



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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82-61

Petition of Robert L. Fairchild

The Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, December 16, 1982 on the petition of ROBERT L. FAIRCHILD, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow an addition 10 feet by 7.5 feet to his detached garage at 9 HUNDREDS CIRCLE, leaving less than the required left side yard. Said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On November 24, 1982, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Robert Fairchild, who stated that he had talked about building a playhouse for his children three years ago, and this fall he hired a carpenter to build it. Mr. Fairchild stated that he assumed that the builder had obtained a building permit for the addition. The structure is now 99% completed. A neighbor called the Building Department to question the closeness of the structure to the property line, at which time it was determined that the structure was in violation of the Zoning Bylaw in addition to the lack of a building permit. Mr. Fairchild stated that he spent \$3,000. for the addition, that it couldn't be located at the rear of the garage because of ledge.

Other than the petitioner, there was no one present at the hearing favoring or opposing the request.

A letter was received by the Board of Appeals from Chandler Gregg, 19 Hundreds Circle, expressing support for the request.

Statement of Facts

The property involved is located at 9 Hundreds Circle, in a Single Residence District, containing 57,864 square feet of land.

The existing dwelling is a conforming structure. The detached two-car garage comes to 9.3 feet from the left side lot line.

The petitioner constructed a child's playhouse 10 feet by 7.5 feet, attached to the garage, without a building permit, leaving 1.4 feet on the left side yard. A neighbor alerted the Building Department to the violation, and a Stop Work order was issued by Arthur LaConte, Building Inspector, on October 28, 1982. The addition is in violation of Section XIX which requires a 20 foot sideyard. Mr. Fairchild

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subsequently filed a request for a variance.

A Plot Plan was submitted, drawn by Philip R. Brown, Registered Land Surveyor, of MacCarthy and Sullivan Engineering, Inc., 81 Speen Street, Natick, dated November 18, 1982. Photos of the completed addition were also submitted.

The Planning Board, at its regular meeting of December 7, 1982, reviewed the request, and voted to recommend that the request be denied based on the serious encroachment on the sideline and the apparent violation of the State Building Code regarding property line setback for wood frame construction.

Decision

This Authority has made a careful study of the evidence submitted. The petitioner constructed the child's playhouse attached to the garage without a building permit. This is a violation of the town regulations, which were adopted for the protection of the community and the welfare of its citizens. If the petitioner had come for a variance, this Board would have refused because there is no evidence of hardship. The hardship in this case was caused by the fact that the individual proceeded without following the restrictions of the bylaw. The Board on numerous occasions has denied requests similar to Mr. Fairchild's to individuals who do follow the correct procedures. It would be unfair to those individuals to grant the petitioner's request.

Variations may only be granted where the Permit Granting Authority finds that (from Section XXIV-D 1. of the Zoning Bylaw):

1....

- "a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning district in which it is located; and the hardship shall not have been self-created: AND
- b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

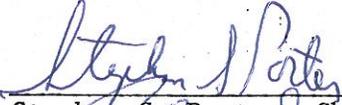
This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D.

Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

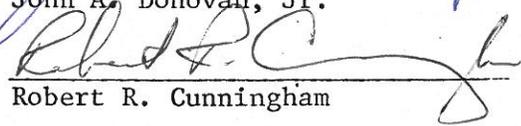
The petitioner is hereby ordered to remove the illegal structure forthwith and to accomplish the task within 90 days.

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MIDDLESEX COUNTY MASS.


Stephen S. Porter, Chairman


John A. Donovan, Jr.

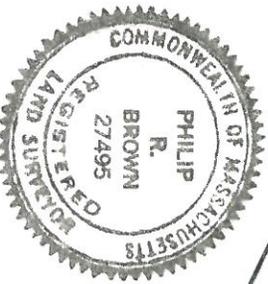

Robert R. Cunningham

RECORDED
 RECORDS OFFICE
 WELLESLEY MASS.
 NOV 24 11 29 AM '82
 100.03' 42 MON
 CIRCLE

HUNDREDS
 R: 240.00'
 L: 59.97'

