

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2018-35

Petition of Paul & Tamara Battaglino
29 Longmeadow Road

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JUN 12 2018

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 7, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Paul & Tamara Battaglino requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a two-story addition that includes a side facing garage with less than required setbacks, at 29 Longmeadow Road, on 25,476 square foot lot in a Single Residence District in which the minimum lot size is 40,000 square feet, with 20.9 feet of frontage where 60 feet is required.

On May 2, 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 Kevin Gordon, Paul and Tammy Battaglino, the Petitioner.

Ms. Battaglino said that the house was built in the early 1900's and lacks some of the functionality that they need. She said that their focus is on renovating versus tearing down their home. She said that they are seeking to preserve the character of the home, fit in with the neighborhood and meet the needs of their family. She said that they cannot fit anything larger than a compact vehicle in the existing garage and they would like to build a functional garage. She said that they are looking to add a bedroom for a handicapped family member. She said that they would like to improve the functionality of their kitchen and add some storage.

Ms. Battaglino said that all of the proposed addition will be within the 20 foot setbacks. She said that they are requesting a variance because there is one corner of the garage door that is just short of the 30 foot setback that is required. She said that their builder had originally recommended that they build the garage on the right side of the house, which would fit within the setbacks but would require that they knock down a stone wall on their property that was part of the Baker Estate. She said that they sought to keep that structure in place because it is important to their neighbors and themselves. She said that the unique or odd nature of the lot shape is a contributing factor and challenge. She said that all of their neighbors expressed full support for the plans, even though it is just shy of the setback. She said that given the size and nature of their lot for what they believe is a *de minimis* request that has the support of all of the neighbors, the hope is that the Board will consider the request for a variance.

A Board member asked about the stone arch on the right side of the house. He said that people in the neighborhood take prom and wedding photos there. Ms. Battaglino said that they bought the house about ten years ago from a woman who was the second owner. She said that it is her understanding that the stone arch was built in the mid to late 1800's and was the entrance to a carnival at the Baker Estate. She

said that it is a unique structure and is striking on the property. She said that they view it as not just a history of the house but also of the town. She said that it is something that their neighbors expressed their love for through the years. She said that a neighbor told her that all ten of her children had been married under the arch. She said that many of their neighbors on Longmeadow Road have lived there for decades and have fond memories of it, as they have over the past decade. Mr. Battaglino said that the woman that they bought the house from gave them documentation about the arch, which is a very unique structure. He said that everyone who comes to the property asks about it. Ms. Battaglino said that they are hoping to work the arch into the renovations.

The Chairman said that the application was for a variance, which is what the Petitioner has been addressing tonight. He said that it is an undersized lot and they would need a special permit for the balance of the renovation as a pre-existing nonconforming structure. He confirmed that the only thing that was published was the request for a variance. He said that, as a special permit was not published, the public could have been lulled into a false sense of security that all that the Petitioner was seeking relief for was one foot where they will actually be doing a lot more than what the variance is seeking. Mr. Gordon said that he thought that they had applied for both variances. The Chairman said that the Planning Board recommendation assumed that a special permit was also needed. He said that if the Board was to grant a variance, the Petitioner would have to come back before the Board for a special permit. He said that in the past the Board has treated a special permit as a lesser included relief to a variance but due to the fact that the variance is for such a slight amount and the renovation is so substantial, it is safer to come back for a special permit. He said that will protect the Petitioner because the appeal period is even longer for procedural irregularities. He said that the Board would address the variance at this hearing.

The Chairman said that the Board had not heard any evidence of wetlands or ledge. He said that this is an irregularly shaped lot that would be considered a pork chop, does not have enough frontage and is undersized. He questioned whether the lot shape was causing the hardship. A Board member said that the application made it clear that the motivation for putting the addition where they did was to preserve the historic arch structure. He questioned whether that could be considered part of the topography. He said that it is a site element that at least one neighbor expressed appreciation that they are trying to preserve it.

The Chairman said that one foot is a small amount. He asked if there had been any effort to try to pull the structure back a foot. Mr. Gordon said that they scaled it back a few times. He said that they originally proposed to have the addition on the right side incorporating the arch. He said that it was about 800 square feet greater than what is now proposed. He said that if they clip the proposed addition further back, it will interfere with the stairway that goes up to the second floor. He said that they would have to do a switchback stair, which would make it harder to egress the second floor.

Mr. Gordon said that the bylaw reads that the distance has to be 30 feet to the garage door. He asked if the dimension is to the actual door or to the casing and frame. He said that the door sits back 8 to 8.5 inches from the casing on the exterior. The Chairman said that the plans show a one foot encroachment.

Ms. Battaglino submitted letters of support from neighbors on Longmeadow Road.

