



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
CE. 5-1544

Appeal of Thomas E. and Phyllis S. Frothingham

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:20 p.m. on September 17, 1964, on the appeal of Thomas E. and Phyllis S. Frothingham from the refusal of the Inspector of Buildings to issue a permit to them to alter their dwelling at 19 Brook Street. The reason for such refusal was that said addition would violate Chapter IV, Section 1, of the Building Code which requires that all such buildings shall be placed at least thirty feet from the line of any public or private street and fifty feet from the center line of any public or private street. Said appeal was taken under the provisions of Chapter 40A, Section 15, of the General Laws and Section 11 of the Building Code.

Thomas E. Frothingham represented the appellants at the hearing.

A letter favoring the request was received from Priscilla M. Wheelock, 14 Brook Street.

On August 28, 1964, the Inspector of Buildings notified the appellants in writing that a permit for the proposed construction could not be issued for the above-mentioned reasons and on the same date the appellants took an appeal from such refusal. Thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved which was built over fifty years ago, is located within a general-residence district requiring a minimum lot area of 10,000 square feet. It was constructed prior to the thirty-foot setback requirement from the street and is located within an older neighborhood which has been developed with many other houses closer to the street than the present required setback.

The house presently has a small front porch which lies 24' from Brook Street and it is proposed to construct a two-story addition approximately 4' x 13' which will extend in a northerly direction the existing porch line. By altering the porch and unused space above and adding the proposed addition, a much needed dining room can be provided on the first floor and a double bedroom on the second floor. The proposed plan appears to be the only satisfactory way to accomplish the space required because of the plan of the house and contour of the lot. An addition constructed in any other direction would entail undesirable modification of existing rooms if hallway access for the new rooms is to be achieved, and would be less attractive. The appellants have three children with only three bedrooms and a small dining area, and in their opinion, unless the requested variance is granted, substantial hardship will result.

A plot plan drawn by Gleason Engineering Company, dated August 28, 1964, was submitted which showed the existing dwelling on the lot as well as the proposed addition.

Decision

The Board has made a careful study of the facts submitted and has taken a view of the locus. The house was built over fifty years ago on a lot which adjoined other land of the same owner in 1939. This Board, therefore, cannot make a "special exception" under Section XIX of the Zoning By-law as said section authorizes the Board to grant such exceptions only if on April 1, 1939, the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, considered the appeal under the provisions of Chapter 40A, Section 15, of the General Laws and Sections 10 and 11 of the Building Code, and in its opinion this case involves circumstances peculiar to this lot and not affecting the district generally, and a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the appellants which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said By-law. The house is located on a lot of land which adjoins Town of Wellesley property and it is in this direction that the proposed addition is to be constructed. The slight infringement into the front yard will not be any closer to the street line than the existing house is now. For these reasons the Board feels that the requirements of Chapter IV, Section 1, of the Building Code do not appear to have contemplated a case such as this, and that manifest injustice would result to the appellants unless relief is granted.

Accordingly, the requested variances from the Zoning By-law and Building Code are authorized under the provisions of Sections 10 and 11 of the Building Code and Chapter 40A, Section 15, of the General Laws, and the issuance of a permit by the Building Inspector for the proposed addition in accordance with the plan submitted and on file with this Board is hereby directed.



John L. Hayden



Richard O. Aldrich



G. Arnold Haynes

Filed with Town Clerk _____

PLAN OF LAND
IN
WELLESLEY, MASS.
OWNED BY
THOMAS E. & PHYLLIS S. FROTHINGHAM
SCALE 40 FEET TO AN INCH
AUGUST 28, 1964.
GLEASON ENGINEERING COMPANY

BROOK STREET

