TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 87-96
Petition of Miranda Marvin
72 Dover Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, December 17, 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 MIRANDA MARVIN, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow construction to her non-conforming dwellig at 72 DOVER ROAD, in a Single Residence District, of an addition approximately 19 feet by 20.96 feet, consisting of a library and extensio of kitchen and bath at the rear of the dwelling, leaving less than the required left side yard.

On November 30, 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 Charles Fox, Ms. Marvin's architect. Ms. Marvin was also present. Mr. Fox explained that to locate the addition farther to the right would place it closer to Fuller Brook, would require removal of two major trees rather than one, and would compromise the architectural integrity of the home. The proposed addition is an extension of a previously existing non-conforming use, and is not a further encroachment onto the left side yard.

When questioned by the Board regarding the conditions imposed by the Wetlands Protection Committee in its Negative Determination of Applicability, Mr. Fox explained that the site of the proposed addition was above a 4 foot retaining wall above Fuller Brook. If, in order to bring cement to the site for the foundation it was found that fill would be required to create an access ramp over the stone wall, a haybale barrier would have to be placed between the ramp and Fuller Brook to prevent siltation of the brook. Mr. Fox did not think this situation would occur.

Miranda Marvin presented a letter from Leo, J. Dunn, III, 68 Dover Road, in favor of the request. No others were present expressing favor or opposition.

Statement of Facts

The non-conforming dwelling is located at 72 Dover Road, in a Single Residence District, on a 8,400 square foot lot with a minimum left side yard of 5.8 feet. The proposed addition would be approximately 90 feet from Fuller Brook in the Buffer Zone. No part of the project is located on the bank or in the 100-year floodplain.

The petitioner requests a variance for an addition approximately 19 feet by 20.96 feet, as described above, at the rear of the dwelling, leaving a minimum left side yard of 9.59 feet.

A Plot Plan, dated October 8, 1987, drawn by George N. Giunta, Registered Land Surveyor, construction plans, dated October 27, 1987, drawn by Charles Fox, and photographs of the existing dwelling were submitted.

At its meeting on November 16, 1987, the Wetlands Protection Committee voted to issue a Negative Determination of Applicability with conditions for the project at 72 Dover Road.

The Planning Board, at its regular meeting on December 8, 1987, voted to oppose the granting of the variance as it appeared there were alternative 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 is non-conforming in regard to the present Zoning Bylaw as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that the proposed one-story addition conforms to the present lines of the house and does not alter the relationship of the house to the left side lot line. It is the further opinion of this Authority that, because of the location of the house on the lot and its relationship to Fuller Brook, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and 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 construct a one-story addition at 72 Dover Road, subject to construction in accordance with the Plot Plan and construction plans as submitted, said addition coming no closer than 9.59 feet from the left side line, and subject to the following conditions:

1. If fill is brought to the site, it shall be removed and disposed of properly or stabilized to the Wetlands Protection Committee's satisfaction in an expeditious manner after the completion of construction.

2. The property line between 72 Dover Road and the Fuller Brook Parkland shall be marked in the field to serve as the limit of the work. Heavy equipment shall not enter the Fuller Brook Parkland.

3. If fill is brought to the site for the purpose of creating an access ramp over the stone wall, a haybale barrier shall be placed between the fill and Fuller Brook. Siltation of the brook shall be prevented.

4. The applicant shall notify the Wetlands Protection Committee of the date on which construction will start.

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.

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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.

