

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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1998 SEP - 10 A 8: 53

ZBA 98-74

Petition of Carleton F. and Susan C. Bryant, III  
4 Arden Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 20, 1998 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of CARLETON F. AND SUSAN C. BRYANT, III requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXV-D of the Zoning Bylaw to allow their 12 foot by 12 foot 4 inch deck to remain at their conforming dwelling at 4 ARDEN ROAD, in a Single Residence District. Said deck has less than the required left side yard setback, and was constructed without a building permit.

On August 3, 1998, the petitioners filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Carleton Bryant, who said that he was before the Board to rectify a past action. In 1989, they built a small deck, enclosed an existing porch, and added a patio. Building permits were issued for the deck and the porch enclosure. A year later, they built a deck without a building permit where the patio was located.

Mr. Bryant said that the house was built in the 1920's. When the Sudbury Aqueduct was constructed, the State took a triangular piece of the property on the left side, and later transferred it to the Town. They have a right-of-way over the land to use as their driveway.

Mr. Bryant added that the deck is invisible from any point of view as it is heavily screened by trees and shrubs. They are in the process of selling the house, and would like to keep the deck, but must legitimize its existence.

The Board asked if the building permits had been issued to Mr. Bryant or to a prior owner. Mr. Bryant said they had been issued to him.

The Board was of the opinion that the taking for the Sudbury Aqueduct was not material to the case, nor was the right-of-way in question. The Board was of the further opinion that the mitigating factor was the absence of abutting residential property on the left side of the Bryant lot.

The Board decided to allow the deck to remain, with the condition that the petitioners apply for a building permit, and that a copy of the permit issued by the Building Department be submitted to the Board of Appeals.

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4 Arden Road

Statement of Facts

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The subject property is located at 4 Arden Road, in a Single Residence District, on a 15,551 square foot lot, and would be conforming without the presence of the 12 foot by 12 foot 4 inch deck, which has a minimum left side yard clearance of 12 feet.

The petitioners are requesting a variance to allow the 12 foot by 12 foot 4 inch porch, which has a minimum left side yard clearance of 12 feet, and was built without a building permit, to remain.

A Plot Plan dated July 27, 1998, drawn by John J. Caffrey, Registered Land Surveyor; a plan showing the enclosed porch, original deck and subject deck, with permit numbers for the first two projects, dated July 29, 1998, drawn by C.F. Bryant; Floor Plan and Elevation dated July 29, 1998, drawn by C.F. Bryant; and photographs were submitted. A copy of the ANR Plan, dated July 1, 1970, signed by the Wellesley Planning Board on July 27, 1970, was also submitted.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling does not conform to the current Zoning Bylaw due to the existence of the illegal deck which is 12 feet from the left side lot line.

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 petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted, as voted unanimously by this Authority at the Public Hearing, to allow the 12 foot by 12 foot 4 inch deck, with a minimum left side yard clearance of 12 feet, to remain, subject to the condition that within 30 days of the date of grant of this decision, the petitioners shall submit a copy of a building permit issued by the Inspector of Buildings for said deck.

The Inspector of Buildings is hereby authorized to issue a permit legitimizing the construction of the subject deck upon receipt and approval of a building application and any construction plans he may require.

If the rights authorized by this variance are not exercised within one year of the date of grant of said 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.

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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  
edg

*Kendall P. Bates*

Kendall P. Bates, Acting Chairman

*William E. Polletta*

William E. Polletta

*Robert A. Bastille*

Robert A. Bastille

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1998 AUG -3 A 11: 20

JOHN J. CAFFREY  
REGISTERED PROFESSIONAL LAND SURVEYOR  
No. 12345  
WELLESLEY, MA

Plan Ref:  
Book 4678  
Page 421

Lot Coverage 12.9%

Scale: 1"=40'  
J.J.Caffrey, RLS

July 27, 1998  
Weston, Mass.

PLOT PLAN OF LAND  
IN  
WELLESLEY, MA

