



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

BOARD OF APPEAL

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

Petition of Ewen M. Osmond

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 8:05 p.m. on January 23, 1963 on the appeal of Ewen M. Osmond from the refusal of the Inspector of Buildings to issue a permit to him to construct a garage at 10 Morses Pond Road. The reason for such refusal was that said garage would violate Chapter IV, Section 1, of the Building Code which requires that all such buildings shall be placed at least fifty feet from the center line of any public or private street and Section 9-C of the Zoning By-law which requires that all such buildings shall provide a front yard at least thirty feet in depth.

The appellant appeared at the hearing in support of his appeal.

On January 8, 1963 the Inspector of Buildings notified the appellant in writing that a permit for the construction of the proposed garage could not be issued for the above-mentioned reasons and on the same date the appellant took an appeal from such refusal. Thereafter due notice of the hearing was given by mailing and publication.

The Planning Board in its report offered no comment on the petition.

Statement of Facts

The property involved consists of a lot containing 11,250 square feet in area with a dwelling thereon and is located within a single-residence district requiring a minimum lot area of 10,000 square feet. The house was built approximately forty years ago and prior to the enactment of the present applicable Zoning By-law and Building Code requirements. It is located 16'4" from Morse's Pond Road and 5.8' from the easterly side line of the lot.

The appellant seeks permission to build a detached two-car garage 24' x 24' twenty-five feet back from Morse's Pond Road and twelve feet from the westerly lot side line. A plot plan was submitted, drawn by Stacy Engineering Co., Natick, dated January 7, 1963, which showed the existing dwelling and the proposed garage on the lot.

The appellant stated that it is his desire to locate the proposed garage nearer to the street than the required setback because of the contour of the lot. The proposed location is level and it would be difficult to place it any farther back from the street because of the sharp drop in the land at the rear. The appellant does not have a garage and feels that undue hardship and manifest injustice will result to him unless the requested exception is granted. He pointed out that almost the entire neighborhood is built up with houses and garages closer to the street than the required setback and in many cases nearer than the setback requested.

Decision

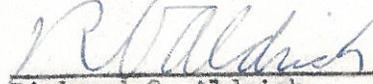
The Building Inspector properly refused the permit as the proposed garage would violate Chapter IV, Section 1, of the Building Code and Section 9-C of the Zoning By-law. The Board, therefore, must decide whether or not a variance from the Code and an exception from the Zoning By-law should be granted.

It is the opinion of this Board that the proposed location of the garage will not prove detrimental to the neighborhood which has been generally developed by the construction of houses closer to the street than the present setback requirement.

The Board finds that a real need exists for the proposed garage and the facts in this case satisfy the conditions set forth in Section 9-C of the Zoning By-law and Chapter I, Section 10 of the Building Code on which the Board's authority depends to grant a special exception from the application of the front yard restriction of the Zoning By-law and the setback requirement of the Building Code.

The lot was held of record on April 1, 1939 under a separate and distinct ownership from adjacent lots. While the lot contains 11,250 square feet, its depth is only ninety feet with a sharp drop in the land just beyond the proposed location of the garage. Therefore, compliance with the front yard requirement of thirty feet is impracticable because of the width, depth and shape of the lot. Unless this Board grants the requested exception, the appellant cannot build the garage without filling in his land at a substantial expense or constructing an inordinately high foundation and in the opinion of this Board, manifest injustice will result to him.

Accordingly, the requested exception and variance are granted and the issuance of a permit for construction of the proposed garage in accordance with the plan submitted and on file with the Board is hereby directed.

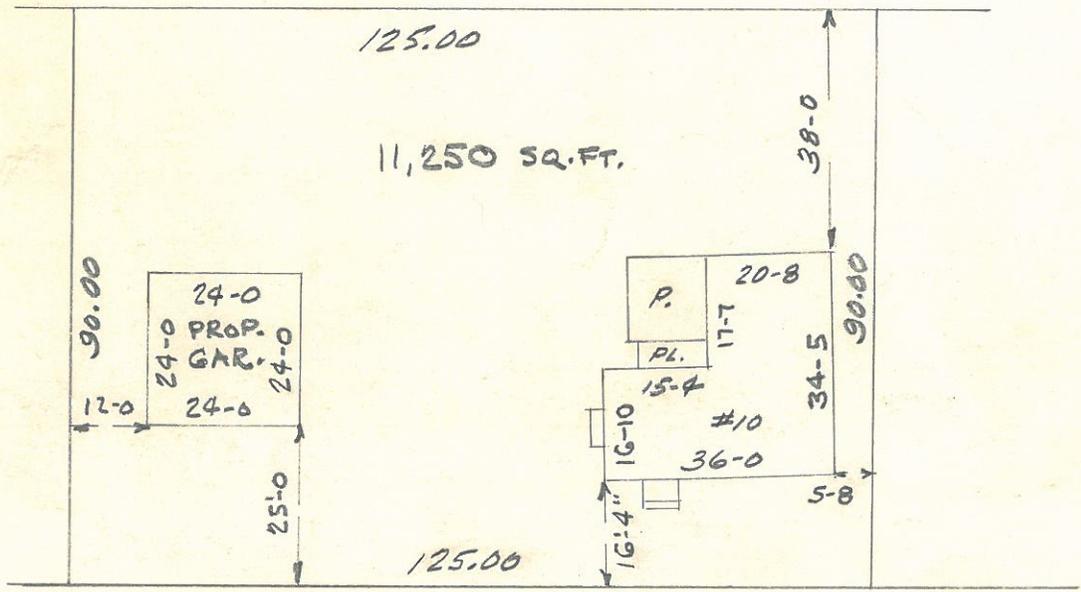

Richard O. Aldrich


F. Lester Fraser


Dana T. Lowell

Filed with Town Clerk _____

PLOT PLAN
 TO ACCOMPANY PETITION
 OF
 EWEN OSMUND
 SCALE: 1 IN. = 30 FT.
 JAN. 7, 1963.
 STACY ENG. CO.
 NATICK



MORSES POND RD.

