



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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

MARY ANN McDUGALL
Executive Secretary
Telephone
~~382-1864~~
431-1019

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

85-42

Petition of Donald W. Kufe & Hillary R. Mankin-Kufe
179 Grove Street

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WELLESLEY MASS.
AUG 15 11 36 AM '85

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 18, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, on the petition of DONALD W. KUFÉ & HILLARY R. MANKIN-KUFÉ requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaws which will allow the construction of an addition to their non-conforming dwelling at 179 GROVE STREET at the corner of Benvenue Street, including a two-car garage approximately 19'3" by 28' leaving less than the required rear yard at the westerly property line.

On June 28, 1985 the petitioners requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Hillary Mankin-Kufe who stated that they propose to construct a garage which would come to 13 feet from the lot line. She stated that the home is the front house of the former Dana Hall infirmary, that the Planning Board approved the subdivision creating two lots in 1984 prior to the petitioner's purchase of the lot. The proposed location of the garage would not obstruct views of neighbors, would maximize yard space and be architecturally pleasing. Donald Kufe spoke in support of the request.

David Whitman, 33 Benvenue St., abutter, stated that he and his wife are in favor of the petition. Also present in support of the petition were Lois Cogswell, 187 Grove Street, Yu Sing Jung, 21 Benvenue St.

Statement of Facts

The property in question is located at 179 Grove Street at the corner of Benvenue Street, containing 15,170 square feet of land, in a Single Residence District. The dwelling was the front house of the former Dana Hall Infirmary which formerly contained two large buildings connected by a stone port cochere. The Dana Hall Infirmary property was subdivided (approval under the Subdivision Control Law not required) on December 11, 1984 per Planning Board (PBC 84-24) creating two lots, Lot 1 (#179 Grove Street) containing 15,170 square feet of land and Lot 2 (#33 Benvenue St.) containing 7,176 square feet of land. The subdivision of the two lots created a non-conforming dwelling at 179 Grove Street with a rear yard on the westerly property line of 5 feet. The dwelling at 179 Grove St. was purchased by the petitioners following the subdivision.

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179 Grove St.

The petitioners are now requesting a variance to construct an attached two-car garage approximately 19'3" by 28' leaving a rear yard of 13 feet.

A Plot Plan was submitted, drawn by Paul S. Dasey, Registered Land Surveyor of Connorstone, Inc., Ashland, Ma. , dated June 21, 1985. Construction sketches were submitted, drawn by Lou Robinson, Architectural Designer, Newton, Ma. Photos of the property were also submitted.

The Planning Board, at its regular meeting of July 17, 1985, voted to offer no comment on the petition.

Letters in support of the request were received from David P. and Deborah W. Witman, 33 Benvenue Street, Lois L. Cogswell, 187 Grove St.

Decision

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

Variations may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from 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."

Section XXIV-D 3. states: "The concurring vote of all the members of the Zoning Board of Appeals, if a three-member Board, shall be necessary to effect any variance in the application of this Zoning Bylaw."

Mr. Porter and Mr. Parker fail to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw and therefore vote to deny the variance. Mr. Cunningham dissents from the opinion of Mr. Porter and Mr. Parker. However, a concurring vote of all three members to effect the variance has not been achieved, so the variance must be denied.

Opinion of Mr. Parker and Mr. Porter follows:

The Planning Board created a non-conforming lot when it signed the subdivision plan on December 11, 1984, "approval under the subdivision control law - not required". A notation was included on the plan (PBC 84-24) stating: "This plan does not conform to the current zoning bylaws of the Town of Wellesley".

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179 Grove Street

It is the opinion of Mr. Porter and Mr. Parker that a non-conforming lot created in the manner in which 179 Grove Street was created is not entitled to a variance on the newly created lot line. This Authority understands that the present owner was not involved in the change of the lot line. The change was created by a former owner. That condition, however, does not make the lot conforming at this time.

The only issue of concern to the Board of Appeals is that the lot was altered in 1984 and therefore must be subject to the zoning bylaws currently in effect. The current rear yard requirement for 179 Grove Street is 20 feet.

It is the opinion of Mr. Porter and Mr. Parker that the non-conformity of 179 Grove Street was self-created by the act of subdivision in 1984 and therefore the lot does not meet the requirements for hardship under the Wellesley Zoning Bylaws.

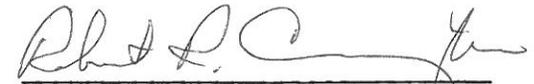
Mr. Porter and Mr. Parker fail to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw concerning the property at 179 Grove Street. The request under Section XIX and pursuant to Section XXIV-D for a variance to construct a garage leaving a rear yard of 13 feet is hereby denied and the case is dismissed.

