



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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PLANNING DEPARTMENT
TOWN OF WELLESLEY, MASS.
APR 21 11 34 AM '82

82-8

Petition of James E. Benedict

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Thursday, April 1, 1982, at 8 p.m., on the Petition of James E. Benedict, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow the construction of a porch and deck 24' by 24' at his dwelling at 28 Lawrence Road, leaving a left side yard of less than the required twenty feet and a right side yard of less than the required twenty feet. Said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On March 12, 1982, 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 was James Benedict, who stated that a variance had been granted for the construction of the dwelling in 1955 to Mr. Connell, a previous owner. In 1953 the Town of Wellesley had taken land from Mr. Connell by eminent domain for the Hardy School, leaving an unusually shaped lot. Mr. Benedict stated that he purchased the house a few years ago and has been improving the interior and exterior. He feels the proposed deck would be in proportion to the house, and stated that all the abutters are in favor except for one. He stated that the backyard is very swampy.

Present in favor: Peter Holtje, 23 Lawrence Road, who stated that the petitioner has made a number of changes enhancing the property, and that the deck would not be seen from the street. Fred Bargoot, 24 Mellon Road, an abutter, stated that he was not objecting to the petition, but expressed concern about the obstruction of the proposed deck to his view of the schoolyard, the effect it would have on the salability of his own home and on his privacy. He suggested that the town release land from the Hardy schoolyard to give Mr. Benedict more room.

There was no one present in opposition to the request.

A letter from the Planning Board concerning the petition was given to Mr. Benedict, recommending that the request be denied.

Statement of Facts

The property involved is located at 28 Lawrence Road, in a Single Residence District, containing 10,637 square feet of land. The dwelling was constructed in 1955, following the granting of a variance to James E. & Rae M. Connell allowing side yards of less than the required twenty feet. As a result of a vote of the Town on March 29, 1954, a portion of the lot had been taken for the Hardy school, reducing the width of

the lot. The dwelling extends to 8.7 feet from the right side lot line abutting the Hardy School yard, approximately 12.5' from the left side lot line abutting 24 Lawrence Road, and approximately 14.5' from the rear lot line abutting 24 Mellon Road.

A Plot Plan was submitted, drawn by Carmelo Frazetti, Registered Land Surveyor, dated March 8, 1982. Construction plans were also submitted.

The Planning Board, in a letter dated March 31, 1982, stated: "...Although the lot involved has a somewhat unusual shape, the Planning Board believes there is room elsewhere on the lot for a suitable addition without necessitating such a substantial encroachment on the sideyard. The proposed addition would not only violate the 20 foot sideyard requirement but it would also violate the 10 foot setback requirement which pertains to building adjacent to public lands. This setback from public land has a zoning requirement since 1942. The Planning Board recommends that this request be denied."

Decision

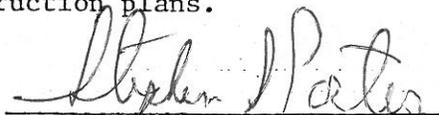
This Authority has made a careful study of the evidence submitted. The particular house in question extends to 8.7' from the right side lot line abutting the Hardy School yard, approximately 12.5' from the left side lot line abutting 24 Lawrence Road, and approximately 14.5' from the rear lot line abutting 24 Mellon Road.

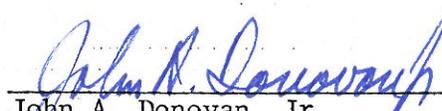
It is the opinion of this Authority that because of the unique shape of the lot and the placement of the house on the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner. However, this Authority is concerned that the proposed request will not allow sufficient space between the deck and the fence on the lot line at the Hardy School yard in case of emergency.

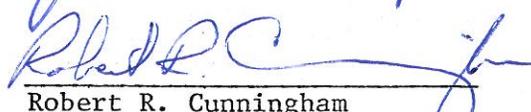
Therefore, the requested variance is granted with the following conditions:

1. That the corner of the deck extend no closer than four feet from the right side lot line bordering Hardy School yard.
2. That the deck be opened underneath.
3. That the porch will not be converted to a permanent room.

