



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman  
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DEC 3 1 53 PM '87

ZBA 87-85  
Petition of Kevin and Dorothy Cullinan  
53 Kirkland Circle

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, November 19, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of KEVIN AND DOROTHY CULLINAN requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow the removal of an existing porch and the addition to their non-conforming dwelling at 53 Kirkland Circle of a family room and porch approximately 17 feet by 32 feet at the rear of the dwelling, leaving less than the required right side yard, said property being located in a Single Residence District.

On November 2, 1987, the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Kevin Cullinan who was accompanied by his wife, Dorothy. Mr. Cullinan presented a new rear elevation drawing to the Board, showing an extension of the porch roof to the edge of the porch, but not extending beyond the house.

The Board questioned Mr. Cullinan as to whether the porch could be relocated to avoid the necessity of a variance. Mr. Cullinan said that the addition is sited on the side of a hill which slopes dramatically. Were the addition to be moved to the center of the lot, it would be almost three stories due to the topography of the lot which is unique to his property.

Mr. Cullinan said that the abutter on the right side had expressed no opposition. No others were present expressing favor or opposition to the request.

#### Statement of Facts

The non-conforming dwelling is located at 53 Kirkland Circle in a Single Residence District on a 10,015 square foot lot with a minimum right side yard of 10.92 feet and a minimum left side yard of 21.19 feet.

The petitioners have requested a variance for the removal of an existing porch and the addition of a family room and porch approximately 17 feet by 32 feet at the rear of the dwelling leaving less than the required right side yard, but not coming closer to the lot line than the existing dwelling.

A Plot Plan, dated August 22, 1987, drawn by Everett H. Perry, Registered Land Surveyor, construction plans drawn by Thomas Kesler McLaughlin, Jr., Architect, dated June 11, 1986 and revised May 12, 1987 and September 15, 1987 consisting of a

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First Floor Plan (A2), Basement Floor Plan (A3) and Elevation Plans (A4-5), as well as photographs, were submitted.

The Planning Board, in a letter dated November 12, 1987, voted to oppose the variance as they felt there were other locations for the addition which would comply with the zoning requirements.

Decision

This Authority has made a careful study of the evidence presented. The subject house does not conform to the Zoning Bylaws as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that the proposed addition conforms to the present lines of the house and, in fact, is two feet farther from the right side line than the existing structure.

It is the opinion of this Authority that because of the topography 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 petitioner. 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.

Therefore, the requested variance is granted to remove an existing porch and construct a family room and porch, said addition being approximately 17 feet by 32 feet as shown on the Plot Plan by Everett H. Perry, Registered Land Surveyor, dated August 22, 1987, coming no closer than 12.92 to the right side lot line.

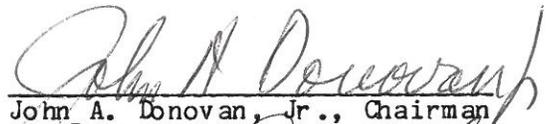
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

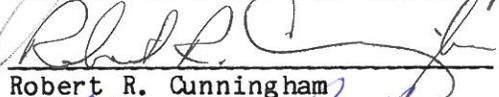
If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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

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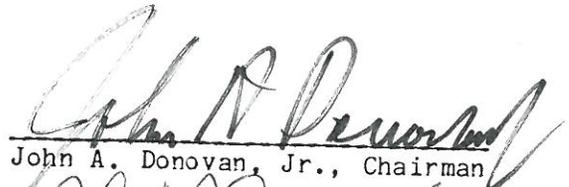
Addendum

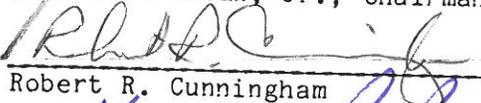
It is the opinion of the Board of Appeals that at the Public Hearing of said petition on November 19, 1987, that the porch overhang in question was allowable as it would provide no further encroachment on the right side lot line. Due to the inaccuracy of the Plot Plan dated August 22, 1987, drawn by Everett H. Perry, Registered Land Surveyor, the overhang was not depicted although said overhang was shown in the construction plans dated June 11, 1986, revised May 12, 1987 and September 15, 1987, drawn By Thomas Kesler McLaughlin, Jr.

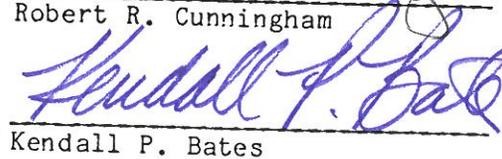
A revised Plot Plan, dated March 18, 1988, drawn by Everett H. Perry, Registered Land Surveyor, shows the proposed porch approximately 11.08 feet by 12 feet with a 2 foot overhang, said structure coming no closer than 10.92 feet from the right side lot line.