APPEALS FROM THIS DECISION,
 IF ANY, SHALL BE MADE PURSUANT
 TO GENERAL LAWS, CHAPTER 40A,
 SECTION 17, AND SHALL BE FILED
 WITHIN 20 DAYS AFTER THE DATE
 OF FILING OF THIS DECISION IN
 THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
 Building Inspector

mam


 Stephen S. Porter, Chairman


 Robert R. Cunningham


 Franklin P. Parker

Aug 15 11 36 AM '05
 RECEIVED
 TOWN CLERK'S OFFICE
 WELLESLEY, MASS.

(PUBLIC WAY
VARIABLE WIDTH)

BENVENUE
STREET

GROVE (PUBLIC WAY)
STREET

PLAN OF LAND BY
CONNORSTONE INC.
DATED NOV. 29, 1984

PLOT PLAN
FOR
ZONING BOARD OF APPEALS
PURPOSES ONLY

WELLESLEY, MASS.
SCALE: 1"=20' DATE: JUNE 21, 1985

PROPERTY OF:
DONALD W. KUFÉ
179 GROVE STREET
WELLESLEY, MASS.

ENGINEERS AND SURVEYORS:
CONNORSTONE INC.
21 HOMER AVE.
ASHLAND, MASS. 01721
PAUL S. CASEY, PLS. 22222

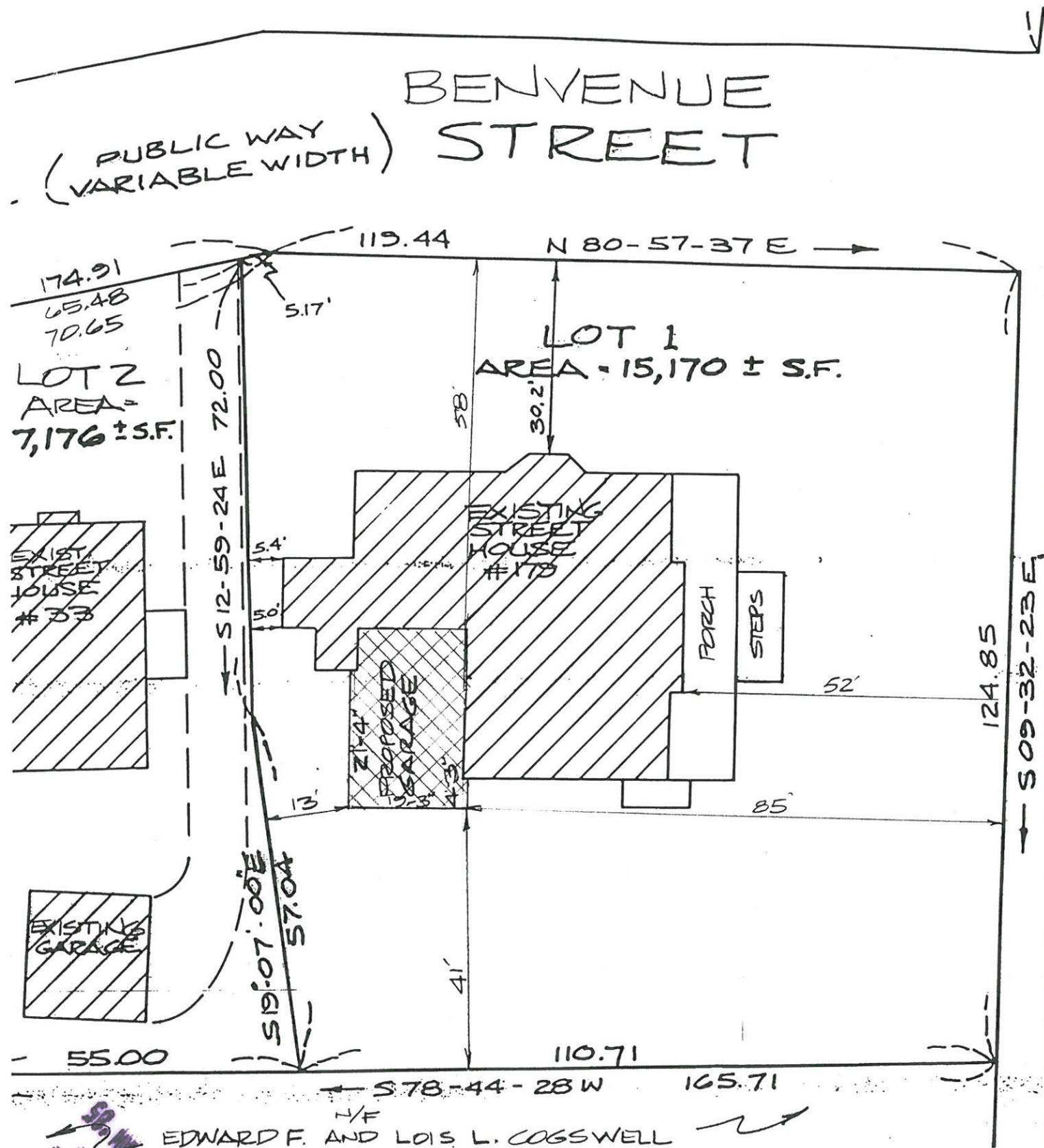
I CERTIFY THAT THE LOT SHOWN AND
PROPOSED GARAGE THEREON IS NOT
WITHIN THE FEDERAL FLOOD HAZARD
AREA.