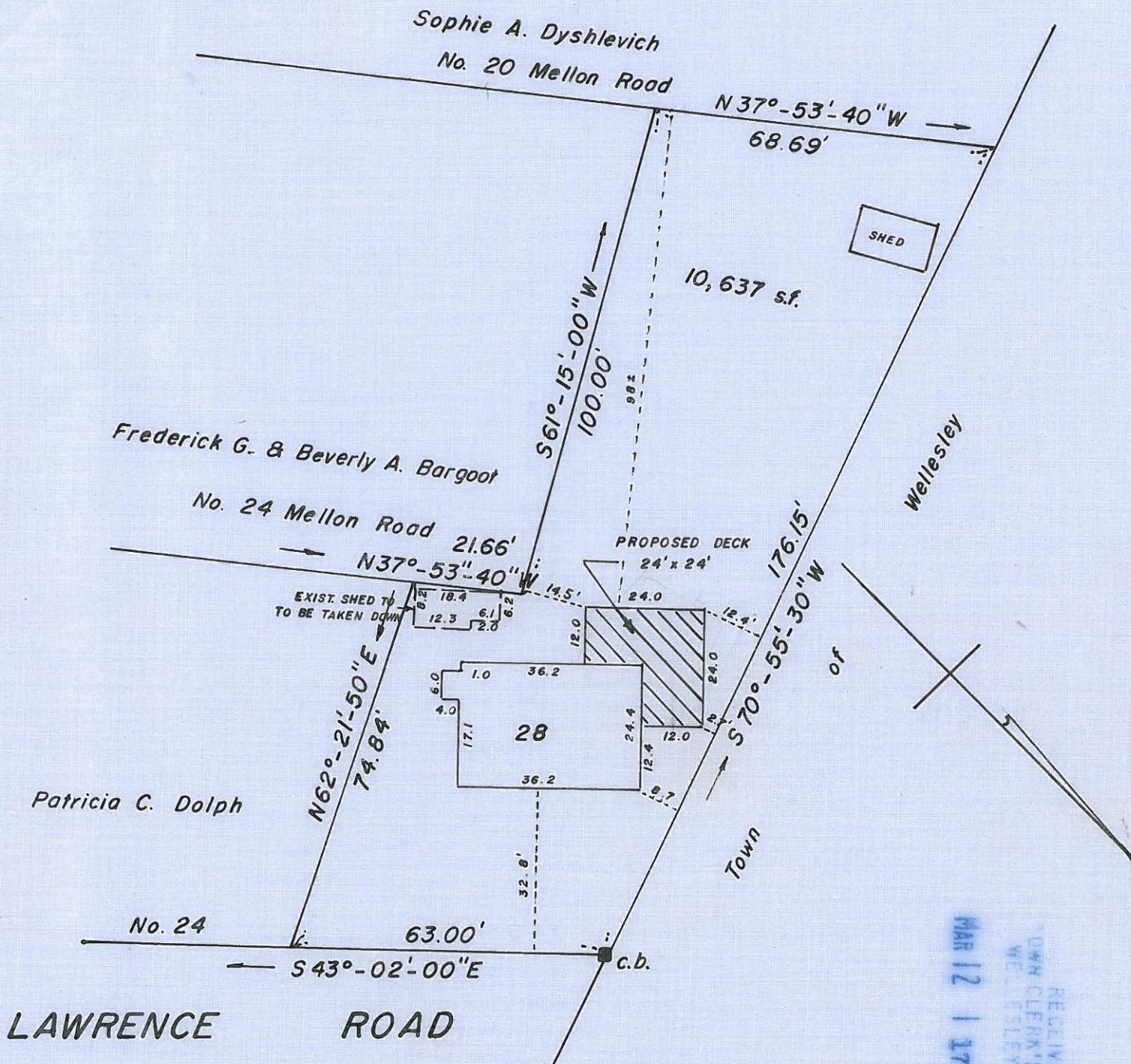
The Inspector of Buildings is authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.


Stephen S. Porter, Chairman


John A. Donovan, Jr.


Robert R. Cunningham

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PLAN OF LAND
in
WELLESLEY, MASSACHUSETTS
at
No. 28 LAWRENCE ROAD

Owned by
James E. & Claire M. Benedict
March 8, 1982
Carmelo Frazetti



Proposed Deck
Scale: 1" = 30'
Land Surveyor