A Board member said that the plans do not show the driveway and the paving area. He said that the plans only show the existing driveway. He asked about dealing with runoff. Mr. Gordon said that the intention

is to extend the existing driveway to meet the new construction and tear up the old part. He said that the new garage will go in front of the existing garage, which will be demolished. Mr. Battaglino said that there will be less blacktop because the driveway will not extend as far back. He said that it will be all green in front with no walkway up the middle. The Board member said that the existing driveway curves around to the corner of the proposed garage. He said that the pavement will extend further towards the Kemper/Wheeler property. Ms. Battaglino said that their goal was to minimize the amount of pavement. The Board said that, given that the Petitioner will likely be coming back before the Board to request a special permit, they should provide an augmented plot plan to show the new paving and indicate what will be removed. He said that the total amount of impervious surface will probably increase, so any need for drainage control should be addressed.

The Chairman said that the Total Living Area plus Garage (TLAG) Affidavit that was submitted did not include a signature. He said that the Affidavit should be signed by someone who can stand behind the calculations.

A Board member asked about the square footage in the area of requested relief. Mr. Battaglino said that it is one foot on one corner of one door. He said that the remainder of the garage doors will meet the setback requirement. He said that it is not parallel to the lot line. The Board said that the purpose of the bylaw is for a turning radius. The Board said that if this was a 10,000 square foot neighborhood, the next door neighbor would be a lot closer and you would have to almost go onto the neighbor's property to make the turn, which is not the case here. The Board discussed consideration of the encroachment as *di minimis*.

A Board member said that the lot shape combined with some of the neighborhood elements with the stone arch play together. The Chairman said that the Board needs to find a hardship related to the shape of the lot. Ms. Battaglino asked if the arch would be considered part of the topography. A Board member said that topography is sometimes referred to as being anything that you can see from an aerial view. He said that it typically refers to the grade.

Mr. Gordon said that it is a very unique lot. He said that they are trying to retain the existing house, which is what Wellesley has been striving for in the past 25 years. He said that no matter how they positioned the addition and tightened it up as much as possible, they were always stretched to keep the existing house intact.

A Board member said that the 30 foot dimension for a side facing garage is intended for turning movement and in this case the 1.4 foot deficit is a *di minimis* dimension. Mr. Gordon said that it will be easier to turn into the garage because the wall is not parallel to the lot line.

A Board member asked if the intention is to have any drainage control. Mr. Gordon said that all roof runoff will be handled in a French drain. He said that there are drywells under the driveway because they are close to the water table. He said that they will set a pump to extract into the leaching system. The Board urged the Petitioner to submit information about drainage with the application for a special permit.

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 29 Longmeadow Road, on 25,476 square foot lot in a Single Residence District in which the minimum lot size is 40,000 square feet, with a minimum 20.9 feet of frontage where 60 feet is required, with a minimum rear yard setback of 8.5 feet.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a two-story addition that includes a side facing garage with less than required setbacks, on 25,476 square foot lot in a Single Residence District in which the minimum lot size is 40,000 square feet, with 20.9 feet of frontage where 60 feet is required.

Request for Variance, dated 4/3/18, a Plot Plan, dated 4/2/18, stamped by Peter A. Lothian, Professional Land Surveyor, Existing Floor Plans, dated 4/1/18, Proposed Floor Plans and Elevation Drawings, dated 4/1/18, prepared by Paul Saraiva, and photographs were submitted.

On June 4, 2018, the Planning Board reviewed the petition and recommended that a variance and special permit 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 a two-story addition that includes a side facing garage with less than required side yard setbacks, in accordance with the submitted plot plan and construction drawings.

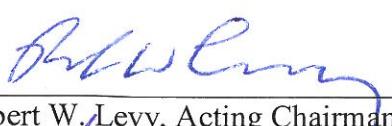
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

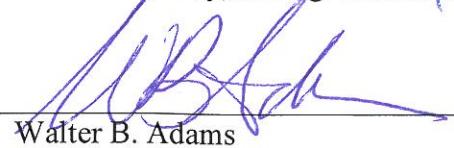
If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

