

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Lawrence W. and Frances S. MacDonald

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 8:30 p.m. on April 29, 1969, on the appeal of Lawrence W. and Frances S. MacDonald from the refusal of the Inspector of Buildings to issue a permit for the construction of a tool house on the side of their dwelling at 5 Temple Road.

The reason for such refusal was that said tool house would violate Chapter IV, Section 1 (a) of the Building Code which requires that all Type V buildings shall be placed at least thirty feet from the side line of any public or private street and at least fifty feet from the center line of any public or private street and Section XIX of the Zoning By-law which requires that there shall be provided a side yard at least thirty feet in width on yards next to the street. Said appeal was made under the provisions of Chapter I, Section 11, of the Building Code and Chapter 40A, Section 15, of the General Laws.

Lawrence W. MacDonald spoke in support of the appeal at the hearing.

On March 31, 1969, the Inspector of Buildings notified the appellants in writing that a permit for the proposed construction of a tool house could not be granted for the above-mentioned reasons, and on April 2, 1969, the appellants took an appeal from such refusal. Thereafter due notice of the appeal was given by mailing and publication.

Statement of Facts

The dwelling involved was built in 1948, on a lot of land containing 15,340 square feet and is located within a Single-family District requiring a minimum lot area of 20,000 square feet. The area requirement was increased to 20,000 square feet in 1951.

The appellants seek permission to construct a tool house 10' x 20', to be attached to the rear right corner of the dwelling. The lot involved is bounded by two streets, Temple Road and Carlton Road, with the house facing Temple Road. The proposed tool house, if built, will lie twenty feet from Carlton Road rather than the required thirty feet, and forty-five feet from the center line of Carlton Road rather than the required fifty feet. It was pointed out at the hearing by the appellants that, in their opinion, the proposed location of the tool house not only will prove more convenient but will be more attractive to the neighborhood than if it were to be located elsewhere on the lot.

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A plot plan was submitted drawn by Gleason Engineering Company, dated March 27, 1969, which showed the location of the dwelling and the proposed tool house on the lot.

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Decision

The Board has made a careful study of the facts submitted and has taken a view of the locus. The house was built in 1948 on a lot which adjoined other land of the same owner on April 1, 1940. This Board, therefore, cannot make a finding under Section XIX of the Zoning By-law as said section authorizes the Board to grant such exceptions only if on April 1, 1940 the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, considered the appeal under the provisions of General Laws, Chapter 40A, Section 15, and in its opinion 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 section.

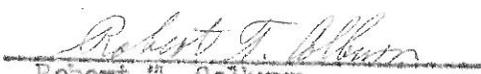
It is the further finding of the Board that based upon the evidence submitted by the appellants, that a real need exists for the proposed tool house and that the facts satisfy the conditions set forth in Chapter I, Section 10, of the Building Code on which the Board's authority to vary the conditions of the Code depends. In its opinion a manifest injustice may be done to the appellants if they are not allowed to construct the tool house as desired.

The house is located between two streets where technically it must be set back at least thirty feet from each street line; however, if the proposed addition is constructed, it will not establish a precedent for other houses on Carlton Road, as the remaining houses face Temple Road and the depths of the lots are far greater than the one involved.

In view of the evidence presented, it is the opinion of this Board, therefore, that a special exception can be granted from the terms of Section XIX of the Zoning By-law under the provisions of Chapter 40A, Section 15 of the General Laws, and a variance from Chapter IV, Section 1 (a) of the Building Code.

Accordingly, the request is granted and the issuance of a permit for the proposed tool house as shown on the plan submitted and on file with this Board is hereby authorized.


Richard C. Aldrich

Dana T. Lowell

Robert T. Colburn

Filed with Town Clerk _____

MAR 2 1953

METTERLEY WASS
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PLAN OF LAND
IN
WELLESLEY, MASS.

OWNED BY
LAWRENCE W. & FRANCES S. MACDONALD

Scale 40 feet to an inch

March 27, 1969

Gleason Engineering Company

