

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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

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ZBA 2016-86  
Petition of Cyndi Koss & Antoine Nakhle  
45 Elmwood Road

RECEIVED  
NOV 17 2016  
TOWN OF WELLESLEY  
ZONING BOARD OF APPEALS

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 3, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Cyndi Koss & Antoine Nakhle requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing screened porch, construction of two two-story additions, construction of a screened porch, and three stair landings that will meet all setback requirements, and construction of a second story addition over an existing nonconforming structure with less than required front yard setbacks to Martin Road, on an 8,690 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 45 Elmwood Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. A Special Permit, ZBA 2014-68, was granted for this project on August 21, 2014 and expired on August 21, 2016.

On October 17, 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 David Himmelberger, Esq. and Cyndi Koss, the Petitioner.

The Chairman said that the application stated that construction was delayed due to illness in the family. Mr. Himmelberger said that the previously granted special permit expired in August. He said that the building permit was not applied for until September. He said that two years had passed since the special permit was granted. He said that this is a re-application. He said that there has been no change in the Zoning Bylaw.

Mr. Himmelberger said that the Planning Department Staff noted that the plans that were submitted did not show the two landings in the side yard setbacks as no greater than 25 square feet, which was previously accepted by the Applicant as a condition. He said that, following the ZBA public hearing on August 7, 2014, an email was sent out August 8, 2014 telling the Architect to reduce the landings to 25 square feet. He said that was not done but will be accepted as a condition. He said that expiration of the special permit was the result of engineering and construction planning taking longer than expected. He said that the Petitioner thought that the special permit was effective for three years, consistent with the term of the Order of Conditions.

The Board confirmed that the Curb Cut Permit is still in effect.

The Board said that it received a letter from Linda Hansen, Wetlands Administrator on October 18, 2016 that discussed a change of location for the driveway and the plan on record for the Order of Conditions. The Board said that the date referred to in the wetlands letter is different. Mr. Himmelberger said that a neighbor had asked for the driveway to be moved seven feet. He said that plan that was submitted to ZBA reflects that. The Board asked if the driveway off of Elmwood Road will be closed. Mr. Himmelberger said that the Petitioner would accept closing the curb cut on Elmwood Road as a condition.

Mr. Himmelberger said that this is an 8,690 square foot lot in a 10,000 square foot district, with an existing nonconforming front yard setback of 29.6 feet to Martin Road. He said that the proposal is to square off or infill adjacent to the driveway and build an addition on the right side of the existing house. The Board confirmed that the existing front walk and door will remain.

The Board said that the property is located in a Water Supply Protection District.

The Board said that all of the proposed work will be compliant. The Board said that with the proposed construction, the structure will have 2.2 times the living area that is there currently, which is at the low end of what the Board typically sees. The Board said that it is a relatively small house compared to the neighborhood.

The Board said that the edge of the proposed structure is 20.8 feet from the right-side property line and a stair landing attached to the edge of the structure extends 5.8 feet into the side yard with a width of 5 feet. The Board said that the stair landing represents 24 square feet of structure within the 20-foot side yard setback. The Board said that there will be no intensification of existing nonconformities. The Board said that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The Board discussed inserting a condition that a plan showing stair landings that have been reduced to 25 square feet be submitted.

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 45 Elmwood Road, on an 8,690 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, with a minimum front yard setback of 29.6 feet to Martin Road.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing screened porch, construction of two two-story additions, construction of a screened porch, and three stair landings that will meet all setback requirements, and construction of a second story addition over an existing nonconforming structure with less than required front yard setbacks to Martin Road, on an 8,690 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 8/4/14, stamped by Bruce Bradford, Professional Land Surveyor, Project Description letter, dated 7/30/14, from David J. Himmelberger, Esq., Curb Cut Request Letter, dated 7/21/14, signed by James Manzolini, Civil Engineer, Town of Wellesley Department of Public Works, Existing and Proposed Floor Plans and Elevation Drawings, dated 7/16/14, prepared by Williamson Building Works, LLC, and photographs were submitted.

On July 10, 2014, the Wetlands Protection Committee issued an Order of Conditions, MassDEP File #324-0747.

On November 1, 2016, the Planning Department Staff reviewed the petition and recommended that the 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 although demolition of an existing screened porch, construction of two two-story additions, construction of a screened porch, and three stair landings that will meet all setback requirements, and construction of a second story addition over an existing nonconforming structure with less than required front yard setbacks to Martin Road, on an 8,690 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District 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 on an 8,690 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, subject to the following conditions:

1. The curb cut on Elmwood Road shall be closed.
2. Plans showing that stair landings in the side yard setbacks shall not exceed 25 square feet shall be submitted.
3. Order of Conditions, MassDEP File #324-0747, shall be incorporated in this decision.

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.

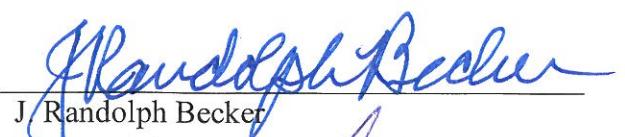
ZBA 2016-86  
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45 Elmwood Road

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TOWN CLERK'S OFFICE  
WELLESLEY MA 02482  
12016 NOV 17 P 2:39

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.



Richard L. Seegel, Chairman

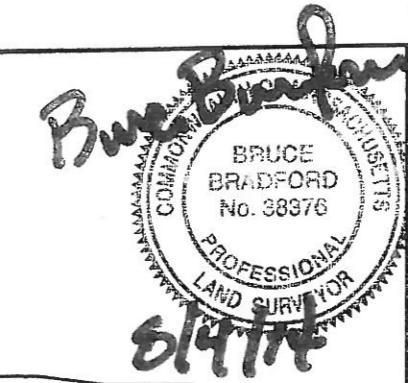


J. Randolph Becker



Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm



ESTABLISHED 1916

**EMB**

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## ZONING INFORMATION

ZONE SR-10  
PARCEL ID: 170-85

EXISTING  
STRUCTURES: 942 S.F.  
LOT COVERAGE: 10.8%

PROPOSED  
STRUCTURES: 1,558 S.F.  
LOT COVERAGE: 17.9%

DEED REFERENCE:  
BOOK 25794 PAGE 549

PLAN REFERENCES:  
BOOK 1810 PAGE 380

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# PLAN OF LAND IN WELLESLEY, MA

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45 ELMWOOD ROAD  
TO ACCOMPANY THE PETITION OF  
CYNDI NAKHLE

SCALE: 1 IN.= 20 FT.  
DATE: AUGUST 4, 2014  
DRAWN: JF  
CHECK: BB

PROJECT NO. 24356

