


 ZONING BOARD OF APPEALS  
 TOWN HALL WELLESLEY, MA 02181

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 ZBA 96-52  
 Petition of Djamilla Argov  
14 Old Town Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 25, 1996 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of DJAMILLA ARGOV requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following additions to her nonconforming dwelling with less than the required right and left side yard setbacks at 14 OLD TOWN ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Demolition of an existing nonconforming porch and construction of a two-story addition approximately 10.9 feet by 17.2 feet on the first floor and 11.8 feet by 21 feet on the second floor, with less than the required right side yard setback.
2. A one-story 5.8 foot by 8.9 foot mudroom expansion with less than the required left side yard setback.

On July 8, 1996, the petitioner filed a request for 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 Djamilla Argov, who said that the proposal is two-fold. On the right side of the property, she would like to take down an existing porch and construct a two-story addition. The first floor would contain a den and the second floor would accommodate a bathroom expansion and a new closet. The left side mudroom expansion would contain three storage lockers to house sports equipment for her three sons.

The Board noted that the Planning Board had recommended denial based on a substantial encroachment on an already inadequate side yard. Mrs. Argov said that the Kertzmans, the right side abutters, had written a letter to the Board in support of the petition.

Linda and Rob Katz, 8 Old Town Road, the left side abutters, expressed opposition to the petition. Mrs. Katz said that the problems began five years ago when the Argovs built a prior addition. A fence on the Argov property had been removed and not replaced. Although the Katzes had allowed access through their driveway for construction equipment, the equipment often blocked their driveway so that they were denied access to their property.

Mrs. Katz said that she would like the fence restored, that no construction equipment be allowed on their property, and that the hours of construction be limited to 8 a.m. to 5:30 p.m. on

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Monday through Friday. The Board stated that legal construction work hours are from 7 a.m. to 7 p.m. on Monday through Saturday, and further stated that the problems are civil matters that must be resolved between the parties, and cannot be conditioned by the Board.

Mr. Katz said that the mudroom addition is larger than they had thought it would be. As they live on that side of their home, and their porch is located on the right side of the house, they feel that the mudroom expansion is an encroachment on their privacy.

Mrs. Argov responded that the fence had been removed during prior construction, but she has offered to replace it. The Katzes wish to choose the fence, which, in Mrs. Argov's opinion, should be the Argovs' choice as they are paying for it.

Scott McMullin, 24 Oxbow Road, expressed support for the petition, as did Roger Freedman, 15 Old Town Road, and Ann Briand, 14 Oxbow Road.

#### Statement of Facts

The subject nonconforming dwelling is located at 14 Old Town Road, in a Single Residence District, on an 18,010 square foot lot, and has a minimum right side clearance of 11 feet and a minimum left side yard clearance of 10.1 feet.

The petitioner is requesting a Special Permit/Finding to demolish the existing nonconforming porch and construct a two-story addition approximately 10.9 feet by 17.2 feet on the first floor and 11.8 feet by 21 feet on the second floor, which will have a minimum right side yard clearance of 11 feet.

A Special Permit/Finding is also requested to construct a one-story 5.8 foot by 8.9 foot mudroom expansion, which will have a minimum left side yard clearance of 17.3 feet.

A plot plan dated June 24, 1996, drawn by George N. Giunta, Registered Land Surveyor; unsigned Floor Plans and Elevations dated June, 1996, revised 7/2/96; and photographs were submitted.

Letters in support of the petition were received from David and Christine Kertzman, 18 Old Town Road; Dr. Alfred Persson, 5 Dean Road; Deborah R. Ray, 9 Old Town Road; and Roger A. Freedman, 15 Old Town Road.

On July 23, 1996, the Planning Board reviewed the petition and voted to recommend denial based on the substantial encroachment into the already inadequate side yard.

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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 current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that neither the proposed porch demolition and construction of the two-story addition with less than the right side clearance, nor the mudroom addition with less than the required left side yard clearance, will intensify the existing nonconformance or create additional nonconformity. The two-story addition will come no closer to the right side lot line than the existing nonconforming porch and the mudroom expansion will be less of an encroachment on the left side lot line than the existing nonconforming dwelling.

