



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman  
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ZBA 86-60

Petition of Philip M. & Judith M. Juliani  
5 Sylvester Terrace

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the Great Hall of the Town Hall (Conference Room E) at 525 Washington Street on Thursday, December 4, 1986 at 8 p.m. on the petition of PHILIP M. & JUDITH M. JULIANI 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-story addition at the rear of their non-conforming dwelling at 5 SYLVESTER TERRACE, said addition to be approximately 13 feet by 20 feet and to contain a family room on the first floor and a bedroom and bath on the second floor, leaving less than the required right side yard.

On November 13, 1986 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 were Philip and Judith Juliani and their abutter, Warren Himmelberger, 387 Linden Street. Mr. Juliani stated that they need more space and would like to maintain the existing lines of the house, which is not parallel to the lot line. Mr. Himmelberger showed old plans of the property and spoke in support of the variance request.

No others were present expressing favor or opposition to the request.

Statement of Facts

The property in question is located at 5 Sylvester Terrace, containing 11,581 square feet of land. A non-conforming dwelling exists on the lot with a right (southerly) side yard of 17.6 feet.

The petitioners are requesting a variance to allow an addition at the rear of their dwelling to contain a two-story addition approximately 13 feet by 20 feet, leaving a right side yard of 16 feet, and a deck approximately 10 feet by 20 feet, leaving a right side yard of 15 feet. The two-story addition would contain a family room on the first floor and a master bedroom with a bath on the second floor. The existing lines of the house would be extended but the house is not parallel to the property line.

A Plot Plan was presented, drawn by Carmelo Frazetti, Needham, Ma., Registered Land Surveyor, dated September 26, 1986. Construction drawings and photos were also submitted.

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The Planning Board, at its regular meeting of November 18, 1986, voted "to oppose the granting of the variance request on the basis that it represents a substantial bulk encroachment on the inadequate side yard. The Board indicated that it appears the addition could be relocated so that there is no further encroachment into the side yard".

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 17.6 feet from the right (southerly) lot line.

It is the opinion of this Authority that the proposed construction leaving a side yard of 15 feet for the deck or 16 feet for the two-story addition represents a substantial encroachment on the inadequate side yard and this Board fails to find a "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw to warrant the additions proposed. Therefore, the requested variance is hereby denied.

However, this Authority is of the opinion that a variance could be granted to allow an addition which would not extend any closer to the right (southerly) side line than the existing dwelling, or 17.6 feet. It is the unanimous decision that, because of the shape of the lot and the location of the dwelling on the lot, a literal enforcement of the provisions of Section XIX of the 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.

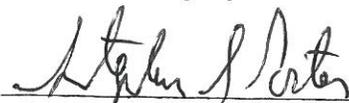
Therefore, a variance is granted to construct a two-story addition and a deck at 5 Sylvester Terrace similar to plans submitted but coming no closer than 17.6 feet from the right side line.

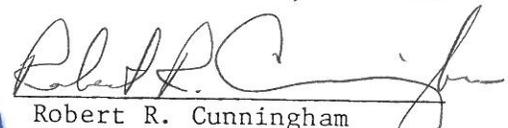
A new plot plan must be submitted to this Authority showing the proposed new location of the addition. The Inspector of Buildings is then authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

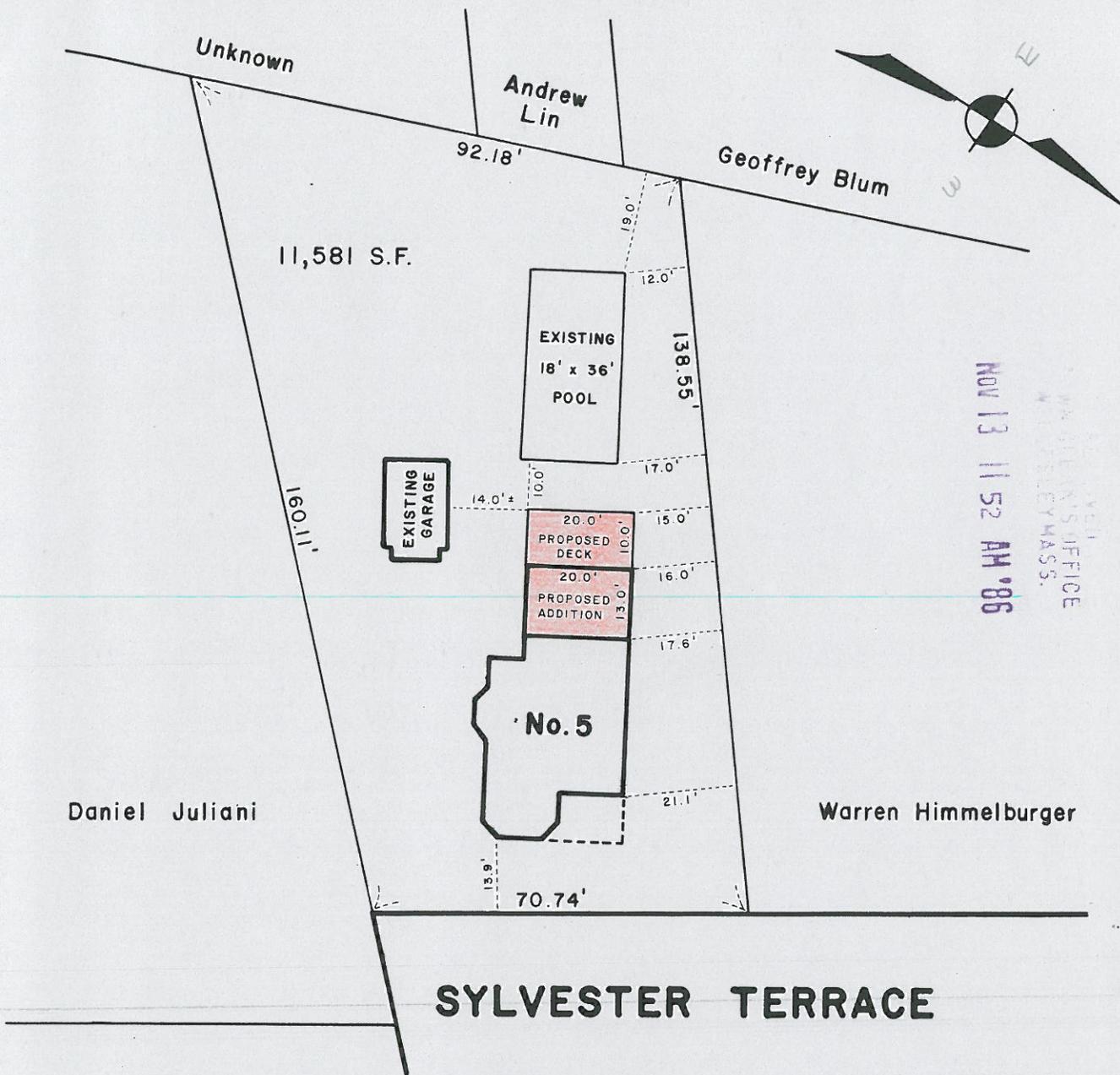
cc: Planning Board  
Inspector of Buildings  
mam

