



## ZONING BOARD OF APPEALS

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

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ZBA 2016-56

Petition of Michael & Diane Whelan  
21 Earle Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 11, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Michael & Diane Whelan requesting a Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a two-story addition with less than required front yard setbacks to Cleveland Road, on an existing nonconforming structure with less than required front yard setbacks to Cleveland Road and less than required side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, at 21 Earle Road.

On July 26, 2016, 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 Chris Crump, Architect, and Mike Whelan, the Petitioner.

Mr. Crump said that the property is a pre-existing nonconforming corner lot that upholds two front yard setbacks. He said that the existing house has a front yard setback of 26.6 feet. He said that the Petitioner is looking to put on a small addition that will extend the footprint on the back side of the house to eventually change what is now a family room to a bedroom. He said that the homeowner has a heart condition that will not allow him to be up on the second floor at some point. He said that the proposed addition will be six feet. He said that they originally tried for eight feet but brought it back to six feet to try to make it as substantially not detrimental to the neighborhood as possible. He said that there are other houses in the neighborhood within the same realm of setback issues. He said that this will be in keeping with the size and scale of the house. He said that they are requesting relief for a 5.5 foot variance.

A Board member said that the nonconformity is the Cleveland Road setback at 26.6 feet where it should be 30 feet. He said that the request is to reduce that by two feet to 24.7 feet. He said that would require a variance because it would be exacerbating the nonconformity. He said that two feet is probably more than de minimis to treat this as a special permit.

The Board asked that the variance standards be addressed. Mr. Crump said that they cannot go on the other side due to the layout of the house. He said that there is no other area where they can extend the house out. He said that the homeowner has a health condition.

The Board said that there was no topographical information submitted, so it cannot consider topography with respect to the variance. The Board said that there are no issues related to soil conditions or wetlands. The

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Board said that the frontage on Earle Road is 78.34 feet whereas the easterly boundary is 75.8 feet, which would make it an irregularly shaped lot. The Board said that the difference between the frontage distance is 92 versus 75 at the back, making it more irregular.

The Board confirmed that the entrance on Earle Road will remain.

The Board said that the narrative talked about the homeowner having a heart condition, limiting his ability to use the second floor bedroom. The Board said that there was nothing shown on the plans that responded to that, such as handicapped access or ramps. Mr. Crump said that it is not in this aspect of the plan because it does not need to be done at this time. He said that if and when there is a need for a handicapped ramp, they will make the back deck available for that option.

The Board asked if the grade differential shown on the elevation on the Cleveland Road side is accurate in that it drops significantly where the addition is going. Mr. Crump said that he took elevations to the site grade and they are fairly accurate. The Board asked if the Petitioner would be willing to landscape that area as part of the approval. Mr. Whelan said that he is willing to add landscaping to hide the foundation.

The Board said that the proposed addition is minor in size.

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 21 Earle Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, on a corner lot with a minimum front yard setback of 26.6 feet to Cleveland Road and a minimum side yard setback of 15.3 feet.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIVE, Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a two-story addition with less than required front yard setbacks to Cleveland Road, on an existing nonconforming structure with less than required front yard setbacks to Cleveland Road and less than required side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District, in a Water Supply Protection District.

Explanation of Request, a Plot Plan, dated 5/19/16, stamped by Terrence M. Ryan, Professional Land Surveyor, Existing & Proposed Floor Plans & Elevation Drawings, dated 3/16/16, prepared by CWC Design Inc., and photographs were submitted.

On July 27, 2016, 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 the land, which does not generally affect the zoning district that it is in, 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 with less than required front yard setbacks to Cleveland Road, on an existing nonconforming structure with less than required front yard setbacks to Cleveland Road and less than required side yard setbacks, on a corner lot, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, 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.

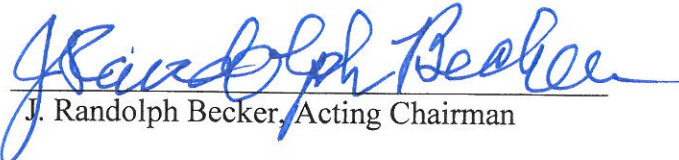
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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
J. Randolph Becker, Acting Chairman

  
Robert W. Levy

  
Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm

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# PROPOSED PLOT PLAN 21 EARLE ROAD WELLESLEY, MASS.

DATE: MAY 19, 2016

SCALE: 1" = 20'

PREPARED FOR:

MICHAEL H. WHELAN  
21 EARLE ROAD  
WELLESLEY, MASS. 02481

ENGINEERS & SURVEYORS:

APPLEWOOD SURVEY LLC  
21 GREEN STREET  
HOLLISTON, MASS. 01746  
TERRENCE M. RYAN R.L.S. 37057

ZONED: SINGLE RES.  
AREA: 10,000 SF  
FRONTAGE: 80 FT  
SETBACK: 30 FT\*  
SIDEYARD: 20 FT  
REARYARD: 10 FT  
COVERAGE: 2,500 SF

\* SUBJECT TO 500' RULE

DEED BOOK 27302 PAGE 53  
ASSESSORS MAP 158 LOT 21

EXISTING COVERAGE: 1,963 SF = 16.9%  
PROPOSED COVERAGE: 2,014 SF = 17.4%



I CERTIFY THAT THE LOT SHOWN CONFORMS TO THE DIMENSIONAL REGULATIONS AND THE EXISTING HOUSE SHOWN THEREON PREDATES THE DIMENSIONAL OFFSET REGULATIONS OF THE WELLESLEY ZONING BYLAWS.

I CERTIFY THAT THE LOT SHOWN AND EXISTING HOUSE SHOWN THEREON ARE LOCATED IN A FEDERAL FLOOD HAZARD ZONE "X" - SUBJECT TO MINIMAL FLOODING (SOURCE: F.I.R.M. 25021C0016E).

