



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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SUMNER H. BABCOCK

ZBA 87-66
Petition of Claudia D. Earl
134 Dearborn Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 27, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B), of the Town Hall, 525 Washington Street, Wellesley on the petition of CLAUDIA D. EARL requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow construction of additions to her non-conforming dwelling at 134 DEARBORN STREET including the following: 1) a two-story addition of approximately 29.0 feet by 16.5 feet to include a living room, study, two bedrooms and one bathroom leaving less than the required front setback and less than the required left side yard; 2) a new porch of approximately 8 feet by 7.75 feet leaving less than the required rear setback; 3) an existing porch on the right rear side of the dwelling of approximately 8.2 feet by 10.2 feet to be allowed.

On August 3, 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 was Paul Maggi, architect for Claudia D. Earl who was also present. Mr. Maggi stated that Mrs. Earl's lot is oddly configured and is in a wetland district so that the only place an addition could be constructed would be in the front. He said that the new porch would be a further encroachment to the rear lot line, but that Mrs. Earl would be willing to remove the existing deck which is non-conforming. He also stated that Mrs. Earl would be willing to pay for the cost of a sewer line.

Mr. Paul Aldrich, 134R Dearborn Street, stated that his property surrounds that of Mrs. Earl and that both Mrs. Earl's shed and septic system were presently on his land. He added that at this time Mrs. Earl's home was only 6 feet from one lot line and 3 feet from another and he had no desire to see her come any closer.

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

Statement of Facts

The property in question is located at 134 Dearborn Street in a Single Residence District containing 5,802 square feet of land. A non-conforming dwelling exists on the property with a coverage of 20 percent of the lot, a front setback of 29.5 feet, a right side yard of 3.20 to the lot line, a left side yard of 7.46 to the left lot line and an existing deck that appears to be on the lot line at its left front corner.

The petitioner proposes: 1) a two story addition of approximately 29.0 feet by 16.5 feet leaving less than the required front setback and less than the required left side yard; 2) a new porch of approximately 8 feet by 7.75 feet leaving less than the

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rear setback and 3) an existing porch on the right rear side of the dwelling of approximately 8.2 feet by 10.2 feet to be allowed.

A Plot Plan was presented, drawn by Verne Porter, Registered Land Surveyor, dated July 10, 1987. Construction plans, unsigned, dated January 21, 1987, consisting of Floor Plans (A-1) and Elevations and Sections (A-2) were also submitted.

The Planning Board at its Regular Meeting of August 11, 1987 voted to oppose the request on the basis that

"the lot is non-conforming due to its lot area of approximately 5,800 square feet, where 15,000 square feet of lot area is required in this district. The lot has no frontage on an adequate way. The addition will increase the footprint of the house by approximately 100% resulting in a lot coverage of approximately 18%. This section of Dearborn Street is unaccepted and substandard. The setback variance request will represent a substantial encroachment on the required side and front yards.

The Planning Board believes the granting of this variance request would set a precedent to encourage other requests for similar substantial projects on lots which have less than the required lot size on streets which lack proper utilities, drainage and construction."

Decision

This Authority has made a careful study of the evidence presented. It is the opinion of this Authority that to grant a variance in this case would be in gross violation of Section XIX-B as quoted from the Zoning Bylaw:

"There shall be provided for every building or structure hereafter erected or placed upon a lot at least the minimum frontage, minimum front yard width, minimum front yard depth (setback), minimum side yard width and minimum rear yard depth requirements herein-after set forth; and there shall be not more than one dwelling erected on any lot...

Table 1 is applicable to lots recorded or endorsed on or before January 24, 1985."

Variances may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D1 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."

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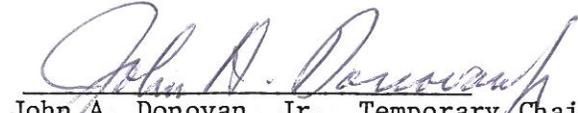
Petition of Claudia D. Earl
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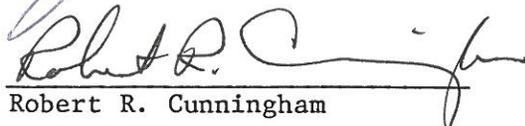
This Authority is of the opinion that desirable relief could not be granted without substantial detriment to the public good, "and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw," within the meaning of Section XIV-D of the Zoning Bylaw.

