



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
~~235-1664~~
431-1019

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

ZBA 87-37

Petition of Brian G. Rothwell
35 Fairbanks Road

RECEIVED OFFICE
OF THE CLERK'S MASS.
WELLESLEY
MAY 19 9 50 AM '87

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 30, 1987 at 8 p.m. in the Great Hall (Conference Room E) of the Town Hall at 525 Washington Street, Wellesley, on the petition of BRIAN G. ROTHWELL requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow the construction of a two-story addition approximately 47 feet by 24 feet at his dwelling at 35 FAIRBANKS AVENUE at the corner of Walnut Street, said addition to include a family room and a two-car garage on the first floor and a bedroom on the second floor. The existing garage would be demolished. Said addition would leave less than the required setback from Fairbanks Avenue.

On April 10, 1987 the petitioner requested 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 Brian Rothwell, who stated that a previous variance had been granted in 1984 to the Brudevolds for a similar addition. The present request would be one foot closer to the street line and 3½ feet closer to the side line.

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

Statement of Facts

The property in question is located at 35 Fairbanks Avenue at the corner of Walnut Street, containing 14,020 square feet of land. A dwelling exists with a setback of 39 feet from Fairbanks Avenue, the closest to Fairbanks Avenue of three houses in a row. The dwelling at 39 Fairbanks Avenue has a setback of 47 feet and 45 Fairbanks Avenue has a setback of 40 feet. Section XIXB of the Zoning Bylaw requires that 39 feet be the minimum setback in this circumstance.

A variance was granted in 1980 (ZBA 80-22) to allow a deck at the rear of the dwelling coming no closer than 10 feet to the westerly lot line.

A variance was granted to Finn & Deborah Brudevold in 1984 (ZBA 84-9) to allow an addition to their dwelling leaving a setback of 35.5 feet from Fairbanks Avenue. The Brudevolds did not construct the addition and subsequently sold the house to the Rothwells.

Petition of Brian G. Rothwell
35 Fairbanks Road

The petitioner is now requesting a variance to allow the construction of an addition leaving a setback of 34.5 feet from Fairbanks Avenue. The addition would be at the southerly end of the house. The existing garage would be demolished, the first floor addition is approximately 47 ft. by 24 ft. and would contain a family room and two-car garage. The second floor would contain a bedroom over the family room.

A Plot Plan was presented, drawn by John J. Regan, Registered Land Surveyor, of Apex Associates, Newton Highlands, dated March 28, 1987. Construction sketches were presented as were photos.

The Planning Board voted on May 5, 1987 to offer the comment that "it does not believe that all of the prerequisite conditions for the granting of a variance are present. However, if favorable consideration is given, the Planning Board recommends that the front facade of the addition should be parallel to the front facade of the existing building."

Decision

This Authority has made a careful study of the evidence presented. The particular house in question has a setback of 39 feet from Fairbanks Avenue. The proposed addition would come to 34.5 feet from Fairbanks Avenue at the closest point.

This Authority granted a variance in 1984 to Finn & Deborah Brudevold to construct an addition with a setback of 35.5 feet from Fairbanks Avenue, the requirement in this instance being a setback of 39 feet.

This Board is of the opinion that the present request is excessive in terms of the encroachment to Fairbanks Avenue, but is willing to grant a variance to allow the same setback as that which was granted to the Brudevolds in 1984. It is the unanimous decision of this Authority that, because of the shape of 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 Board that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, a variance is hereby granted to construct a two-story addition at 35 Fairbanks Avenue, said addition to come no closer than 35.5 feet from Fairbanks Avenue. A new Plot Plan must be submitted to this Board indicating the addition as allowed. The Building Inspector 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.

