

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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2018
WELLESLEY, MA 02482

ZBA 2018-15

Petition of Harvey Rasmussen
79 Donizetti Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 5, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Harvey Rasmussen requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing covered porch with less than required front yard and left side yard setbacks, construction of a second story addition with less than required left side yard setbacks, and construction of a two-story addition and deck with less than required right side yard setbacks, on an existing nonconforming structure with less than required front yard, left side yard and right side yard setbacks, on a 6,489 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, at 79 Donizetti Street, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 12 2018, 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 were Paul Worthington, Designer, Marc Charney, and John Lochwood. Mr. Worthington said that the proposal is for construction of an addition at the rear, to expand into an existing front porch and build over an existing first floor space. He said that they are looking to reframe the roof to create a usable third floor with two bedrooms and a bathroom. He said that the request is for a special permit/finding to continue a nonconformity. He said that they will not increase encroachments.

A Board member said that the nonconformities are an undersized lot at 6,489 square foot lot and the front yard, right and left side yard setbacks are nonconforming. He said that the proposed addition at the rear will conform to rear yard setbacks and existing side setbacks. He said that there are two air conditioning condensers in the setback, which is also nonconforming. He said that under the bylaw, all air conditioning equipment has to be within the setback. The Chairman said that the Board can issue a special permit with a condition that the air conditioners be moved to a conforming location. He said that a variance would be required for the units at the location shown on the plot plan.

A Board member asked if the plans were shared with the neighbors. He said that he was cognizant of the challenges of enlarging a home on a small lot. He said that it is a case by case basis depending on how the design is carried out, and to some degree the opinions of the people who live nearby if they care to share their opinion with the Board. Mr. Charney said that the plans were shared and the responses were favorable. He said that one of the neighbors was present at the public hearing.

Elizabeth Murillo, 77 Donizetti Street, said that she supports the plans for the house, which is on a small lot, making it more livable for families. She said that is the direction that the neighborhood is going. She said that she enjoys being close to her neighbors. She said that the design does not detrimentally impact the overall scheme of Donizetti Street. She said that there are very small lots for the first several houses

and then they get deeper. She said that it is a challenge to work on the undersized lots. She said that the house in its current state is not at a standard where you would have livable, practical space. She said that the designs represent a trend where you want to encourage families to utilize the neighborhood which is in proximity to the schools. She said that this would not be a substantially more detrimental modification to what is existing there. She said that whatever happens to the home will require modifications. She said that the plans, as presented, have been done thoughtfully and she supports them.

Patrice Simonelli, said that her parents are abutters on the opposite side at 81 Donizetti Street. She said that her parents did not get a copy of the proposed plans until they got the card from the town. She said that she did not think it was fair that, because it will be an improvement to what the house will look like, that a behemoth is allowed to become part of the neighborhood. She said that the house is already over and above what it should be in terms of the lot size. She said that if it goes up, it affects sunrooms, lights and sunlight from abutters. She said that what is proposed is a little ambitious and not suitable for the lot. She said that the pictures are deceiving. She said that they do not show the side that her parents live on where it is extremely close to the driveway. She questioned how this will be accomplished without encroaching on anybody else's property. The Board said that it appears that her parents' driveway abuts the property line. The Board asked if the intention is to remove the fence. Mr. Charney said that they were not planning to but are happy to discuss it. Ms. Simonelli said that the fence is the least of what is objectionable. She said that the Rasmussens owned the house before her parents moved in. She said that the fence had already been there. She said that they continued to keep it, just to be neighborly.

The Board confirmed that this will be a spec project.

Mr. Worthington said that Total Living Area plus Garage (TLAG) will be 2,965 square feet. He said that a lot of the TLAG is the third floor. He said that there is no garage. He said that the total increase to the footprint will be 240 square feet. A Board member said that the property is located in a 10,000 square foot district and that would allow for 3,600 square feet. He said that this will be under that threshold.

The Chairman said that the Board has to make a determination whether it thinks that this will be more detrimental to the neighborhood because of the size and mass and that goes back to the size of the lot. He said that this is a large house on a small lot. A Board member said that Ms. Murillo expressed an opinion that he personally believes. He said that people with small lots have to be encouraged to improve their homes. He said that in many cases, small houses on small lots are starter homes. He said that oftentimes it is not easy to jump from a starter home to a larger home and you have to make modifications to the starter home. He said that you have to do it in a way that will not encroach on a neighbor's peace and enjoyment.

