



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman
JOHN A. DONOVAN, JR.
ROBERT R. CUNNINGHAM

MARY ANN McDOUGALL
Executive Secretary
Telephone
235-1664

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

83-3

Petition of Leon Glass

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, February 17, 1983, on the petition of Leon Glass, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow the construction of two additions to his dwelling at 97 Russell Road, one addition being 12 feet by 25 feet leaving less than the required side yard and less than the required setback from public land. Said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On January 28, 1983, 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 request at the hearing was Leonard Shaffer, son-in-law of Leon Glass, the owner of the property, who is in Florida for the winter. Mr. Shaffer stated that he was modifying the request to include only the room 12 feet by 25 feet on the right side of the dwelling overlooking Morse's Pond. He stated that he is not requesting a variance as per his original request for a 7 foot by 7 foot addition on the southeastern corner of the dwelling.

Mr. Shaffer stated that the dwelling, a summer cottage, was bought by Mr. Glass in 1976 in good faith, for cash, with no mortgage. When a plot plan was recently done as part of the variance application, it became apparent that the existing bedroom approximately 10 feet by 12 feet encroaches onto Town of Wellesley land. Mr. Shaffer said that he has researched past deeds on the property and talked with residents of the neighborhood and believes that the bedroom in question was built by the previous owner, Mr. Mittlemeyer, in 1947, so had been in place for over 35 years. Mr. Shaffer stated that he has met with Mr. Bezanson and Mr. Berdan of the Department of Public Works to discuss the possibility of leasing or buying the piece of land in question. A water main exists near the dwelling and town engineers have recently taken two soundings and told Mr. Shaffer that it lies three feet from the bedroom in question. Mr. Shaffer stated that a hardship exists on the property because of the configuration of the land. The shape of the lot would not allow an addition in any other location.

Speaking in favor of the petition at the hearing was Nora McLaren, 64 Russell Road, and Carleton Topliffe, 95 Russell Road, an abutter to the property in question. No one was present in opposition to the request.

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WELLESLEY, MASS.

Statement of Facts

The property involved, a summer cottage, is located at 97 Russell Road, containing 7,546 square feet of land, in a Single Residence District, on Morses Pond.

The existing dwelling, constructed more than forty years ago, is a non-conforming structure. A Plot Plan, drawn by Robert E. Cameron, Registered Land Surveyor, dated February 1, 1983, shows the dwelling to have a setback of 5 feet from Russell Road, a rearyard of 11.6'. The left side of the house borders directly on land owned by the Town of Wellesley, and a room approximately 10 feet by 12 feet encroaches onto Town of Wellesley land.

The following letter was sent from John E. Bezanson, Assistant Director of Public Works and Town Engineer; to the Board of Appeals, dated February 7, 1983: "I have reviewed plan entitled "Plot Plan for Proposed Addition, 97 Russell Road, Wellesley, Ma." dated January 14, 1983 by R. E. Cameron & Associates, Inc. Our review yields the following comments: 1. The lot layout and lot line dimensions indicated on plan do not agree with referenced deed, plan reference in deed or town plans. 2. The location of the existing dwelling is questionable. The location shown does not agree with the dwelling location shown on our town plans. As dwelling is in part located on town (water) land the Engineering Division will complete a field survey to determine the dwelling location. Our survey will be completed depending on weather conditions.

In reviewing our town plans it was noted that the dwelling is located over an existing 14" water main. The location of the water main will be confirmed in conjunction with our field survey to determine the dwelling location....."

Mr. Shaffer claims that the dwelling was purchased in good faith by Mr. Glass in 1976 with no knowledge of any encroachment onto town property. Mr. Shaffer is of the opinion that the bedroom in question was built in 1947. He wishes to winterize the cottage and add a second bedroom so that he and his in-laws could reside there. He submitted six photographs of the property, construction drawings of the proposed addition, and deeds concerning the property which had been recorded in the Norfolk Registry of Deeds.

