

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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

RICHARD L. SEEGEL, CHAIRMAN  
J. RANDOLPH BECKER, VICE CHAIRMAN  
DAVID G. SHEFFIELD

LENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208

ROBERT W. LEVY  
WALTER B. ADAMS  
DEREK B. REDGATE

ZBA 2018-32

Petition of Amir Khan & Ayla Lari  
54 Windemere Road

2018-32  
LAW OFFICES OF  
DALE J. HALL, JR.

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 3, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Amir Khan & Ayla Lari requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of an enclosed front porch and a one story addition at the right side of the house that will meet setback requirements, and construction of one and two story additions at the rear of the house with less than required front yard setbacks to Worcester Street, at 54 Windemere Road, in a 10,000 square foot Single Residence District.

On March 29, 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 David Himmelberger, Esq., Diane Miller, Architect, Amir Khan and Ayla Lari, the Petitioner.

Mr. Himmelberger said that his clients have lived at 54 Windemere Road for 12 years with their two children and are looking to stay in the neighborhood. He said that the issue for them is that they have an irregularly shaped lot and some topography challenge. He said that, as a consequence, the place to build is to the rear of the house, which impinges into a second front yard because they abut Route 9 at the rear of the house. He said that his clients are seeking a variance to build within the front setback to Route 9, keeping a 20.9 foot setback to Route 9. He said that the land runs about 10 to 12 feet down to Route 9. He said that photos that were submitted show that the nearest abutter across Route 9 is about 330 feet away because of the Abbott Pond woods. He said that every abutter has signed a letter in support of the petition.

Ms. Miller said that this property has all three hardships for a variance. She said that the unusual shape of the lot is the primary hardship but there is also ledge on the east side of the lot and severe topography at the rear. She said that it is a challenging lot to work with. She said that it has two front yards opposite of each other. She said that they initially looked at where they might be able to expand this structure by right. She said that it is already very close to the property line on the west side, it is already very close to the setback on the front and rear setback, which left the eastern side. She said that because of the acute angle on that side, they are somewhat limited in expanding to the east. She said that expanding to the east would make the house look really large from the street and one of the things that they were really striving to do with this was to preserve the size and scale of the house while giving them the space that they need. She said that they will be expanding slightly on the side but will keep it in scale. She said that there will be an addition over the garage for a master suite that will be set back a couple of feet so that it is not in

line with the garage doors. She said that the bulk of the construction will be at the back. She said that the 20.9 setback at the rear is to the corner of house that is the bump out for the kitchen table area. She said that the majority of the back of the house will be at 23 feet. She said that most of the rear addition will be one story with a couple of two story elements incorporated into it.

A Board member said that right now this is a totally conforming structure. He said that the project will not be exempt from Large House Review (LHR).

The Chairman said that the bump out appears to sit on a foundation. He asked if the 20.9 foot dimension is to the bump out or the wall of the house. Ms. Miller said that it is measured to the bump out.

A Board member said that the plot plan does not show topography. Ms. Miller said that the elevations are marked on the plot plan but not as contour lines. She said that it is about a ten foot drop from the back of the house to Route 9, approximately 14.5 feet at the far east corner.

A Board member said that the areas that were chosen to create the addition make the house more compact. He said that a linear arrangement would have been impractical.

A Board member questioned whether topography is creating a hardship. Ms. Miller said that lot shape is the primary hardship. She said that the other hardships exist but the lot shape is the most challenging. Mr. Himmelberger said that the Planning Board found the argument for shape of the lot persuasive. Ms. Miller said that because most of the topography is at the back, it renders the backyard relatively unusable. She said that her clients have two young children who like to use the side yard. She said that if they were to expand into the side yard, they would lose that usable space and it would encroach more on the neighborhood.

Mr. Himmelberger said that they will have to address landscaping in LHR.

There was no one present at the public hearing who wished to speak to the petition.

#### Statement of Facts

The subject property is located at 54 Windemere Road, in a 10,000 square foot Single Residence District.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of an enclosed front porch and a one story addition at the right side of the house that will meet setback requirements, and construction of one and two story additions at the rear of the house with less than required front yard setbacks to Worcester Street.

Request for Variance Request Letter, dated 3/26/18, from David J. Himmelberger, Esq., Front Setbacks to Windemere within 500", dated 3/25/18, and a Plot Plan, dated 3/26/18, stamped by Douglas L. Johnston, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 2/22/18, revised 3/8/18, prepared by Diane Beckley Miller, Architect, and photographs were submitted.

On April 25, 2018, the Planning Board reviewed the petition and recommended that the variance be granted.

Decision

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 literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted for construction of an enclosed front porch and a one story addition at the right side of the house that will meet setback requirements, and construction of one and two story additions at the rear of the house with less than required front yard setbacks to Worcester Street, 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.

If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

2018-32-001  
ZONING BYLAW  
AMIR KHAN & AYLA LARI  
54 WINDEMERE ROAD

ZBA 2018-32  
Petition of Amir Khan & Ayla Lari  
54 Windemere Road

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.

