

TOWN OF WELLESLEY



BOARD OF APPEAL

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72-66

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of Charles W. Heard

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 8:40 p.m. on December 7, 1972, on the petition of Charles W. Heard, requesting an exception from the terms of Section XIX of the Zoning By-law which will permit the construction of a greenhouse on the rear of his dwelling at 5 Upland Road with a side yard less than the required twenty feet.

On November 17, 1972, the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Charles Heard spoke in support of the request at the hearing.

Statement of Facts

The dwelling involved, which was built in 1935, prior to the enactment of the Zoning By-law requiring a twenty-foot side yard, is located in a Single-residence District requiring a minimum lot area of 10,000 square feet.

Permission is sought to construct a greenhouse approximately 10' x 10' on the southeasterly corner of the dwelling involved. The proposed construction will not encroach any closer to the side lot line, it was stated, than the existing dwelling and, if built, will be 13.83' from the lot line on the southerly side. It was pointed out that there is no other place it can be constructed and comply with the Zoning By-law and the proposed location is the most desirable for convenience and exposure.

A plot plan was submitted, drawn by Alex Crucioni, Chelsea, Mass., which showed the existing dwelling on the lot as well as the proposed addition. Said plan was dated September 16, 1972.

Decision

The facts in this case satisfy the conditions set forth in 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 that section. The lot is narrow and irregular in shape, which makes compliance with the by-law impracticable if an addition is to be made to the house. The lot was held under separate and distinct ownership from adjacent lots on April 1, 1940.

It is the unanimous opinion of this Board that the requested exception to construct the proposed greenhouse will not injure the neighborhood as the proposed addition will not encroach any closer to the side line than the existing dwelling which was built prior to the enactment of the by-law requiring a twenty-foot side yard. It is the further opinion of this Board that a literal

enforcement of the provisions of Section XIX 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.

Accordingly, the requested exception is granted and the issuance of a permit for the proposed addition is hereby authorized in accordance with the plans submitted and on file with this Board.

Richard O. Aldrich
 Richard O. Aldrich

Dana V. Lowell
 Dana V. Lowell

F. Lester Fraser
 F. Lester Fraser

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