

ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

OCT 29 9 22 AM '87

JOHN A. DONOVAN, JR., Chairman  
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Executive Secretary  
Telephone  
431-1019WILLIAM E. POLLETTA  
FRANKLIN P. PARKER  
SUMNER H. BABCOCKZBA 87-82  
Petition of Paula Rozantes  
38 Livermore Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, October 15, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, pursuant to the request of PAULA ROZANTES for a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow the addition to her non-conforming dwelling at 38 LIVERMORE ROAD of a single story family room approximately 18.4 feet by 19.7 feet, attached to the rear of the dwelling, leaving less than the required left side yard.

On September 25, 1987 the petitioner filed an application for a hearing before this authority and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case was Peter Rozantes, husband of Paula Rozantes, who stated that he had begun construction, not realizing that the house was non-conforming and that he would be in violation of the setback from the left side line. Trees provide a screen on the left side and the neighbors were not opposed. The family room was positioned on the left side in order to connect to the kitchen rather than on the right side where it would connect to the living room and dining room. The proposed addition would not constitute a further encroachment as it would be farther from the left side line than the dwelling.

Sam Stivers, 96 Abbott Road, questioned if the construction consisting of a poured foundation visible from his home, was the construction for which the variance was being requested. Mr. Rozantes said that it was.

Dan Caspar, 90 Abbott Road, wished to know the bases for granting a variance as he wanted to make sure the variance would not be granted due to "financial" hardship. He also questioned whether more than one setback was involved to which Mr. Rozantes responded that only the left side line was at issue. Mr. Rozantes said that he had taken a gamble in beginning construction on the family room without a Building Permit. Mr. Donovan, Chairman of the Board, said that the Zoning Board does not countenance that type of behavior.

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

#### Statement of Facts

The non-conforming dwelling is located at 38 Livermore Road on a 23,134 square foot lot with a left side setback of 9.71 feet in a Single Residence District.

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A Plot Plan dated September 9, 1987, prepared by George N. Giunta, Registered Land Surveyor, and construction plans dated September 3, 1987, including Floor Plan (A-1), Elevations (A-2), Foundation Plan (F-1), Sections (D-1), Floor Framing (S-1) and Roof Framing (S-2), prepared by Peter Rozantes were submitted.

The petitioner requests a variance to construct a single story family room approximately 18.4 feet by 19.7 feet attached to the rear of the dwelling, leaving less than the required left side yard. The present setback of the existing house is 9.71 feet at the left front corner and 10.47 feet at the left rear corner. The addition would be 11.77 feet from the left side line, representing less of an encroachment than the present dwelling.

The Planning Board, at its regular meeting on September 29, 1987, voted to oppose the request, stating that as there do not appear to be any unusual site characteristics which would forbid the owners from meeting the side yard requirements, the family room could be constructed so as to meet the zoning requirements.

Decision

This Authority has made a carefully study of the facts presented. The existing house is non-conforming to the present Zoning Bylaw as noted in the Statement of Facts.

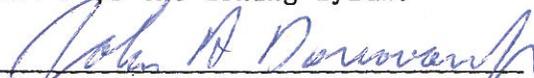
It is the opinion of this Authority that the proposed construction of a family room does not provide further encroachment to the left side yard clearance, and in fact is less of an encroachment than the existing dwelling. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw, and that a literal enforcement of said Zoning Bylaw would involve a substantial hardship to the petitioner.

Therefore, the requested variance is granted subject to construction in conformance with the plot plan and construction plans listed above.

The Inspector of Buildings is hereby 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.

  
John A. Donovan, Jr., Chairman

  
Robert R. Cunningham

  
Kendall P. Bates

cc: Planning Board  
Inspector of Buildings

