

TOWN OF WELLESLEY



MASSACHUSETTS

JOHN L. HAYDEN
GARRETT S. HOAG
DANA T. LOWELL

BOARD OF APPEAL

KATHARINE E. TOY, CLERK
TELEPHONE
CE. 5-1664

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Petition of Windsor Corporation

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the first floor of the Intermediate Building at 324 Washington Street at 8:00 p.m. on August 4, 1960 on the petition of Windsor Corporation requesting a variance permitting it to use the premises at 325 Washington Street as a three-family dwelling as provided under Chapter 40A, Section 15, of the General Laws. The petitioner further requested a special exception from the terms of Section 9-C of the Zoning By-law which will permit the erection of a stairway on the side of the building involved with a side yard less than the required twenty feet.

Salvatore DeFazio, Jr., President of the Windsor Corporation spoke in behalf of the petition.

J. Haller Ramsay, attorney, represented the petitioner at the hearing.

A letter was received from Jeannette and Frederic A. Stanwood, 323 Washington Street, abutting property owners, stating that they would not protest the petition providing the location of the proposed stairway is changed to the other side of the house facing the Post Office building.

The Planning Board opposed the granting of the request in its report.

Statement of Facts

The property involved is located within a General Residence District requiring a lot area of not less than 10,000 square feet. A building in said district may be altered into a two family but not into a three-family house. It is non-conforming as the lot contains only 9,844 square feet in an area where lots containing at least 10,000 square feet are required. The building on the premises is a frame single dwelling approximately eighty years old, containing fifteen rooms, five on each of the three floors.

The petitioner purchased the property in May, 1958 for investment. It was rented for some time as a single residence but has now been idle for more than a year. The petitioner now proposes to convert it into a three-family house with one five room apartment on each of the three floors. Access would be provided to the two upper floor apartments by two new outside stairways, one in the rear and one on the easterly side which would extend the present easterly side line of the house and would not encroach nearer than that line now is from the easterly side line of the lot.

It was alleged at the hearing that the dwelling involved cannot be maintained with a fair financial return as either a one or a two-family dwelling, uses regularly permitted in a General Residence District and it was further alleged that the property is surrounded on two sides by business zoned property and on the rear by the railroad tracks. For these reasons, the petitioner claims the proposed use of the property should not prove detrimental to the neighborhood and that severe hardship will result if the requested permission

is not granted.

Decision

The Board is familiar with the premises involved as the petitioner has made two previous requests for variances which would have allowed the property to be used for non-conforming uses. On both of these occasions this Board denied the requests. It was unable to find that the criteria set forth in paragraph (3), Section 15, Chapter 40A of the G. L. had been satisfied. The Board then found that the conditions upon ^{which} the petitioner relied affected not only the parcel or building which was the subject of the petition but the whole district in which the property lies. Paragraph 3 of Section 15 under which this proceeding is brought, provides that this Board may grant variances from the terms of the applicable Zoning By-law, "where, owing to conditions especially affecting such parcel or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship," (emphasis supplied). The conditions here relied on by the petitioner are not peculiar to his parcel. They do affect "generally the zoning district in which it is located." Thus we must deny the petition for if the conditions relied on affect the whole zoning district, we may not consider the other conditions precedent to our granting relief. However, if the petition did not fail on the condition above referred to, it would fail for want of hardship within the meaning of paragraph 3. We do not believe that one who buys a property located in a zoning district and pays more for it than can be supported by the uses permitted in the district can claim his losses as a "hardship" as a basis for a variance.

Accordingly, the requested permit is denied and the petition dismissed.

