



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman  
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ZBA 86-32

Petition of John F. & Patricia M. Ciccolo  
17 Sunnyside Avenue

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, June 12, 1986 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, Ma. on the petition of JOHN F. & PATRICIA M. CICCOLO requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow an existing deck approximately 3.8 feet by 23.9 feet at their property at 17 SUNNYSIDE AVENUE leaving less than the required left side yard.

On May 19, 1986 the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was John Ciccolo, who stated that he bought a newly constructed house in the Fall of 1969, at which time the builder stated that he would build a deck for the Ciccolo's the following Spring. The builder completed the deck in the Spring of 1970. Mr. Ciccolo recently sought to obtain a building permit for another addition and was notified of the zoning violation.

Mr. Pappas, representing Carbone Realty Trust, owners of 15 Sunnyside Avenue, was at the hearing to find out details of the request. No others were present favoring or opposing the request.

Statement of Facts

The property in question is located at 17 Sunnyside Avenue, containing 11,614 square feet of land.

The petitioner purchased the dwelling in the Fall of 1969. The dwelling had an entry door and small deck on the left (easterly) side of the dwelling with stairs leading to the ground level. According to the petitioner, the builder agreed to expand the deck around to the rear of the dwelling the following Spring. The existing deck wraps around to the rear of the dwelling leaving a left side yard of 18 feet. The petitioner claims he had no knowledge of a zoning violation until recently when he sought a building permit for another addition. The rear portion of the deck, approximately 15.8 feet by 10.1 feet, meets the requirements of the zoning bylaw, but the portion approximately 1.8 feet by 23.9 feet at the side of the dwelling is in violation of the zoning bylaws.

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A Plot Plan was submitted, drawn by Carmelo Frazetti, Registered Land Surveyor. Photos were also submitted.

The Planning Board, at its regular meeting of June 3, 1986 and as stated in a letter of June 9, 1986, voted to oppose the granting of the variance.

Decision

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

It is the opinion of this Board that the petitioner purchased the property 17 years ago, relied on the builder to construct the deck a few months after the purchase, and assumed that the construction conformed to the zoning bylaws.

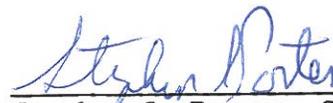
The area of the deck that is in violation of the zoning bylaws is approximately 1.8 feet by 23.9 feet. It is the opinion of this Authority that the deficiency is a de minimus one, that a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

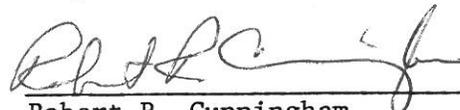
Therefore, the requested variance is granted to allow the existing deck as shown on the Plot Plan drawn by Carmelo Frazetti and submitted to this Authority on May 19, 1986, leaving a left (easterly) side yard of 18 feet.

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  
Inspector of Buildings

mam

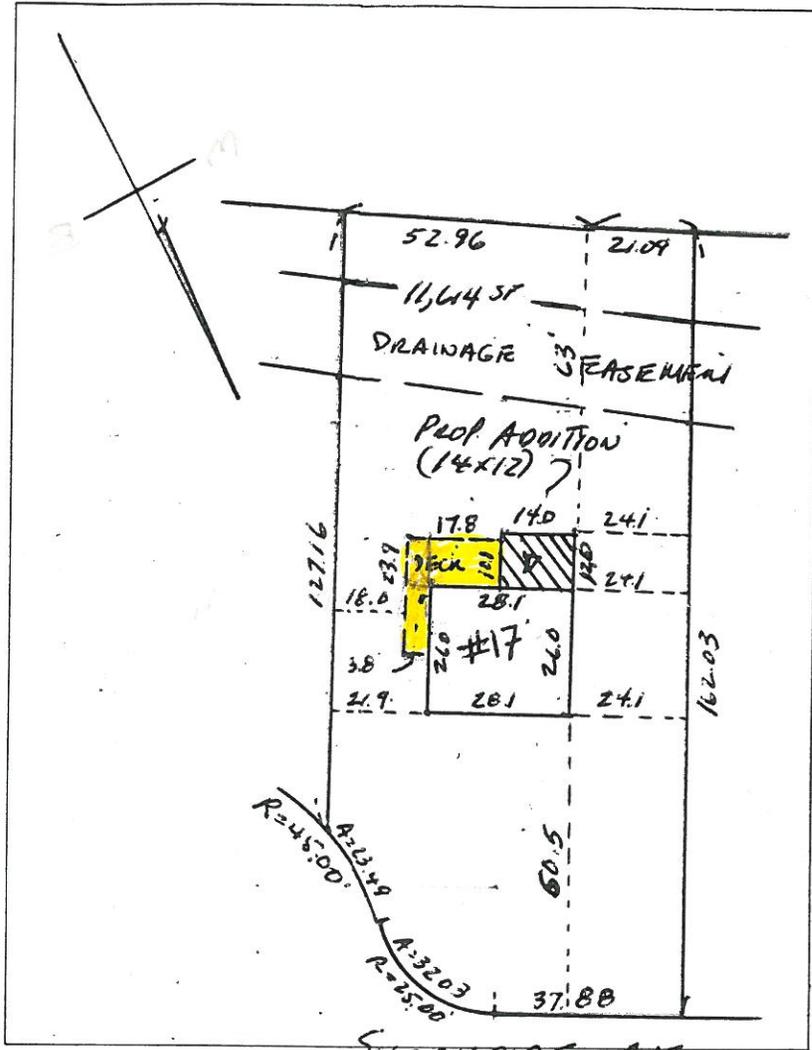
  
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Stephen S. Porter, Chairman

  
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Robert R. Cunningham

  
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William E. Polletta

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CERTIFIED PLOT PLAN



SUNNYSIDE AVE  
Scale 1" = 40'

4/18/86 No previous plat for deck shown on above plot plan - violation of 5 yard setback



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