

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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1999 DEC -1 A 8:14

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ZBA 99-87

Petition of Samuel Shapiro and Sheila Morse
47 Longfellow Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 16, 1999 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 SAMUEL SHAPIRO AND SHEILA MORSE requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the demolition of an existing nonconforming 20 foot by 15 foot detached garage with less than the required rear yard setback, and construction of a new two-car 22 foot by 22 foot detached garage with less than the required rear yard setback, at their property at 47 LONGFELLOW ROAD, in a Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 1, 1999, the petitioners 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 Sheila Morse, who said that they have been trying for many years to develop a plan to construct a usable garage.

The Board asked if Mrs. Morse had received the letter submitted by the Eisenbergs, her right side abutters, in opposition to the petition. A copy of a deed restriction, easements and a portion of a plan of 41 and 47 Longfellow Road were included. If there are deed restrictions, they would have to be worked out between the Morses and the Eisenbergs.

Mrs. Morse said she had received the letter that afternoon. There is an exclusive easement to create a buffer zone 20 feet from the property line, which was granted when the property was subdivided in 1984. The location of the requested garage is outside the buffer zone.

The Board commented that there is also an exclusive driveway easement and a easement for a leaching field for the septic system at 41 Longfellow Road. Mrs. Morse submitted a plot plan showing the buffer zone and the existing driveway on the Morses' property.

Mrs. Morse explained that the driveway was graveled. The gravel has washed away, leaving a hard dirt rutted surface. The proposed asphalt drive would involve less covered area and more grass than the existing gravel drive. The Eisenbergs have paved their driveway with concrete within the 20 foot buffer zoning after the deed restriction issued.

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The Board stated that any problems regarding resurfacing the driveway would have to be resolved between the two parties, as the issue would not be within the Board's jurisdiction.

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The Board noted that the Planning Board had no comment on the petition, except to state that due to the steep topography of the lot, the options for relocation of the garage were limited.

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Jennifer Chisholm, 51 Longfellow Road, expressed support for the petition.

Statement of Facts

The subject property is located at 47 Longfellow Road, in a Single Residence District, on a 26,185 square foot lot which contains a single family residence and an existing nonconforming detached 15 foot by 20 foot garage with a minimum rear yard clearance of 4.89 feet.

The petitioners are requesting a Special Permit/Finding that the demolition of the existing nonconforming garage and construction of a two-car 22 foot by 22 foot garage with a minimum rear yard clearance of 5 feet, would not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling.

A plot plan dated October 20, 1999, drawn by Stephen P. Dyer, Registered Professional Land Surveyor; Proposed elevation drawings dated October 18, 1999, drawn by Morse Constructions, Inc.; and photographs were submitted. At the hearing, Mrs. Morse submitted a revised plot plan dated October 24, 1999, drawn by Stephen P. Dyer, Registered Professional Land Surveyor; which showed the 20 foot Buffer Zone and the area in which the new driveway would be located.

A letter in opposition to the petition dated November 15, 1999 was received from Suzanne and Michael Eisenberg, 41 Longfellow Road.

On November 3, 1999, the Planning Board reviewed the petition and offered no comment, except that the lot has a steep topography which limits options for relocating the garage.

Decision

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

It is the finding of this Authority that the proposed two-car garage does not lie in any of the deed restricted areas described in that portion of the deed restriction submitted by the Eisenbergs.

It is the finding of this Authority that any controversy regarding paving on the petitioners' property within the buffer zone is a civil matter over which the Board of Appeals has no jurisdiction.

It is the finding of this Authority that the demolition of the existing nonconforming garage and construction of a new 22 foot by 22 foot garage with a minimum rear yard clearance of 5 feet shall not be substantially more detrimental to the neighborhood than the existing nonconforming garage as it will not intensify the existing nonconformance, nor will it create new nonconformity.

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Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the demolition of the existing nonconforming garage and construction of the proposed nonconforming garage subject to construction in accordance with the submitted plot plan and construction drawings.

