



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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86-13

Petition of Andre J. & Margaret A. de Bethune  
223 Weston Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 27, 1986 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, on the petition of ANDRE J. & MARGARET A. DE BETHUNE requesting a variance from Section XIX and pursuant to Section XXIV-D of the Zoning Bylaws to allow the existing dwelling at 223 WESTON ROAD with less than the required right side yard.

On February 7, 1986, the petitioner requested a hearing before this Board and thereafter due notice of the the hearing was given by mailing and publication.

Presenting the case at the hearing was Attorney David Kertzman, who stated that Mr. and Mrs. de Bethune, who were present at the hearing, purchased three parcels of land in 1961 from the Van Iderstines and have not made any changes since 1961. In the process of selling the property, it became apparent that the lot containing the dwelling did not conform to the Zoning Bylaws. A building permit had been issued in 1956 allowing an addition which appeared on the plot plan to be 82 feet from the right side line but is actually 2.4 feet from the right side line. A variance is sought to allow the house to remain with a 2.4 foot side line.

Eliot Feldman, 26 Avon Road, asked what would happen to the vacant lot in the future. No others were present favoring or opposing the petition.

Statement of Facts

The property in question is located at 223 Weston Road, containing three parcels, Parcel 1 (505 square feet), Parcel 2 (6,250 square feet) and Parcel 3 (10,000 square feet).

The petitioners purchased all three parcels in 1961 from Mr. and Mrs. Richard Van Iderstine. A residence exists on Parcel 2. There have not been any additions or changes during the period of time the de Bethunes owned the property.

In 1956, Van Iderstine constructed an addition to the premises. Said addition was built pursuant to a building permit. The survey certification failed to disclose the existence of 3 parcels, showing instead just one large parcel. The addition appears on the survey certification filed with the permit as 82 feet from the side line, whereas the actual distance is 2.4 feet from the side line.

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The petitioners are seeking a variance to allow the 2.4 foot right side yard. They wish to sell the three parcels. The hardship is outlined in a memorandum submitted and on file by their attorney, David K. Kertzman.

A Plot Plan was submitted, drawn by Nathan Rossman, Registered Land Surveyor, of Mass. Bay Survey Inc., Newton, dated February 4, 1986. Photos were also submitted.

The Planning Board, at its regular meeting of February 25, 1986, voted unanimously to recommend that the petition be denied.

Decision

This Authority has made a careful study of the evidence presented.

It is the opinion of this Authority that a literal enforcement of the provisions of the bylaw would involve a substantial hardship to the petitioners. Furthermore, this Authority is of the opinion that the hardship was not self-created. The petitioners were not involved in the faulty issuance of the building permit in 1956, have been taxed by the Town for two separate lots and had no reason to believe their dwelling was not in conformance with the Zoning Bylaws.

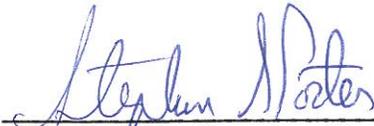
It is the opinion of this Authority that desirable relief can be granted without substantially derogating from the intent and purpose of the Zoning Bylaw.

Therefore, the requested variance is granted to allow the existing dwelling at 223 Weston Road with a right side yard of 2.4 feet as shown on the Plot Plan drawn by Nathan Rossman, Registered Land Surveyor of Mass. Bay Survey Inc., Newton, dated February 4, 1986.

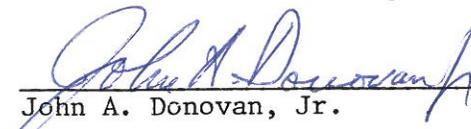
APPEALS FROM THIS DECISION,  
 IF ANY, SHALL BE MADE PURSUANT  
 TO GENERAL LAWS, CHAPTER 40A,  
 SECTION 17, AND SHALL BE FILED  
 WITHIN 20 DAYS AFTER THE DATE  
 OF FILING OF THIS DECISION IN  
 THE OFFICE OF THE TOWN CLERK.

cc: Planning Board  
 Building Inspector

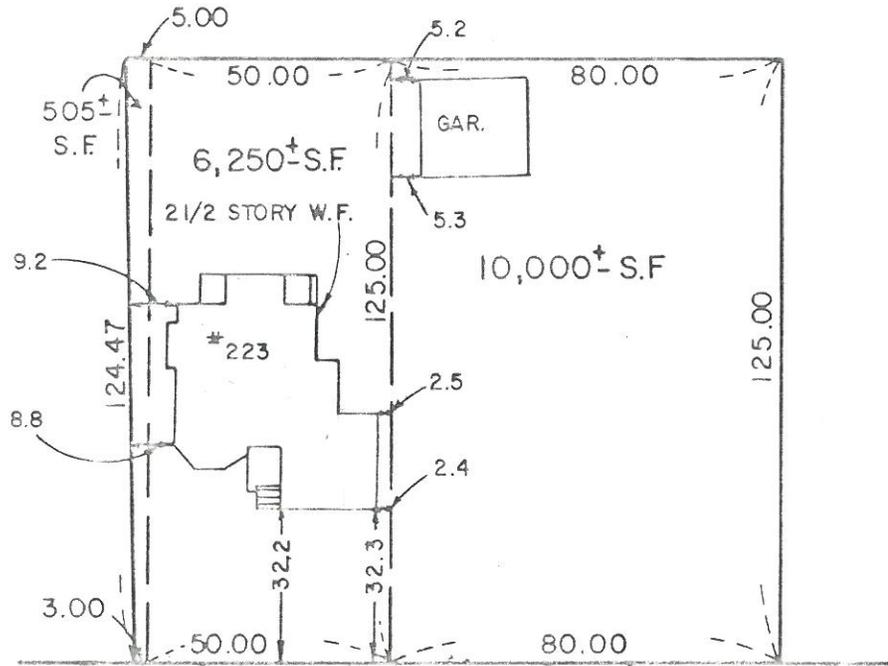
mam

  
 Stephen S. Porter, Chairman

  
 Robert R. Cunningham

  
 John A. Donovan, Jr.

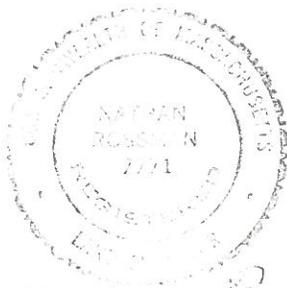
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WESTON ROAD

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6250  
505  
6755



*Nathan Robinson*

PLAN OF LAND  
WESTON ROAD  
WELLESLEY, MASS

SCALE: 1" = 40'  
MASS. BAY SURVEY INC.

FEBRUARY 4, 1986  
NEWTON, MASS.