



BOARD OF APPEAL

GARRETT S. HOAG
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of John E. Woodacre, Jr.
and Betsy A. Woodacre

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 8:35 p.m. on June 30, 1966, on the petition of John E. Woodacre, Jr. and Betsy A. Woodacre, requesting a special exception from the terms of Section XVIII, Area Regulations, of the Zoning By-law and a variance under the provisions of Chapter 40A, Section 15, of the General Laws, which will permit the construction of a dwelling on a parcel of land adjacent to 100 Brook Street which contains less than the required 20,000 square feet.

On June 7, 1966, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White, attorney, represented the petitioners at the hearing.

Robert H. Traylor, 61 Radcliffe Road, opposed the granting of the request.

Warner Lang, 108 Brook Street, questioned the location of the proposed house with respect to his lot line.

The Planning Board opposed the request in its report.

A letter favoring the request was received from William J. Brown, 113 Brook Street.

Statement of Facts

The lot involved is located within a single-residence district requiring a minimum lot area of 20,000 square feet.

The petitioners seek a special exception or variance which will permit the construction of a dwelling on the lot involved which contains 15,105 square feet. In 1951 the area involved was rezoned from a minimum lot area requirement of 15,000 to 20,000 square feet. It was pointed out that a number of houses within the neighborhood were built on lots containing less than the required area and in some cases less than the lot involved. It was stated that a house comparable to those in the area can be built upon the lot and comply with all other by-laws.

A plot plan, drawn by Gleason Engineering Company, dated November 23, 1964, was submitted which showed the lot involved as well as the adjacent lot upon which the house numbered 100 Brook Street stands.

Decision

Decision(Cont.)

Section XVIII of the Zoning By-law provides that the Board of Appeal may make special exceptions to said section when it shall find that,

- "(1) Adjoining areas have been previously generally developed by the construction of houses on lots generally smaller than is prescribed by this section and the standard of the neighborhood so established does not reasonably require a subdivision of the applicant's land into lots as large as hereby prescribed:
- "(2) Lots as large as is hereby prescribed would not be readily salable or economically or advantageously used for building purposes because of the proximity of the land to through ways bearing heavy traffic or to a railroad or because of other physical conditions or characteristics affecting it but not affecting generally the zoning district in which the land lies.

It is the opinion of this Board that although there are some houses in the neighborhood on lots smaller than the required area, the remaining undeveloped lots should be developed in accordance with the present requirements. The purpose of the Zoning By-law is to prevent over-crowding, and to permit the construction of a dwelling on the lot involved, would, in the opinion of this Board, create over-crowding in the neighborhood and prove detrimental to surrounding properties and the neighborhood in general.

The Board has also considered the request under the provisions of Chapter 40A, Section 15, of the General Laws, but does not find facts which would justify or permit relief under said section.

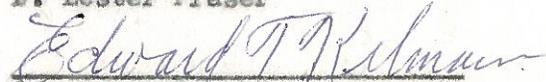
The Board is not authorized to grant a variance under said section unless it finds that denial of the variance would involve an undue hardship to the appellants. It cannot make such a finding in this case. It is noteworthy in this connection that petitioners acquired the property in question in 1959 when they must be deemed to have known that the lot could not be built upon.

It is, therefore, the unanimous opinion of this Board that a special exception cannot be granted under the provisions of Section XVIII A of the Zoning By-law, nor can a variance be granted under Chapter 40A, Section 15, of the General Laws.