Therefore, a Special Permit is granted by this Authority, as voted unanimously at the Public Hearing, for the demolition of the existing porch, construction of the two-story addition and construction of the mudroom, subject to construction in accordance with the submitted plot plan and revised construction plans.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon 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



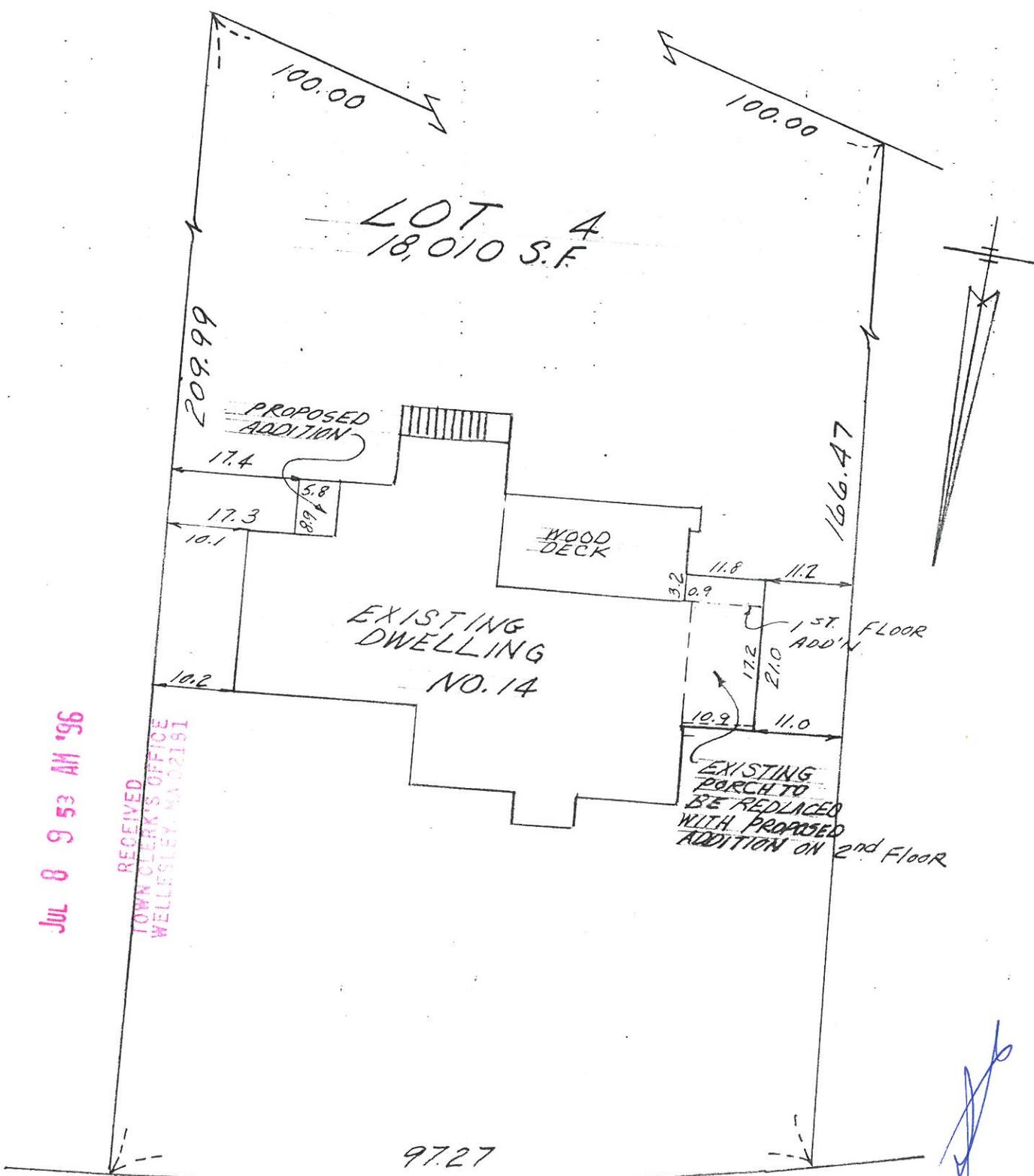
Kendall P. Bates, Acting Chairman



Robert A. Bastille



William E. Polletta



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OLD TOWN ROAD

PLOT PLAN OF LAND  
IN  
**WELLESLEY — MASS.**

JUNE 24, 1996

SCALE 1" = 20'

NEEDHAM SURVEY ASSOCIATES, INC.  
281 CHESTNUT ST  
NEEDHAM, MASS.