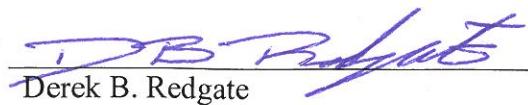
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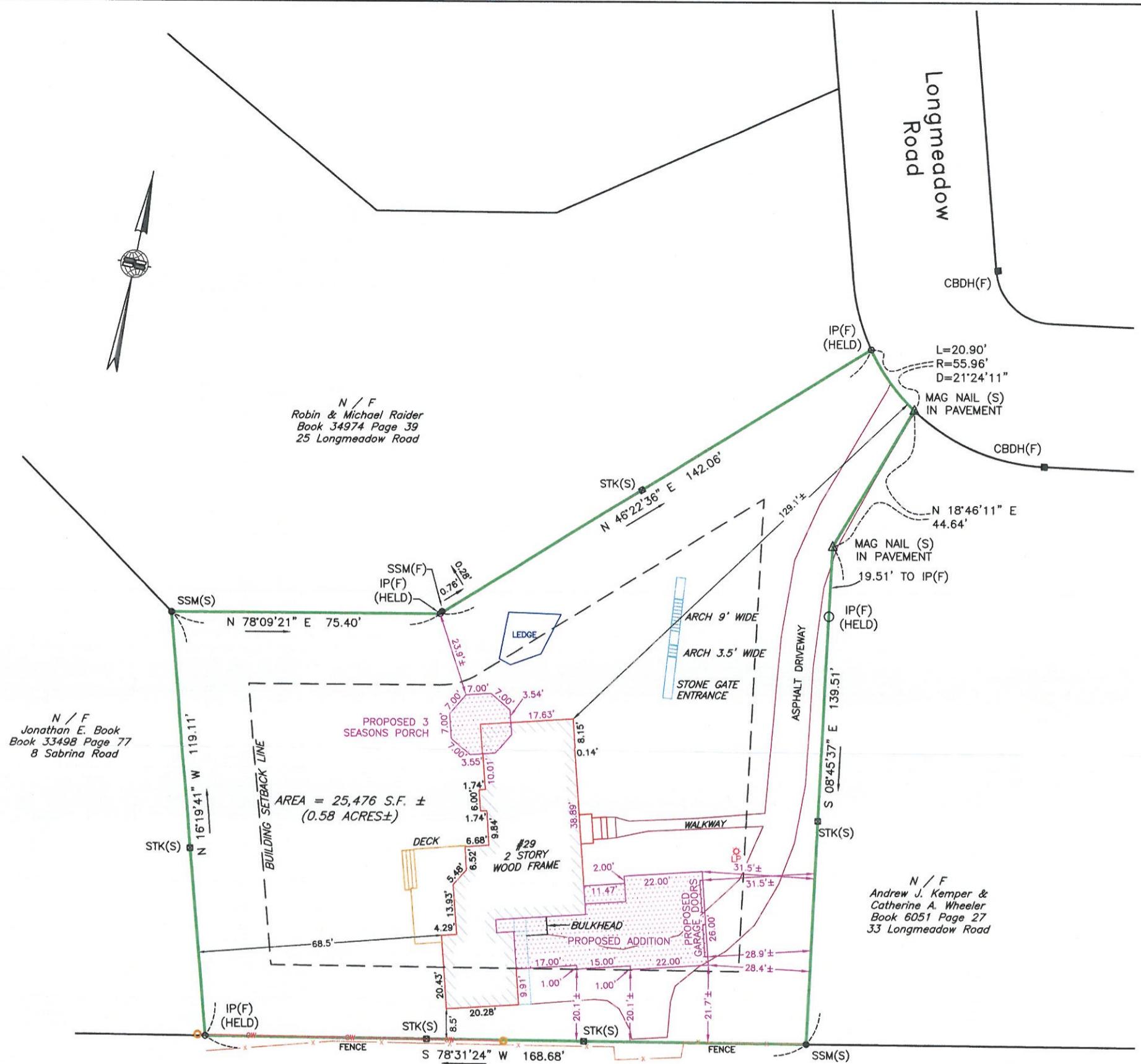
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


Robert W. Levy, Acting Chairman


Walter B. Adams


Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm



<u>BUILDING COVERAGE:</u>	<u>AREA</u>	<u>PERCENTAGE</u>
EXISTING:	2,427 S.F.	10%
PROPOSED:	3,750 S.F.	15%

N / F
Kathleen P. Welsh
Book 14073 Page 43
5 Sabrina Road

THE DWELLINGS LOCATED WITHIN 500' OF LOCUS THAT ARE SET BACK FROM THE PROPERTY LINES MORE THAN 30' HAVE THE FOLLOWING FRONT SETBACK DISTANCES ACCORDING TO THE STRUCTURE AND PROPERTY LINE DATA AVAILABLE FROM MASS GIS:

ASSESSOR'S ID	ADDRESS	FRONT SETBACK
115-2	285 Grove St.	134'±
116-3	311 Grove St.	75'±
115-1	1 Sabrina Farm Rd.	64'±
116-4	4 Sabrina Farm Rd.	265'±
115-11	5 Sabrina Rd.	32'±
115-15	24 Sabrina Rd.	33'±
115-18	44 Sabrina Rd.	32'±

IN MY PROFESSIONAL OPINION, I CERTIFY TO DESIGN WEST AND THE TOWN OF WELLESLEY BUILDING INSPECTOR THAT, AS A RESULT OF A SURVEY MADE ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN MASSACHUSETTS, I FIND THAT THE EXISTING HOUSE AND PROPOSED ADDITION FALL WITHIN FLOOD ZONE X "UNSHADED" AS SHOWN ON THE F.I.R.M. MAP FOR NORFOLK COUNTY MASSACHUSETTS, PANEL #25017C0543E DATED: 6/4/2010 AND THAT THE LOCATION OF THE EXISTING HOUSE AND PROPOSED ADDITION IS AS SHOWN HEREON.

Pat A. Cott
PROFESSIONAL LAND SURVEYOR

DATE: 4/2/2018



PLOT PLAN OF LAND
29 LONGMEADOW ROAD
WELLESLEY MASS

PREPARED FOR: DESIGN WEST

SCALE: 1"=20' DATE: APRIL 2, 2018