



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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84-31

Petition of Karim A. Khudairi

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing in the Upper Town Hall Main Hearing Room on Thursday, July 12, 1984 at 8 p.m. on the petition of KARIM A. KHUDAIRI requesting a finding by the Permit Granting Authority under Section XVII (Non-Conforming Uses and Structures) and/or a variance from the terms of Section VA (A)(3)(f) which will allow the alteration of a building at 600 WASHINGTON STREET to include the enclosure of two existing porches to create permanent rooms: the porch enclosure on the northerly side to be approximately 17 feet by 28'10", leaving a left side yard of 8.3'; the porch enclosure on the southerly side to be 17.67' by 28'10", leaving a right side yard of 13.6'. Said request is pursuant to Section XXIV-D and Section XXV of the Zoning Bylaw. Said property is located in a Multi-Family Residence District by Town Meeting vote of April, 1984.

On June 22, 1984, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Attorney Edward Donlon, representing Dr. Khudairi, who purchased the property, known as Washington House, about a year ago. The property was formerly in an Educational District but was rezoned to Multi Family District by Town Meeting in April 1984. Dr. Khudairi proposes to restore and renovate the house to contain 8 apartments and proposes to enclose the portico on the northerly side and the porch on the southerly side, leaving less than the required sidelines. The petitioner is requesting a finding under Section XVII and/or a variance from the sideline requirements of Section VA (Multi Family Districts). He claims a financial hardship in preserving and restoring the mansion, and states that the previous owner created the non-conforming lot. He believes the proposed changes would not be more detrimental than the present structure. Photos were presented showing the portico foundations.

Dr. Khudairi answered questions from the Board concerning the project. Considerable discussion of the easements and right of ways followed, particularly in regards to the letter of July 10, 1984 from the Planning Board. Dr. Khudairi stated that a right of way for all residents of Lots A, B, and C is guaranteed in a deed of July 26, 1983. He stated that all abutters have signed statements in favor of the petition.

Present and speaking in favor of the petition were Odette M. Howard, 594 Washington Street, Unit 6, and Nancy W. Erne, 599 Washington Street.

Opposed to the petition was Margaret W. Downes, 12 Old Farm Road.

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MASS.
AUG 13 9 27 AM '84

Statement of Facts

The property in question is located at 600 Washington Street, containing 25,010 square feet of land, located in a Multi-Family Residence District per Town Meeting vote of April, 1984. The 24 room structure on the property, known as Washington House, was built in 1904 as a private residence. Wellesley College owned and used it as a dormitory from 1920 to 1950. In 1954 the property, which included a structure in the rear, now known as 600A Washington Street, was purchased by William and Shirley White. They were granted permission from the Board of Appeals in 7/54 to provide an apartment on the upper floor and to use the building as a lodging house. In 1957 the Whites petitioned the Board of Appeals for an eating and lodging house, which was initially granted conditionally and in 1960 granted on a permanent basis. In 1960, Washington House was purchased by George C. McMichael and used primarily as a single family home. On March 3, 1975 a petition was denied by the Board of Appeals to George McMichael to tear down 600 and 600A Washington Street and erect a 20 unit condominium building. George McMichael died in 1982 and Karin McMichael is Administratrix of his estate.

On May 24, 1983, the Planning Board signed a Plan of Land drawn by Robert Dunning, Registered Land Surveyor, dated January 31, 1983, "approval under the subdivision control law not required", which plan created lots B and C. The Planning Board noted: "This endorsement shall not be deemed to constitute a determination of compliance in any way with the provisions of the Zoning Bylaw or of the Building Code."

On May 27, 1983, a Purchase and Sale agreement was signed by Karin McMichael and Karim A. Khudairi for the sale of Lot C. On July 27, 1983, a deed was recorded at the Registry of Deeds including a Utility Plan for 600A Washington Street by Robert Dunning, Registered Land Surveyor, dated June 17, 1983.

Dr. Khudairi subsequently petitioned Town Meeting in April, 1984, to rezone the property from Educational to Multi-Family Residence District for the purpose of renovating Washington House for use as eight apartments. The article was approved by Town Meeting.

Dr. Khudairi is now proposing to enclose the portico on the northerly side and the porch on the southerly side to create permanent rooms, leaving a left side yard of 8.3 feet and a right side yard of 13.6 feet.

A site and parking plan was presented, drawn by Joseph Georgis, P.E., Winchester, Ma. Architectural drawings were presented, showing proposed exterior and interior renovations, by Wellesley Design Architectural Service, dated 6/7/84.

In response to discussion at the Public Hearing, the petitioner presented a copy of the deed dated July 26, 1983, and a letter, dated July 13, which is on file at the Board of Appeals. On August 3, 1984, an easement plan was submitted, drawn by George D. Georgis, P.E., showing the driveway easment connecting to Lot A.

