

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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

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

Appeal of James J. and Phyllis Drew Mahoney

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 8:35 p.m. on July 31, 1963 on the appeal of James J. and Phyllis Drew Mahoney from the refusal of the Inspector of Buildings to issue a permit to them to construct an entrance porch on the front of their dwelling at 35 Cleveland Road. The reason for such refusal was that said porch would violate Chapter IV, Section 1, of the Building Code which requires that all buildings shall be placed at least thirty feet from the side line of any public or private street and Section XIX of the Zoning By-law which requires that there shall be provided for every building a front yard at least thirty feet in depth.

James J. Mahoney represented the appellants at the hearing.

William N. Whitney, 24 Martin Road, Martha Martin, 36 Cleveland Road and Paul Golden, 11 Martin Road spoke in favor of granting the request. All felt the proposed porch would be an improvement to the house.

A petition signed by thirty-five neighbors was submitted which favored the granting of the request.

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

On June 28, 1963, the Inspector of Buildings notified the appellants that a permit could not be issued for the proposed construction and on the same date the appellants took an appeal from such refusal. Thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The dwelling involved is on the corner of Cleveland Road and Martin Road on a lot containing 6,682 square feet, in a single-residence district requiring a minimum lot area of 10,000 square feet. It was built in 1936, prior to the enactment of the Zoning By-laws requiring a minimum lot area and a thirty-foot front yard. The main portion of the dwelling is located 30.4' from the side line of Cleveland Road and the proposed entrance, if built, will lie 26.1' from the street line. A plot plan drawn by Gleason Engineering Company, dated July 29, 1963, was submitted which showed the existing house and the proposed entrance porch.

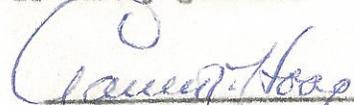
The petitioners seek permission to construct an enclosed entrance porch 4.3' x 8.4' on the front of their dwelling to replace the existing open porch. It is the desire of the petitioners to enclose the porch in order to give added protection to the house and prevent the wind from blowing through as it does now. It was stated at the hearing that the house was built with an entrance porch which now needs to be replaced. The proposed porch will be the same size as the original porch, but will be enclosed. It was pointed out that the majority of houses in the immediate neighborhood have similar enclosures on the front of their homes and the majority of them are less than

the required distance from the street as they were built prior to the enactment of the Zoning By-law requiring the thirty-foot setback.

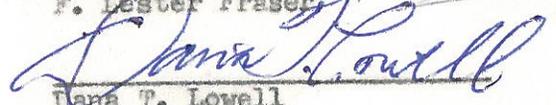
Decision

The Board finds that a real need exists for the proposed addition and that a literal enforcement of the front yard provision of Section XIX of the Zoning By-law and the setback provision of Chapter IV, Section 1, of the Building Code would result in manifest injustice to the petitioners. The lot is a corner lot and relatively narrow to meet the present requirements of the Zoning By-laws and Building Code. The house is located thirty feet from the street line although it was built prior to the thirty-foot setback requirement. The law provides that the petitioners can build an uncovered or covered entrance porch which does not exceed fifty square feet. The feels that to enclose the allowable porch, in this case, will not prove detrimental to the neighborhood, but will tend to improve it. For these reasons, the Board finds that compliance with the requirements of Section XIX of the Zoning By-law is impracticable because of the width, depth and shape of the lot and that the lot was held of record on April 1, 1939 under a separate and distinct ownership from adjacent lots.

Accordingly, the requested exception from the Zoning By-law and variance from the Building Code are authorized and the issuance of a permit by the Building Inspector of a permit for the proposed entrance porch in accordance with the plan submitted and on file with this Board is hereby granted.


