

64-2

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 Victor J. and Alice W. Steele

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WELLESLEY, MASS.

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 22, 1964, on the appeal of Victor J. and Alice W. Steele from the refusal of the Inspector of Buildings to issue a permit to them to construct a porch on the side of their dwelling at 24 Burke Lane. The reason for such refusal was that said porch would violate Chapter IV, Section 1, of the Building Code which requires that all such buildings shall be placed at least thirty feet from the side line of any public or private street and fifty feet from the center line of the street and Section XIX of the Zoning By-law which requires that there shall be provided a thirty-foot front yard. Said appeal was made under the provisions of Chapter 40A, Section 15, of the General Laws.

Alice W. Steele spoke in support of the appeal.

Donald Eddy, Burke Lane, spoke in favor of granting the request.

The Planning Board offered no objection in its report.

On January 3, 1964, the Inspector of Buildings notified the appellants in writing that a permit for the proposed construction could not be issued for the above-mentioned reasons 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 house involved is located in a single-residence district requiring a minimum lot area of 15,000 square feet. It was built over fifty years ago, prior to the enactment of the Zoning By-law, only seven feet from the street. In 1957 a concrete platform 10' x 10' was built on the southerly side of the house. The platform is located approximately twenty-five feet from the street line and thirty-five feet from the center line of Burke Lane. A plot plan drawn by Cheney Engineering Co., Needham, dated December 1963, was submitted which showed the existing house and concrete platform.

The appellants seek permission to construct a porch on the existing concrete platform. It is proposed to construct a roof over the existing platform and enclose the porch with combination glass and screen windows. The house is small and the proposed porch will not only provide additional space for the appellants and their children during the summer months, but will also serve as protection against the weather during the winter months, as the back door leads off the existing platform.

Decision

The Board finds that a real need exists for the proposed porch and the facts satisfy the conditions set forth in Chapter I, Section 10, of the Building Code on which the Board's authority depends. In its opinion a

denial of the appeal would result in a manifest injustice to the appellants.

Under Section XIX of the Zoning By-law, however, this Board may make special exceptions to said section only when it finds that compliance with the requirements is impracticable because of the width, depth or 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. These requirements cannot be met in this case. The Board may also grant a variance under Section 15, Chapter 40A of the General Laws when it finds that due to conditions affecting the land or building involved but not affecting the zoning district generally a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of such ordinance or by-law but not otherwise.

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In our opinion, owing to the proximity of the house to the street, a condition which affects this parcel but not the zoning district generally, a substantial hardship will result to the appellants unless the requested variance is granted. We are further of the opinion that the proposed porch will not be a detriment to the public good or nullify or substantially derogate from the intent or purpose of the Zoning By-law. It will be in the present ample side yard and much farther from the street than much of the house.

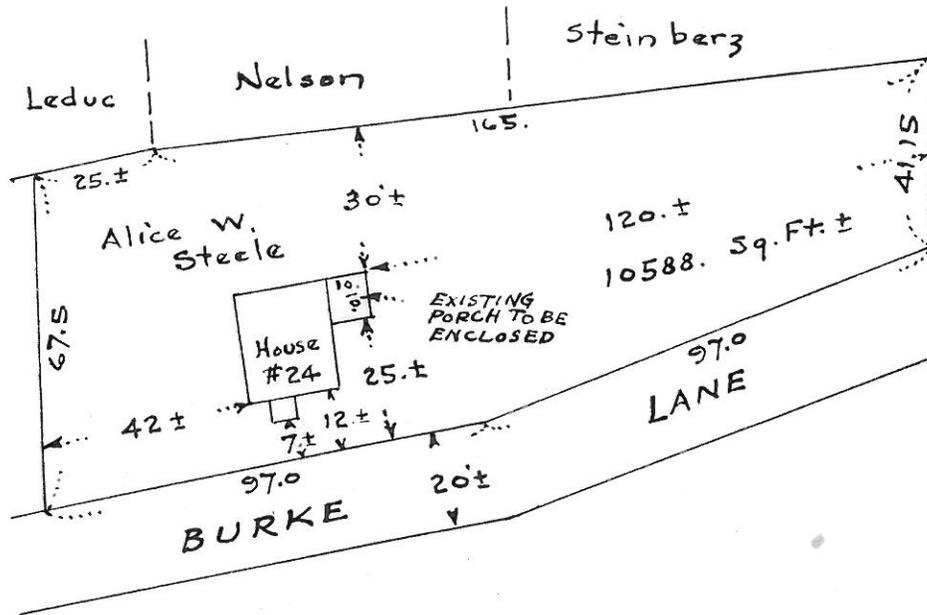
Accordingly, the requested exception and variance are granted and the issuance of a permit for the proposed addition in accordance with the plan submitted and on file with this Board is hereby directed.

*Garrett Hoag*  
Garrett S. Hoag

*John L. Hayden*  
John L. Hayden

*Dana T. Lowell*  
Dana T. Lowell

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



Plan of Land in  
WELLESLEY, MASS.

Scale: 1 in. = 40 ft.

Dec. 1963.

CHENEY ENGINEERING CO.  
NEEDHAM, MASS.