



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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83-30

Petition of Paul E. Collins

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, June 23, 1983, on the petition of Paul E. Collins, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow a two-story dwelling approximately 24 feet by 32 feet to be constructed at 56 Beechwood Road (formerly Lots A & D), leaving less than the required left sideyard. Said request is pursuant to Section XXIV-D of the Zoning Bylaw.

On June 2, 1983, the petitioner filed 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 Paul Collins, who stated that he attempted to purchase the property in 1980 but the title did not clear until 1982. The previous owner, Henry Ouellet, owned the property since 1943. Mr. Collins stated that he assumed 15 foot sidelines were in effect until he approached the Building Department for a building permit. Sidelines of 20 feet are now required by the Zoning Bylaw. There was considerable discussion about the history of the property. Mr. Porter requesting that Mr. Collins contact his attorney to summarize the title and give the information to the Board.

Carrie A. Gailhouse, formerly Carrie A. Gonzalez-Rivas, 60 Beechwood Road, expressed concern for trees that exist near the lot line. Thad and Barbara Behm, 54 Beechwood Road, object to the variance request.

Statement of Facts

The property in question is located at 56 Beechwood Road, formerly known as Lots A and D, containing 10,770 square feet of land. The lot was endorsed by the Planning Board on June 9, 1980 (PBC 80-11). Paul Collins purchased the lot from Henry G. Ouellet in 1982. The plan is recorded with Norfolk Registry of Deeds as Plan No. 549 of 1980 in Book 5753, Page 545. A deed of George A. Ouellet dated May 22, 1943, recorded in Book 2451, Page 351 and deed of John E. Lafferty et ux dated December 4, 1979 is recorded with said deeds in Book 5753, Page 545.

A Plot Plan was submitted drawn by Robert Drake, Registered Land Surveyor, of Drake Associates Inc., Framingham, Ma., dated May 16, 1983. Construction drawings of the proposed dwelling were also submitted, as was an elevation sketch.

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The petitioner proposes to construct a dwelling 24 feet by 32 feet, leaving a left side yard of 17 feet at the left rear.

Mr. Collins did not respond to Mr. Porter's request to have an attorney summarize the title and give the information to the Board. There is a question as to the owner of the property in 1940, when sideyard requirements of the Zoning Bylaw were changed from 10 feet to 20 feet.

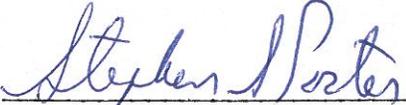
The Planning Board, in a letter of June 17, 1983, stated the following: "The Planning Board is firmly opposed to the granting of this variance request. The lot which conforms to all zoning requirements was endorsed by the Planning Board (PBC-80-11) only three years ago. The lot is of a standard width and has a regular shape. There is absolutely no justification that we can see for the issuance of a variance."

Decision

This Authority has made a careful study of the evidence submitted.

From information available to this Board, tax records from the Assessors Office, etc., the inference is that the lot was under common ownership in 1940. If it could be shown that this lot was not in common ownership prior to 1940, there would be reason for the Board to consider hardship, because the lack of building space would have been caused by a change in the Town Bylaw after the lot existed as an entity. If, on the other hand, the lot became a separate entity (not in common ownership) after 1940, the hardship of lack of building space would have been caused by the parties' subdividing ownership of the land and not by the change in the Zoning Bylaw. Therefore, it is imperative that the Board be convinced that this lot existed in its present state, not in common ownership, prior to 1940.

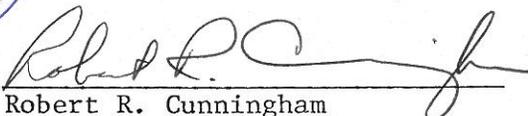
It is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.



Stephen S. Porter, Chairman



John A. Donovan, Jr.