WELLESLEY
 BOARD OF APPEALS

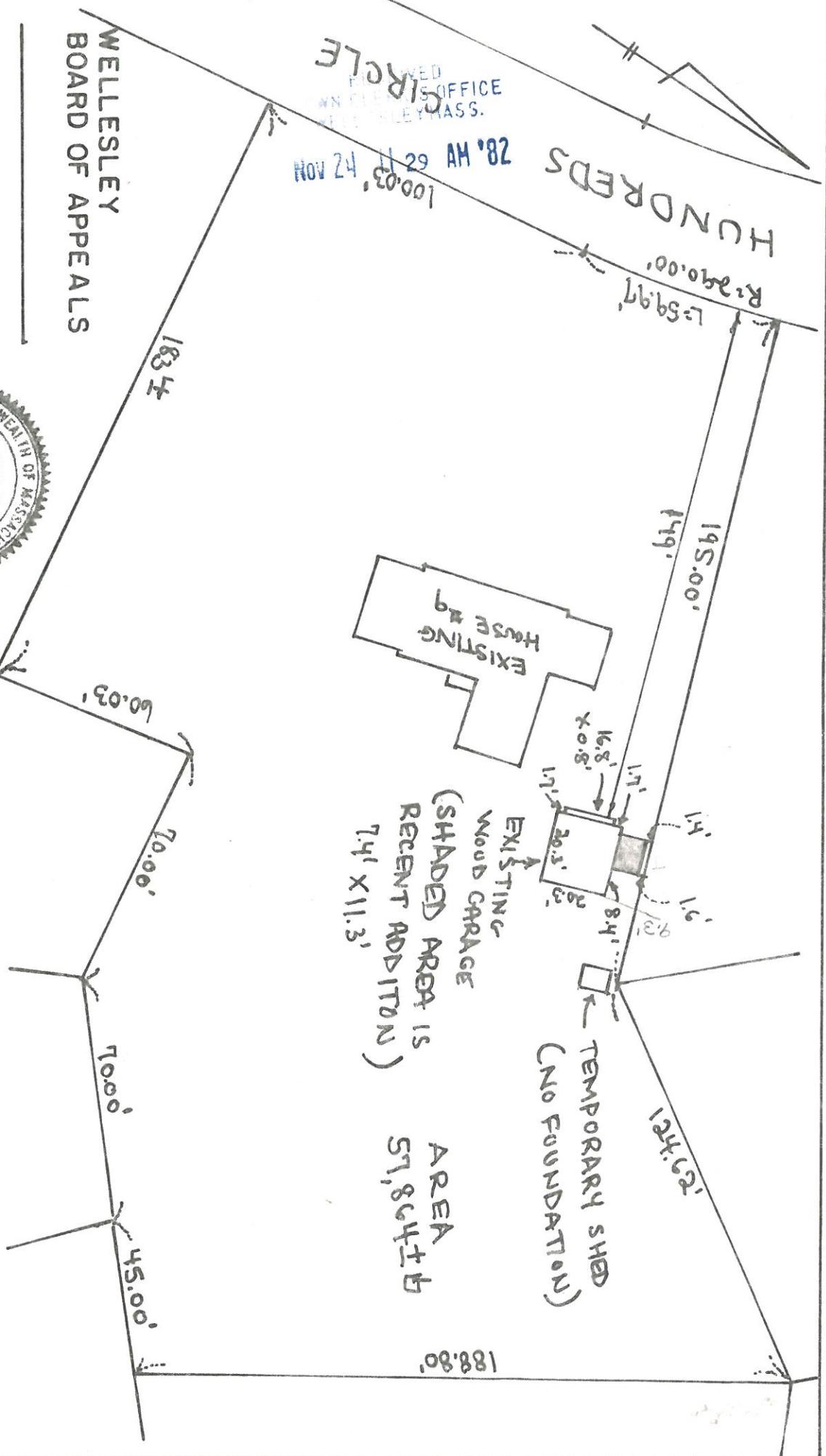
DATE _____



Philip R. Brown
 PHILIP R. BROWN
 REG. LAND SURVEYOR

PLAN BY: MAC CARTHY & SULLIVAN ENGINEERING INC.
 81 SPEEN ST., NATTICK, MASS.

