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ZONING BOARD OF APPEALS
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ZBA 87-83

Petition of Daniel Sullivan
141 Forest Street

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 DANIEL SULLIVAN requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which would allow the addition to his dwelling at 141 FOREST STREET of a single flue chimney approximately 58 inches by 24 inches, extending from the right side of the dwelling, leaving less than the required right 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 Daniel Sullivan who was accompanied by his wife and his contractor, Sean Sullivan. Mr. Sullivan stated that remodeling of their kitchen/family room had been done a year ago, for which a Building Permit had been obtained. They had intended to put a fireplace in the center of the room when they discovered that the flue was inadequate. It was decided to reposition the chimney to the exterior right side of the house. Mr. Sean Sullivan obtained a Building Permit and began construction. When Mr. Sullivan returned to the Building Department to schedule an inspection, it was discovered that the chimney would encroach on the right side yard, as the house is exactly 20 feet from the right side line, and that a variance would be needed to complete the work.

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

Statement of Facts

The dwelling is located at 141 Forest Street on a 17,877 square foot lot in a Single Residence District. The dwelling is presenting conforming with exactly 20 feet clearance to the right side line.

The petitioner requests a variance to allow the construction of a single flue chimney approximately 58 inches by 24 inches, extending from the right side of the dwelling, leaving a right side minimum clearance of 18 feet. Construction had been started, authorized by a Building Permit, when it was discovered that the issuance of the Permit was in error and that a variance would be required due to the encroachment of the chimney two feet onto the right side yard.

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A Plot Plan dated August 4, 1986 and revised September 23, 1987, prepared by Carmelo Frazetti, Registered Land Surveyor, and undated construction plans and elevations, prepared by Sean Sullivan, were submitted.

The Planning Board, at its regular meeting on September 29, 1987, voted to offer no objection to the variance request.

Decision

This Authority has made a careful study of the evidence presented. The subject dwelling conforms to the present Zoning Bylaws. It is the opinion of this Authority that the encroachment of the proposed addition of the chimney is not severe enough to be disallowed and that desirable relief may be granted without substantially derogating from the purpose or intent of the Zoning Bylaw.

Therefore, the requested variance is granted to allow construction of a single flue chimney approximately 58 inches by 24 inches on the right side of the dwelling, leaving a right side setback of 18 feet, in accordance with the Plot Plan and construction drawings as submitted.

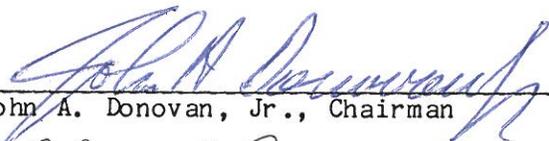
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

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.

cc: Planning Board
Inspector of Buildings

edg


John A. Donovan, Jr., Chairman


Robert R. Cunningham


Kendall P. Bates