

TOWN OF WELLESLEY

MASSACHUSETTS



BOARD OF APPEAL

GARRETT S. HOAG
JOHN L. HAYDEN
DANA T. LOWELL

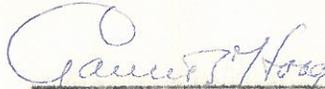
KATHARINE E. TOY, CLERK
TELEPHONE
CE 5-1664

1965 MAR 25 11:40 AM

Petition of L. Linder Lombard

In accordance with the final decree of the Superior Court, Equity No. 77862, entered March 5, 1965, in the case of L. Linder Lombard, petitioner vs. Board of Appeal members Garrett S. Hoag, John L. Hayden and Dana T. Lowell, the undersigned hereby approve petitioner's application for an exception to and modification of the side yard requirements of Section XIX of the Wellesley Zoning By-law in accordance with the findings of the Superior Court in said case and grant petitioner's said application so as to permit the petitioner to construct the proposed addition which may encroach upon the said yard requirements to the extent of not more than one and one-half (1½) feet.

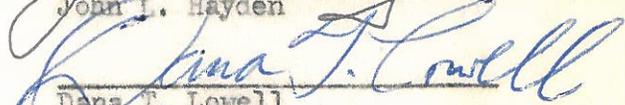
Accordingly, the Inspector of Buildings is authorized to issue a permit for the proposed addition.



Garrett S. Hoag



John L. Hayden



Dana T. Lowell

Filed with Town Clerk _____

COMMONWEALTH OF MASSACHUSETTS

Hartford, ss.

Superior Court
Equity No. 77862

L. LINDER LOWBARD, Petitioner

vs.

GARRETT S. HOAG, JOHN I. HAYDEN
and DANA T. LOWELL, as they are
members of the BOARD OF
APPEAL OF THE TOWN OF WILLESLY, Respondents.

FINAL DECREE

This cause came on to be heard, and was argued by counsel; and thereupon, upon consideration thereof, it is ordered, adjudged and decreed as follows:

1. The decision of the Respondents, as they are members of the Board of Appeal of the Town of Wellelsley, denying the Petitioner's application for an exception to and modification of the side yard requirements of Section XIX of the Wellelsley Zoning By-Law is annulled.

2. The Respondents, as they are members of the Board of Appeal of the Town of Wellelsley are directed to approve Petitioner's application for a special exception to or modification of the side yard requirements of Section XIX of the Wellelsley Zoning By-Law in accordance with the findings of this Court, and to grant Petitioner's said

application so as to permit the Petitioner to construct the proposed addition which may encroach upon the said side yard requirements to the extent of not more than one and one-half (1 1/2) feet.

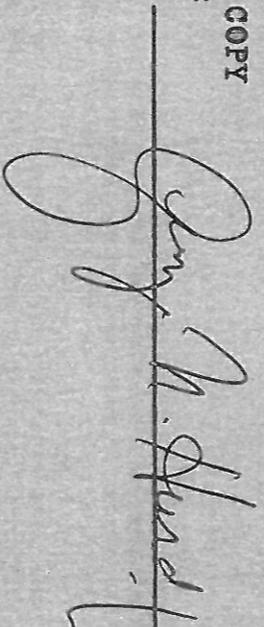
3. The Clerk of Court, within thirty (30) days of the entry of this decree, is directed to send an attested copy hereof to the Board of Appeal of the Town of Wellesley and to the Inspector of Buildings of said Town.

By the Court (Pont, J.)

Entered May 7, 1984

Clerk

A TRUE COPY
ATTEST:


ASST. CLERK



GARRETT S. HOAG
JOHN L. HAYDEN
DANA T. LOWELL

BOARD OF APPEAL

KATHARINE E. TOY, CLERK
TELEPHONE
CE. 5-1664

Petition of L. Linder Lombard

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on May 9, 1963, on the petition of L. Linder Lombard requesting an exception from the terms of Section XIX of the Zoning By-law which will permit her to construct an addition on the side of her dwelling at 26 Woodridge Road with a side yard less than the required twenty feet.

At the hearing the petitioner and her husband spoke in support of the petition.

