



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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84-28

Petition of Brenden Realty Trust (Joseph Horan)

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the Upper Town Hall Main Hearing Room on Thursday, June 7, 1984 at 8 p.m. on the petition of BRENDEN REALTY TRUST (JOSEPH HORAN) requesting a variance from the terms of Section XVIII (Area Regulations) and Section XVII (Non-conforming Uses and Structures) of the Zoning Bylaw which will allow the construction of a two-story dwelling approximately 30 feet by 24 feet at 102 Evergreen Avenue, said lot containing 6,537 square feet of land, but located in a 10,000 Foot District. Said request is pursuant to Section XXIV-D of the Zoning Bylaw.

On May 18, 1984, the petitioner requested 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 Joseph Horan, a builder who recently purchased the property, which contains a dwelling he proposes to demolish. The proposed new dwelling would be a two-story colonial, 24 feet by 30 feet. The parcel has existed since 1922 in its present size and shape.

Paul Cummings, 1 Marigold Avenue, an abutter, stated that he is in favor of the request.

Statement of Facts

The property in question is located at 102 Evergreen Avenue, containing 6,537 square feet of land, in a Single Residence District. Evergreen Avenue is a private way that ends on the Weston town line. The Wellesley Town Plan #197 shows a small portion of the lot to be located in Weston.

A dwelling exists on the property which the petitioner proposes to demolish. Mr. Horan proposes to construct a two-story dwelling on it, conforming to all the set-back requirements of the bylaw. However, the property is in a 10,000 foot district so does not meet the current area regulations of the bylaw.

A Plot Plan was submitted, drawn by Alfred J. Ewald, Registered Land Surveyor, of Ewald Engineering Co., Framingham, dated May 4, 1984. Construction sketches were also submitted as were photos of the existing and proposed dwellings. Copies of deeds dating back to 1922 were submitted, substantiating that the parcel has existed in its present size and shape since 1922, and was not held in common ownership with any adjacent land.

The Planning Board, in a letter of May 31, 1984, expressed concern about the project because the utilities available are not adequate to serve the requirements of the proposed house. It recommended that any favorable consideration of the project should be conditioned on verification of adequate utilities being provided on the lot.

The Town Engineer, John Bezanson, reviewed the availability of utilities and the dwelling location plan and commented in a letter of May 24, 1984, on file at the Board of Appeals office.

The Board of Health, in a letter dated May 30, 1984, submitted comments relative to the provision of water and sewer services for the property, which are on file at the Board of Appeals office.

Decision

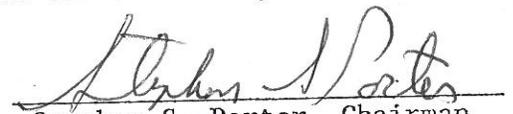
This Authority has made a careful study of the evidence submitted. The particular parcel in question contains 6,537 square feet of land and has existed since 1922 in its present size and shape. Area regulations establishing a minimum lot size of 10,000 square feet were first adopted in Wellesley in 1937.

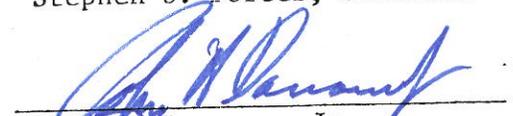
It is the opinion of this Authority that, because the parcel of land existed in its present size and shape prior to the existence of area regulations and did not adjoin other land of the same owner available for such use in connection with said lot, the requested variance can be granted.

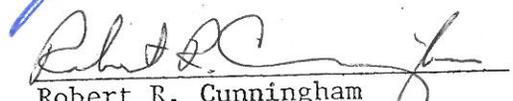
It is the further opinion of this Authority that a literal enforcement of the provisions of Section XVIII of the Zoning Bylaw would involve a substantial hardship to the petitioner, and that desirable relief can be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance from Section XVIII, and pursuant to Section XVII and Section XXIV-D, is granted to construct a two-story dwelling approximately 30 feet by 24 feet at 102 Evergreen Avenue, said lot containing 6,537 square of land, as shown on a Plot Plan drawn by Alfred J. Ewald, Registered Land Surveyor, dated May 4, 1984.

The Inspector of Buildings is hereby authorized to issue a permit for the construction upon 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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