



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of John A. and Mary E. Rutledge

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 June 6, 1968, on the petition of John A. and Mary E. Rutledge, requesting an exception and variance from the terms of Section XIX of the Zoning By-law which will permit them to divide the premises numbered 7 Bemis Road into two lots. By such division the lot on which the present house stands would have less than the required frontage and front yard. Said request was made under the provisions of Section XIX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On May 20, 1968, 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.

Christine J. and James J. Lanigan, 19 Abbott Road, appeared at the hearing and stated that they were not in favor of the request or opposed to it, but had other questions relative to the neighborhood.

John Hughes, 5 Bemis Road, opposed the request. He felt that there would not be adequate space for fire equipment to approach the house.

Statement of Facts

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

The petitioners seek permission to divide the property involved into two lots; the lot on which the house stands containing 10,150 square feet and the vacant lot containing 10,026 square feet. As a result of the division of the property the proposed house lot would have a frontage of 96.79' on Seaward Road, while the lot on which the house stands would have only a 10' frontage on Bemis Road. It was stated at the hearing that the ten-foot passage has been the only access to the house for many years and the proposed division would not be depriving the house of its access. The lots would have the proper area, and a house could be built on the proposed lot and comply with all the setback requirements. It was pointed out that a dwelling on the proposed lot would not depreciate the neighborhood in any way as the lot abuts two properties upon which there are non-conforming dwellings, one a four-family house and the other a six-family house.

A plot plan was submitted drawn by Gleason Engineering Company, dated May 20, 1968, which showed the proposed division of the property involved as well as the location of the dwelling on the house lot.

Decision

The Board has made a careful study of all the facts in this case and has taken a view of the locus. The house involved was built over fifty years ago on a lot of land separate and distinct from the proposed house lot. The petitioners acquired the two separate parcels in 1945, the lot on which the house stands containing 9,498 square feet and the vacant parcel containing 7,678 square feet. Subsequently, they acquired a parcel containing 3,000 square feet in order to increase the area of the two lots to the required minimum lot area of 10,000 square feet.

The two lots were held under one ownership on April 1, 1939, and, therefore, the Board is not authorized to make a special exception under Section XIX of the Zoning By-law with respect to the front yard requirement; nor can it make an exception to the frontage requirement under the same section of the by-law as both lots were held by the same owner on June 21, 1951. It has, however, considered the request under the provisions of General Laws, Chapter 40A, Section 15, and in its opinion a dwelling on the proposed lot would not reduce the value of property in the neighborhood and a literal enforcement of Section XIX of the Zoning By-law would cause substantial hardship to the petitioners which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law. The lot involved has not been used in the past as a means of access for the house in the rear as the ten-foot passageway has been the means used by the petitioners and for many years prior to their ownership of the property.

In view of the evidence presented, it is the opinion of this Board, that a variance can be granted, subject to the following conditions, from the terms of Section XIX of the Zoning By-law under the provisions of Chapter 40A, Section 15, of the General Laws.

Accordingly, the petition is granted and the premises involved may be divided in accordance with the plot plan submitted and on file with this Board subject to the following conditions:

1. Neither lot shall be used for garaging, parking or storage of any motor vehicles or accessories other than non-business vehicles owned by the owner or occupant of the premises.
2. Prior to issuance of any building permit the Board shall have received a letter from the Fire Chief of Wellesley to the effect that the requested division and construction of a house on the new lot will not adversely affect the use of fire apparatus with respect to the existing house or otherwise create or aggravate any fire hazard.