THE PURPOSE OF THIS PLAN IS TO SHOW
A PROPOSED GARAGE WITH LESS THAN THE
REQUIRED REARYARD FOR APPLICATION
OF A VARIENCE FOR SAID GARAGE.



NOTE:

THIS PLOT PLAN IS PREPARED FROM LINES
OF OCCUPATION. THE TIES TO THE LOT LINES
ARE NOT TO BE USED IN THE SETTING OF
FENCES, HEDGES, ETC.



174.91
65.48
70.65
LOT 2
AREA =
7,176 ± S.F.

LOT 1
AREA = 15,170 ± S.F.

EXIST
STREET
HOUSE
33

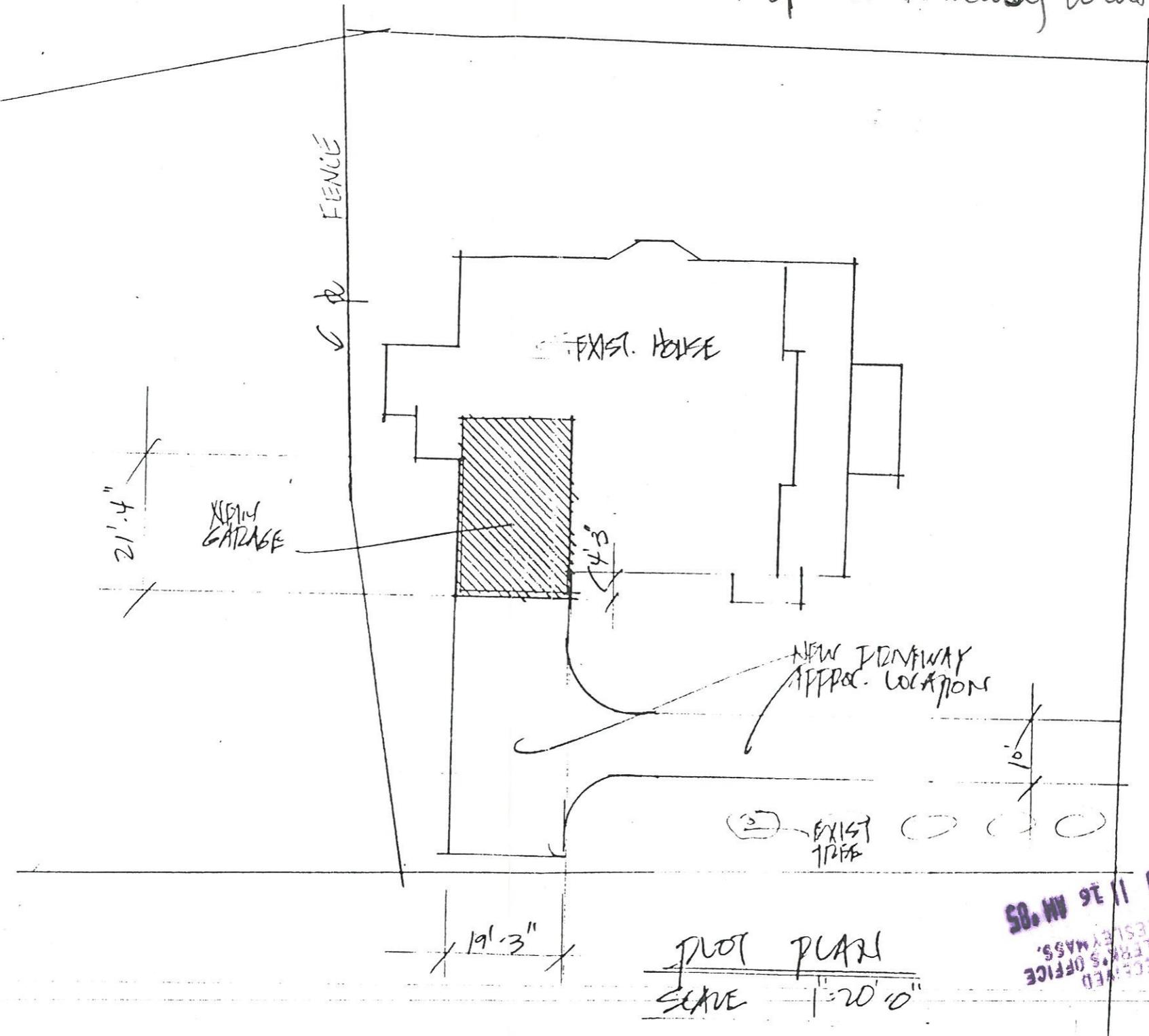
EXISTING
GARAGE

55.00

EDWARD F. AND LOIS L. COGSWELL

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JUN 29 11 34 AM '85
PLANNING DEPARTMENT
WELLESLEY, MASS.