The property in question is located within 100 feet of the 100 year flood elevation of Morses Pond, and the Wetlands Protection Committee conducted a Public Hearing on February 14, 1983 and continued on February 28, 1983.

The Planning Board, in a letter of February 9, 1983, stated the following: "The Planning Board examined the submission materials which indicate that a portion of the existing house encroaches onto Town land. Based on the several outstanding problems, the Planning Board opposes the granting of the variance request. The Board believes that favorable consideration of a request for any variance, permit or special permit concerning this property would not promote the Town's efforts to have the encroachment removed. The Town boards involved should coordinate their activities toward this end. "

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Decision

This Authority has made a careful study of the evidence submitted.

The petitioner is requesting a variance to add a room 12 feet by 25 feet to the northwesterly side of the dwelling extending towards Morse's Pond.

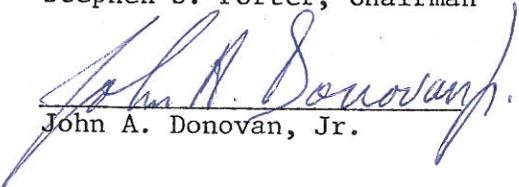
The existing dwelling is encroaching onto Town of Wellesley land. It is the opinion of this Authority that a variance cannot be granted on said property.

When the problem dealing with the property line is resolved between the owner of the property and the Town of Wellesley, the Board of Appeals will be willing to hear a variance request on the property.

The variance requested by the petitioner is hereby denied and the petition is dismissed.



Stephen S. Porter, Chairman



John A. Donovan, Jr.

Robert R. Cunningham

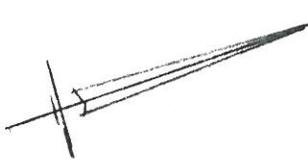
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MORSE'S POND

DEED = 55.0
PLAN = 50.3

CARLETON V. & VERNIA K.
TOPLIFFE



133.3

7,546 S.F.
(PER ASSESSOR'S PLAN)

TOWN OF WELLESLEY

EXISTING SHED
TO BE REMOVED

PROPOSED
ADDITION

118.59

11.0

9.1

12.3

7.00

7.00

7.00

7.00

7.00

7.00

7.00

7.00

7.00

7.00

7.00

7.00

25.00

17.0

12.00

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

10.1

20.00

RUSSELL ROAD

55.00

97
1-STY.
WD, FR.

SB

PROPOSED
ADDITION

TOWN OF WELLESLEY

APPLICANTS: MR. & MRS. LEONARD SHAFFER
32 BAY VIEW AVE.
SWAMPSCOTT, MA 01907

DEED REFERENCE: FREDERICK A. MITTLEMEYER
TO LEON D. GLASS
SEPT. 7, 1976
NORFOLK CO. REGISTRY OF DEEDS



PLOT PLAN

FOR PROPOSED ADDITION

97 RUSSELL ROAD

WELLESLEY, MASS.

SCALE 1" = 20'