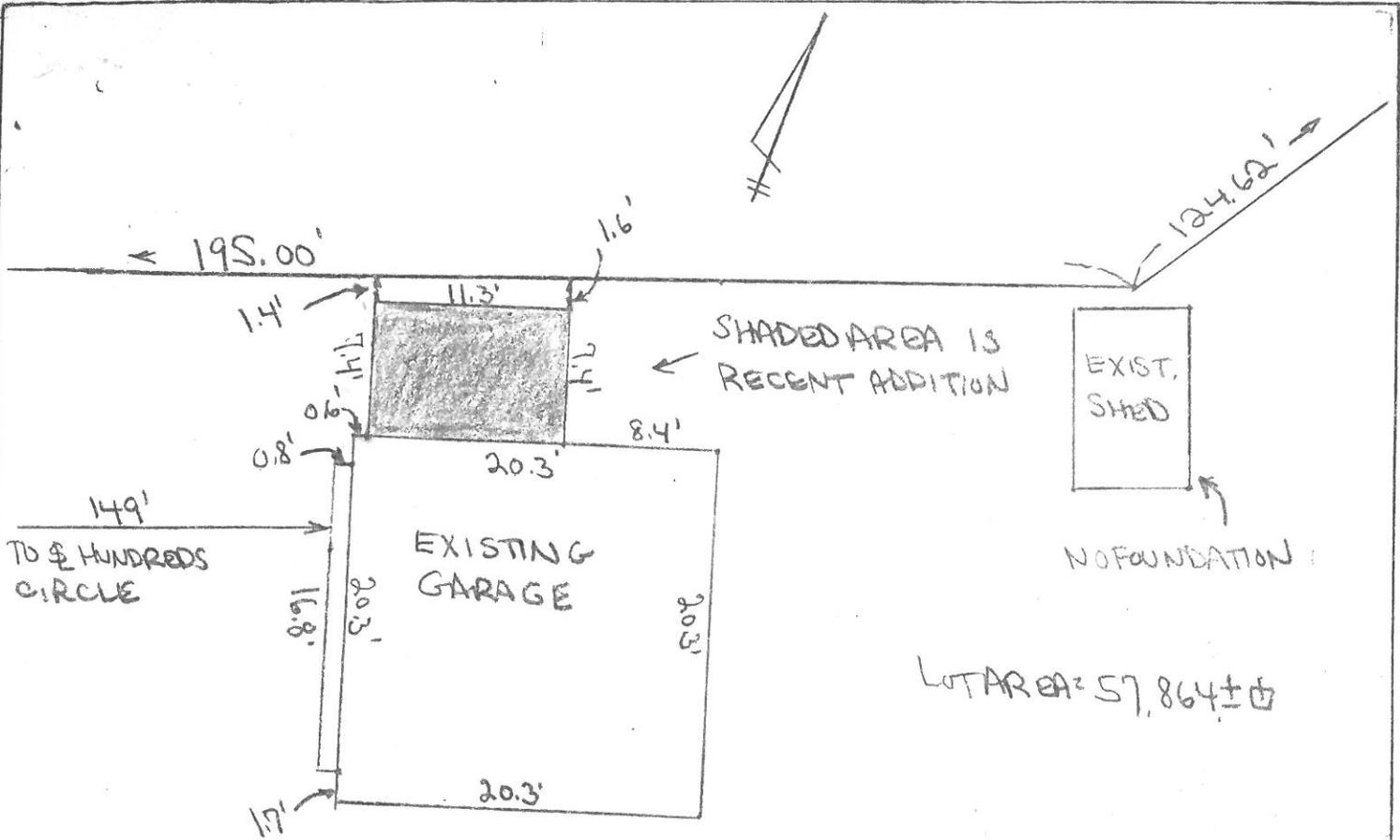
PLAN OF LAND IN WELLESLEY, MASS.
 OWNED BY: ROBERT L. FAIRCHILD
 SCALE: 1" = 40'
 NOV. 18, 1982



EXISTING WOOD GARAGE
 (SHADED AREA IS RECENT ADDITION)
 74' X 11.3'

TEMPORARY SHED
 (NO FOUNDATION)

AREA 57,864.16



LOT AREA = 57,864 ± 0

PROPERTY LOCATED AT #9 HUNDREDS CIRCLE

HOUSE LOCATION PLAN

IN

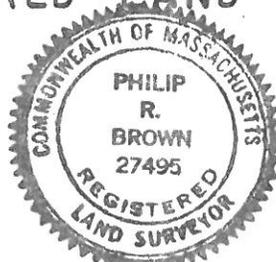
WELLESLEY

MASS.

MAC CARTHY & SULLIVAN ENGINEERING INC.
81 SPEEN ST., NATICK, MASS.

REGISTERED LAND SURVEYORS

SCALE: 1" = 10'



NOV. 18, 1982

I CERTIFY THAT THE BUILDING ON THIS PROPERTY IS LOCATED AS SHOWN ABOVE.

Philip R. Brown