John L. Hayden

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Garrett S. Hoag

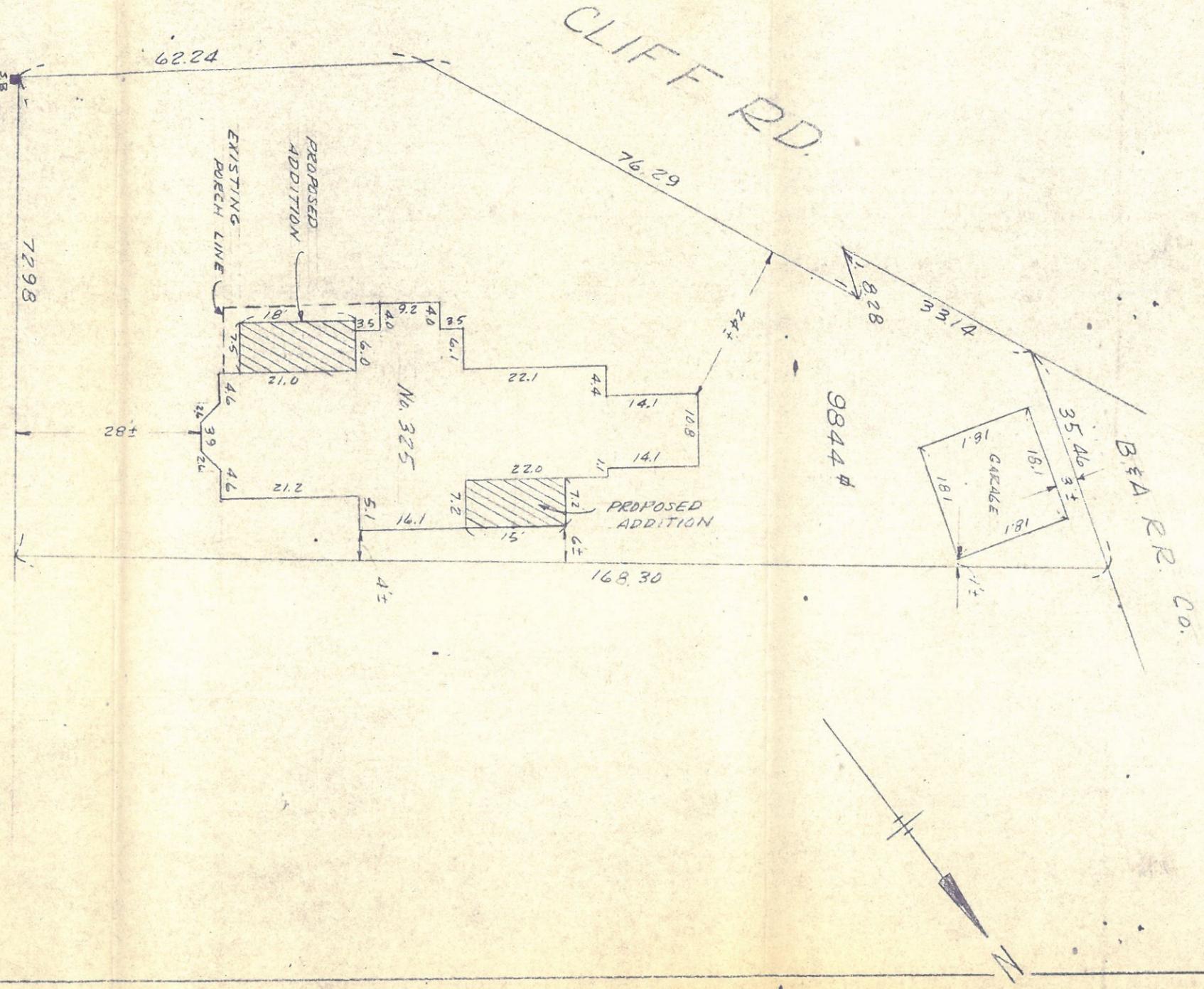
 Garrett S. Hoag

Dana T. Lowell

 Dana T. Lowell

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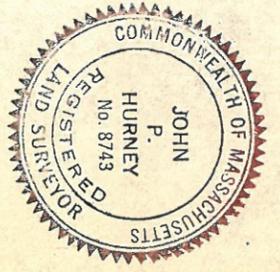


