

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2016-91
Petition of Ara & Rosalyn Nazarian
15 Framar Road

2016 NOV 17 P
TOWN HALL OF WELLESLEY MA

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 Ara & Rosalyn Nazarian requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing nonconforming garage and construction of a new garage with less than required rear and side yard setbacks, on an existing nonconforming lot with less than required frontage, at 15 Framar Road, in a 10,000 square foot Single Residence District.

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., Ara and Rosalyn Nazarian, the Petitioner, and Rick Ames, Architect.

Mr. Himmelberger said that, subsequent to submittal of plans that showed a bathroom and dormers on the second floor of the proposed garage, the homeowners made a decision to not seek approval of the second floor bathroom or dormers. He said that access to the second floor space will be by a drop down center staircase. The Board said that a revised plan should be submitted.

Mr. Himmelberger said that his clients met with their neighbors and got positive feedback. He said that letters of support were submitted to the Board. He said that one neighbor had a concern about the second floor and his client wanted to respect that concern.

A Board member asked why the garage will not be moved to a fully compliant location. Mr. Himmelberger said that there are a number of trees and a slope. He said that the existing garage is within the side yard setback at 4.7 feet. He said that the proposed garage will be 10 feet from the rear property line and will not be located in the side yard setback. He said that a lot of time was spent to orient it to achieve a greater depth but they would not be able to preserve the trees and the slope. He said that the proposed plan will improve the setback of 4.7 feet to 10.2 feet.

Mr. Himmelberger said that, in 2000 the prior owner purchased land and added to the rear of the lot pursuant to an ANR. He said that made the lot nonconforming to Table 3 under Section XIX of the Zoning Bylaw. He said that, in looking at the history of the bylaw, at the time the bylaw was amended, it talked about new construction.

Mr. Himmelberger said that his clients seek to put the garage at the 10-foot setback. He discussed whether the petition should be considered under Chapter 40A Section 6 under the special permit standards or as a variance. He said that he believes it is a pre-existing nonconforming structure that they are seeking to raze and rebuild as a new less nonconforming garage. The Board discussed special permit protection for taking down a single bay garage and replacing it with a two-bay garage with a pull down stair. Mr. Himmelberger said that while the pre-existing nonconformity will be intensified with a larger structure, it will not be more detrimental because it will be moved to the backyard and the setback will be increased from 4.7 feet to 10 feet.

Mr. Ames discussed the front elevation plan. He said that the roof comes below the garage door. He said that the intent was to honor the tradition and form of the house with a 17 pitch roof. A Board member said that it appears to be a little garage with a lot of roof. He said that is what is presented to the neighbors.

The Chairman said that there is a three-foot difference in the topography. Mr. Ames said that the slope accelerates at the back.

The Board asked about the alterations to the main structure. Mr. Himmelberger said that there will be a 74 square foot infill to the rear of the home that will be fully compliant. He said that under Bjorklund v Norwell, no special permit is required.

Mr. Himmelberger said that the existing house is conforming. He said that the frontage is undersized for Table 3. He said that the garage has less than required side yard setbacks. He said that, according to the definition, the side yard ends at the rear of the house. He said that the entire new structure will be in the rear yard. He said that if it were not subject to Table 3, it would be compliant and the garage could be built by right.

The Board discussed granting a special permit versus a variance. Mr. Himmelberger said that the Board has granted special permits for replacement garages that are relocated in more conforming locations. He said that the proposal is to improve the nonconforming setback from 4.7 to 10.2 feet. He said that there will be an intensification of a nonconformity but it will not be more detrimental.

The Chairman said that he saw no problem with what is proposed. He said that the topography and shape of the lot warrant a variance.

Edward Seeker, 30 Seaver Street, said that his house is located behind 15 Framar Road. He said that the garage seems to be large. He said that his garage is 20 feet and the proposed garage will be 35 feet wide. Mr. Ames said that the proposed garage will be 26 feet long and 23 feet wide with a seven-foot saddle on the back. Mr. Seeker said that a 10-foot variance does not bother him. He said that the original plan for a 35-foot wide garage did bother him. He said that the revised garage plan is fine. Mr. Ames said that they removed the living space upstairs.

Statement of Facts

The subject property is located at 15 Framar Road, in a 10,000 square foot Single Residence District, with 75.34 feet of frontage and a minimum right side yard setback of 4.7 feet for the existing garage structure.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing nonconforming garage and construction of a new garage with less than required rear and side yard setbacks, on an existing nonconforming lot with less than required frontage in a 10,000 square foot Single Residence District.

A Plot Plan, dated 10/10/16, stamped by Antoni Szerszunowicz, Professional Land Surveyor, Existing & Proposed Floor Plans and Elevation Drawings, stamped by Richard Ames, Registered Architect on 10/11/16, and photographs were submitted.

On November 1, 2016, the Planning Department Staff reviewed the petition and recommended that the Variance be denied.

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 and 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 nonconforming garage and construction of a new garage with less than required rear and side yard setbacks, on an existing nonconforming lot with less than required frontage in a 10,000 square foot Single Residence District, subject to the following conditions:

1. A new certified plot plan be submitted that shows the same dimensions and setbacks as shown on Plan A-003.
2. There shall be no plumbing in the garage attic.
3. The garage attic shall be used for storage only.

