



## BOARD OF APPEAL

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

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

Appeal of Ralph O. Porter, Inc.

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 8:10 p.m. on November 20, 1963, on the appeal of Ralph O. Porter, Inc. from the refusal of the Inspector of Buildings to issue a permit to construct a dwelling on Lot 22, Lehigh Road. The reason for such refusal is that said dwelling would violate Section XVIII of the Zoning By-law which requires that there shall be provided for each dwelling hereafter constructed in the location involved a lot containing not less than 20,000 square feet, within the Town of Wellesley, Section XIX of the Zoning By-law which requires that all dwellings shall provide side yards not less than twenty feet in width within the Town of Wellesley and Chapter IV, Section 1, of the Building Code which requires that all Type V buildings shall be placed at least ten feet from any party line within the Town of Wellesley. Said appeal was requested under the provisions of Chapter 40A, Section 15, of the General Laws, and Chapter I, Section 11, of the Building Code.

Ralph O. Porter represented the appellant at the hearing and spoke in support of the request.

The Planning Board offered no objection in its report.

On November 5, 1963, the Inspector of Buildings notified the appellant in writing that a permit could not be issued for the construction of a dwelling on the lot involved for the above-mentioned reasons. On the same date the appellant took an appeal therefrom. Thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

Section XVIII of the Zoning By-law requires a minimum lot area of 20,000 square feet in the district involved and Section XIX of the Zoning By-law requires that all dwellings shall provide side yards not less than twenty feet in width. Chapter IV, Section 1, of the Building Code requires that all Type V buildings shall be placed at least ten feet from any party line. Although the total area of the lot involved contains 20,023 square feet, only 14,075 square feet are within the Town of Wellesley with the remaining 5,948 square feet within the Town of Needham. A plot plan drawn by Gleason Engineering Company, dated November 20, 1963, was submitted which showed the proposed dwelling on the lot. Said plan showed the dwelling to be twenty-three feet from the boundary line but only six feet from Town of Needham boundary line which bisects the lot. The dwelling would be twenty feet from the lot side line on the other side.

It was stated at the hearing that the lot involved is one within a subdivision which was approved by the Planning Board on March 10, 1959. Due to the shape of the lot, within the Town of Wellesley, it would not be possible to locate a dwelling on it, comparable to other houses in the neighborhood,

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and comply with the Zoning By-law and Building Code. Likewise due to the insufficient area within the Town, it would not be possible to build upon it and comply with the by-law.

Decision

Messrs. Hoag and Wiswall find that a literal enforcement of the Building Code and Zoning By-law would result in manifest injustice to the appellant. In their opinion to grant a variance for the proposed dwelling will not change the character and appearance of the immediate neighborhood nor prove a substantial detriment to the public good or substantially derogate from the intent and purpose of the Zoning By-law.

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Mr. Hayden, however, does not agree. From the evidence submitted, he cannot find that manifest injustice will result if a dwelling cannot be located on the lot involved. In his opinion, the lots should have been laid out in the subdivision plan to comply with the Zoning By-law so that all the lots could be built upon within the Town of Wellesley and in compliance with both the Zoning By-law and the Building Code. He feels that to grant a variance in this case would derogate from the intent and purpose of the by-law and prove a substantial detriment to the neighborhood.

Accordingly, the appeal is denied.

Garrett S. Hoag  
Garrett S. Hoag

John L. Hayden  
John L. Hayden

David C. Wiswall  
David C. Wiswall

Filed with Town Clerk \_\_\_\_\_

PLAN OF LAND  
 IN  
**WELLESLEY-NEEDHAM, MASS.**  
 OWNED BY  
**RALPH O. PORTER, INC.**  
 SCALE 40 FEET TO AN INCH  
 NOVEMBER 20, 1963.  
 GLEASON ENGINEERING COMPANY

