



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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85-75

Petition of Jane E. O'Brien and John J. Kelley III
9 Sessions Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, December 12, 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 JANE E. O'BRIEN and JOHN J. KELLEY III requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow a deck approximately 20'6" by 10'6" at 9 SESSIONS STREET with less than the required left side yard.

On November 22, 1985, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

The petitioners did not attend the hearing. No one was present favoring or opposing the request.

Statement of Facts

The property in question is located at 9 Sessions Street, containing 5,018 square feet of land. The existing dwelling is a non-conforming structure, coming to 10.51 feet from the left side line.

The petitioners, in August of 1984, constructed a deck approximately 20'6" by 10'6" at the rear of the dwelling, coming to 9.43 feet from the left side line. The deck was constructed without obtaining a building permit. A variance is now being requested to allow the existing deck to remain.

A Plot Plan was presented, drawn by Charles D. Thompson, Registered Land Surveyor, of Everett M. Brooks Co., dated November 8, 1985. Photos were also submitted.

The Planning Board, at its regular meeting of December 10, 1985, voted to recommend that the deck be allowed to encroach no further into the sideyard than the existing house.

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9 Sessions Street

Decision

This Authority has made a careful study of the evidence presented. The particular house in question in its location on the lot does not conform to the present Zoning Bylaws. The dwelling comes to 10.51 feet from the left side lot line.

This Board is disturbed that the petitioner constructed the deck without obtaining a building permit. The Board frowns upon such violations of the town regulations which were adopted for the protection of the community and the welfare of its citizens.

It is the opinion of this Authority that, because of the shape of the lot and the location 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. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, a variance is granted to allow a deck at the rear of the dwelling at 9 Sessions Street, said deck approximately 20'6" by 10'6", coming no closer to the left side line than the existing non-conforming dwelling, or 10.51 feet.

The petitioner is hereby ordered to remove the portion of the existing deck which is encroaching further than 10.51 feet into the left side yard and to complete this removal within 30 days of the date of this decision.

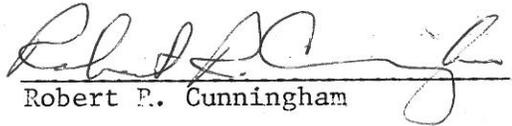
After the removal is completed and the deck conforms to the terms of this decision, a certified plot plan drawn by a Registered Land Surveyor must be presented to this Authority to be attached to this decision. The Building Inspector is then authorized to issue a permit for the deck upon his receipt and approval of a building application.

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.

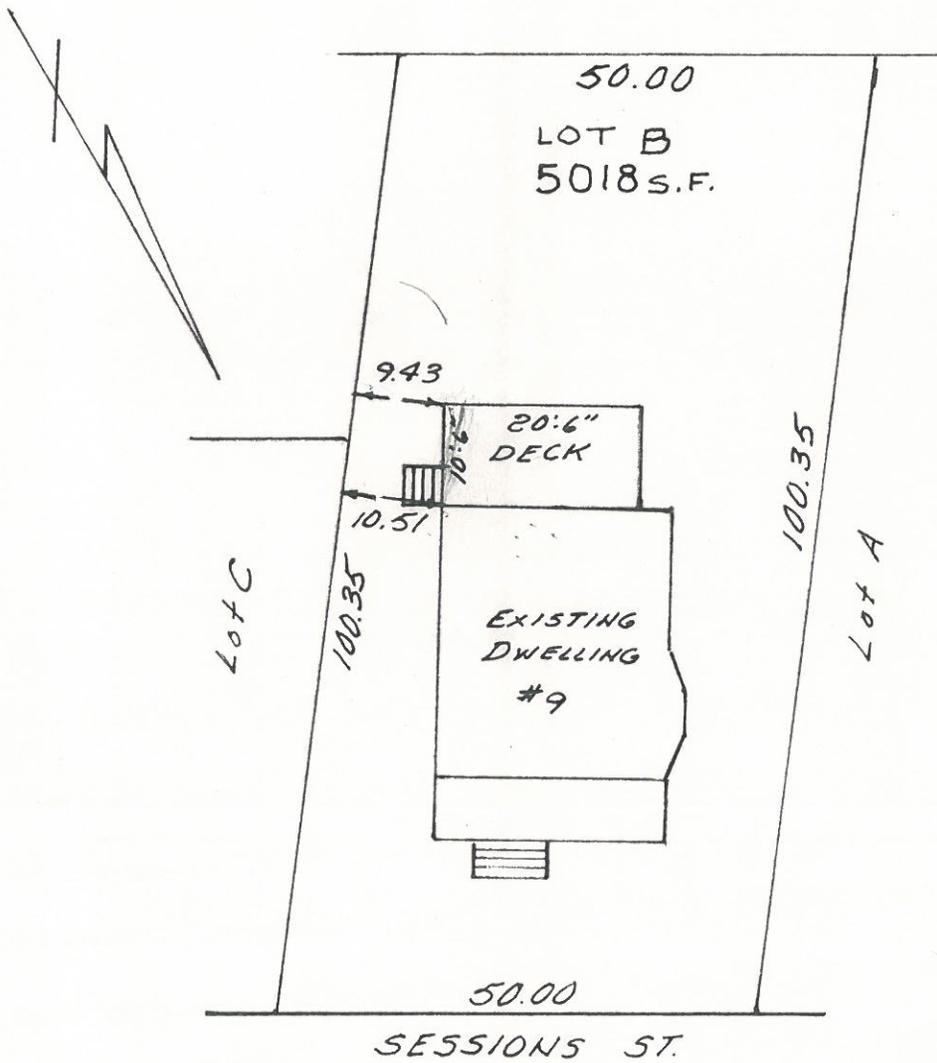
cc: Planning Board
 Inspector of Buildings