A Board member said that they will almost be doubling the size of the house. Mr. Worthington said that most of it is on the third floor. He said that they will take what is there and reframe the roof. He said that right now it is a hip roof with no room on the third floor. He said that by changing to a gable and a little cross gable, they will have a nice design and a usable third floor. He said that a 3,000 square foot home is not really a behemoth. Mr. Charney said that the home will be in the middle zone where it is more affordable and has some of the amenities that people are looking for if they have children.

A Board member asked about dropping the roof over the bedroom that will face the neighbor on the 81 Donizetti side. Mr. Worthington said that it already has a low knee wall.

Statement of Facts

The subject property is located at 79 Donizetti Street, on a 6,489 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 17.3 feet, a minimum left side yard setback of 13.6 feet, and a minimum right side yard setback of 13.7 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that enclosure of an existing covered porch with less than required front yard and left side yard setbacks, construction of a second story addition with less than required left side yard setbacks, and construction of a two-story addition and deck with less than required right side yard setbacks, on an existing nonconforming structure with less than required front yard, left side yard and right side yard setbacks, on a 6,489 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 12/13/17, stamped by Michael P. Clancy, Professional Land Surveyor, Existing & Proposed Floor Plans and Elevation Drawings, dated 1/15/17, prepared by Paul Worthington Design & Restoration, Inc., and photographs were submitted.

On April 5, 2018, the Planning Board reviewed the petition and recommended that Special Permit be denied.

Decision

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

It is the opinion of this Authority that although enclosure of an existing covered porch with less than required front yard and left side yard setbacks, construction of a second story addition with less than required left side yard setbacks, and construction of a two-story addition and deck with less than required right side yard setbacks, on an existing nonconforming structure with less than required front yard, left side yard and right side yard setbacks, on a 6,489 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for enclosure of an existing covered porch with less than required front yard and left side yard setbacks, construction of a second story addition with less than required left side yard setbacks, and construction of a two-story addition and deck with less than required right side yard setbacks, on an existing nonconforming structure with less than required front yard, left side yard and right side yard setbacks, on a 6,489 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, subject to the following condition:

- This special permit shall not include approval of the air conditioning condensers, as shown on the plot plan.

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.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

