

TOWN OF WELLESLEY



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66-54

BOARD OF APPEAL

1966 DEC 23 AM 11:37

RICHARD O. ALDRICH
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Carl A. and Theda S. Kuniholm

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 8:20 p.m. on November 9, 1966, on the appeal of Carl A. and Theda S. Kuniholm, for a variance from the order of the Inspector of Buildings to relocate the dwelling owned by them at 27 River Glen Road. The reason for such order was that said house stands in violation of Section XIX of the Zoning By-law which requires that all such buildings shall provide a side yard not less than twenty feet. Said appeal is made under the provisions of Section XXIV of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On October 19, 1966, the Inspector of Buildings notified the appellants in writing that as a result of an application filed in his office to construct an addition on the house involved, it was discovered that the house is standing in violation of Section XIX of the Zoning By-law requiring a twenty-foot side yard and the original permit to construct the house was invalid, and the house would have to be relocated.

On October 24, 1966, the appellants appealed the order of the Inspector of Buildings and thereafter due notice of the hearing was given by mailing and publication.

Carl A. Kuniholm spoke in support of the appeal at the hearing.

Statement of Facts

The house involved, which was built in 1954, is located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The appellants seek permission which will allow the dwelling involved to remain in its present location 15.7' from the northeasterly side boundary line, rather than the required twenty feet. It was pointed out that the owners did not know this violation existed until they applied to the Building Inspector for a permit to construct an addition at the rear of their dwelling.

The lot involved was shown as Lot 7, on a subdivision plan approved by the Planning Board on July 9, 1951. It had a 100' frontage and 100' depth and contained 10,000 square feet. An application was submitted to the Building Department and a permit issued on May 10, 1954, for the construction of a dwelling on said lot showing the required twenty-foot side yards. Said application designated the lot as having a frontage of 104' and a depth of 100'. A plan was drawn by MacCarthy Engineering Service, Inc., Natick, Mass. dated June 3, 1954, which showed the revision of the lot line between Lot 7 and Lot 8. Said plan was submitted to the Planning Board and on March 4, 1958, it was endorsed as, "Approval under the subdivision Control Law Not Required." The plan, however, was never recorded in the Registry of Deeds and therefore the additional land was never acquired and added to the lot involved. The appellants were not aware of this transaction until it was discovered at the time the application was

submitted for the recent addition, that the house presently stands less than the required twenty feet from the northeasterly side line.

A plan was submitted, drawn by MacCarthy Engineering Service, Inc. Natick, Mass., which showed the present location of the dwelling on the lot. Said plan was dated October 24, 1966.

Decision

Apparently the violation of the twenty-foot side yard requirement was not due to inadvertence or error, but was deliberate on the part of the original owner of the property. However, it is the unanimous opinion of this Board that to require the appellants to relocate the dwelling or remove a portion of it would cause a substantial hardship which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of Section XIX of the Zoning By-law.

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. In its opinion, this case involved circumstances peculiar to this lot and not affecting the district generally, and a literal enforcement of Section XIX of the Zoning By-law would cause substantial hardship.

Accordingly, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws, and the dwelling involved may remain in its location as shown on the plan submitted and on file with this Board drawn by MacCarthy Engineering Service, Inc., Natick, Mass., dated October 24, 1966.

