

TOWN OF WELLESLEY



BOARD OF APPEAL

MASSACHUSETTS

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66-48

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Richard O. Aldrich

Appeal of Richard P. and Shirley M. Sullivan

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 8:40 p.m. on September 29, 1966, on the appeal of Richard P. and Shirley M. Sullivan from the refusal of the Inspector of Buildings to issue a permit to them to construct an addition on the rear of their dwelling at 107 Manor Avenue. The reason for such refusal is that said addition would violate the requirements of Chapter IV, Section 1, of the Building Code which requires that all Type V buildings shall be placed at least thirty feet from the line of any public or private street and fifty feet from the center of the street and Section XIX of the Zoning By-law which requires that all dwellings shall provide a front yard at least thirty feet in depth and a side yard at least twenty feet in depth. Said appeal was also taken under the provisions of Chapter 40A, Section 15, of the General Laws.

On September 13, 1966, the appellants appealed the refusal of the issuance of a building permit by the Building Inspector for the proposed construction. Thereafter due notice of the hearing was given by mailing and publication.

Richard P. Sullivan represented the appellants at the hearing.

Statement of Facts

The property involved is located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The existing house is approximately 24' x 40', and is located approximately 15' from a so-called paper street (Tyler Road) and approximately 19.3' from the easterly lot line. The appellants seek permission to construct an addition 14' x 24' on the rear or northerly side of the dwelling which, if built, will continue the sidelines of the existing dwelling and will not encroach any closer to the side boundary lines of the lot.

A plot plan was submitted showing the existing dwelling and the proposed addition. Said plan was drawn by Everett M. Brooks Co., Newtonville, dated June 15, 1966.

It was stated at the hearing that the appellants' family has increased and they need additional bedrooms which the proposed addition will provide. The lot is narrow and approximately 200 feet deep, and there is no other suitable way in which to enlarge the house.

Decision

The house involved which was built in 1959, under a special exception and variance from the Board of Appeal, is located on a narrow lot, approximately sixty feet in width, and abuts a forty-foot private way.

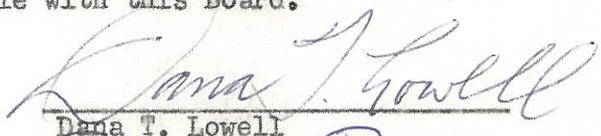
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It was the finding of the Board in 1959, that the proposed dwelling would not prove detrimental to the appearance and character of the neighborhood and no increased fire hazard would result therefrom. While the Board was fully aware that the easement must be left open and unobstructed for those having rights to pass over it, it felt that there was little likelihood that it would ever be developed.

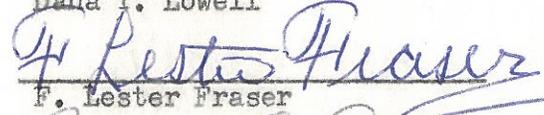
It is the opinion of this Board, after again viewing the locus, that the proposed addition will not prove detrimental to the neighborhood, and that manifest injustice will result to the appellants if the request is not granted. The Board feels that there is a real need for the addition which will provide the additional rooms needed, and that a variance can be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of the Zoning By-law and the Building Code.

Because of the uncertain status of Tyler Road, which abuts the lot involved, 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 there is a question as to whether the lot was held of record under a separate and distinct ownership from adjacent lots on April 1, 1940. It has, however, considered the request under the provisions of Section 15, Chapter 40A, of the General Laws. In its opinion, this case involves circumstances peculiar to this lot which do not affect the district generally, and a literal enforcement of Section XIX of the Zoning By-law would cause substantial hardship to the appellants and that the requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said by-law.

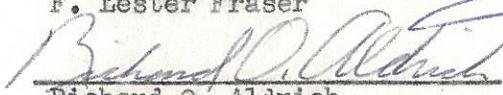
Accordingly, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws, and the Inspector of Buildings is authorized to issue a permit for the proposed addition in accordance with the plan submitted and on file with this Board.



Dana T. Lowell



F. Lester Fraser



Richard O. Aldrich

Filed with Town Clerk _____