  
Stephen S. Porter, Chairman

  
Robert R. Cunningham

  
William E. Polletta

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WELLESLEY MASS.  
DEC 29 1 00 PM '86



NOV 13 11 52 AM '86  
 MASSACHUSETTS  
 REGISTERED PROFESSIONAL LAND SURVEYOR

PLAN OF LAND  
 IN  
**WELLESLEY, MASSACHUSETTS**  
 AT

**No. 5 SYLVESTER TERRACE**  
 OWNED BY  
 Philip and Judith Juliani

Sept. 26, 1986

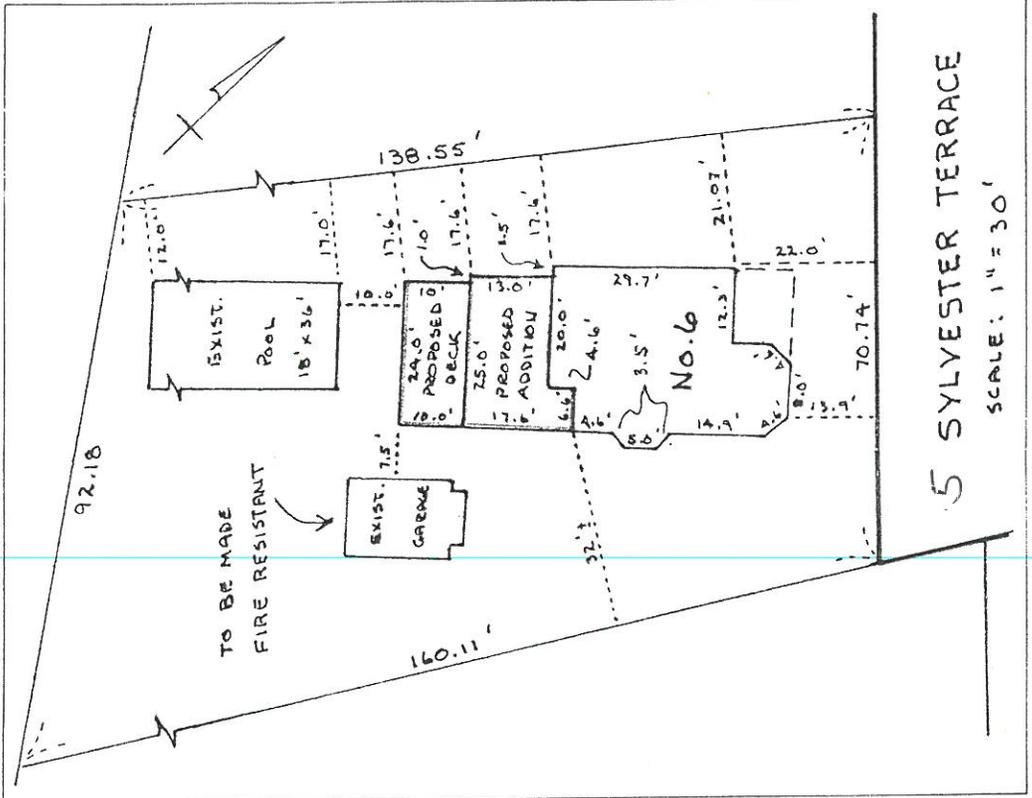
Carmelo Frazetti  
 45 Howland Street



Scale: 1" = 30'

Land Surveyor  
 Needham, Ma. 02192

CERTIFIED PLOT PLAN



5 SYLVESTER TERRACE

SCALE: 1" = 30'

