



BOARD OF APPEAL

RICHARD O. ALDRICH
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of W. Warner Lang

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:30 p.m. on August 17, 1972, on the petition of W. Warner Lang, requesting a special exception from the terms of Section XVIII, Area Regulations, of the Zoning By-law, which will allow the construction of a dwelling on Lot 4A, Radcliffe Road, at the rear of 108 Brook Street, which contains less than the required 20,000 square feet. Said request was made under the provisions of Section XVIII of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On July 24, 1972, the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

The following persons spoke in opposition to the granting of the request: Peter J. Brine, 114 Brook Street, Robert H. Trayler, 61 Radcliffe Road, Elizabeth Schradieck, 64 Radcliffe Road and Robert A. Smith 70 Radcliffe. All felt that if the substandard lot were built upon, it would prove detrimental to their properties.

The Planning Board stated in its report that in its opinion, that the construction of a dwelling on the lot involved would be incompatible with previous development in adjoining areas.

Statement of Facts

The lot involved is located within a Single-residence District, requiring a minimum lot area of 20,000 square feet. It contains 12,078 square feet and is located at the rear of the house lot owned by the petitioner at 108 Brook Street.

The petitioner seeks a special exception or variance which will permit the construction of a dwelling on the lot involved, which contains less than the required area. In 1951 the area involved was rezoned from a minimum lot area requirement of 15,000 to 20,000 square feet.

The petitioner explained that he purchased the house lot at 108 Brook Street in 1947, and as an addition to his property, he acquired the lot involved in 1952. He now finds that he is physically unable to maintain the lot involved in proper condition owing to the fact that it is no longer possible to burn leaves, tree branches, etc., and he has been unable to secure any one to take care of it. He further explained that his professional situation is limited and finds it difficult to continue to pay the taxes and upkeep expenses on the lot. There are three lots within the immediate neighborhood, he stated, which contain less than the required 20,000 square feet, and in his opinion, the construction of a dwelling on the lot involved would not prove detrimental to the neighborhood.

Section XVIII of the Zoning By-law provides that the Board of Appeal may make special exceptions to said section when it shall find that,

- "(1) Adjoining areas have been previously generally developed by the construction of houses on lots generally smaller than is prescribed by this section and the standard of the neighborhood so established does not reasonably require a subdivision of the applicant's land into lots as large as hereby prescribed:
- "(2) Lots as large as is hereby prescribed would not be readily salable or economically or advantageously used for building purposes because of the proximity of the land to through ways bearing heavy traffic or to a railroad or because of other physical conditions or characteristics affecting it but not affecting generally the zoning district in which the land lies.

It is the opinion of this Board that although there are three houses in the neighborhood on lots smaller than the required area, none are on lots as small as the lot involved and the remainder of the neighborhood has been developed by lots as large and in excess of the required area, the lot involved, therefore, if developed, would prove detrimental to the neighborhood. The purpose of the Zoning By-law is to prevent over-crowding and to permit the construction of a dwelling on the lot, would, in the opinion of this Board, create over-crowding in the neighborhood.

The Board has also considered the request under the provisions of Chapter 40A, Section 15, of the General Laws, but does not find facts which would justify or permit relief under this section.

The Board is not authorized to grant a variance under said section unless it finds that denial of the variance would involve an undue hardship to the appellant. It cannot make such a finding in this case, as the lot was not a legal building lot when the petitioner purchased it in 1952, and he must have been aware that it could not be built upon.

It is, therefore, the unanimous opinion of this Board that a special exception cannot be granted under the provisions of Section XVIII A of the Zoning By-law, nor can a variance be granted under Chapter 40A, Section 15, of the General Laws.

Accordingly, the petition is dismissed and the request for a special exception or variance is denied.

Richard O. Aldrich
 Richard O. Aldrich
Dana T. Lowell
 Dana T. Lowell
F. Lester Fraser
 F. Lester Fraser

Filed with Town Clerk _____

RECEIVED
 TOWN CLERK
 22 MAY 1952

PLAN OF LAND
IN

WELLESLEY — MASS.

Owned By
W WARNER LANG

Scale 40 feet to an inch June 27, 1972.
SURVEYOR Alex Crucioi
57 Winthrop Rd.
Chelsea, Mass.



Alexander Crucioi

Planning Board Approval Not Required
Under The Sub-Division Control Law

Wellesley Planning Board