The Design Review Board reviewed the application as a minor construction project and accepted it with suggestions as stated in a letter of July 2, 1984.

The Planning Board, in a letter dated July 10, 1984, supported the recommendations of the Design Review Board and in addition commented on the right of access to Lot A.

Letters of support were received from Edward F. Galvin, J. M. Dwyer and N. Hsiung, Trustees of the Washington Condominiums, 594 and 594A Washington Street, Nancy W. and Ned A. Erne, 599 Washington Street, and Karin McMichael, 600A Washington St.

Decision

This Authority has made a careful study of the evidence submitted. The petitioner is requesting a finding by the Permit Granting Authority under Section XVII (Non-Conforming Uses & Structures) that the proposed alterations shall not be substantially more detrimental than the existing non-conforming use to the neighborhood, and/or a variance under Section VA.

Re: Portico on the Northerly Side of the Property

Regarding the enclosure of the portico on the northerly side of the property to create a permanent room, leaving a left side yard of 8.3 feet, this Authority finds that the enclosure of the portico would be detrimental to the neighborhood. The portico encroaches substantially into the side yard and the area contains a driveway, parking area, and sewer, electrical and utilities easements. The present congestion is evident in the fact that parking spaces for 600 Washington Street (Lot C) have to be located on land belonging to 600A Washington Street (Lot B). The congestion would be further increased by allowing more living space to be added in the portico area. The Board finds that, pursuant to Section XVII, the proposed enclosure on the northerly side of the property would be substantially more detrimental than the existing non-conforming use to the neighborhood.

It is the opinion of this Board that a variance is required under Section VA of the Zoning Bylaw for the proposed enclosure of the portico. The sideyard requirement in a Multi-Family Residence District is 20 feet and the portico is located 8.3 feet from the sideline. The Town Meeting of 1984 approved the change of zoning from Educational to Multi-Family Residence District but it did not state that variances would not be required on the property. The left sideyard of 8.3 feet was created by the former owner, Karin McMichael, in order to divide Lots B & C into separate parcels. This creation of two parcels forces encroachment on the other lots. The Planning Board, in signing off on the Plan of Land (dated Jan. 31, 1983 by Robert Dunning) on May 24, 1983, certified that the re-division of the lot lines does not constitute a subdivision within the meaning of the definition of subdivision as contained in the subdivision control law, and stated on the Plan: "This endorsement shall not be deemed to constitute a determination of compliance in any way with the provisions of the Zoning Bylaw or the Building Code".

The proposed enclosure of the portico constitutes a further, more substantial, encroachment on the left sideline. The division of lots B and C created the hardship on both properties. The present Zoning Bylaw was in force at the time of the division. Therefore, no hardship exists except that created by the lot division..

The variance pursuant to Section XV is hereby denied for the proposed enclosure of the portico on the northerly side of the property at 600 Washington Street.

Re: Portico on the Southerly Side of the Property

Regarding the enclosure of the porch on the southerly side of the property, with a right side lot of 13.6 feet, it is the opinion of this Authority that the lot line has existed in the same form for many years, that there is no driveway interfering with the space. Therefore, this Board finds that the alteration would not be substantially more detrimental than the existing non-conforming use to the neighborhood, pursuant to Section XVII of the Zoning Bylaw.

Furthermore, this Authority is of the opinion that a hardship exists under Section VA due to the fact that the structure has existed in its present shape and form for many years in relation to the southerly lot line.

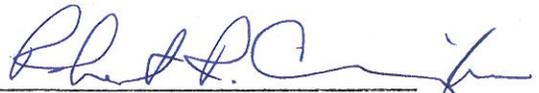
Therefore, a variance is granted to allow the enclosure of the porch approximately 17.67 feet by 28'10" on the southerly side of the property, leaving a right side yard of 13.6 feet, subject to the following condition:

1. That the right of access, as shown on the plan by Robert Dunning, dated June 17, 1983 and revised 8/3/84, should be approved by Karin McMichael as owner of Lot B and recorded at the Registry of Deeds prior to a building permit being obtained.

The Building Inspector is authorized to issue a permit for the construction of the porch enclosure on the right side (southerly side) leaving a right side yard of 13.6 feet upon receipt and approval of applications and plans and upon proof that Condition #1 has been met.