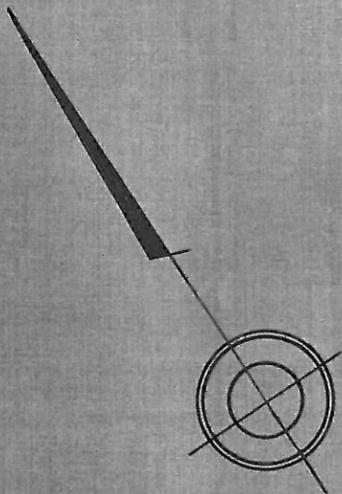
Richard O. Aldrich
Richard O. Aldrich

Dana T. Lowell
Dana T. Lowell

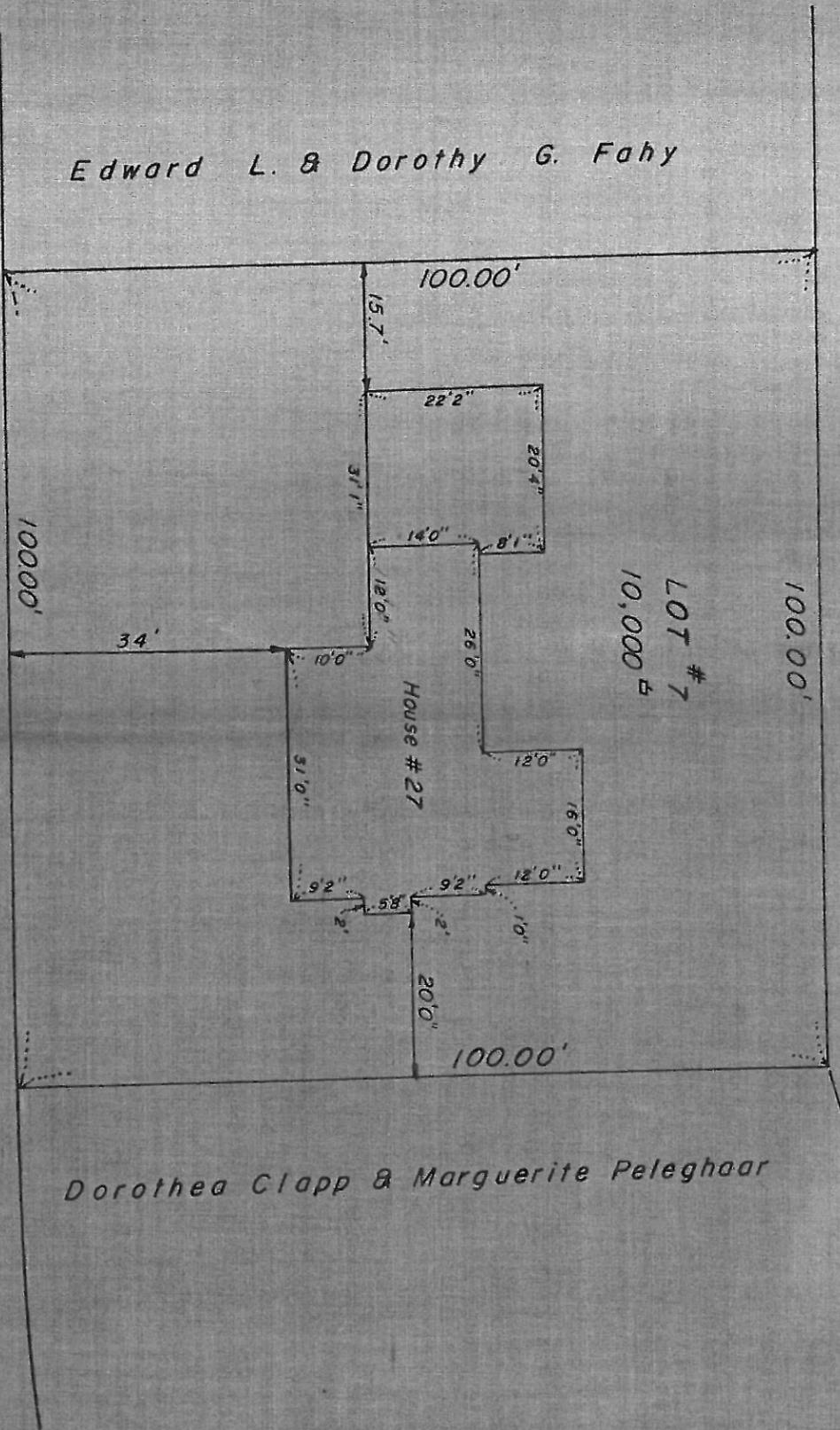
F. Lester Fraser
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Angelo DiGiando



Riverglen Road

Approved by:
Wellesley Board of Appeals

Date _____

Plan of Land in Wellesley, Mass.

Owned by:

Carl A. & Theda S. Kuniholm



Scale: 1"=20'

October 24, 1966

Plan by: MacCarthy Engineering Service Inc.
Natick, Mass.