



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

BOARD OF APPEAL

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

Appeal of Mildred and Charles Rudnick

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 September 17, 1964, on the appeal of Mildred and Charles Rudnick, from the order of the Inspector of Buildings directing them to proceed no further with the construction of a porch on the side of their dwelling at 25 McLean Street which is being constructed without a permit and in violation of Section XIX of the Zoning By-law. Said appeal was made under the provisions of Chapter 40A, Section 15, of the General Laws.

Charles Rudnick represented the appellants at the hearing.

Henry G. and Ruth Ross, 30 Dunedin Road, adjacent property owners opposed the granting of the request. In their opinion the proposed porch would lower the value of their property as it would be too close to the line. They stated that on June 19, 1964, they notified the Building Inspector that holes had been dug for what they thought to be a porch, again on August 5, 1964, when a load of lumber was delivered to the premises, and again on August 7, 1964, when work had been started on the porch.

Joseph E. Scammon, Building Inspector, stated that he visited the site involved on several occasions and could find no evidence of any work being done until August 8, 1964, when he placed a "Stop Work" order on the job and notified the appellants to proceed no further with the work until the order was revoked.

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

Statement of Facts

The house involved is located within a single-residence district requiring a minimum lot area of 15,000 square feet, and was constructed in 1961.

A plot plan was submitted at the hearing, drawn by MacCarthy Engineering Service, Inc., Natick, Mass. which showed the existing dwelling on the lot as well as the porch now under construction. Said plan showed the porch to be 12' x 15' and located 17.2' from the southeasterly side lot line.

The appellant stated at the hearing that he was unaware that a permit was required to construct an open porch. He planned the porch and was doing the work himself. Due to an engineering error at the time his house was built, he was of the opinion that he had ample space for the proposed porch. He started construction work on August 7, 1964; on August 8, 1964, the Building Inspector put a "Stop Work" order on the job, and on August 27, 1964, he took an appeal from such order. There appears to be no other place for the porch due to the layout of the house.

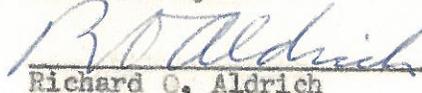
Decision

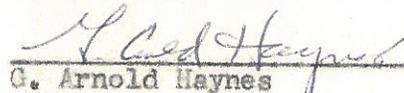
Section XIX of the Zoning By-law provides that the Board of Appeal may make special exceptions to the side yard regulations when it shall find that (1) compliance with the requirements is impracticable because of the width, depth and shape of the lot, and (2) that the lot was held of record on April 1, 1940, under a separate and distinct ownership from the adjacent lots. The Board is unable to make the findings prescribed as conditions under which the exception may be granted. On April 1, 1940, the lot was not held of record under a separate and distinct ownership from adjacent lots as it was part of one parcel of land.

The Board has considered the request under the provisions of Chapter 40A, Section 15, of the General Laws, but is unable to find any condition affecting the land which does not affect the district generally as the Board must find before it may grant a variance under the General Laws. In its opinion the addition of a porch 17.2' from the side lot line would create a crowded affect and would substantially derogate from the intent of the By-law where a porch may be constructed and comply with the Zoning By-law.

Accordingly, the order of the Inspector of Buildings is affirmed and the appellants are hereby ordered to forthwith remove said porch, now under construction. The appeal is denied under the provisions of Chapter 40A, Section 15, of the General Laws.

  
John L. Hayden

  
Richard O. Aldrich

  
G. Arnold Haynes

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

RECORDED & INDEXED  
MAY 10 1940  
TOWN CLERK'S OFFICE  
BOSTON

McLean St.

N76°43'37"E  
40.11'

Arnold E. Whynot

N17°36'30"W  
148.44'

Leroy L. & Rita M. Weaver

S17°36'30"E  
145.41'

John J. & Kathleen Hogan Jr.

Δ 43°21'09"  
T=4.13'  
R=141.17'  
L=8.26'

117.57' N83°59'54"E

N60°44'31"E  
17.25'

LOT 2A  
53, 954

Raymond L. & Ruth D. Bispinghoff

L=150.22'  
Δ=47°30'30"  
R=181.17'  
T=79.73'

George R. & Stacia Eccles

N15°51'32"E  
41.79'

N25°04'50"W  
100.00'

Clifton N. & Stella E. Smith

J. Michael & Janet L.M. Fitzgerald

108.30'  
S65°42'30"W

N25°04'50"W  
24.00'

25' Wide Utility Easement

Hyman & Shirley E. Zimmerman

S46°55'40"E  
122.97'

Existing House

Proposed Addition

134.99'  
S47°07'42"W

Frederick Ross

S48°55'44"E  
23.59'

Cabin



# Plan of Land in Wellesley, Mass.

(Showing Proposed Addition to Existing Building)

Scale 1" = 40'

August 20, 1964

Survey by:

Mac Carthy Engineering Service Inc.      Notick, Mass.  
Nashoba Survey Co Inc.                      Marlborough, Mass.



Approved by:  
WELLESLEY BOARD OF APPEAL

Date: \_\_\_\_\_

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