



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
295-1664

Appeal of Thomas F. and Frances P. O'Leary and Helen F. Pierson

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 8:25 p.m. on February 15, 1968, on the appeal of Thomas F. and Frances P. O'Leary and Helen F. Pierson, from the refusal of the Inspector of Buildings to issue a permit to enclose and alter an existing porch on the side of the dwelling at 177 Washington Street. The reason for such refusal was that said porch stands in violation of Section XIX of the Zoning By-law which requires a minimum twenty-foot side yard; also the dwelling involved is a non-conforming two-family dwelling which cannot be altered according to the provisions of Section XVII of the Zoning By-law unless permission is granted by the Board of Appeal as provided in Section XXIV of the Zoning By-law.

On January 9, 1968, the Inspector of Buildings notified the appellants in writing that their application for a permit had been refused for the above-mentioned reasons, and on the same date the appellants took an appeal therefrom. Thereafter due notice of the hearing was given by mailing and publication.

Thomas F. O'Learn represented the appellants at the hearing.

Letters favoring the request were received from the following: Charles A. Goglia, Jr., 188 Washington Street, and Eugene L. and Eliennette A. Quirin, 5 Elm Street.

The Planning Board opposed the granting of the request in its report as it felt that the use of dwellings in the area for more than single family use should be discouraged, and to grant it would be to render the property more habitable for multi-family use.

Statement of Facts

The non-conforming dwelling involved is located within a Single-residence District requiring a lot area of not less than 15,000 square feet. From the records on file, the dwelling was equipped with two kitchens prior to 1925, when the Zoning By-law became effective and a portion of the house has been used for light housekeeping purposes independent of the main house since that time.

The petitioners seek permission to enclose and alter an existing porch on the southwest corner of their dwelling which now stands in violation of Section XIX of the Zoning By-law. The porch which is approximately 12' x 16' is 14' from the lot side line rather than the required twenty feet. It was pointed out at the meeting that since the petitioners purchased the property eight years ago, they have made a number of improvements in the house, and in their opinion, the proposed enclosure of the porch will not only provide a family room, but will be an attractive and useful addition. No further encroachment into the side yard will result from the proposed alteration as the existing concrete foundation will not be enlarged. A plot plan was submitted which showed the existing dwelling on

the property. Said plan was drawn by Gleason Engineering Company dated January 2, 1968.

Decision

The facts in this case satisfy the conditions set forth in Section XVII and Section XIX of the Zoning By-law on which the Board's authority depends to grant a special exception from the application of the side yard restrictions of the Zoning By-law on a non-conforming building. The house was built prior to the enactment of the side yard requirements and was held of record on April 1, 1940, under a separate and distinct ownership from adjacent lots. While the lot is rectangular in shape, the house is so situated on the lot, that an additional room of suitable size could not be constructed without encroaching into the front or side yards. Compliance, therefore, with the side yard requirements is impracticable because of the shape of the lot. It is the further opinion of this Board that a literal enforcement of the provisions of Section XVII of the Zoning By-law would involve substantial hardship, and permission can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the by-law. There will be no greater encroachment into the side yard, and the proposed enclosure will provide space which is needed by the petitioners.

Accordingly, the requested exception is granted and the issuance of a permit for the proposed enclosure is hereby authorized in accordance with the application on file and the plan submitted.

Richard O. Aldrich
Richard O. Aldrich
Dana T. Lowell
Dana T. Lowell
F. Lester Fraser
F. Lester Fraser

Filed with Town Clerk _____

CS 101 111 003 1968

PLAN OF LAND
IN
WELLESLEY, MASS.

SCALE 40 FEET TO AN INCH
JANUARY 2, 1968.

GLEASON ENGINEERING COMPANY