Randolph Becker  
J. Randolph Becker, Acting Chairman

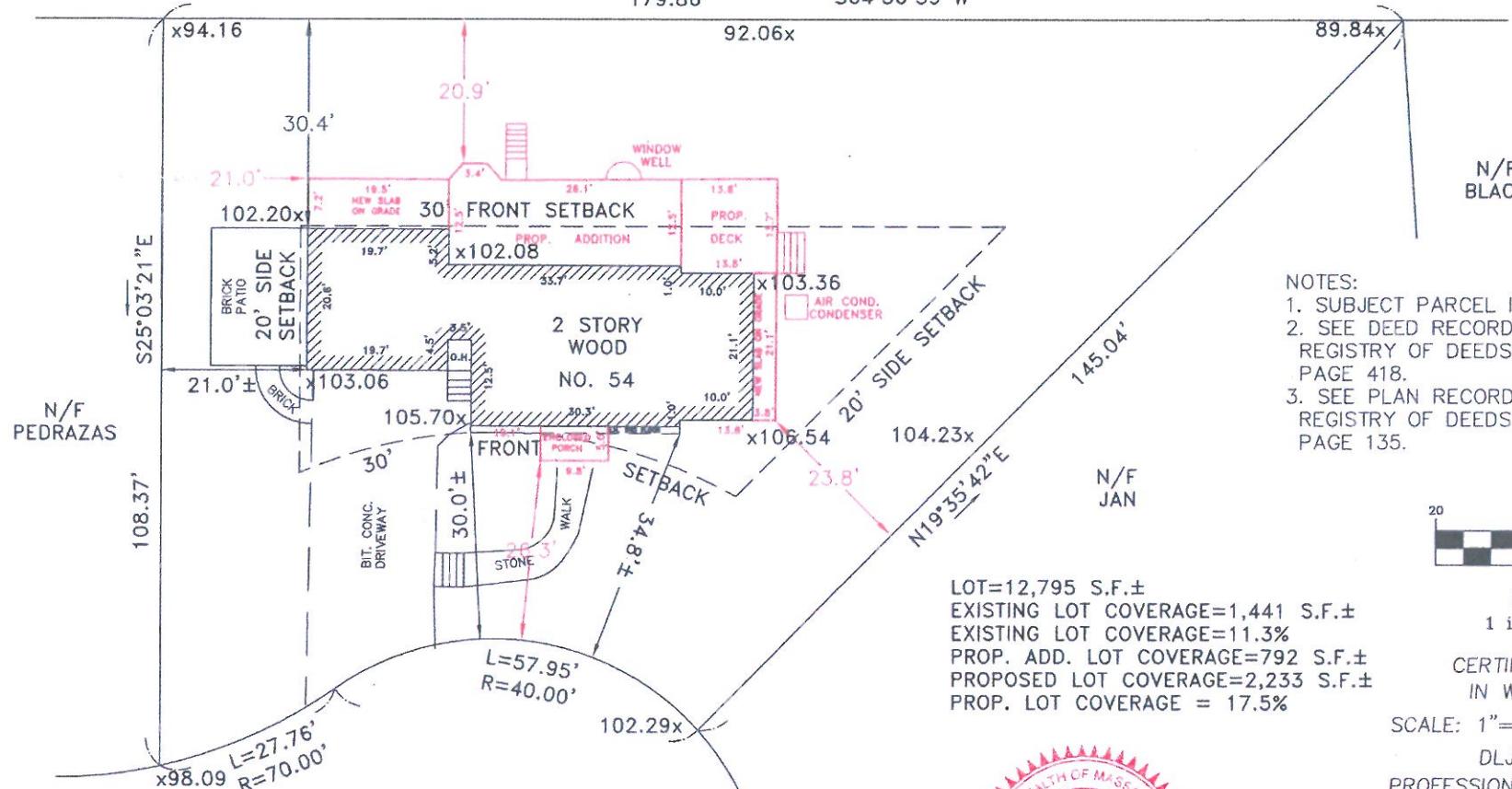
100% *Organic*

David G. Sheffield

Robert W. Levy

WORCESTER (ROUTE 9) STREET S.H.L.O. # 2888

179.86' S64°56'39" W



NOTES:

1. SUBJECT PARCEL IS LOCATED IN ZONE SR 10.
2. SEE DEED RECORDED IN NORFOLK COUNTY  
REGISTRY OF DEEDS IN DEED BOOK 23687  
PAGE 418.
3. SEE PLAN RECORDED IN NORFOLK COUNTY  
REGISTRY OF DEEDS IN DEED BOOK 3467,  
PAGE 135.



( IN FEET )

CERTIFIED PLOT PLAN  
IN WELLESLEY, MA

SCALE: 1"=20' MARCH 26, 2018

DLJ GEOMATICS

## PROFESSIONAL LAND SURVEYING

276 NORTH STREET

WEYMOUTH, MA 02191

(781) 812-0457

INDEMERE RD WELLESLEY

54 WINDEMERE RD WELLESLEY.dwg

PROFESSIONAL LAND SURVEYOR

DATE