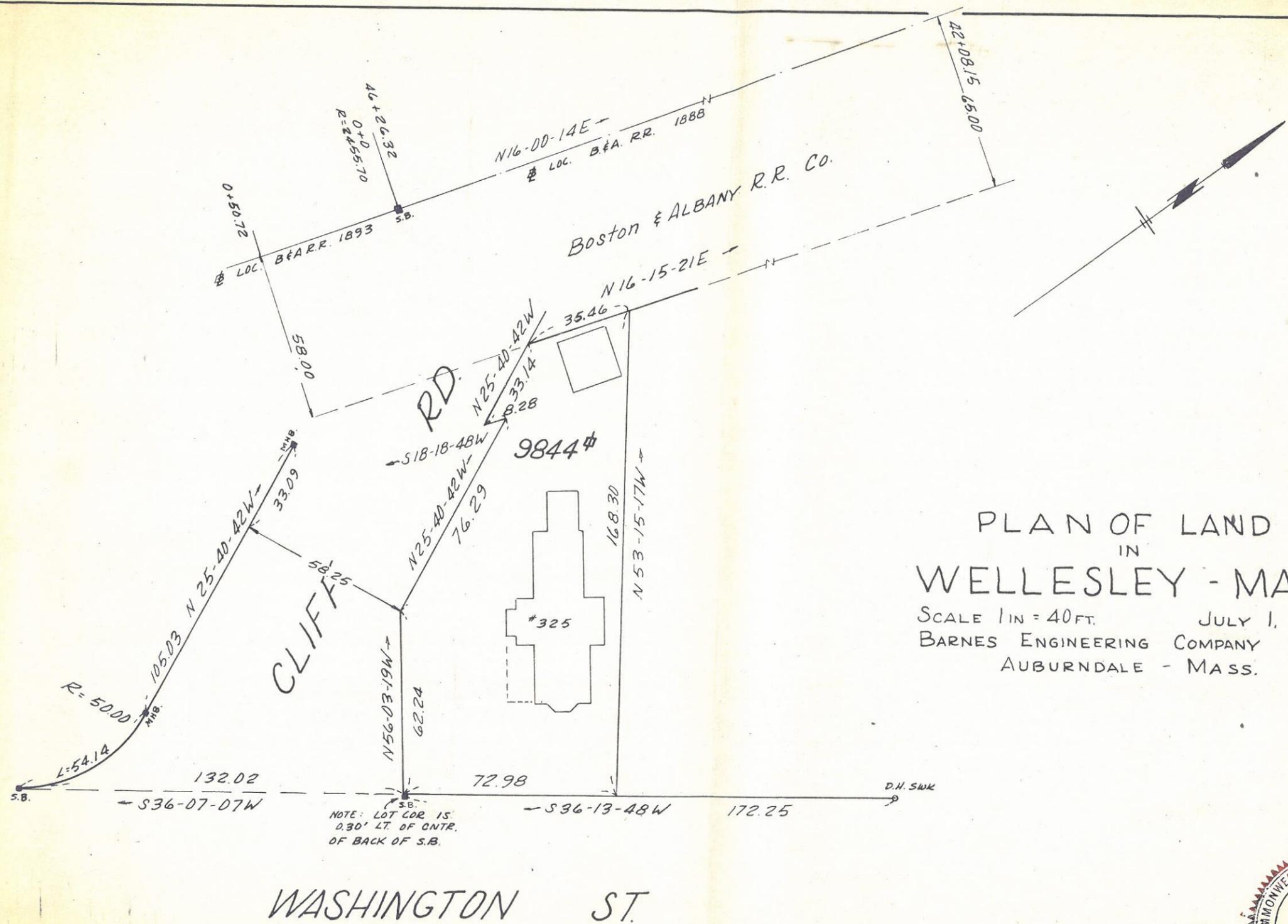
WASHINGTON ST

PLAN OF PROPERTY
IN

WELLESLEY - MASS

SCALE 1/4" = 20 FT
JULY 1, 1960
BARNES ENGINEERING COMPANY INC.
AUBURNDALE, MASS.





PLAN OF LAND
 IN
 WELLESLEY - MASS.
 SCALE 1 IN = 40 FT. JULY 1, 1960
 BARNES ENGINEERING COMPANY INC.
 AUBURNDALE - MASS.

NOTE: LOT COR. IS
 0.30' LT. OF CNTR.
 OF BACK OF S.B.