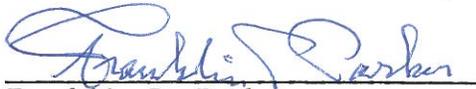
Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

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


John A. Donovan, Jr., Temporary Chairman


Robert R. Cunningham

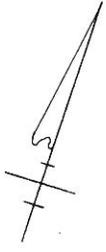

Franklin P. Parker

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LOT 6

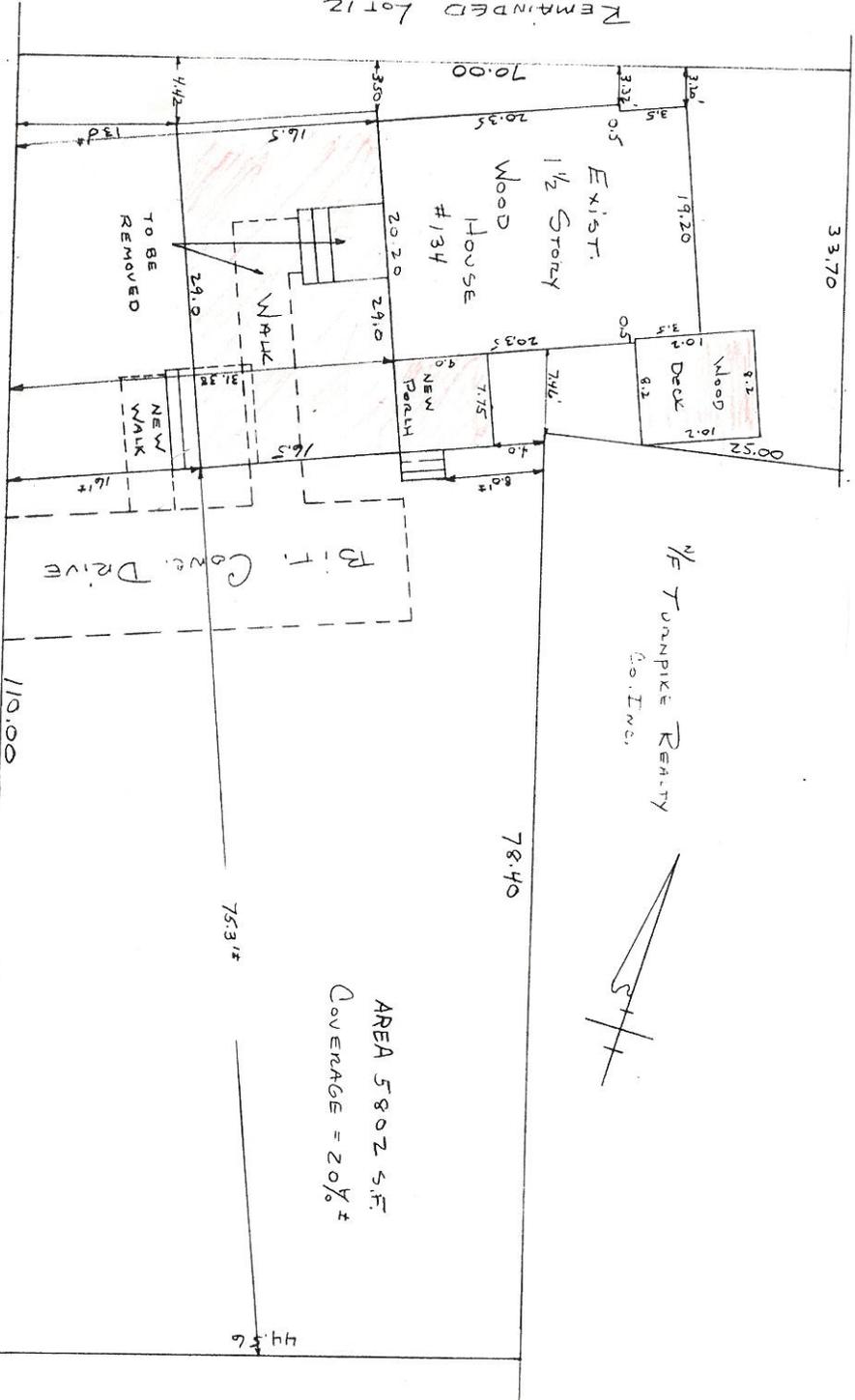
33.70

W/TUNPIKE REALTY
CO. INC.



78.40

REMAINDED LOT 12



AREA 5802 S.F.
COVERAGE = 20% ±

Lot 15

DEARBORN STREET

PLOT PLAN

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|---|--|---|---|
| SCALE: 1" = 20' FT. | | DATE: 7-18-87 | PLAN REFERENCE: BEING LOT 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 |
| DRAWN BY: RALPH HAMMATT, C.E. | | DATED: MAY 1987 | RECORDED IN: MAP 647 OF 1988 |
| REGISTERED IN: DEEDS DEPARTMENT BOOK 5986, PAGE 317 | | TOWN OF WELLESLEY, MASS. | |
| I HEREBY CERTIFY THAT THE BUILDING SHOWN ON THIS PLAN IS LOCATED ON THE GROUND AS SHOWN AND CONFORMS TO THE ZONING LAWS OF THE TOWN OF WELLESLEY. | | | |
| I CERTIFY THAT THIS LOCUS DOES NOT LIE WITHIN THE FLOOD HAZARD ZONE AS DELINEATED ON MAP T-134-D-100 COMMUNITY WELLESLEY | | 734 DEARBORN ST. WELLESLEY, MASS. | |
| THIS PLAN MADE FROM AN INSTRUMENT SURVEY. | | VTP ASSOCIATES NEWTON, MA 02159 332-8271 | |

