



ZONING BOARD OF APPEALS
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81.43

Petition of William D. and Carol Jeanne Burt

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Wednesday, August 5, 1981 at 8 p.m. on the Petition of William D. and Carol J. Burt, requesting a Variance from the terms of Section XIX of the Zoning Bylaw which will allow the construction of a 12' x 51' deck to the rear of the house and expansion of an existing deck on the left side of the house 7' x 16' and thereby further encroaching on a side yard of less than the required 20 feet at their home at 6 Roanoke Rd. Said request made under the provisions of Section XXIV-D of the Zoning Bylaw.

On July 16, 1981 the petitioner filed for a hearing before this Board and thereafter notice was given of the hearing by mailing and publication.

Present at the hearing and speaking on behalf of the request were William and Carol Burt, presenting data with topographical circumstances, historical circumstances and plans to reduce the encroachment problem. Helen T. Allison, 11 Roanoke Rd. and Tom Ehmann, Bel Aire Rd., spoke in favor of the petition. Mary E Rich, 16 Midland Road, spoke in opposition.

Statement of Facts

The property involved is located within a Single Residence District, at 6 Roanoke Rd., comprised of 11,875 square feet of land. The petitioner seeks to construct a 12' x 51' deck to the rear of the house and expand an existing deck on the left side of the house 7' x 16', encroaching further on a side yard of less than the required 20 feet. The proposed deck would extend to 4.5' from the property line of the adjacent home at 2 Roanoke Rd.

A Plot Plan was submitted, drawn by John J. Regan, Registered Land Surveyor of Apex Associated, Newton Highlands, dated June 12, 1981, showing the existing house and the proposed decks. Construction plans were submitted, drawn by J. M. Berkson Landscaping.

The Planning Board, in a letter dated July 21, 1981, recommended that the request be denied because it "believes the proposed deck would be an unreasonable encroachment on the required sideyard and would represent an unreasonable intrusion on the privacy of the adjacent house at 2 Roanoke Rd."



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Decision

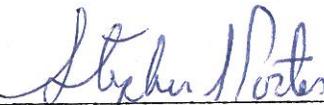
This Authority has made a careful study of the evidence submitted and at least one member has viewed the locus. The particular house in question in its present location on the lot does not conform to the present Zoning Bylaw. The home was built before the Zoning Bylaw was put into effect.

It is the belief of the Authority that the petitioners should be permitted to build the requested addition so long as the structure does not extend beyond the outreaches of the present building or further encroach on the adjacent property at 2 Roanoke Rd. In regards to the extension of the deck to the rear of the property, the Authority permits the extension no further than the proposal described in the plot plan dated June 12, 1981 on file at the Authority.

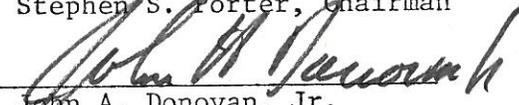
It is the unanimous decision of this Authority that because of the shape of the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance is granted and the Inspector of Buildings is authorized to issue a permit for the deck construction subject to the following conditions:

1. That a new plot plan be submitted to the Authority showing the proposed construction to be no closer to the side lot line than the projection (steps) from the existing house as of this date.



Stephen S. Porter, Chairman



John A. Donovan, Jr.



Franklin P. Parker

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