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, Chairman



William E. Polletta



Richard L. Seegel

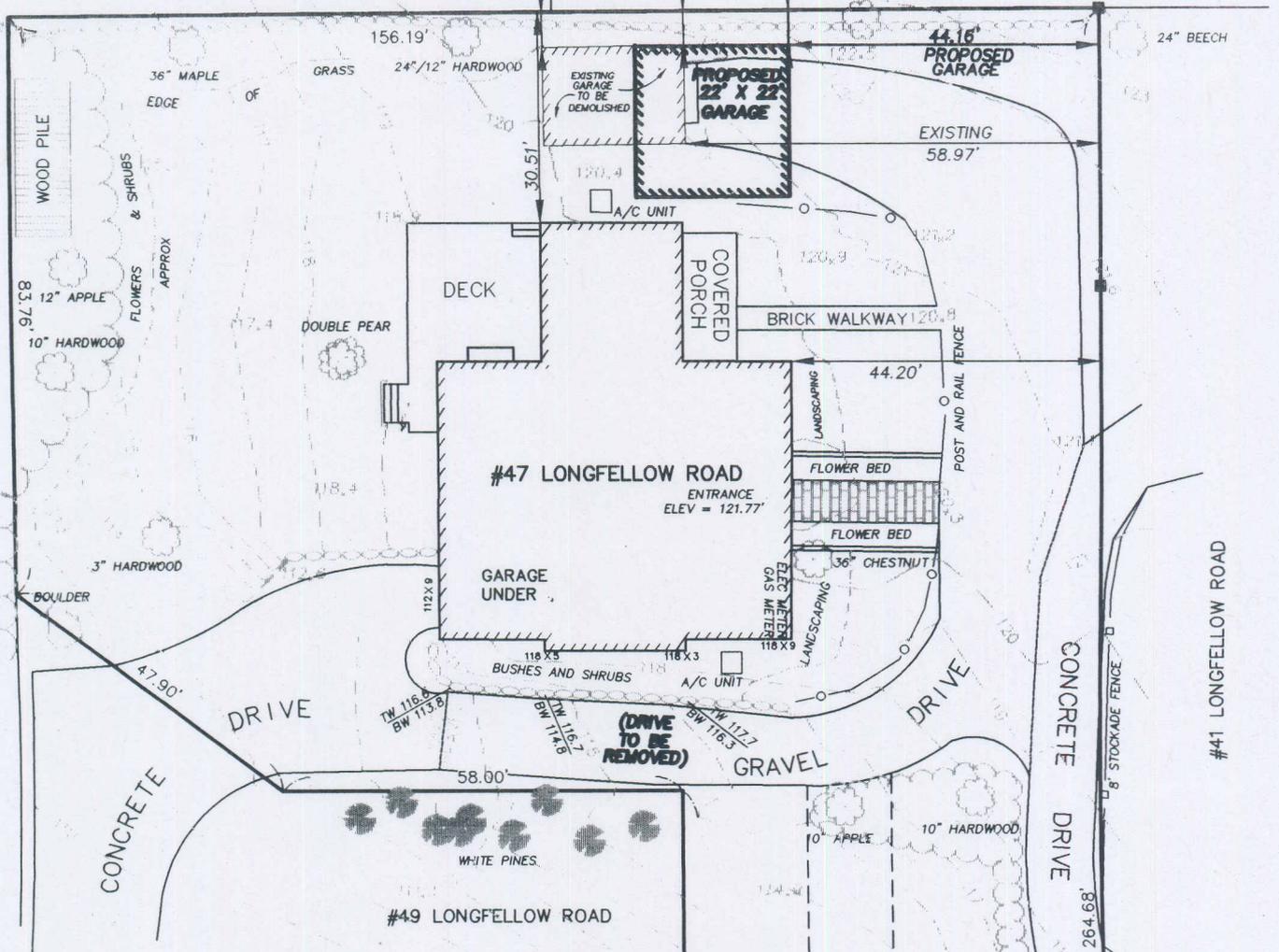
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#51 LONGFELLOW ROAD

EXISTING GARAGE 5.07'

PROPOSED GARAGE 5.00'

#39 LONGFELLOW ROAD



**TOPOGRAPHIC PLAN
TO ACCOMPANY PETITION TO
THE ZONING BOARD OF APPEALS**

**#47 LONGFELLOW ROAD
WELLESLEY, MA**

prepared for: **DR SAMUEL SHAPIRO & SHEILA MORSE**
#47 LONGFELLOW ROAD, WELLESLEY, MA

STEPHEN P. DYER, P. L. S.
45 MELIX AVENUE, PLYMOUTH, MA 02360

SCALE: 1" = 20' DATE: 10/20/99 11-82ZBA.dwg

SEE PREVIOUS PLAN DATED 11/20/96

- OWNERS: DR. SAMUEL SHAPIRO AND SHEILA L. MORSE
- DEED REFERENCE: BOOK 8490, PAGE 630 IN THE NORFOLK COUNTY REGISTRY OF DEEDS.
- ELEVATIONS SHOWN HEREON ARE BASED ON AN ASSUMED DATUM AND REFERENCED TO A NAIL IN UTILITY POLE AS SHOWN ON THE PLAN.
- THE UNDERSIGNED HAS NOT PERFORMED A BOUNDARY RETRACEMENT SURVEY AND THEREFOR IS NOT RESPONSIBLE FOR DEPICTION OF PROPERTY LINES HEREON. FOR FURTHER PROPERTY LINE INFORMATION, SEE LOT #5 ON A PLAN ENTITLED "PLAN OF LAND IN WELLESLEY, MASS OWNED BY ROBERT K. RANDALL" BY MACCARTHY & SULLIVAN ENGINEERING DATED AUGUST 27, 1984 AND RECORDED AS PLAN #84 OF 1985 IN PLAN BOOK #319.

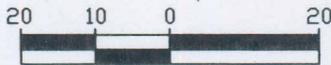
LOT #5
AREA = 26,185 ± SQ. FT.

APPROXIMATE LOCATION OF NEW DRIVE

TBM: NAIL IN UP
ASSUMED ELEV = 100.00'

LONGFELLOW ROAD

RIM=98.95'



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