

64-5

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 Ralph O. Porter, Inc.

1964 MAR 13
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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 8:00 p.m. on March 4, 1964, 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.

Irving P. Gramkow, attorney, represented the appellant at the hearing.

The Planning Board offered no objection to the granting of the request in its report.

On February 14, 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 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 is 44,926 square feet, only 14,075 square feet are within the Town of Wellesley with the remaining 30,851 square feet within the Town of Needham. A plot plan drawn by Gleason Engineering Company, dated February 10, 1964, was submitted which showed the proposed dwelling on the lot. Said plan showed the dwelling to be twenty feet from the northerly lot side line but only six feet from the Town of Needham boundary line which bisects the lot on the southerly side of the house.

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 in size to other houses in the neighborhood, and comply with the side yard requirement of the Zoning By-law and the setback requirement of the Building Code. Likewise due to the insufficient area within the Town, it would not be possible to build upon it and comply with the area requirement. It was stated at the hearing that the portion of the lot in the Town of Needham will not be built upon but will be maintained as part of the lot involved.

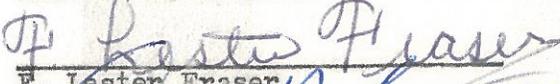
Decision

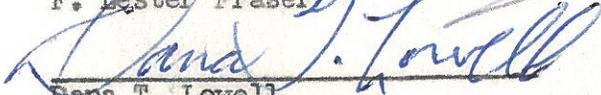
The Board is unable to make the findings prescribed as conditions under which an exception may be granted under Section XVIII and Section XIX of the Zoning By-law, but it has considered the request under the provisions of Section 15, Chapter 40A of the General Laws, and unanimously finds that owing to conditions 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 further of the opinion that the construction of a dwelling on the lot involved as shown on the plan submitted will not change the character and appearance of the immediate neighborhood and that the requested exceptions may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

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 conditions, however, that (i) only one dwelling house shall hereafter be erected on the lot involved which contains 44,926 square feet, (ii) the portion of the lot in Needham shall remain under common ownership with the portion in Wellesley and (iii) the proposed dwelling shall be located on said lot substantially as shown on said plan.


Richard O. Aldrich


F. Lester Fraser


Dana T. Lowell

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