

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2018-33

Petition of Carol Kinas & George Stathas  
50 Bancroft Road

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 Carol Kinas & George Stathas requesting a Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing one story structure and construction of a two story addition with a side facing two car garage underneath with less than required front yard setbacks, at 50 Bancroft Road, on a 14,604 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection 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 Leah McGavern, Architect, Carol Kinas and George Stathas, the Petitioner.

Ms. McGavern said that the request is for a variance due to hardships of lot configuration and topography. She said that from the upper right corner of the lot as shown on the architect's drawing, to the bottom, which is the driveway corner, there is a difference of 20 feet, which made placement of a garage difficult. She said that they tried to put it in front of the house but that created an awkward relationship where it would block the front entry. She said that the other hardship that they are claiming is lot configuration. She said that they acknowledge that it is a rectangular lot but when the house was built in the 1800's, it was built to face Route 9. She said that the front of the house is not Bancroft Road but faces Route 9. She said that the configuration of the whole lot is awkward, which is why you cannot put a garage on the side of the lot as you enter because that is where the entry is. She said that they looked at every other option for a place to put a garage including at the top of the hill behind them and the other in the middle of the front entry.

Ms. Kinas said that they spoke with their direct neighbors and they are all in full support of the changes. She submitted a letter of support from neighbors at 43,53, and 54 Bancroft Road.

Ms. Kinas said that they love their older home. She said that in this day and age, a lot of older homes are being torn down. She said that they want to preserve the charm of their home and make it amenable for modern day living. She said that they have small children and are planning to have her elderly parents move in. She said that this is the best solution that would make it a safe and livable area to enjoy for many decades to come.

The Board said that the Total Living Area plus Garage (TLAG) calculation appears to be under the threshold for the district.

The Chairman said that the variance request is not for 30 feet but from the minimum setback governed by the 500 Foot Rule. He said that one property within that span has a setback of 30.2 feet. He said that, for him, the case hinges on topography, whether the topography is steep enough and whether there is space on this lot to put a garage. Ms. McGavern said that ordinances often do not take into account historic structures and the unusual constraints.

A Board member said that the most logical solution is the one that the Petitioners are pursuing. He said that it minimizes that length of driveway to get from Bancroft Road to the garage. He said that it has the look of a garrison colonial at some parts of the house. He said that he would like to see a break in the plane on the west elevation, as shown on Plan A.10. He said that would make the end of the house that faces Bancroft Road look measurably smaller. He said that it is the west elevation and will have shadow on it for most of the afternoon.

A Board member asked about reclaiming the rest of the site from blacktop. Ms. McGavern said that the intention is to keep the driveway that goes all the way to the back door by the kitchen, where they could drop off Ms. Kinas' elderly parents at the main floor level.

The Board discussed removal or relocation of the existing garage. Ms. McGavern said that the existing garage will probably be used as a storage shed. She said that cars cannot fit into the garage. Ms. Kinas said that they keep their bikes and trash there. A Board member said that removing the garage would eliminate a nonconformity. He said that the Petitioner can put up a free standing shed up to 100 square feet as a matter of right. The Chairman said that putting a conforming garage on the north side would be a hardship for the use of the house. He said that there would be no open space or a play for kids to play. He said that he would be amenable to a finding that the topography creates a hardship.

Ms. McGavern said that the existing garage is part of the retaining wall. A Board member said that the size of the garage can be reduced to what is permitted as a by right shed and remain as part of the retaining wall. He said that since they will be adding a garage, reducing the existing garage would be a fair trade. He said that alternatively, the garage could be replaced somewhere on the lot that meets the Zoning requirement of 100 square feet or less. Mr. Stathas said that there is storage space above the garage, much like an unfinished attic. The Chairman said that the 100 square foot restriction is for the footprint.

The Chairman read the Planning Board recommendation. Ms. McGavern said that locating the addition on the south side would put the garage in front of the door. She said that they wrote off putting the addition at the rear for several reasons. She said that it would be smack in the middle of the yard and they were not sure if there would be enough room inside the setback to park a car. She said that it would be a very steep driveway, which is one of the problems that they are trying to address. She said that it gets icy and her clients have been to the hospital a couple of times from dealing with shoveling and ice. Mr. Stathas said that there are several mature maple trees on the northern side that probably would be compromised. Ms. Kinas said that they would like to preserve the play area for their small children. Ms. McGavern said that if the house was turned another way, it would be an entirely different situation. She said that placement of the structure on the lot is an issue.



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 50 Bancroft Road, on a 14,604 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District. The existing nonconforming garage has a minimum left side yard setback of 11.7 feet and a rear yard setback of 8.3 feet.

The Petitioner is requesting Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing one story structure and construction of a two story addition with a side facing two car garage underneath with less than required front yard setbacks, on a 14,604 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District.

Request for Variance, dated 3/26/18, from Carol Kinas and George Stathas, a Plot Plan and Abutting Dwelling Setback 500', dated 3/15/18, stamped by Michael P. Clancy, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 3/5/18, prepared by McGavern Design, 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 topography 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 demolition of an existing one story structure and construction of a two story addition with a side facing two car garage underneath with less than required front yard setbacks, on a 14,604 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, subject to the following condition:

- The existing garage shall be reduced to a conforming size.

