69-64

TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of Francisco Nicolo and Vincent E. Nicolo

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the hearing room on the second floor of the Town Hall at 8:25 p.m. on October 30, 1969, on the petition of Francisco Nicolo and Vincent E. Nicolo, requesting an exception or variance from Section XIX of the Zoning By-law, which will permit the re-subdivision of two adjoining lots owned by them, numbered 46 and 48 Upson Road, into two new lots with each having less than the required sixty-foot frontage and front yard width. 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 October 7, 1969, 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.

A letter was received from Elizabeth P. Hervey, 84 Mayo Road, objecting to the requested variance.

Statement of Facts

The property involved is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. The parcel consists of two lots with an existing house on each lot, one containing approximately 16,000 square feet and the other containing 17,000 square feet.

The petitioners have owned the property for a number of years, one house was built in 1929 and the other house in 1937. The entire frontage of both house lots is only 96.25', with one lot having a frontage of only 10.09' and the other lot having a frontage of approximately 86'. The petitioners desire to sell one house lot and seek permission to re-subdivide the lots, with each having a frontage of approximately 48'.

It was pointed out at the hearing that there is no way to comply with the Frontage and Front Yard requirement of sixty feet, and that unless a variance is granted undue hardship will result as one lot is unsaleable as it exists. The proposed subdivision of the property will be an improvement, it was alleged, and the best that can be done under the circumstances.

Decision

The Board has made a careful study of all the facts in this case and has taken a view of the locus.

The two lots were held under one ownership on April 1, 1939, and on June 21, 1951, 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 and Frontage fequirements. It has, however, considered the request under the provisions of the General Laws, Chapter 40A, Section 15, and in its opinion 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. It is the opinion of this Board that the proposed resubdivision of the lots will provide two more uniform lots with equal frontages which will be more saleable and more beneficial to the property as well as to the petitioners.

Accordingly, the petition is granted under the provisions of Chapter 40A, Section 15, of the General Laws, and the lots involved may be re-subdivided in accordance with the plan submitted, drawn by Cheney Engineering Co., Needham, Mass., dated September 24, 1968, Revised January 8, 1969.

Richard O. Aldrich

Richard O. Aldrich

Dana T. Lowell

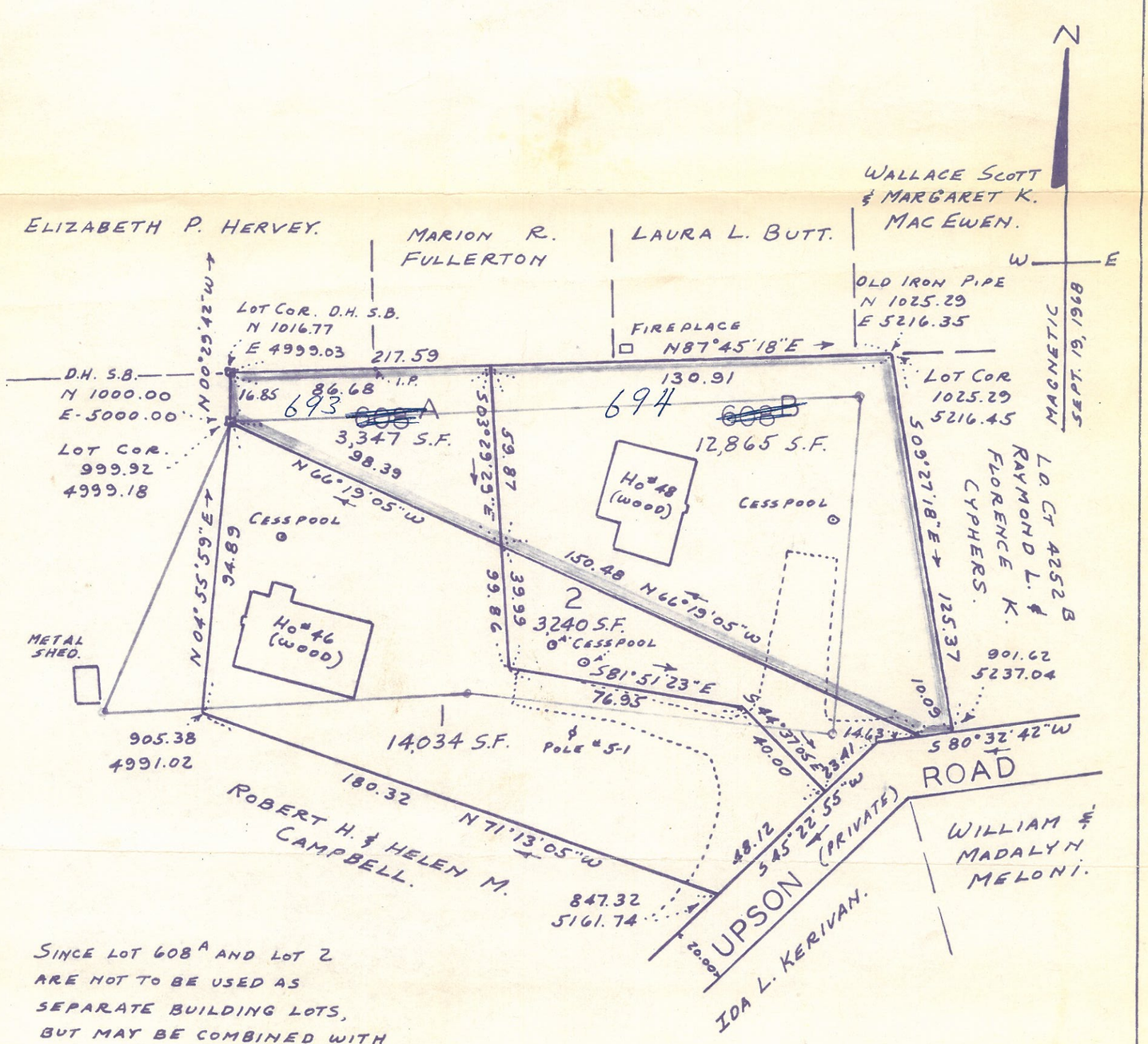
Dana T. Lowell

F. Lester Fraser

F. Lester Fraser

Filed with Town Clerk_____

46- 1942-47.
48- 1930.



SINCE LOT 608 A AND LOT 2 ARE NOT TO BE USED AS SEPARATE BUILDING LOTS, BUT MAY BE COMBINED WITH LOTS 1 AND 608 B RESPECTIVELY,

Approval Under The Subdivision Control Law NOT Required:

Planning Board

Date

SUBDIVISION OF LOT 608
AS SHOWN ON LAND COURT PLAN 4252 B.

LAND IN WELLESLEY, MASS.

SCALE: 1 IN. = 40 FT.

CHENEY ENGINEERING CO. INC.
NEEDHAM, MASS.
SEPT. 24, 1968.

COMMONWEALTH OF MASSACHUSETTS
SIDNEY R. VAUGHAN
No. 11011
REGISTERED LAND SURVEYOR

I certify that this plan was made in accordance with Land Court instructions. of 1959

Sidney R. Vaughan

I certify that this actual survey was made on the ground in accordance with the Land Court instructions of 1959.

Sidney R. Vaughan

PLAN 4252-13
Filed 1/27/69

Since the Planning Board did not act on this plan in the prescribed fourteen day period as provided in Chapter 41, Section 81P, this plan does not require approval under the Subdivision Control Law even though signatures do not appear.

[Oct. 15 1969]

PBC-68-25