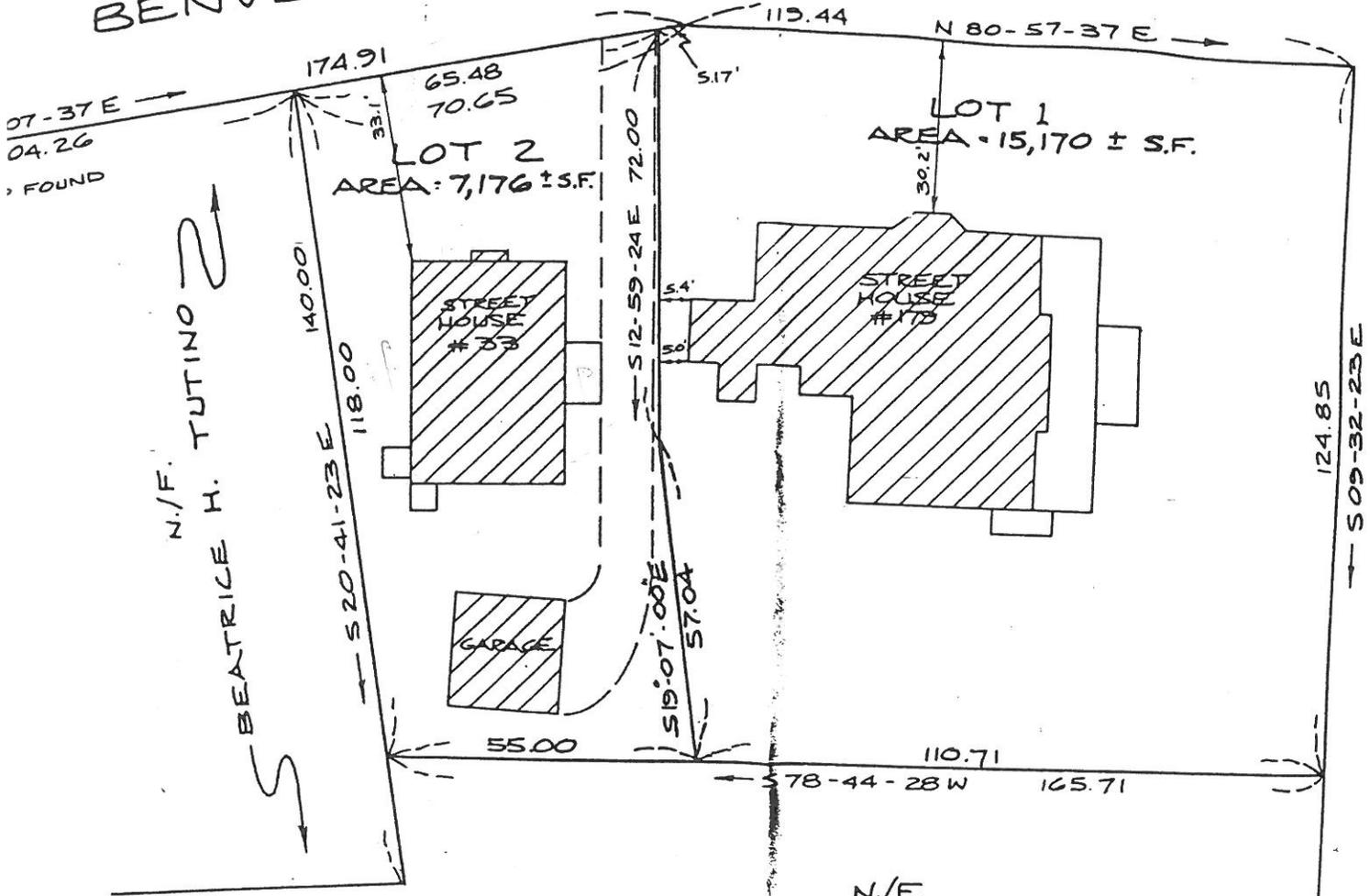
Proposed Driveway Location



SCALE 1" = 20' 0"
PLOT PLAN

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TOWN CLERK'S OFFICE
WILLESTON, MASS.
JUN 28 11 36 AM '85

BENVENUE (PUBLIC WAY VARIABLE WIDTH) STREET



GROVE (PUBLIC WAY) STREET