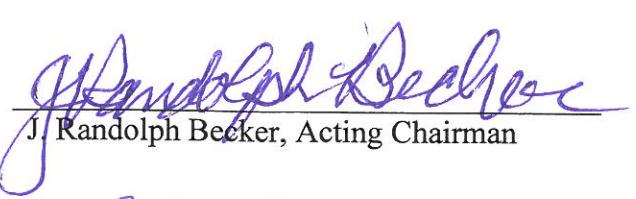
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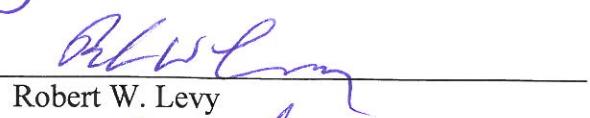
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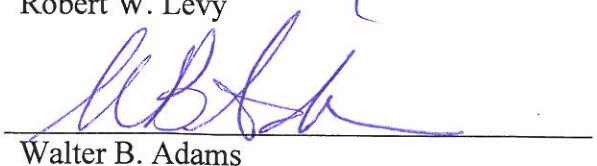
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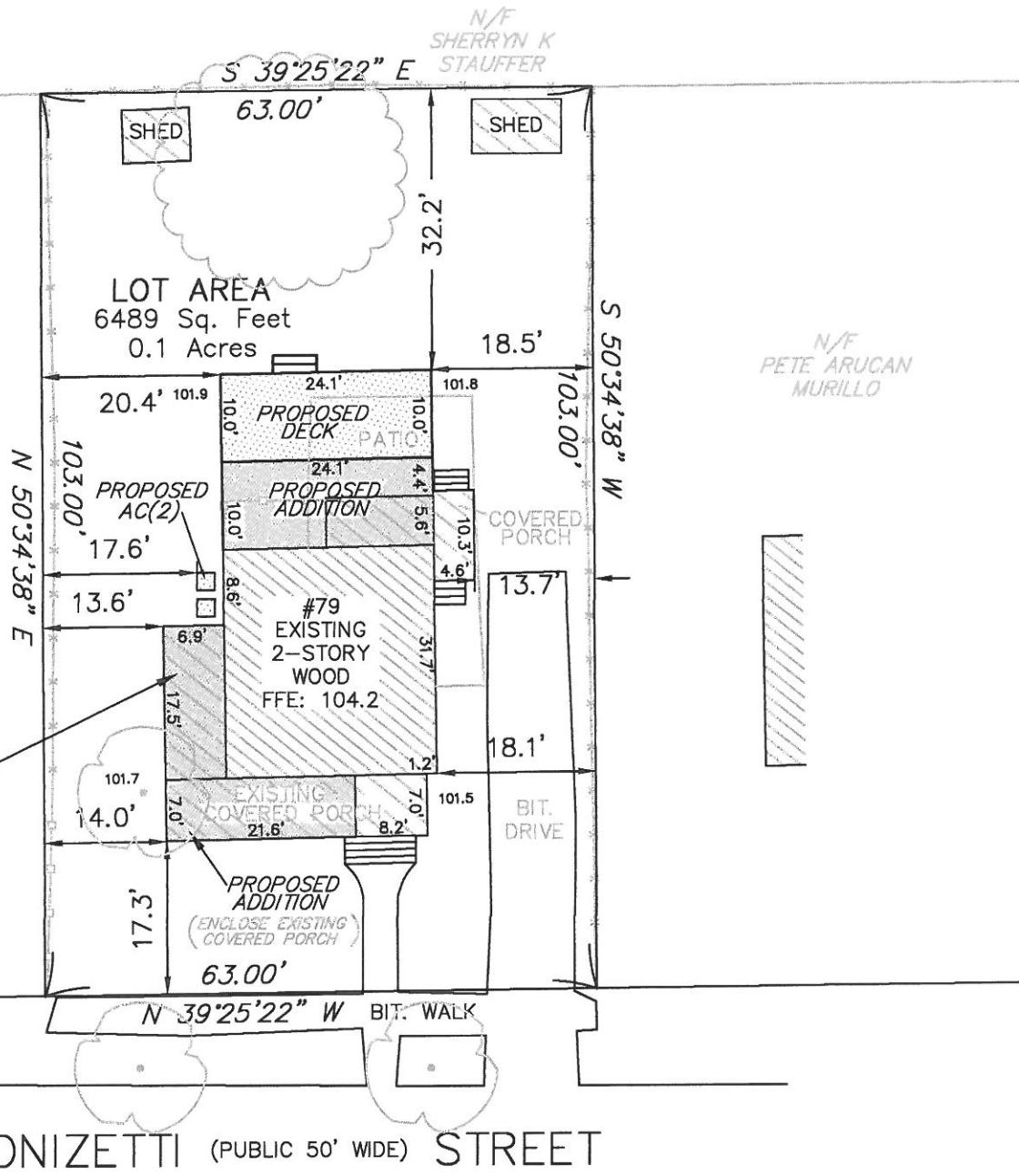
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


J. Randolph Becker, Acting Chairman


Robert W. Levy


Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



PREPARED FOR:

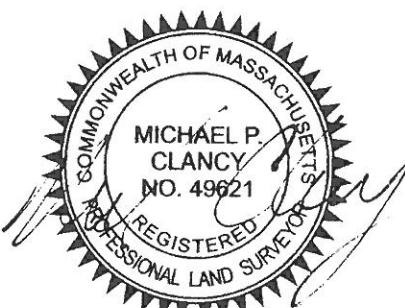
MARC CHARNEY
4 TWITCHELL STREET
WELLESLEY, MA 02482

NOTES:

1. ZONING CLASSIFICATION – SR-10
2. LOCUS DEED:
NORFOLK REGISTRY OF DEEDS BOOK 4219 PAGE 416
3. PLAN REFERENCES:
NORFOLK REGISTRY OF DEEDS PLAN 339 OF 1930
4. ASSESSORS PARCEL ID: 121-88

LOT COVERAGE (EXISTING) = 1185 SF = 1185/6489 = 18%
LOT COVERAGE (PROPOSED) = 1605 SF = 1605/6489 = 24.7%

PROPOSED PEAK TO AVERAGE GRADE IS 33' BASED UPON ARCHITECTS SKETCH



PLOT PLAN
FOR
79 DONIZETTI STREET
IN

WELLESLEY, MA

SCALE: 1"=20' DECEMBER 13, 2017

C & G SURVEY COMPANY
37 JACKSON ROAD
SCITUATE, MA. 02066
1-877-302-8440