TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

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

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TELEPHONE
CE 5-1664

C6-4

Appeal of Richard D. and Mary T. Fogerty

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 8:15 p.m. on February 10, 1966, on the appeal of Richard D. and Mary T. Fogerty requesting a variance from the terms of Section XIX of the Zoning By-law which will permit the construction of an addition on the rear of their dwelling at #4 Hunting Street, with side yards less than the required twenty feet.

Said appeal was made under the provisions of Chapter 40A, Section 15, of the General Laws.

Richard D. Fogerty spoke in support of the appeal at the hearing.

On January 10, 1966, the appellants requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved was built approximately fifty years ago, on a lot of land containing 4,026 square feet. It is located within a Single-residence District requiring a minimum lot area of 10,000 square feet.

The appellants seek permission to construct a one-story addition 15' x 22' on the rear of their dwelling in order to provide an extra room. The house is small with only three rooms on the first floor. The appellants have three sons and need additional living space which the proposed addition, if allowed, will provide. It was stated that few of the houses, if any, in the neighborhood have the required side yards. The lot involved is irregular in shape, and adjoins a vacant lot on the northwesterly side which contains less than the required area for a house lot. The appellants contend that the proposed addition should not in any way prove detrimental to the neighborhood, and that a denial of the request will result in undue hardship to them.

The appellants sought a similar variance from this Board a month ago and were denied permission to construct the proposed addition five feet from the boundary line on the northerly side. Subsequently, they have entered into an agreement to purchase a parcel of land containing 158 square feet; a copy of the agreement was submitted and is on file. By acquisition of said parcel, the proposed addition will now lie 18' from the lot line at the northwesterly corner.

A plot plan drawn by Gleason Engineering Company, dated January 10, 1966, was submitted, which showed the existing dwelling on the lot as well as the proposed addition. Said plan showed the proposed addition to be 15' x 23', 17' from the southerly side line at the rear corner and 18' from the northerly side line at the rear corner. It is designed to continue the line of the existing dwelling, but will be a greater distance from both side lot lines

than the dwelling due to the angles of the boundary lines.

**Decision**

This Board recently considered a similar request made by the appellants to construct the proposed addition. At that time, however, the proposed addition would have been located within five feet of the property line, and the Board could not find from the evidence submitted that conditions existed to warrant a variance.

Since that time the appellants have entered into an agreement to acquire an additional parcel of land which will provide a substantially greater side yard than previously requested, and additional evidence was submitted to enable the Board to make its findings.

The Board is unable to make the findings prescribed as conditions under which the exception may be granted under the Zoning By-law because the lot was not held of record under a separate and distinct ownership from adjacent lots as of April 1, 1940.

It has, however, considered the request under the provisions of Section 15, of the General Laws, Chapter 40A, where it must find that owing to conditions especially affecting such parcel or such building 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. In its opinion this case involves circumstances peculiar to this lot and not affecting the district generally. The house is located on a lot which is irregular in shape and adjoins a vacant lot of land on the northeast side which contains less than the required area for house construction and in all probability will never be developed. The appellants have a real need for the proposed room which the addition will provide and are limited by the shape of the lot in expanding the house. It is the opinion of this Board that a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the appellants which can be avoided 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 variance is granted under the provisions of Section 15, of the General Laws, Chapter 40A, and the Inspector of Buildings is hereby directed to issue a permit for the proposed addition in accordance with the plan submitted and on file with this Board, subject to the condition that fee title to the additional parcel of land shown on the plan be first acquired and made a part of the lot involved.