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.

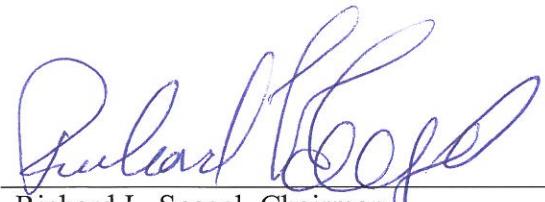
If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

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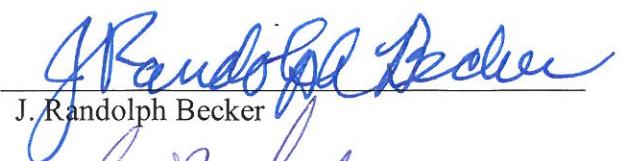
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TOWN CLERK'S OFFICE
WELLINGTON MA 02482

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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.



Richard L. Seegel, Chairman

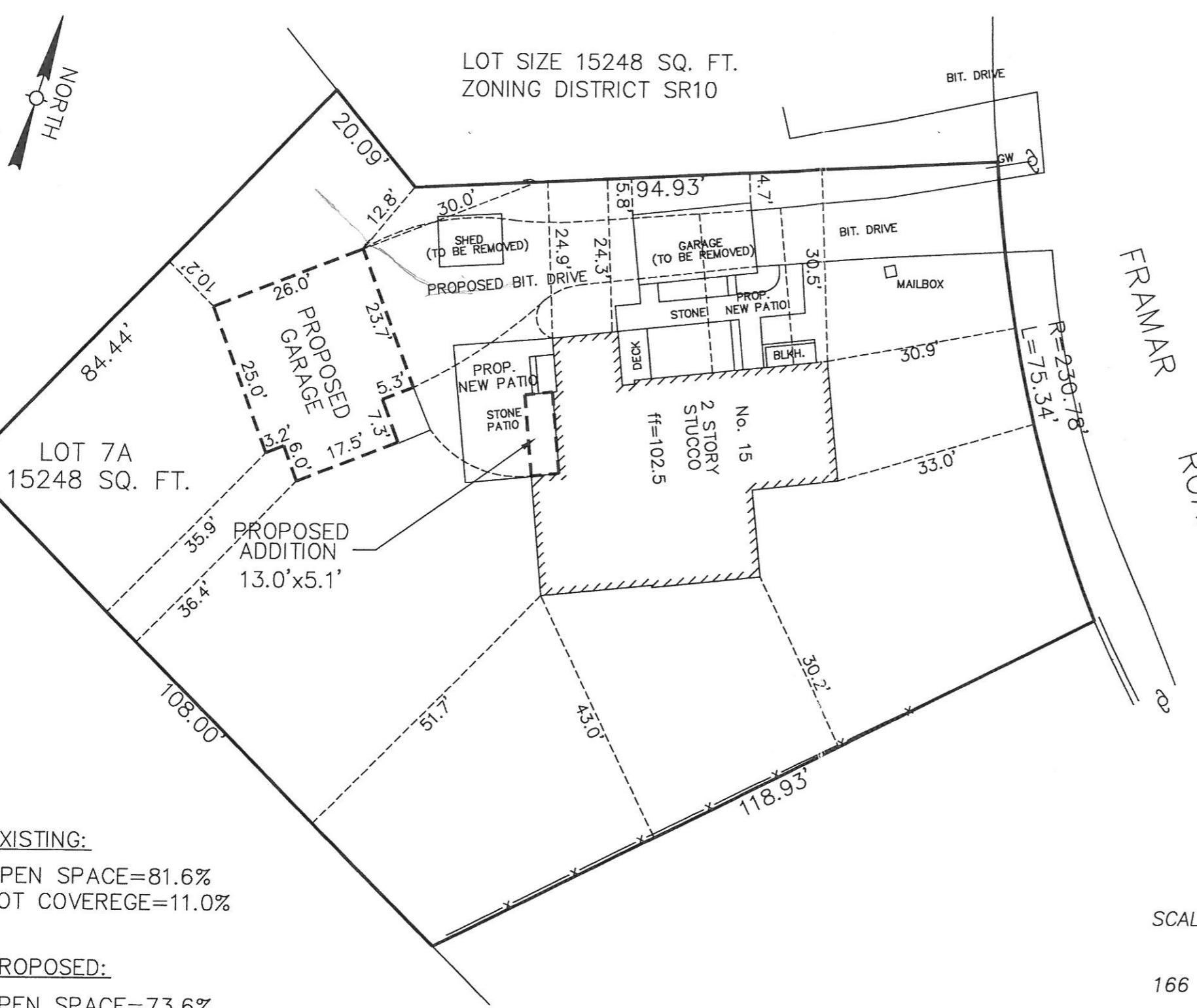


J. Randolph Becker



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



Antoni Szerszunowicz



PLOT PLAN

15 FRAMAR ROAD

WELLESLEY, MASS.

SCALE : 1"= 20'

OCTOBER 10, 2016

AGH ENGINEERING

166 WATER STREET

STOUGHTON, MA 02072

PHONE: (781)344-2386

GRAPHIC SCALE