Gordon Kuntz, Architect for the petitioner, spoke in favor of the request and explained details of the plans.

Thomas S. Hardenbergh, 22 Woodridge Road, Sherman B. Farnham, 15 Woodridge Road, Charlotte Hardenbergh, 22 Woodridge Road and Harold A. Mock, member of the Planning Board spoke in opposition to the petition.

The Planning Board opposed the granting of the request in its report.

Letters in opposition to the petition were received from: Miss Lucy Wilson, 18 Woodridge Road, Anne Cutting Jones and Edith Melcher, 14 Woodridge Road and Thomas S. Hardenbergh, 22 Woodridge Road.

On April 16, 1963, the petitioner filed her request for a hearing and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The property involved is located within a single-residence district requiring a minimum lot area of 20,000 square feet. The house was built in 1937 prior to the present area requirement, on a lot containing 12,000 square feet. It has a one-car garage attached to the northeasterly side of the house. The petitioner seeks permission to construct an addition 3.5' x 28' on the side of the garage in order to widen it and increase its depth. The purpose of the addition is to provide sufficient space for the modern car and to allow space to open the door of the car when in the garage. The addition, if built, will lie 18.5' from the lot line on the northeasterly side. A plot plan, drawn by Gleason Engineering Company, dated December 3, 1963, was submitted which showed the existing house as well as the proposed addition. Architect's plans were also submitted which showed the front and side elevations. It was alleged at the hearing that the house was built prior to the enactment of the present twenty-foot side yard restriction and due to the lot being on a corner, greater restrictions are now imposed which makes it impossible to construct an additional garage on the lot and comply with all restrictions.

WELLESLEY, MASS.
TOWN CLERK'S OFFICE

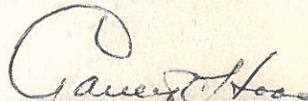
Decision

Upon examination of a plan of the neighborhood involved and an inspection of the locus by this Board, it was found that several of the houses in the neighborhood are located closer than the required twenty feet from the lot line. Part of Woodridge Road and the nearby area was developed prior to the enactment of the twenty-foot restriction and special exceptions have been granted by the Board of Appeal allowing encroachments into the side yards of several others. The lot involved which contains only 12,000 square feet has a depth of only 100' and considering it is a corner lot, greater restrictions are imposed now than when the house was built in 1937. For these reasons, Messrs. Hayden and Lowell, feel that compliance with the side yard requirement of Section XIX of the Zoning By-law is impracticable because of its shape. The lot was held of record on April 1, 1940 under separate and distinct ownership from adjacent lots.

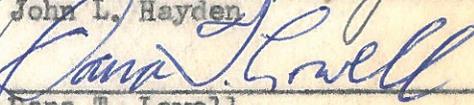
The facts in this case, therefore, in the opinion of Messrs. Hayden and Lowell satisfy the conditions set forth in Section XIX of the Zoning By-law on which the Board's authority to grant a special exception from the application of the side yard restrictions of that section depends, and they would grant the petition.

Mr. Hoag, however, would deny it. In his opinion, the encroachment into the side yard even though slight would establish a precedent and would reduce the value of property in the neighborhood and would derogate from the intent and purpose of the by-law. Moreover, Mr. Hoag believes compliance with the by-law is not impractical. There is ample space, in his opinion, for the petitioner to construct an addition on her garage which will provide sufficient space to accommodate her car as well as open the doors and still comply with the side yard restriction. In his view, the need for additional space must be weighed against the expressed will of the Town that a specified side yard be provided and maintained. Except in unusual circumstances, which he does not find here, he believes that the expressed will of the Town should prevail.

Accordingly, the requested exception is denied and the case dismissed.


Garnett S. Hoag


John L. Hayden


Dana T. Lowell

Filed with Town Clerk _____

TOWN CLERK'S OFFICE RECEIVED

PLAN OF LAND
IN
WELLESLEY, MASS.
DRAWN BY
L. LINDER LOMBARD
SCALE 30 FEET TO AN INCH
DECEMBER 3, 1962.
GLEASON ENGINEERING COMPANY

