TOWN OF WELLESLEY MASSACHUSETTS

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
~~395-1664~~
~~XXXXXX~~
431-1019

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
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85-47
Petition of Ronald A. & Valerie Cass
36 Forest St.

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 15, 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 RONALD A. & VALERIE CASS requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow the construction of a two-car garage approximately 22.3 feet by 21.33 feet attached to the existing dwelling at 36 FOREST STREET, leaving less than the required left side yard.

On July 25, 1985, 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 Ronald Cass, who stated that they wish to have an attached garage due to the fact that he and his wife have physical handicaps and need to get to the garage in winter under cover. Mr. Cass stated that any other placement of the garage would ruin the backyard. He would be willing to screen the garage from neighbors.

Present at the hearing and opposed to the request were Dr. and Mrs. Lyman, 24 Forest Street.

Statement of Facts

The property in question is located at 36 Forest Street, containing 15,769 square feet of land. A two-story dwelling is located on the property and a detached garage is in the rear yard located 12.1 feet from the left side line.

The petitioner proposes to raze the detached garage and construct a two-car garage approximately 21.73 feet by 21.33 feet, attached to the house, leaving a left side yard of 12.1 feet.

A Plot Plan was presented, drawn by Sidney R. Vaughan, Professional Land Surveyor, of Cheney Engineering Co., Inc. , Needham, Ma. , dated July 8, 1985. Construction drawings were presented drawn by Reddick Associates, Building Design Services, Wellesley, dated June 27, 1985, Photos were also presented.

The Planning Board, at its regular meeting of August 6, 1985, voted to recommend denial of the variance.

Decision

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

Variances 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.

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

This Authority frowns upon subdivisions in Wellesley such as the property at 36 Forest Street that create lots with problems. The property in question formerly contained 27,400 square feet of land which would have allowed ample room for a garage. The result of the subdivision created a lot with limitations as far as additions to the dwelling.

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

Stephen S. Porter, Chairman

Franklin P. Parker

William E. Polletta

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

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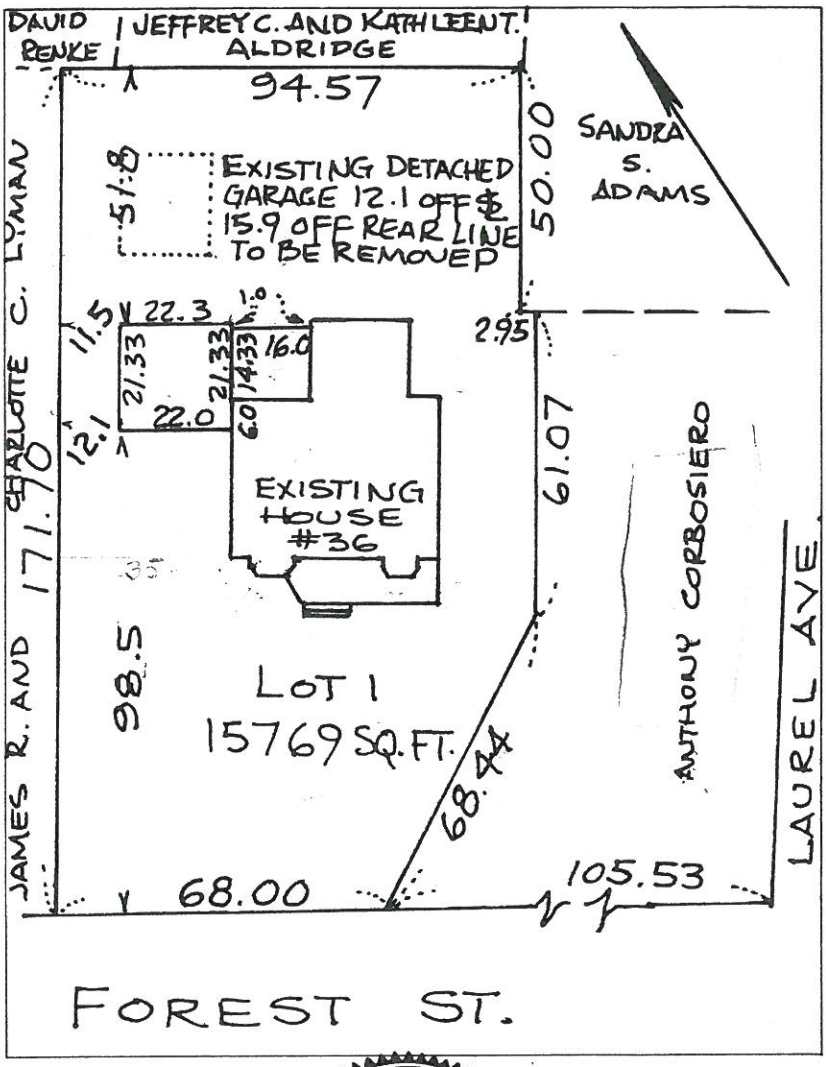
CERTIFIED PLOT PLAN