JAN 14, 1983

R. E. CAMERON & ASSOCIATES, INC.
NORWOOD, MASS.

MORSE'S POND

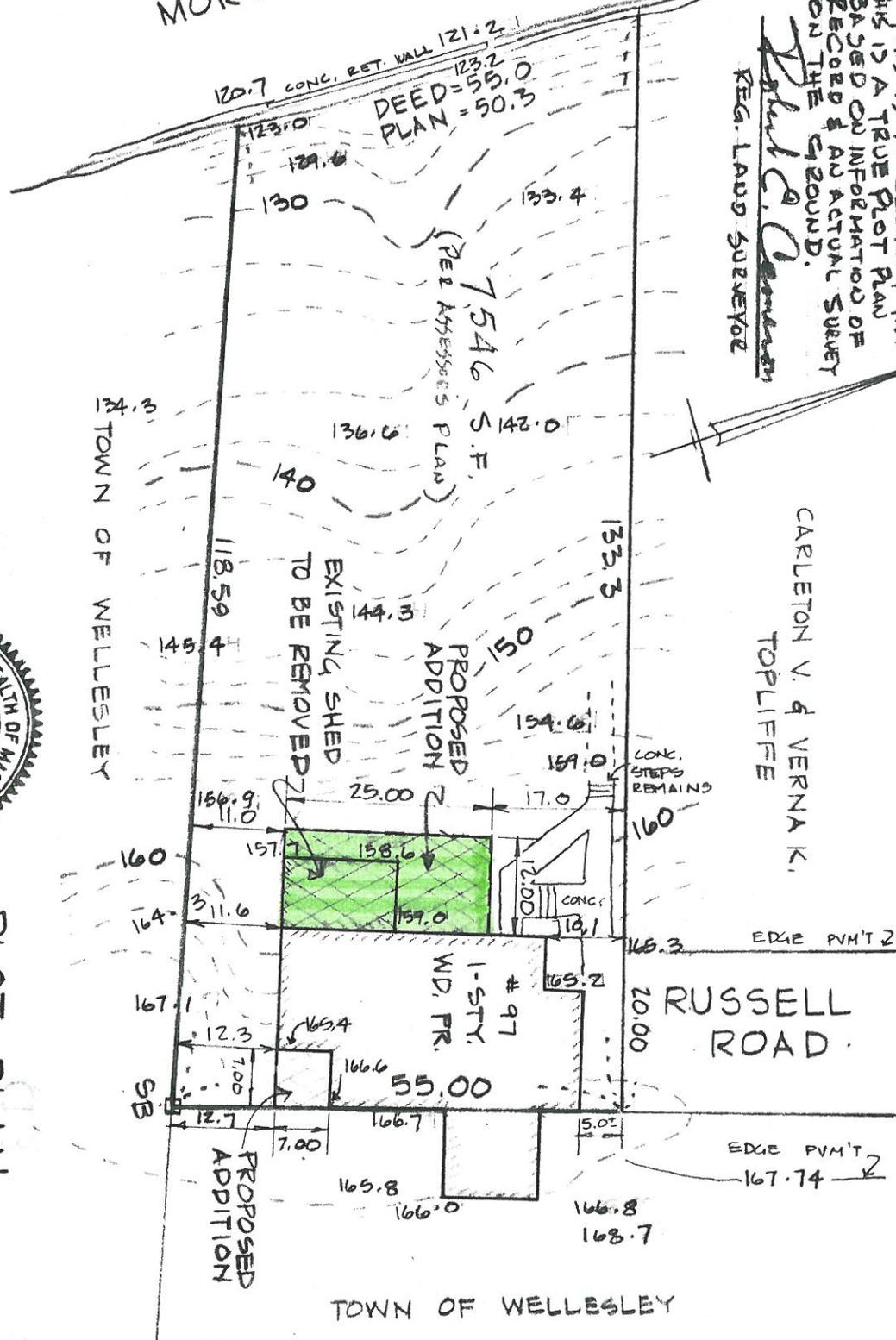
THIS IS TO CERTIFY THAT
THIS IS A TRUE PLOT PLAN
BASED ON INFORMATION OF
RECORD & AN ACTUAL SURVEY
ON THE GROUND.

Robert E. Cameron
REG. LAND SURVEYOR

CARLETON V. & VERNIA K.
TOPLIFFE

EDGE PVM'T 2
RUSSELL ROAD
20.00
EDGE PVM'T 1
167.74

TOWN OF WELLESLEY



NOTE:
EXISTING CONTOURS SHOWN ARE MSL DATUM.
NO CHANGES IN GRADES ARE PROPOSED.

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32 BAY VIEW AVE.

SWAMPSCOTT, MA. 01907

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FOR
PLOT PLAN

PROPOSED ADDITION

97 RUSSELL ROAD

WELLESLEY, MASS

SCALE 1"=10'

JAN 14, 1983

R. E. CAMERON & ASSOCIATES, INC.

NORWOOD, MASS.

2-1-83