mam


 Stephen S. Porter, Chairman


 Robert E. Cunningham


 William E. Polletta



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Charles D. Thompson

PLAN OF LAND
 IN
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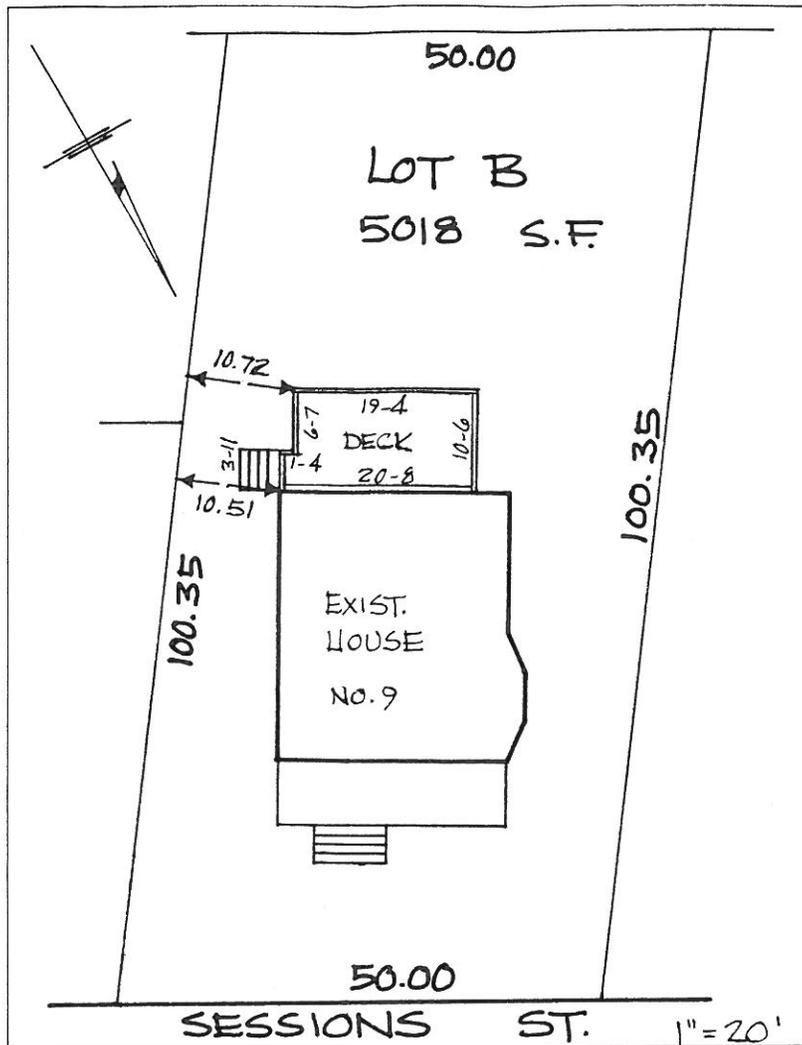
SCALE: 1 IN. = 20 FT.

NOV. 8, 1985

EVERETT M. BROOKS CO.
 NEWTONVILLE

LAND SURVEYORS
 MASS.

CERTIFIED PLOT PLAN



EVERETT M. BROOKS CO., INC.
259 WALNUT STREET
NEWTONVILLE, MASS. 02160

