



## ZONING BOARD OF APPEALS

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 Administrative Secretary  
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Petition of John A. and Mary D. Coyne

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:05 p.m. on December 15, 1977, on the petition of John A. and Mary D. Coyne, requesting a variance from the terms of Section XIX of the Zoning By-law which will allow the construction of a deck on the rear of their dwelling at 21 Tenmyson Road with a side yard less than the required twenty feet. Said request is made under the provisions of Section XXIV-D of the Zoning By-law.

On November 30, 1977, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioners spoke in support of the request at the hearing.

Statement of Facts

The property involved is located within a Single Residence District requiring a minimum lot area of 15,000 square feet. The house involved was built in 1931, on a lot containing 14,030 square feet and prior to the effective date of the twenty-foot side yard requirement.

The petitioners seek permission to construct a deck 12' x 16', on the rear of their dwelling, which, if built, will be 17.5' from the lot line on the southerly side rather than the required twenty feet.

It was stated at the hearing that the reason for the proposed deck is to provide a suitable area near the house for an eating area as well as space to enjoy the out-doors. The yard slopes off rapidly from the back of the house, therefore, the deck at the proposed location appears to be the most feasible way to provide some outdoor living space at a minimum cost. It was further stated that there is a bulkhead approximately in the middle of the rear of the house which prevents moving the deck over 2 1/2' in order to comply with the side yard requirement. It was also pointed out that the railing on the deck would run into the bow window, if located back from the corner of the house, and to reduce the deck by two feet, would reduce the size to an area insufficient for both eating and sitting. The petitioners, therefore, feel that due to the topography of the rear yard area and the increased costs involved to place the deck at another location, would create a hardship for the petitioners' family.

A plot plan was submitted, drawn by John J. Regan, Land Surveyor, dated October 24, 1977, which showed the existing house and garage on the lot as well as the proposed deck.

Coyne

The Board has made a careful study of the evidence submitted and has taken a view of the locus.

In its opinion, there is a real need for the proposed deck and the location appears to be the most feasible place for it, subject to the condition hereafter imposed, both from an economical as well as a practical standpoint. Although the proposed deck as shown on the plot plan, continues the existing line of the house, it encroaches into the side yard approximately two feet due to the angle of the house on the lot. The rear corner of the house sets back 19.3' from the southeasterly lot line, and it is the opinion of this Board, that a deck can be built by continuing the same setback, by tapering it off slightly, which will provide a deck substantially the size requested.

The lot is narrow and the house was built on the lot prior to the enactment of the twenty-foot side yard requirement; therefore due to the shape of the lot and the limited amount of level land upon which to build, it is the opinion of this Board, that compliance with the yard restrictions would involve substantial hardship to the petitioners. It is the further opinion of this Board that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

Accordingly, the requested variance is granted and the Building Inspector is authorized to issue a permit for the proposed deck as shown on the plan submitted and on file with this Board, subject, however, to the following condition:

1. That the proposed deck shall be no closer to the side lot line than 19.3', and the railing shall be no higher than three feet.

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*Francis L. Swift*  
Francis L. Swift

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William F. Cullinane

Filed with Town Clerk \_\_\_\_\_

Copies of the decision and all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk.

