



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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2021 FEB 18 P 1:03
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ZBA 2021-13
Petition of Nader Mokhtar
3 Maple Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, February 4, 2021 at 7:30 pm, on the petition of Nader Mokhtar requesting Modification of a Variance (ZBA 62-27) pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw or a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two story addition and a second story addition on an existing nonconforming structure with less than required side yard setbacks, on a corner lot at 3 Maple Road, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 31, 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.

Present at the public hearing was David Himmelberger, Esq., and Nasif Quadir, Weston Development Company, LLC.

Mr. Himmelberger said that the request is for a special permit and/or modification of a variance. He said that the proposal is to add a second story to an existing home and infill of an existing indentation on the front façade. He said that the lot is conforming but the home is pre-existing nonconforming due to its location on a corner lot. He said that the house was originally constructed with a 10 foot rear setback. He said that a Zoning Bylaw change in 1959 changed the setbacks for corner lots to two front and two side yards, which made the existing house nonconforming. He said that in 1962, the owner petitioned to build a left side addition that would maintain the original but nonconforming 10 foot setback. He said that today that would be construed as a request for a special permit but it was construed as a variance in 1962. He said that the Board has typically preferred to modify existing variances rather than depart from them and call them special permits, which is why the request for Zoning relief was in the alternative.

Mr. Himmelberger said that TLAG will be 2,438 square feet in a district that allows 3,600 square feet as of right before triggering Large House Review. He said that it will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure.

Mr. Quadir said that the height of the structure will be 26 feet. Mr. Himmelberger said that the first story will be a continuation of the brick and the second story will be clapboard.

The Chairman asked about the tree in the back yard. He said that the Town Engineer commented that the tree may be impacted by the second floor addition. Mr. Quadir said that they will not be taking it down but will trim a couple of the branches. He said that it is structurally stable.

The Chairman discussed moving forward procedurally. Mr. Himmelberger said that if the Board's preference is to go with a variance, it could go with the previous Board's determination or could find a hardship due to the shape of the lot. He said that, alternatively, it truly is a special permit application because they are seeking to modify a pre-existing nonconforming structure. The Chairman said that the variance standard may have been different in 1962. The Board members agreed that it would be appropriate in this case to make a Section 6 finding.

A Board member said that the existing elevations show a chimney and the proposed elevations do not. Mr. Quadir said that the base of the chimney is in the basement and is structurally unstable. He said that the proposal is to have no chimney.

A Board member asked about the heating system. Mr. Quadir said that it will be gas service that vents through the roof via a four inch steel pipe.

Danielle Nixon, 8 Maple Road, asked for confirmation that it will be a single family, not a multi-family home. The Chairman said that is the only Zoning that is permitted there and the Board is not granting relief for a change in use.

Ms. Nixon asked if the driveway will be moved. She said that her driveway is directly across from the front of the house and she is concerned about her children's safety. Mr. Quadir said that they will add an eight foot section to the driveway to accommodate what will be a two car garage.

Statement of Facts

The subject property is located at 3 Maple Road, in a 10,000 square foot Single Residence District, on a corner lot with a minimum side yard setback of 6.7 feet where 20 feet is required.

The Petitioner is requesting Modification of a Variance (ZBA 62-27) pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw or a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two story addition and a second story addition on an existing nonconforming structure with less than required side yard setbacks, on a corner lot

Plan of Land, dated 12/30/20, revised 12/31/20, stamped by Jay Jarosz, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 12/30/20, prepared by Overlook Design Build, LLC, and photographs were submitted.

On February 3, 2021, the Planning Board reviewed the petition and recommended that a special permit be approved.

On January 13, 2021, Jason Tobin, Civil Engineer, Town of Wellesley, reviewed the petition and submitted comments.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that construction of a two story addition and a second story addition on an existing nonconforming structure with less than required side yard setbacks will not intensify an existing nonconformity, will not result in additional nonconformities, and will 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 construction of a two story addition and a second story addition on an existing nonconforming structure 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 constructions 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.

2021 FEB 18 P 1:03
RECEIVED
PLANNING DEPT
024162

ZBA 2021-13
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3 Maple Road

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 2021-13
Applicant Nader Mokhtar
Address 3 Maple Road

2021 FEB 18 P 1:03
TOWN CLERK'S OFFICE
WELLESLEY MA 02481

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

**EXISTING HOUSE
LOT COVERAGE CALCULATION:**

EXISTING HOUSE 1,320 S.F.
EXISTING DECKS 105 S.F.

