



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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Executive Secretary
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431-1019

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SUMNER H. BABCOCK

ZBA 86-68

Petition of Daniel R. & Michelle Ainge
10 Ordway Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, December 4, 1986 at 8 p.m. in the Great Hall of the Town Hall at 525 Washington Street, Wellesley on the petition of DANIEL R. & MICHELLE AINGE requesting a variance from the terms of Section XIX and XVII and pursuant to Section XXIV-D of the Zoning Bylaw to allow the conversion of part of an attached non-conforming three-car garage at 10 ORDWAY ROAD into a guest bedroom, bath and playroom, leaving less than the required right (northerly) 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 was Tim Sorrell, contractor, who also owns property abutting 10 Ordway Road. He introduced Michelle Ainge. Mr. Sorrell stated that the house was built in 1929. The garage was originally a legal detached structure. Mr. Sorrell purchased the house and renovated it over a year ago and attached the garage to the house by a breezeway. Mr. and Mrs. Ainge purchased the property from Mr. Sorrell. Mr. Sorrell explained the plans, stated that there would be no change to the front of the garage, but that interior partitions would be added to create a playroom, bedroom and bath. The bedroom would be used for guests.

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

Statement of Facts

The property in question is located at 10 Ordway Road, containing 15,870 square feet of land. A dwelling exists on the property with a three-car garage attached by a breezeway to the house. The garage is non-conforming leaving a right (northerly) side yard of 7.5 feet.

The dwelling was constructed in 1930. A two-car detached masonry garage was constructed in 1930. A masonry addition was made to the garage in 1951. In 1984 additions were made to the house and the house was joined to the garage by a breezeway. Mr. and Mrs. Ainge subsequently purchased the property.

The petitioners are requesting a variance to allow a portion of the existing non-conforming three-car garage to be converted into a playroom, guest bedroom and bath.

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10 Ordway Road

A two-car garage would remain and the exterior would remain substantially the same as it now appears. The proposal would constitute a change in use of a non-conforming structure and require a variance from the terms of Section XIX and Section XVII of the Zoning Bylaw.

A Plot Plan was presented, drawn by Joseph R. Sullivan, Registered Land Surveyor, of McCarthy and Sullivan Engineering, Inc., Natick, dated November 5, 1986. Construction sketches and photos were also submitted.

The Planning Board, at its regular meeting of November 18, 1986, voted to "oppose the variance request on the basis that it represents a proposed change of use to a non-conforming building that is not authorized and would represent a substantial encroachment on the side lot line".

Decision

This Authority has made a careful study of the evidence presented. The petitioners are requesting a variance from the terms of Section XIX and Section XVII of the Zoning Bylaws to convert a portion of the non-conforming garage to living space. This Board must make a finding under Section XVII that such change or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

The garage was originally constructed as a separate structure, a detached garage, which was allowed at that time to be constructed in its location on the lot as an auxiliary building. An addition to the garage was made in 1951 which also met the legal requirements of the Zoning Bylaws. The garage or auxiliary building was connected to the house in 1984. The petitioners now wish to convert the building constructed and allowed as an auxiliary building to a use which is not permitted by the current Zoning Bylaws. If a request had been made at any time since the garage was constructed to change the use of the building, the change of use would not have been allowed.

This Board is of the opinion that the conversion of a portion of the garage to living space would be substantially more detrimental than the existing non-conforming use to the neighborhood.

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

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- 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."

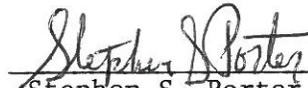
This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw.

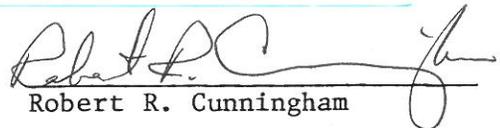
Therefore, it is the unanimous decision of this Authority that this request for a variance be denied and this petition is dismissed.

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
Inspector of Buildings

mam


Stephen S. Porter, Chairman


Robert R. Cunningham


William E. Polletta

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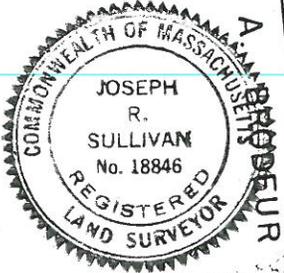
PETER G. & MARSHA W. BOS

LOT 78
15,870 SQ. FT.

empty building lot

TIMOTHY A. & MARIANNE K. SORRELL

JOHN A. BRIDGEMAN



JOSEPH R. SULLIVAN
REG. LAND SURVEYOR

WELLESLEY
BOARD OF APPEALS.

DATE: _____

141.67'

21.5'

1.2'
6.9'
14.4'
26.6'

EXISTING
HOUSE
NO. 10

41.3'

97.06'

ORDWAY ROAD

37.7'

PORCH

BREEZEWAY

5.8'

5.0'

13.2'

4.6'

1.0'

26.6'

37.7'

15.2'

24.9'

15.2'

14.4'

1.2'

6.9'

14.4'

26.6'

41.3'

97.06'

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L=14.01'
R=92.13'

PLAN OF LAND IN WELLESLEY, MASS.

OWNED BY: DANIEL R. & MICHELLE T. AINGE

SCALE: 1"=20'

NOVEMBER 5, 1986

PLAN BY: MACCARTHY & SULLIVAN ENGINEERING, INC.
81 SPEEN STREET NATICK, MASS.