Garrett S. Hoag

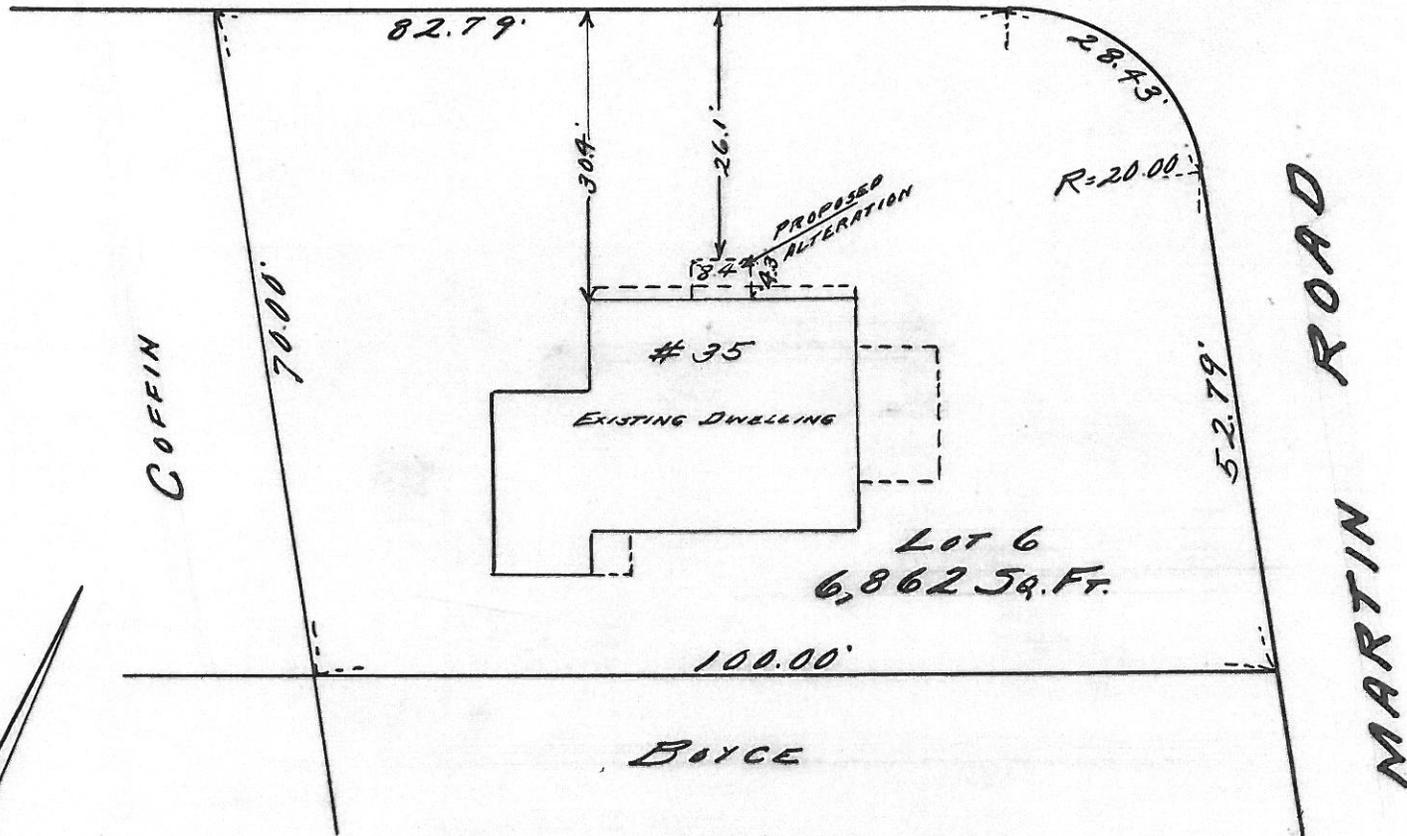

F. Lester Fraser


Dana T. Lowell

Filed with Town Clerk _____

APR 11 1940
TOWN CLERK
MAY 1 1940

CLEVELAND ROAD



PLAN OF LAND
IN
WELLESLEY, MASS.
OWNED BY
JAMES J. & PHYLLIS DREW MAHONEY
SCALE 20 FEET TO AN INCH
JULY 29, 1963.
GLEASON ENGINEERING COMPANY