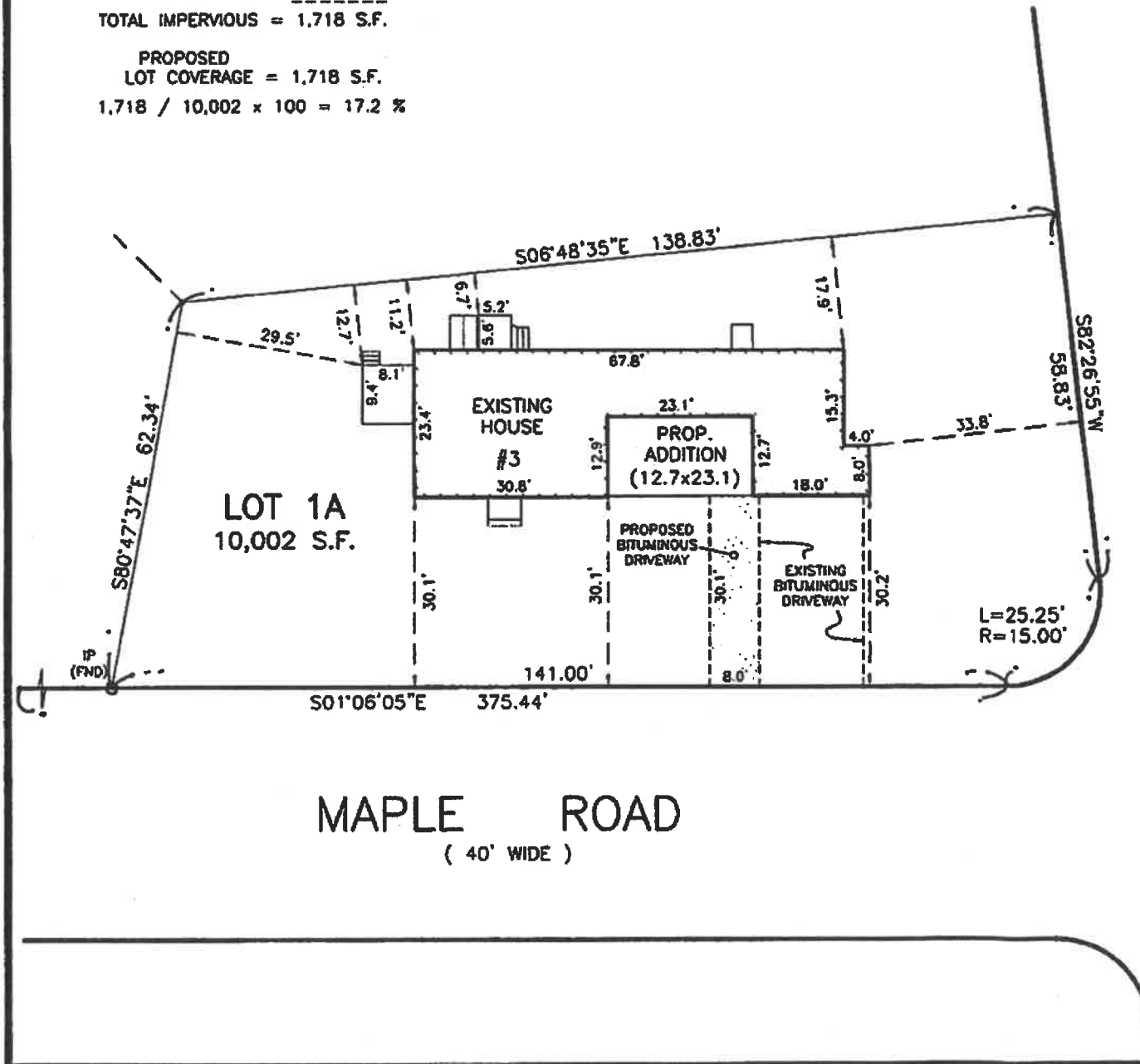
EXISTING IMPERVIOUS = 1,425 S.F.

PROPOSED ADDITION 293 S.F.

TOTAL IMPERVIOUS = 1,718 S.F.

PROPOSED
LOT COVERAGE = 1,718 S.F.

$1,718 / 10,002 \times 100 = 17.2 \%$



PLAN OF LAND IN WELLESLEY, MA.

SCALE: 1"=20'
DATE: DECEMBER 30, 2020
REV. DECEMBER 31, 2020



I CERTIFY THAT THIS HOUSE IS LOCATED ON THE GROUND AS SHOWN.
I FURTHER CERTIFY THAT THIS PROPERTY DOES NOT LIE WITHIN A FLOOD
HAZARD AREA (ZONE A OR V) AS SHOWN ON F.I.R.M. COMMUNITY
PANEL #25021C 0028E EFFECTIVE DATE: 07/17/2012

DATE: 12-31-20

PROFESSIONAL LAND SURVEYOR

n/f
OWNER:

Tarek Mokhtar
#3 Maple Road
Parcel I.D. 7-41

Bk. 28855 Pg. 146
Norfolk County
Registry of Deeds



Jay Jarosz
PLS
(12-31-20)

WORCESTER
STREET

MAPLE ROAD
(40' WIDE)

JAROSZ LAND SURVEYING
3 MILL STREET
MANCHESTER, MA. 01944
jj1717@comcast.net
Phone: (781)-710-8484
JAROSZLANDSURVEYOR.COM

