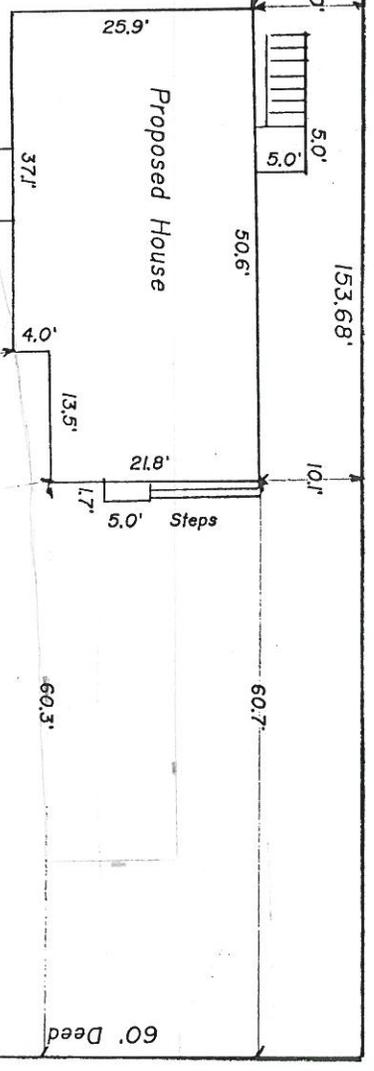
BOULDER ROAD

R=987.74' 112' Deed

LOT 5  
A = 10,500± sf

L=200' Deed

R=440'



Proposed House

Steps



DEED BK 4425 PG 691  
 PLAN IN BK 1517 PG 46  
 LOT COVERAGE = 12% 46

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 TOWN CLERK  
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PLOT PLAN  
 IN

WELLESLEY MASS

SCALE 1" = 20' AUG 3, 1993

APPLICANT ROBERT BORDEN & SUSANNA PETERS

Drake Associates Inc.

770 GROVE STREET FRAMMINGHAM MASS