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

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

ZBA 2018-33  
Petition of Carol Kinas & George Stathas  
50 Bancroft Road

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2018 MAY 17 P 2:07

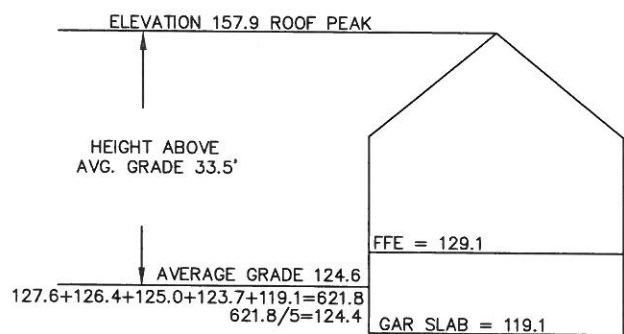
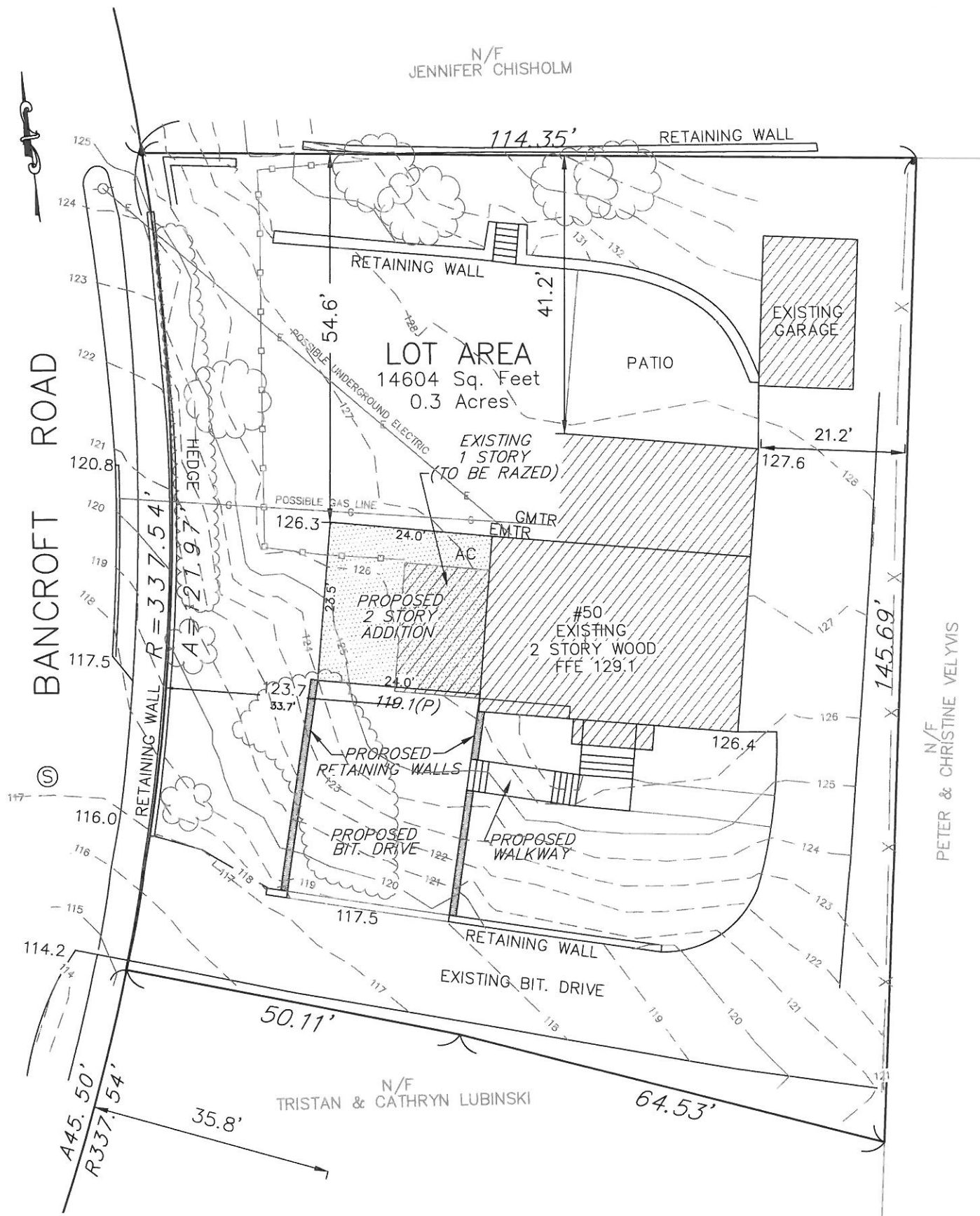
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
J. Randolph Becker, Acting Chairman

  
David G. Sheffield

  
Robert W. Levy

cc: Planning Board  
Inspector of Buildings  
lrn



PREPARED FOR:  
CAROL KINAS  
50 BANCROFT ROAD  
WELLESLEY, MA. 02481

PLOT PLAN  
FOR  
50 BANCROFT ROAD  
IN  
WELLESLEY, MASS.

SCALE: 1"=20' MARCH 15, 2018

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

NOTES:

1. ZONING CLASSIFICATION - SRD-15
2. PLAN REFERENCES:  
NORFOLK REGISTRY OF DEEDS BOOK 1525 PAGE 481  
NORFOLK REGISTRY OF DEEDS BOOK 3972 PAGE 368
3. LOCUS DEED:  
NORFOLK REGISTRY OF DEEDS BK. 24123 PAGE 175  
ASSESSORS PARCEL ID 44-40

LOT COVERAGE (EXISTING) = 2048 SF= 2048/14604 =14.0%  
LOT COVERAGE (PROPOSED) = 2373 SF= 2373/14604 =16.2%



FEET  
METERS