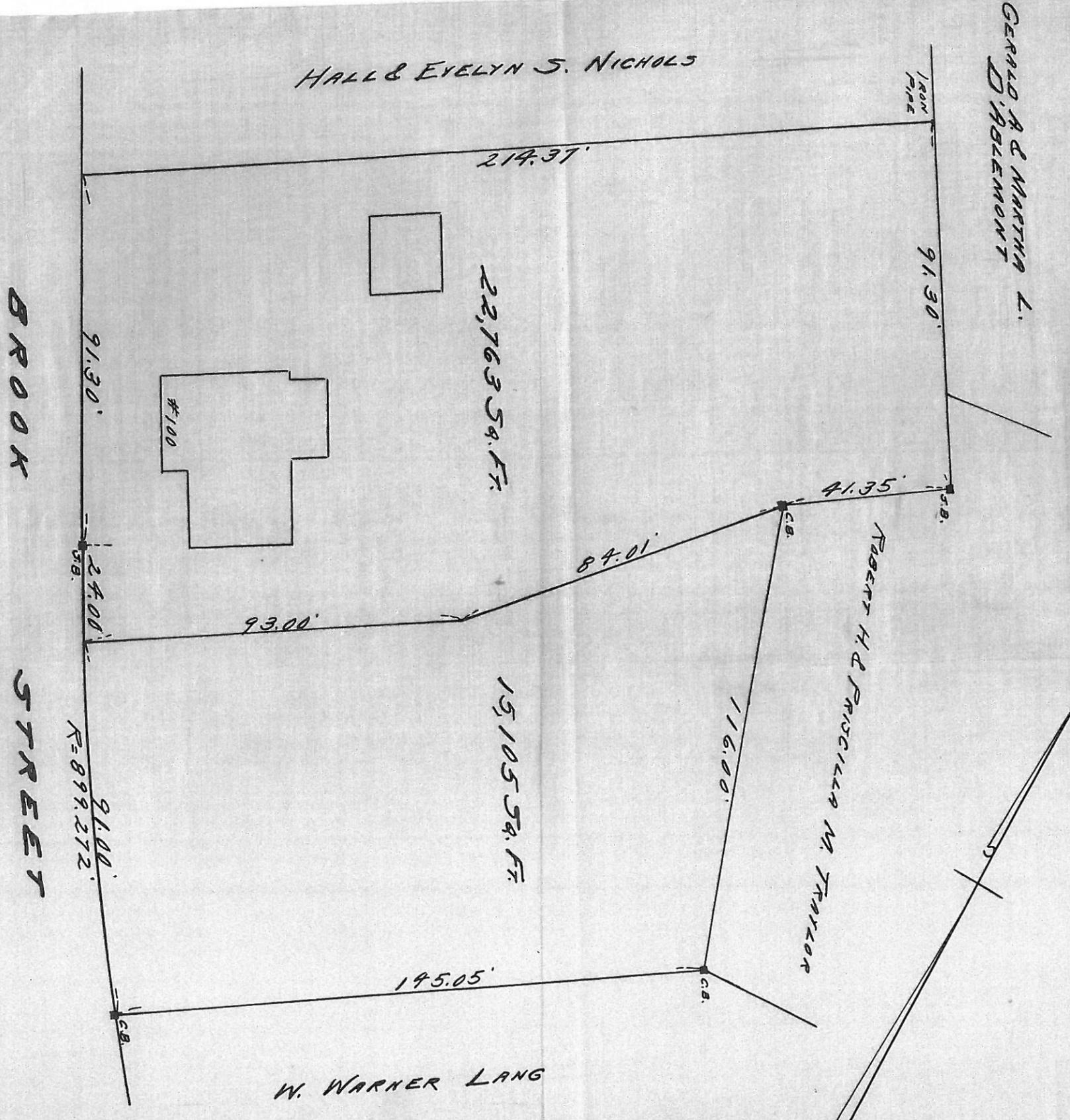
Accordingly, the petition is dismissed and the request for a special exception or variance is denied.


Richard O. Aldrich


F. Lester Fraser


Edward T. Kilmain

PLAN OF LAND
 IN
WELLESLEY, OWNED BY **MASS.**
JOHN E. JR. AND BETSY ANN WOODACRE
 SCALE 30 FEET TO 1/4" INCH
 NOVEMBER 29, 1964
 GLEASON ENGINEERING COMPANY



APPROVED BY: _____

 BOARD OF APPEAL - TOWN OF WELLESLEY