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ZONING BOARD OF APPEALS

KATHARINE E. TOY
 Administrative Secretary
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 235-1664

Petition of Mary M. Thorndike

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:10 p.m. on September 14, 1978, on the petition of Mary M. Thorndike, requesting a variance from the terms of Section XIX of the Zoning By-law which will allow the construction of a garage on the premises at 28 Upland Road, owned by Samuel L. Thorndike, within the required twenty-foot side yard.

On August 4, 1978, the petitioner filed her request for a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

John O. Rhose, attorney representing Grazia Avitabile, 23 Upland Road, opposed the granting of the request. He stated that the land sloped off approximately ten feet toward his client's property and that the proposed garage will rise up approximately six to eight feet and two feet above the existing fence between the properties. Trees will have to be removed, he stated, and to have a garage as proposed only three feet from the property line, will be detrimental to his client's property.

Letters favoring the request were received from the following: Amy E. Donovan, 14 Upland Road, Thomas L. and Marion M. Elmam, 10 Belair Road, Carlo Francois, 18 Belair Road, Marjorie Damon and Parker Damon, 8 Belair Road, and Susan B. McEachern, 18 Upland Road.

Statement of Facts

The property involved is located within a Single Residence District requiring a minimum lot area of 10,000 square feet. The house involved was built in 1925, on a lot containing 12,967 square feet.

The petitioner seeks permission to construct a detached two-car garage 20' x 20' on the southwesterly side of her dwelling. It was stated at the hearing that until the last few years, the petitioner was able to rent nearby garage space which is no longer available; overnight parking on the street is now prohibited so that the cars now have to be parked on a very small front lawn. Due to the shape of the lot and the position of the house on it, makes it difficult to construct a garage on the property which will comply with the by-laws. The approach to any alternative location on the other side of the house would necessitate using a good part of the front lawn for the driveway entrance, demolishing several trees, and encroaching on the privacy of neighbors whose screened porch is extremely close to the boundary line. The proposed garage, if built, it was stated, will be well over fifty feet from any neighbor's house. It is proposed to construct the garage similar in style to the dwelling with similar materials.

It was further stated that the proposed garage will not be as high as the sunporch on the house even though the sloping land will have to be built up to ensure a level foundation; a retaining wall will keep it sturdy, with proper drainage and dry wells provided. Shrubbery will be added to what is already there for proper screening and all precautions will be taken to make it attractive.

A plot plan was submitted, drawn by John J. Regan, Land Surveyor, dated June 16, 1978, which showed the location of the house on the lot as well as the proposed garage. Said plan showed the garage to be located three feet from the lot line on the westerly side and 4.3' from the corner of the house. The distance from the lot line meets the requirements of the Zoning By-law and the Building Code, but the set-back from the house encroaches into the twenty-foot side yard as required under Section XIX of the Zoning By-law.

Decision

It is the opinion of this Authority after making a careful study of the plans and evidence submitted as well as viewing the locus, that there is a real need for the proposed garage and that it will not prove detrimental to surrounding properties

Although the lot contains 12,967 square feet, it has a depth of only 62.51', with a relatively large house positioned on the westerly side of the lot, in front of a cul-de-sac with a frontage of only 58.90'. This Authority is aware that there is space to construct a garage on the easterly side of the house, but to do that would necessitate the construction of a long driveway across the small front lawn and it would be very close to the neighbor's screened porch. This, the Authority, feels would be undesirable to the neighborhood.

Therefore, it is the unanimous opinion of this Authority that owing to circumstances relating to the shape of the lot involved, a literal enforcement of the provisions of Section XIX of the Zoning By-law would involve substantial hardship to the petitioner, and that desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of the Zoning By-law.

Accordingly, the requested variance is granted and the Building Inspector is authorized to issue a permit for the proposed garage as shown on the plan submitted and on file with this Authority, subject to the condition that proper drainage be provided to take care of any possible water which may result from the construction of the proposed garage.

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William F. Cullinane

Filed with Town Clerk _____

Copies of the decision and all plans referred to in this decision have been filed with the Planning Board and with the Town Clerk.