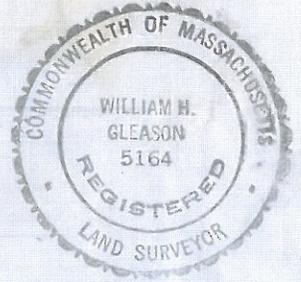
Richard O. Aldrich
Richard O. Aldrich

Dana T. Lowell
Dana T. Lowell

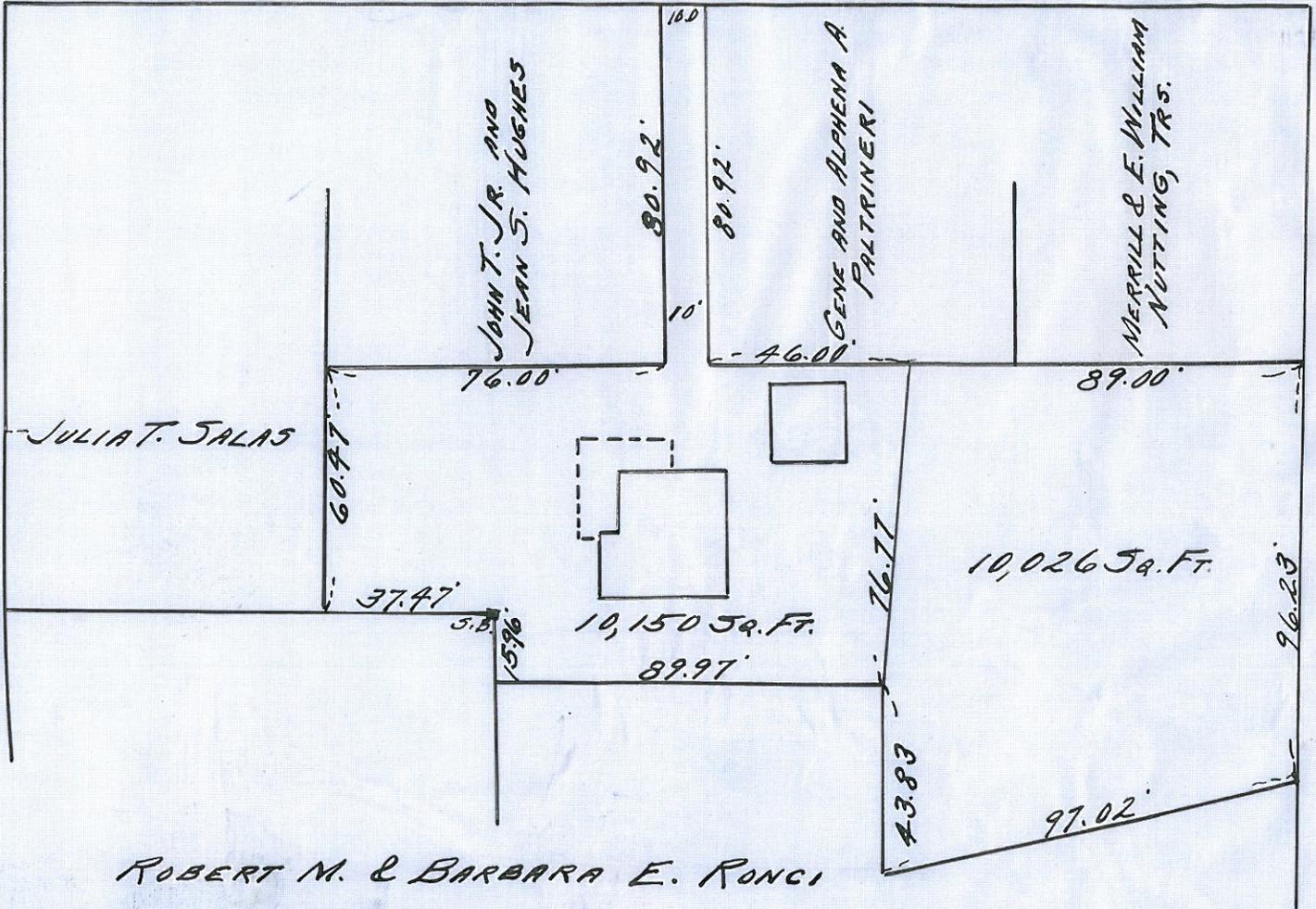
F. Lester Fraser
F. Lester Fraser

Filed with Town Clerk _____

PLAN OF LAND
 IN
WELLESLEY, MASS.
 OWNED BY
JOHN A. & MARY E. RUTLEDGE
 SCALE 40 FEET TO AN INCH
 MAY 20, 1968.
 GLEASON ENGINEERING COMPANY



BEMIS ROAD



ROBERT M. & BARBARA E. RONCI

PLANNING BOARD APPROVAL NOT REQUIRED
 UNDER THE SUBDIVISION CONTROL LAW

DATE _____
 WELLESLEY PLANNING BOARD

APPROVED BY BOARD OF APPEAL

Katharine E. Tooy
A. C. C. C.
 DATE 12/8/69



JAMES A. MACFEE
CHIEF ENGINEER

TOWN OF WELLESLEY

FIRE DEPARTMENT

WELLESLEY, MASSACHUSETTS 02181

December 9, 1968

Board of Appeal
Town Hall,
Wellesley

Gentlemen:

I have made an inspection of the Rutledge premises at 7 Bemis Road and do not feel that the division of this property would affect the operation of the Fire Department in the event of fire.

Very truly yours,

James A. MacFee

Chief Engineer Fire Department