

TOWN OF WELLESLEY



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64-49

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
CE 5-1664

Appeal of Holiday Homes, 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 October 28, 1964, on the appeal of Holiday Homes, Inc., from the refusal of the Inspector of Buildings to issue a permit to construct a dwelling on Lots 3A and 4C Falmouth Road. The reason for such refusal was that said dwelling would violate 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.

The appellant spoke in support of his appeal.

On October 13, 1964, the Inspector of Buildings notified the appellant in writing that a permit could not be issued for the construction of a dwelling on the lots 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 30,000 square feet in the district involved. The total area of the two lots within the Town of Wellesley, namely Lots 3A and 4C contain 34,453 square feet. Section XIX of the Zoning By-law requires that all dwellings shall provide side yards not less than twenty feet in width, and 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. It is proposed to locate the dwelling approximately twenty-five feet from the lot line on the southerly side and four feet from the Town of Weston boundary line which bisects the lot on the northerly side of the proposed dwelling.

The lots involved are part of a subdivision which was approved by the Planning Board on January 23, 1964. Because of ledge in the area, the appellant was forced to resubdivide two lots and place the house involved seventy-six feet back from the street line. If the house could have been built closer to the street, the required twenty-foot side yards could have been provided, however, the house must be placed only four feet from the Town of Weston boundary line. A plot plan showing the location of the proposed dwelling on the lots involved was submitted. Said plan was drawn by MacCarthy Engineering Service, Inc., Natick, Mass., and dated October 1, 1964.

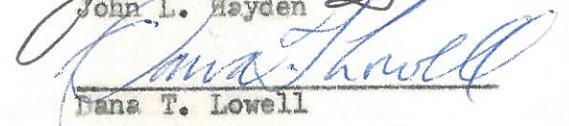
Decision

The Board is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of the Zoning By-law, because the lot was not held of record under a separate and distinct ownership from adjacent lots on April 1, 1940. But it has considered the request under the provisions of Section 15, Chapter 40A, of the General Laws, and finds that owing to the presence of ledge and the location of the Wellesley - Weston Town line, a condition especially affecting this parcel but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the by-law would involve substantial hardship to the appellant.

The Board is of the further opinion that the construction of a single dwelling on the lots involved as shown on the plan submitted will not change the character and appearance of the immediate neighborhood, and further to require the appellant to build ten feet or more from the Town line would be a manifest injustice and that the treatment of a Town line bisecting a lot as a lot line was not contemplated by the Building Code.

Accordingly, the requested exception and variance are granted and the issuance of a permit for the proposed dwelling as shown on the plan submitted and on file with this Board is hereby directed, subject to the condition that if the rear yard of the lot is hereafter reduced so that any part of the area between a line consisting of the rear or northwesterly line of the house extended to the lot side lines and a line parallel thereto and forty (40) feet northwesterly therefrom is impaired or a building, except such as are permitted as appertinent to a single residence by the Zoning By-law and the Building Code of the Town of Wellesley, is ever built on such area, or if the area of the parcel of land upon which the house rests now 60,238 feet according to said plan is reduced to less than 30,000 square feet, then, in either such event, this variance from the Zoning By-law and the Building Code shall be null and void.


Garrett S. Hoag

John L. Hayden

Dana T. Lowell

Filed with Town Clerk _____

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WELLESLEY, MASS.