Robert R. Cunningham

Kendall P. Bates

William E. Polletta

cc: Planning Board
Inspector of Buildings

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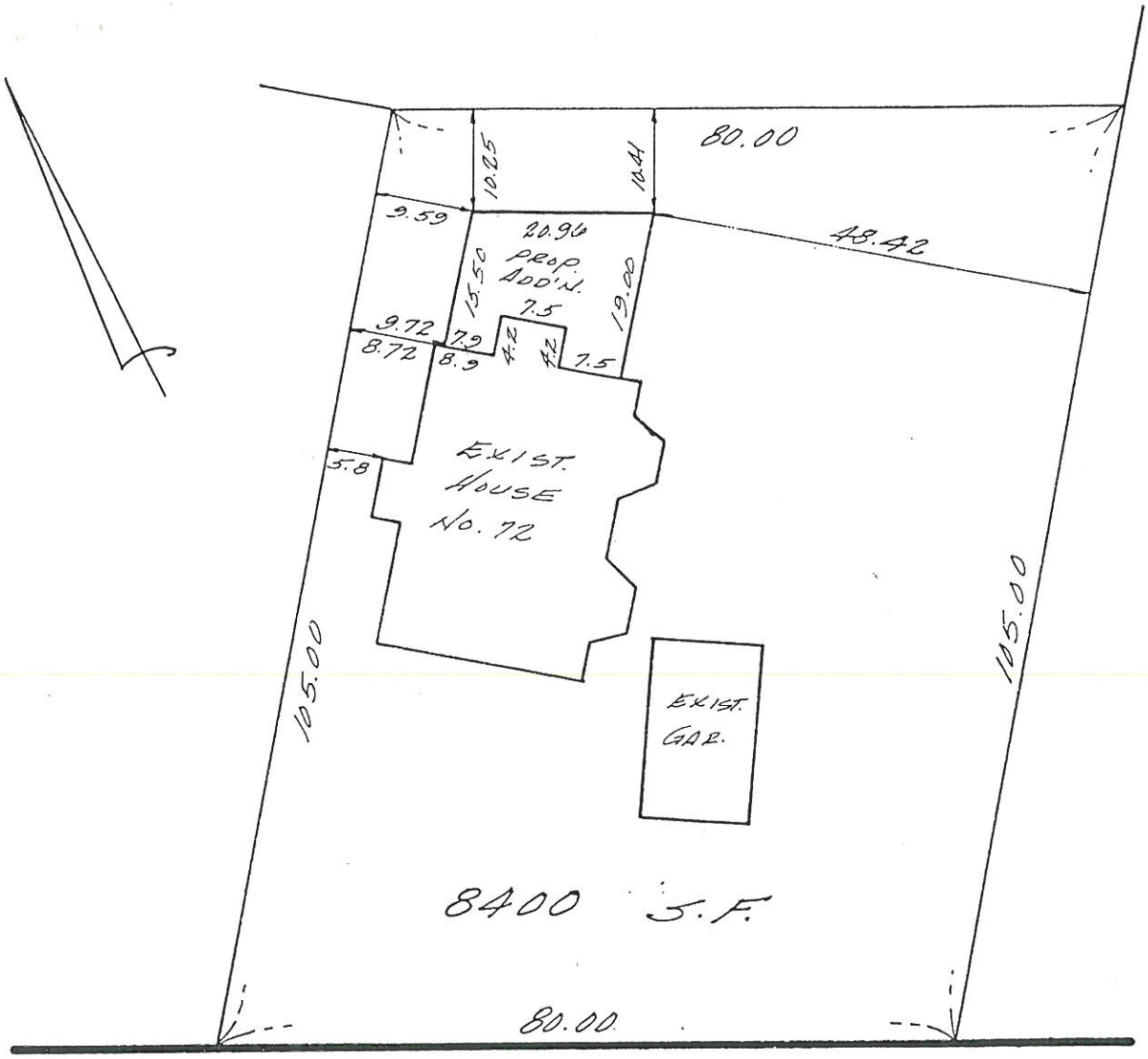

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PLOT PLAN OF LAND
IN
WELLESLEY —— MASS.

OCT. 8, 1987 SCALE 1"=20'

NEEDHAM SURVEY ASSOCIATES
76 NEHOIDEN ST.
NEEDHAM, MASS.

COMMONWEALTH OF MASSACHUSETTS
GEORGE N. GIUNTA
No. 27011
REGISTERED LAND SURVEYOR