It is the further opinion of this Board that the proposed porch and rain overhang is consistent with the intent and purpose of the variance decision granted on December 3, 1987 and therefore, said porch and overhang, as shown on the revised Plot Plan dated March 18, 1988, drawn by Everett H. Perry, Registered Land Surveyor, is allowed.

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.

  
John A. Donovan, Jr., Chairman

  
Robert R. Cunningham

  
Kendall P. Bates

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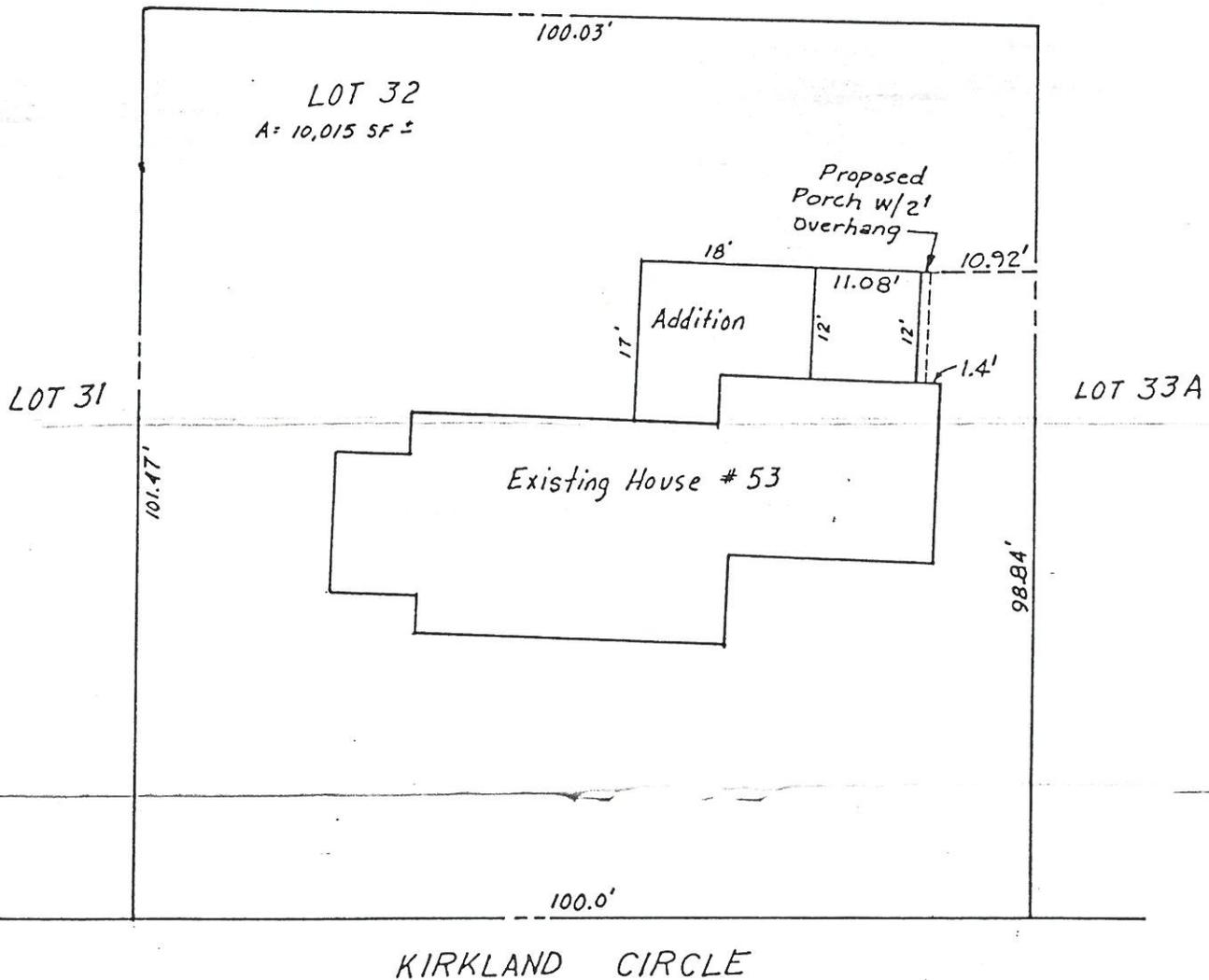


*Everett H. Perry*

# PLOT PLAN

E. H. PERRY & ASSOCIATES  
25 HARVARD STREET  
WORCESTER, MASS. 01609

3/18/88



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RECORDED  
PLANNING & ZONING DEPARTMENT  
CITY OF WORCESTER, MASS.