

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2020-49

Petition of Jeffrey Harper
16 Rice Street

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, October 1, 2020 at 7:30 pm on the petition of Jeffrey Harper requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for installation of a slab and air conditioning system with less than required right side yard setbacks, on a 9,333 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, at 16 Rice Street.

On July 6, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for October 1, 2020.

Present at the public hearing was Jeffrey Harper, the Petitioner, who said that the request is for a variance to install a mini split air conditioning system (AC) into the house. He said that 16 Rice Street is a nonconforming lot that is adjacent to town land. He displayed a plot plan that shows the location of a fence along his property line abutting the town land. He said that the proposal is to install a 34 inch by 44 inch by 5 inch slab in the area behind the bulkhead. He said that a variance is needed because there will be a 9 foot setback to the property line. He said that the unit is approximately 13 inches deep and will be 9 feet 8 inches to the property line. He said that the 4 foot fence is located between where the pad and unit will be. He said that the Brook Path will be protected from noise from the unit by the fence. He displayed the location of the window where he typically has a large window AC located in the summer. He said that unit has a noise level of approximately 65 decibels. He said that the noise level for the new unit is approximately 56 decibels. He said that by replacing the window units throughout the house, they will reduce the noise. He said that he is getting to the age when it is challenging to put the window units in.

Mr. Harper said that he spoke with neighbors across the street and to the north and there were no negative comments.

The Chairman asked if any sound mitigation is proposed. Mr. Harper said that he thought about building something around the unit or put plants around it. A Board member said that some manufacturers provide sound absorbing materials, some of which could be put on the fence and some behind the unit on the house. He said that plants do not do a good job soundproofing. Mr. Harper said that he found information about noise and what is common at different decibels. He said that the 56 decibels for the AC unit is the same as for conversation. The Chairman said that technology has probably improved since this bylaw went into effect. Mr. Harper said that he thought that a fence around the unit might be aesthetically pleasing.

The Chairman discussed variance standards and findings that the Board has to make in order to grant a variance. He said that the shape of the lot is irregular.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 16 Rice Street, on a 9,333 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 19.4 feet where 30 feet is required, a minimum left side yard setback of 15.4 feet and a minimum right side yard setback of 9.7 feet where 20 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for installation of a slab and air conditioning system with less than required right side yard setbacks, on a 9,333 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet.

A Plot Plan, Plot Plan 1, Plot Plan 2 & Plot Plan 3, dated 6/18/20, stamped by Scott M. Cerrato, Professional Land Surveyor, Existing and Proposed Elevation, Wrightsoft Load Short Form and Project Summary Entire House, dated 5/5/20, Floor Plans Level 1, second floor, 5/6/20, prepared by NETR LLC, and photographs were submitted.

On September 23, 2020 the Planning Board reviewed the petition and recommended that the variance be approved.

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 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted for installation of a slab and air conditioning system with less than required right side yard setbacks, on a 9,333 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, 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 (l.m.)
Robert W. Levy, Acting Chairman

David G. Sheffield (l.m.)
David G. Sheffield

Derek B. Redgate (l.m.)
Derek B. Redgate

ZBA 2020-49
Applicant Jeffrey Harper
Address 16 Rice Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

Figure 3. Plot plan 3 showing location of the mini-split unit and distance to property line..

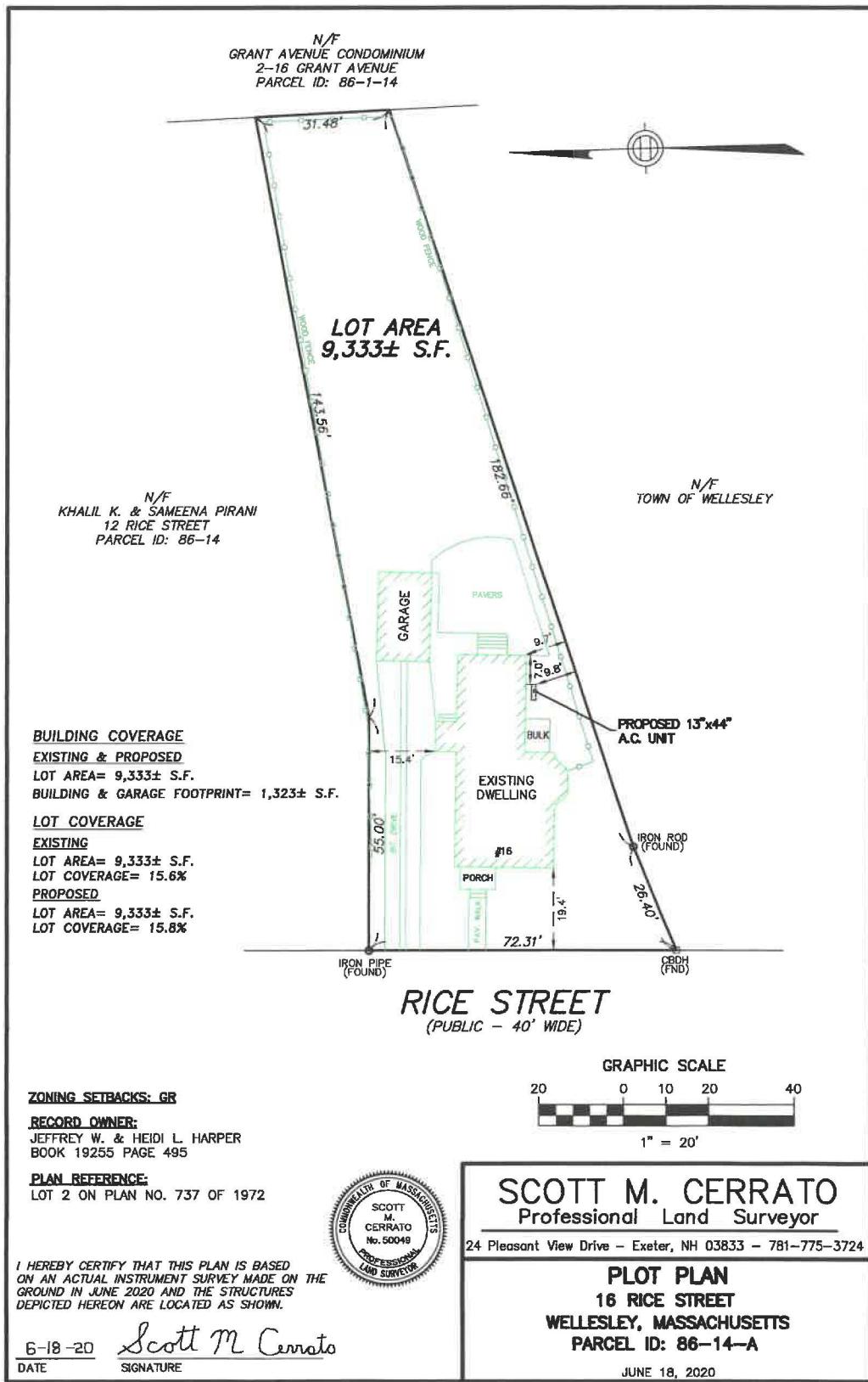


Figure 2. Plot plan 2 showing location of the preformed slab and distance to property line.