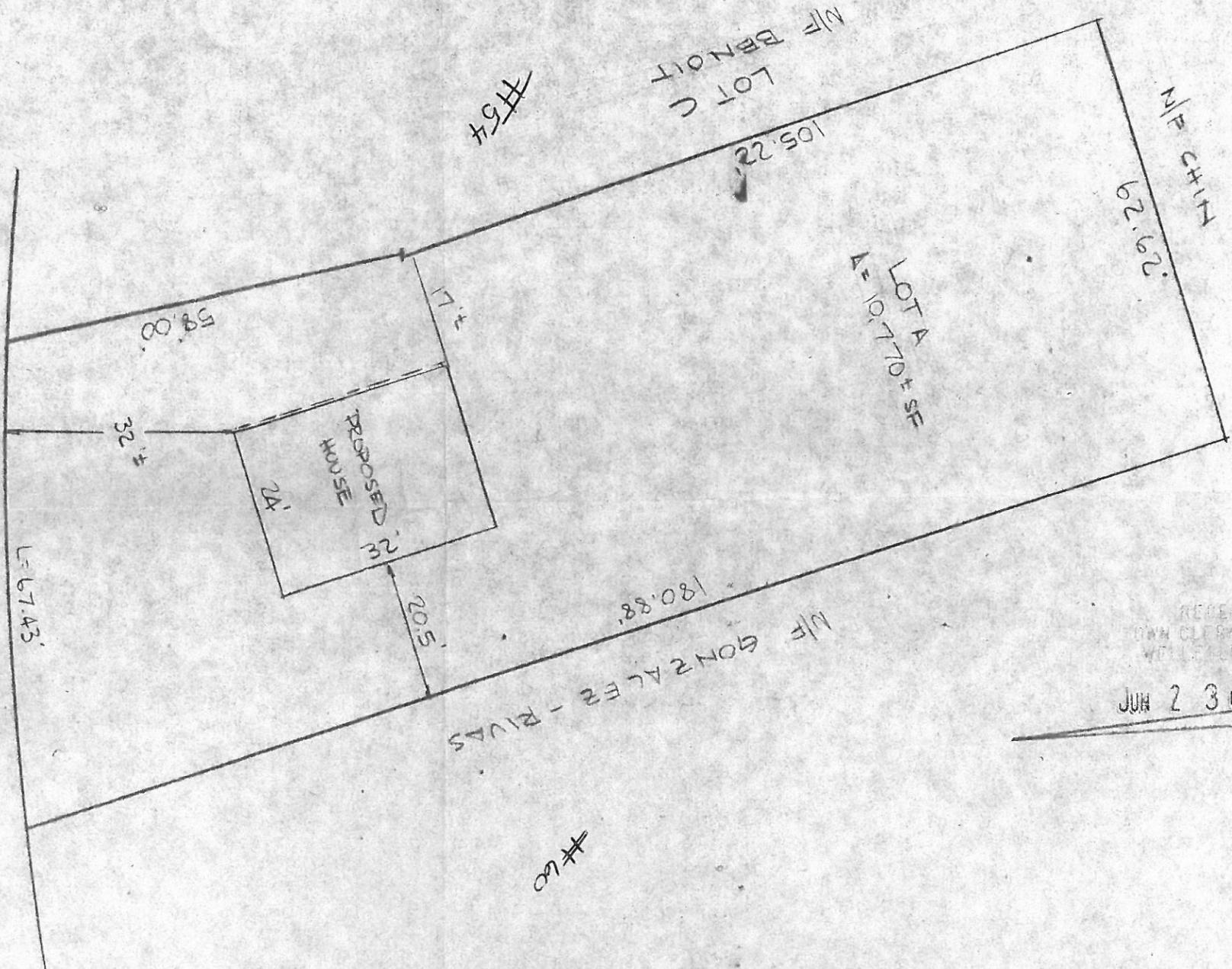
Robert R. Cunningham

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WATERBURY, MASS.

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JUN 23 48 PM '83



BEECHWOOD ROAD

PLOT PLAN

WELLESLEY, MASS.

SCALE 1" = 20' MAY 16, 1983

SURVEYED BY
DRAKE ASSOCIATES INC.

CIVIL ENGINEERS LAND SURVEYORS
770 GROVE STREET FRAMINGHAM, MASS.

REFER TO ASSESSORS MAP BLOCK - LOT(S)



Robert B. Drake