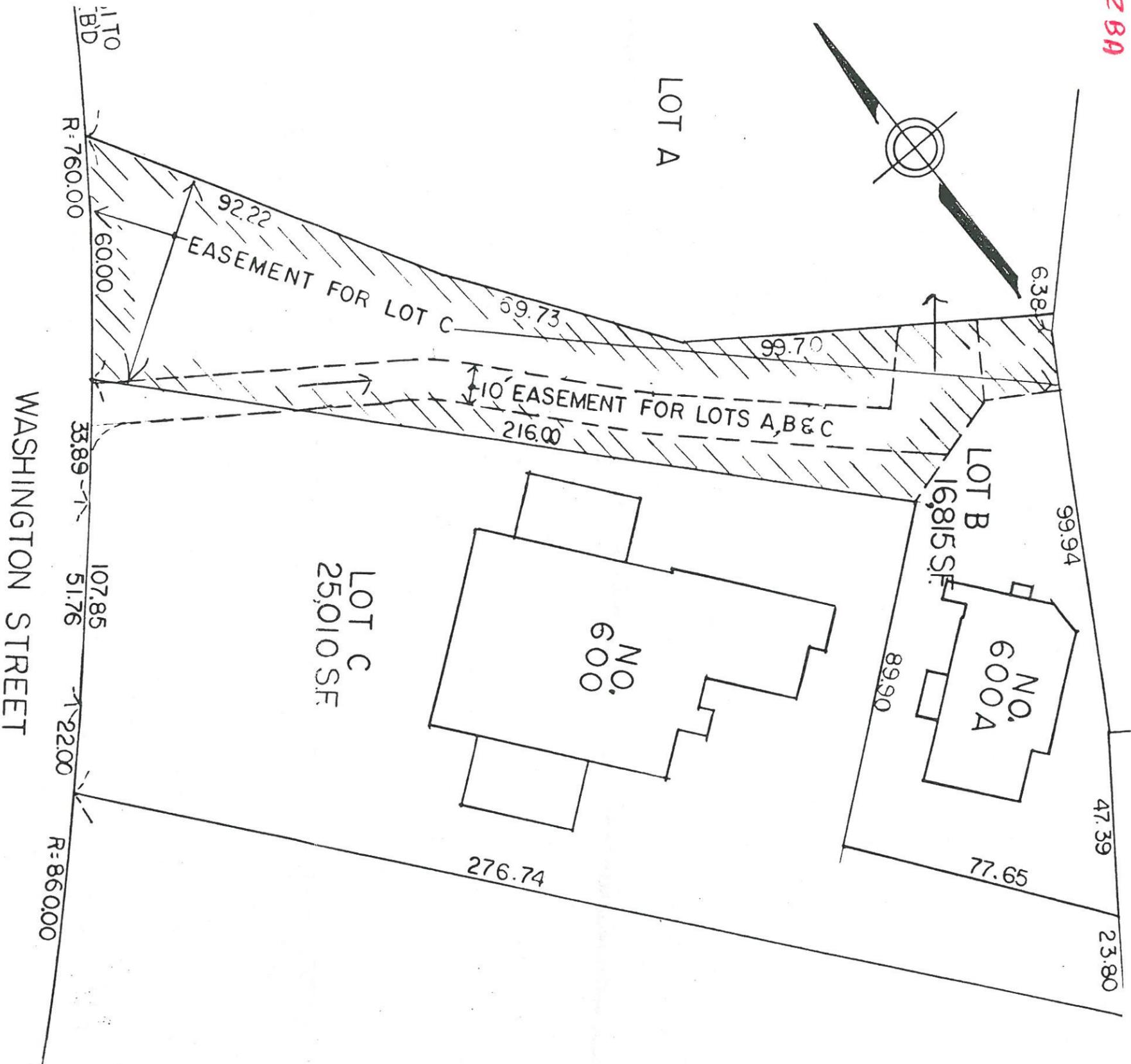
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.