COMMONWEALTH OF MASSACHUSETTS
SIDNEY R. VAUGHAN
No. 11011
REGISTERED
PROFESSIONAL LAND SURVEYOR

Sidney R. Vaughan

Cheney Engineering Co., Inc.
32 Junction Street
Needham, Mass. 02192

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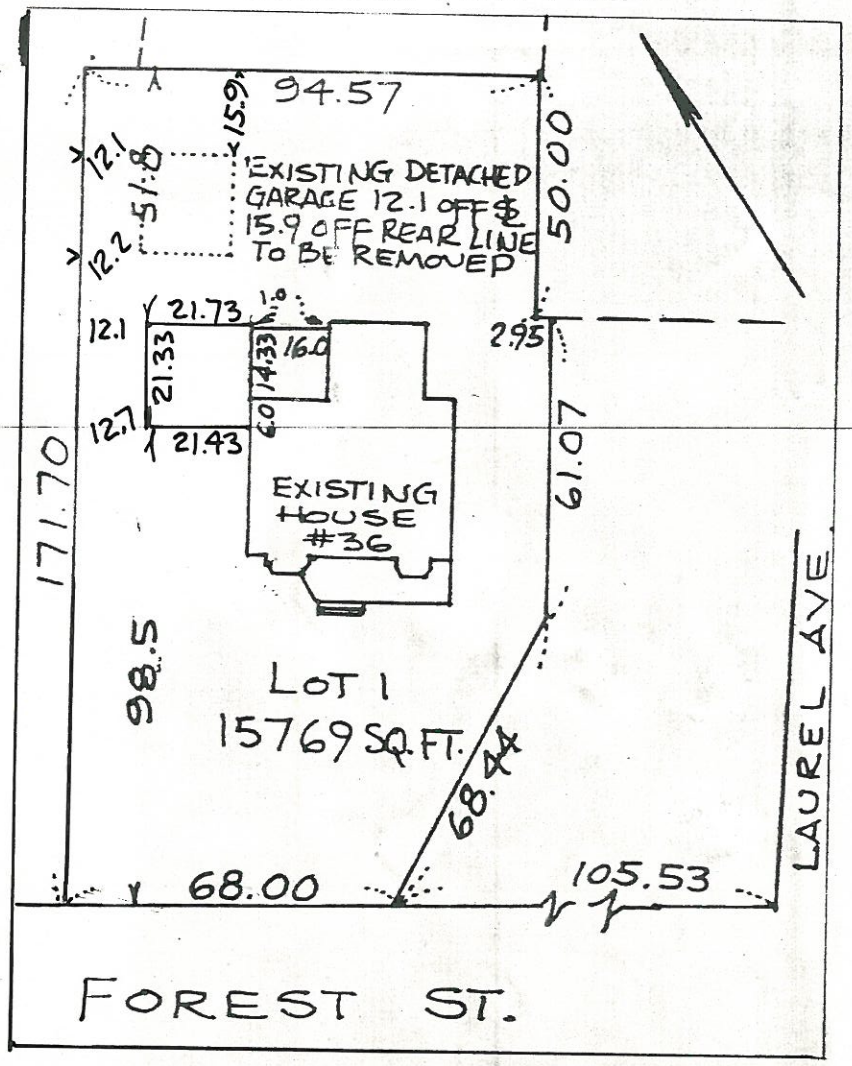
CERTIFIED PLOT PLAN