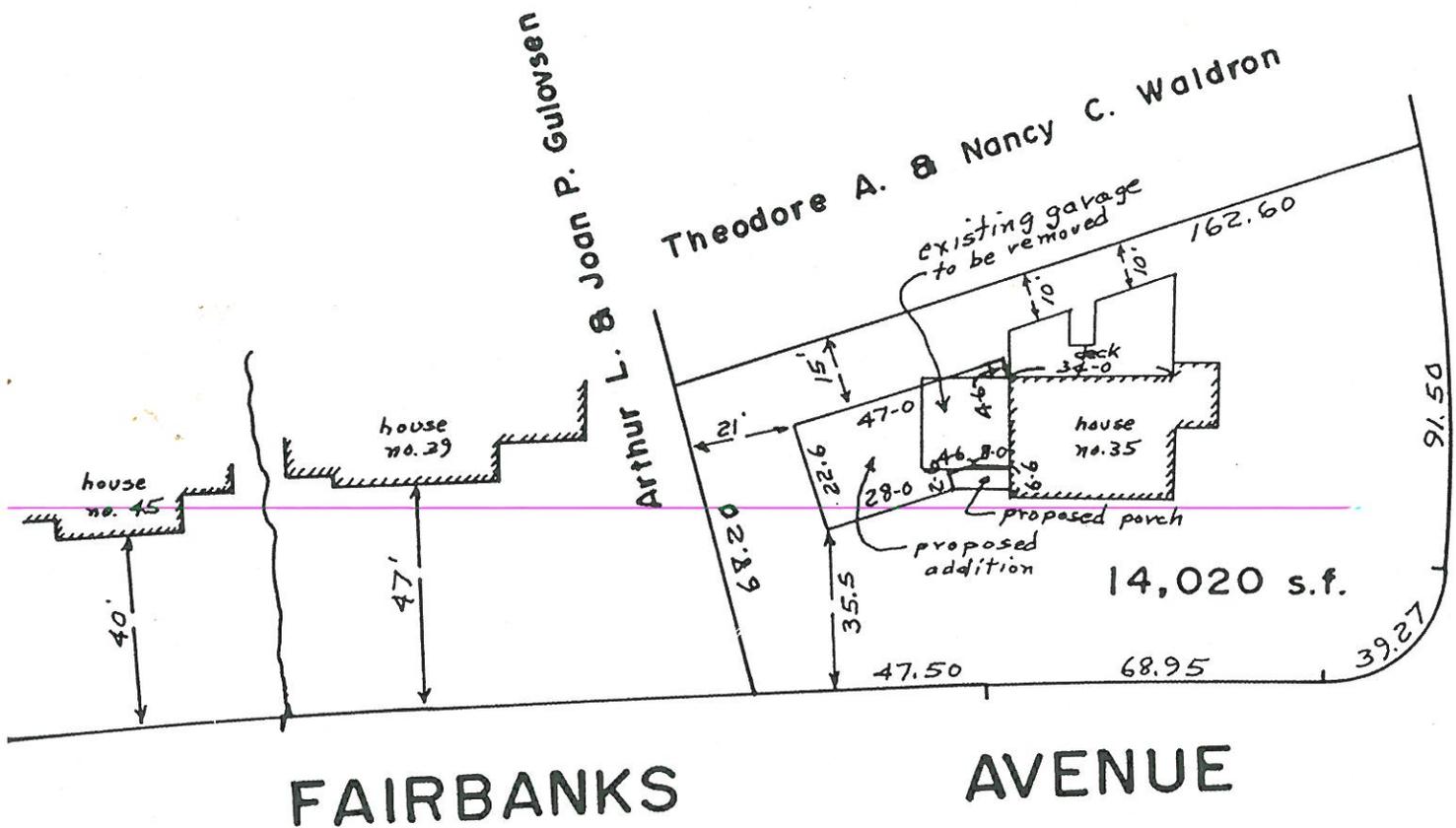
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE OF
FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

MAY 19 9 56 AM '87
TOWN CLERK'S OFFICE
RECEIVED

Stephen S. Porter
Stephen S. Porter, Chairman

John A. Donovan, Jr.
John A. Donovan, Jr.

Robert R. Cunningham
Robert R. Cunningham



PLAN OF LAND
IN
WELLESLEY MASS.

TO ACCOMPANY THE PETITION OF
BRIAN & MARIE D. ROTHWELL
35 FAIRBANKS AVENUE
WELLESLEY



John J. Regan

*submitted
6/18/87*

SCALE 1 IN = 40 FT
JOHN J. REGAN
NEWTON HIGHLANDS

Revised 6-4-87
MARCH 28, 1987
LAND SURVEYOR
MASS.