Stephen S. Porter, Chairman


Robert R. Cunningham


William E. Polletta

28A



submitted 8/3/84
to 28A



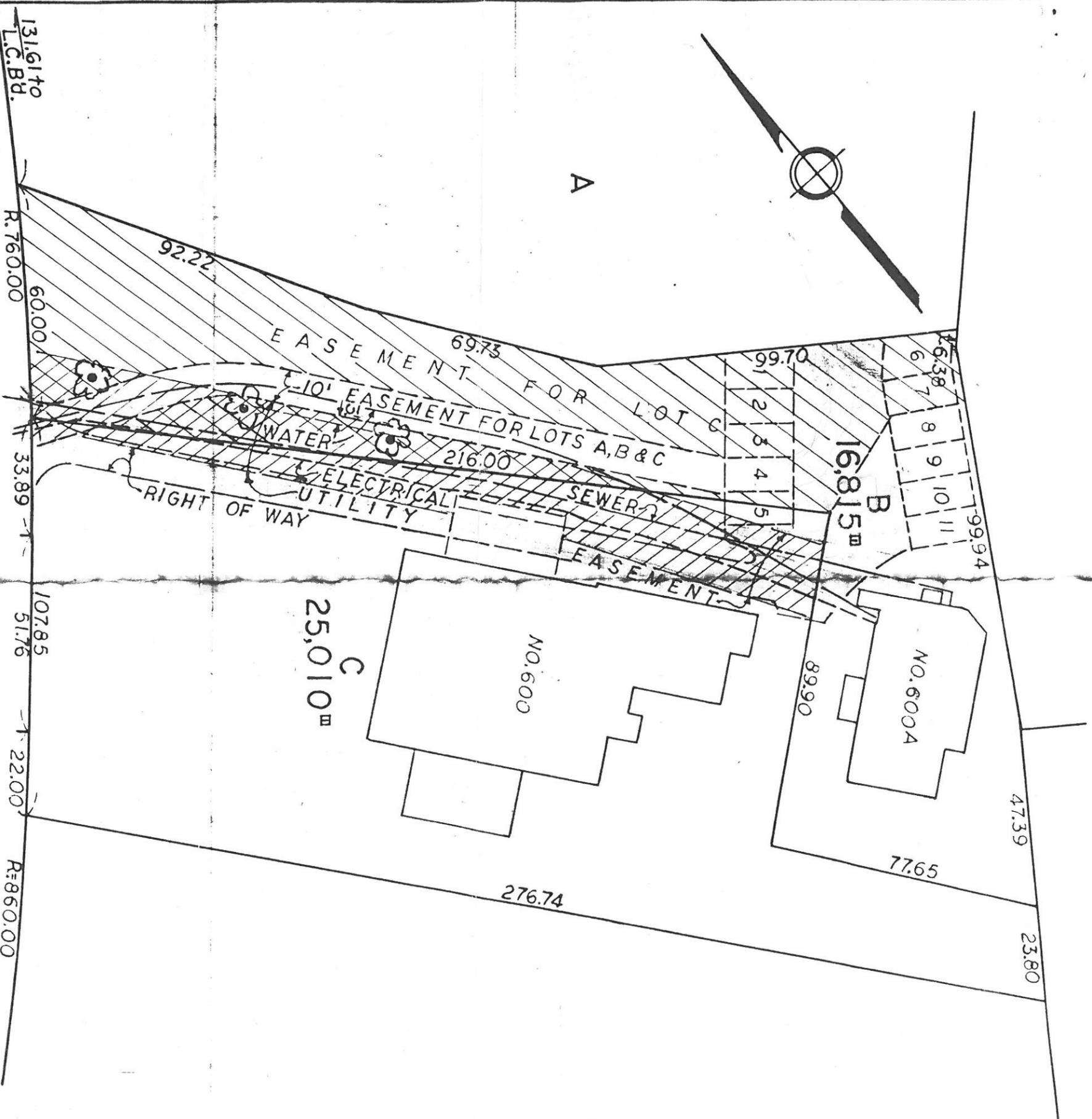
SCALE: 1" = 30'

EASEMENTS PLAN



Joseph D. Georgis

600 & 600 A
WASHINGTON STREET



WASHINGTON STREET

WASHINGTON STREET

Norfolk Registry of Deeds

Dedham, Mass.

Received JULY 27, 1983

With DEED

GEORGE C. McMICHAEL To

A. KARIM KHUDBARI TR + 21

Filed as No. 573, 1983

Book 6214 Page 121

Attest [Signature]

Register

ORIGINAL ON FILE

NOTE:
SEE RECORDED PLAN BY SAME DATED JAN. 31, 1983.



PLAN
SHOWING
UTILITIES

600A WASHINGTON STREET
WELLESLEY, MASS.

SCALE: 30' TO 1" JUNE 17, 1983

ROBERT H. DUNNING ~ SURVEYOR
KITTELY, ME. & NEEDHAM, MASS.

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTY LINES THAT ARE THE LINES OF EXISTING OWNERSHIPS AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINE FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN. I HEREBY CERTIFY THAT THIS PLAN IS MADE IN ACCORDANCE WITH THE REGULATIONS OF THE REGISTERS OF DEEDS.

DATE: June 21, 1983

[Signature]
REG. LAND SURVEYOR

WELLESLEY GREEN CONDOS
MULTIPLE OWNERS



WASHINGTON STREET
PARKING PLAN
SCALE 1"=20'

WASHINGTON HOUSE
600 WASHINGTON ST., WELLESLEY
MA.
SITE & PARKING PLAN
JOSEPH GEORGIS P.E.
WINCHESTER, MA.

JUN 22 9 11 AM '84
REG. OFFICE
STATE OF MASS.

Joseph Georgis