Richard O. Aldrich

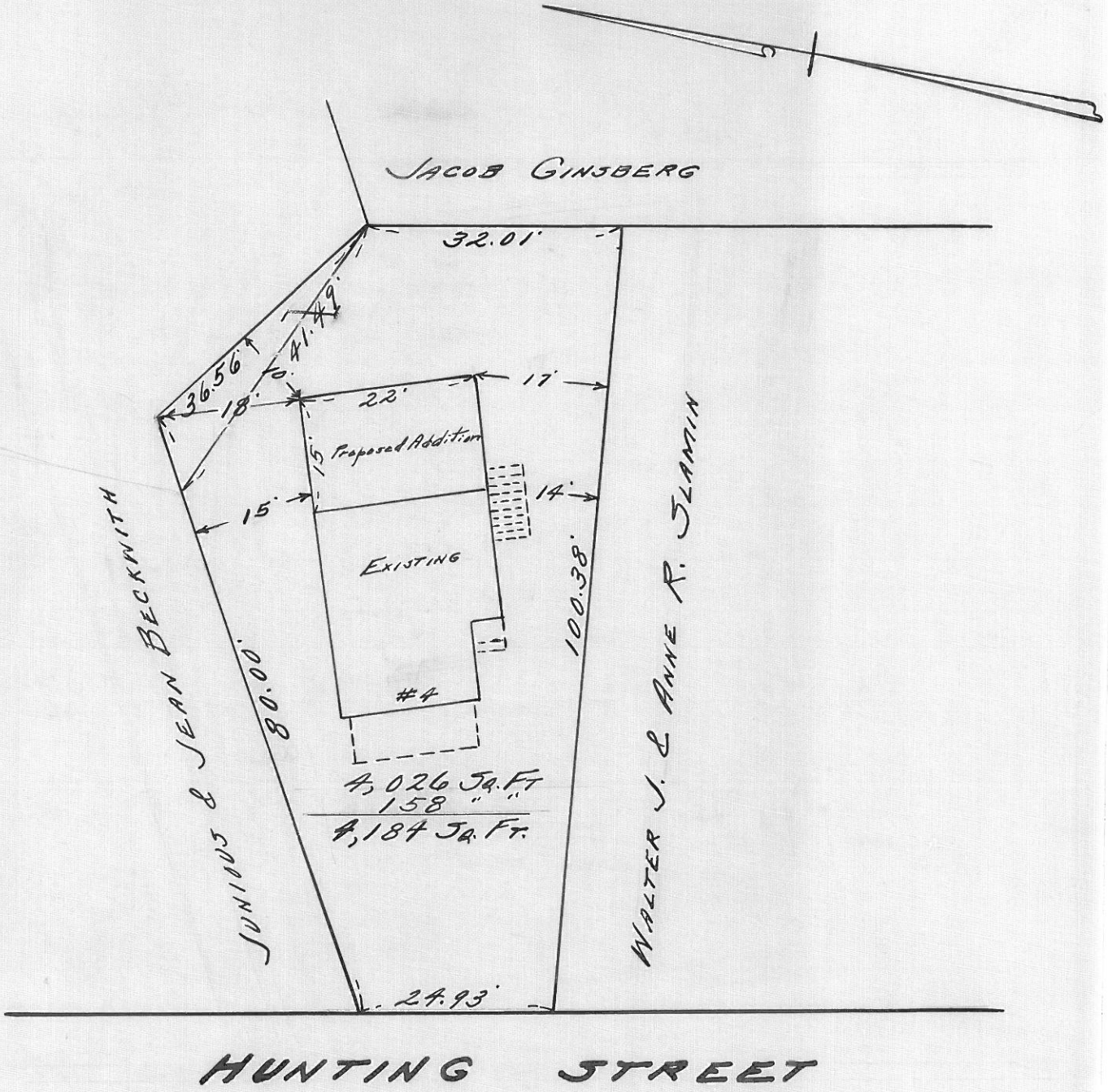
Richard O. Aldrich

Dana T. Lowell

Dana T. Lowell

F. Lester Fraser

F. Lester Fraser

Filed with Town Clerk_____

PLAN OF LAND
IN
# WELLESLEY, MASS.
OWNED BY
## RICHARD D. & MARY T. FOGERTY
SCALE 20 FEET TO AN INCH
JANUARY 10, 1966.
GLEASON ENGINEERING COMPANY