JULY 8, 1985

Cheney Engineering Co., Inc.
32 Junction Street
Needham, Mass. 02192

Sidney R. Vaughan

COMMONWEALTH OF MASSACHUSETTS
SIDNEY R. VAUGHAN
No. 11011
REGISTERED
PROFESSIONAL LAND SURVEYOR

Rec'd 8/12/85 MAM

October 1, 1985

36 Forest Street
Wellesley Hills, MA 02181

Mr. Stephen S. Porter, Chairman
Zoning Board of Appeals
Town Hall
Wellesley, MA 02181

Dear Mr. Porter:

This is a request for reconsideration of the decision of the Board of Zoning Appeals in Docket No. 85-47. In the Petition referenced by that docket number, we requested a variance from the zoning ordinance to allow construction of an attached garage in line with the detached garage presently on our property, leaving less than the required side-lot distance. The Zoning Authority denied the Petition and notified us by letter dated September 12, 1985.

In its denial, the Authority indicated that the difficulties now encountered by us were the consequence of a division of the lot on which our home is situated into two lots. The Authority noted that had this division not occurred, an attached garage conforming to the side-lot requirement could have been built.

We do not dispute these statements. Their relevance to our Petition, however, is questionable. The division of the lot on which the dwelling at 36 Forest Street is situated was accomplished by a prior owner of the house and lot, Anthony Corbosiero. The division into two lots and the construciton of a new home on the adjoining lot pre-date our purchase. Indeed, our neighbors, Mr. and Mrs. John Selover, purchased that property before we purchased our home and its current lot from Mr. and Mrs. Frank Albee, who purchased from Mr. Corbosiero. The objection to subdivision of the property propertly would have been addressed to Mr. Corbosiero. We certainly have no control over these events. The hardship we now face is real, and, given our neighbors' unwillingness to sell any land to increase our side-lot, all of our viable options for addressing this hardship require a zoning variance.

That the zoning Authority "frowns on subdivisions" such as Mr. Corbosiero's might lead to denial of future requests to subdivide land in similar fashion. It might even lead to a rebuke directed at those involved in Mr. Corbosiero's subdivision of the property at 36 Forest Street. But we fail to see its relevance to our petition. Indeed, it is ironic that the neighbors who objected to the Petition apparently based that objection on concern that the attached garage might impede future subdivision of their property into two lots, as had been done by Mr. Corbosiero with 36 Forest Street.

We hope that reconsideration of our petition without this misplaced concern about the prior division of our property will lead to approval of the Petition.

Sincerely,

Ronald A. Cass

Ronald A. Cass

Valerie Cass

Valerie Cass

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STEPHEN S. PORTER, Chairman
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235-0864

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

October 17, 1985

Mr. and Mrs. Ronald Cass
36 Forest St.
Wellesley, Ma. 02181

Dear Mr. and Mrs. Cass:

We have received your recent letter requesting reconsideration of the decision of the Board of Appeals (Case 85-47) concerning your property at 36 Forest Street.

Section XXIV-D E-5, a copy of which is enclosed, specifies the conditions necessary for reconsideration of a denial by the ZBA. Specific and material changes in the conditions upon which unfavorable action was based must exist, and the Planning Board must agree to this. The Planning Board had voted on August 6, 1985 to recommend denial of the variance, finding "no sufficient legal basis for granting the variance." William E. Polletta, Franklin P. Parker and I find that there are not specific and material changes in the conditions upon which unfavorable action was based.

Regarding our statement regarding the subdivision of properties in Wellesley, which tend to create lots with insufficient space for additions, we believe that land is increasingly being subdivided into lots with minimum lot area and setbacks. We want to go on record to current and future owners that variances cannot be granted to alleviate such problems. The home owner must be aware when property is purchased of the limitations on their property and the current zoning requirements.

This Authority failed to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw regarding your variance request. The Board might find a "hardship" if a person has suffered from changes in the bylaw which make his property non-conforming. As an example, if a house was built 15 feet from the side line when 15 foot sideyards were allowed and a subsequent zoning change required 20 foot sideyards, a "possible" hardship might exist to allow an addition 15 feet from the side line. In the case of your property, the problem of a tight lot was created by a subdivision of the property, not be a Zoning Bylaw change.

We're sorry that your plans have not worked out for you.

Sincerely,

Stephen S. Porter, Chairman