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TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

GARRETT S. HOAG
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Joseph H. and Myra Brenner

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 8:15 p.m. on May 20, 1965, on the appeal of Joseph H. and Myra Brenner from the refusal of the Inspector of Buildings to issue a permit to them to alter their dwelling at 41 Tennyson Road by enclosing a part of their existing porch on the side of their dwelling. The reason for such refusal was that the existing porch violates Chapter IV, Section 1 (b) of the Building Code which requires that all such buildings shall be placed at least ten feet from any party line and Section XIX of the Zoning By-law which requires that every such building shall provide a side yard at least twenty feet in width.

Joseph H. Brenner spoke in support of the appeal at the hearing.

On April 30, 1965, the Inspector of Buildings notified the appellant in writing that a permit for the proposed enclosure could not be issued for the above-mentioned reasons and on the same date the appellants took an appeal in writing. Thereafter, due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved is located within a single-residence district requiring a minimum lot area of 15,000 square feet.

The appellants seek permission to enclose part of an existing porch on the southeasterly side of their dwelling in order to provide an additional room. The porch is approximately 10' x 22' and lies 9.5' from the lot side line. The house has three bedrooms plus a maid's room over the garage. The appellants have one child and one bedroom is used as a study. Both of the appellants are engaged in full time academic work and each one needs a study. The proposed enclosure will provide the desired room. A plot plan was submitted which showed the existing dwelling on the lot with the portion of the porch to be enclosed indicated in red.

Decision

It is the unanimous opinion of this Board that a real need exists for an additional study which the proposed porch enclosure will provide and that manifest injustice will result to the appellants unless the requested variance is granted. It is the further opinion of this Board that the applicable section of the Building Code did not contemplate restricting the enclosure of an existing porch legally located as in this specific case. The lot is narrow with a frontage of 83.30', narrowing down to 78.10' in the rear with a depth on one side 164.14' and on the other side 186.79' with the house placed 9' from the westerly lot side line and 9.5' from the easterly lot side line. Compliance, therefore, with the requirements of Section XIX of the Zoning By-law is impracticable because of the width

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of the lot which was held of record on April 1, 1940 under a separate and distinct ownership from adjacent lots. The facts in this case, therefore, satisfy the conditions set forth in Chapter I, Section 10, of the Building Code and Section XIX of the Zoning By-law on which the Board's authority depends to vary the requirements of the Building Code and to grant a special exception from the application of the side yard restriction of the Zoning By-law.

It is the further opinion of this Board that there is no other suitable location for an addition to be made on the dwelling and that the proposed enclosure of the porch will not prove detrimental to the appearance of the dwelling.

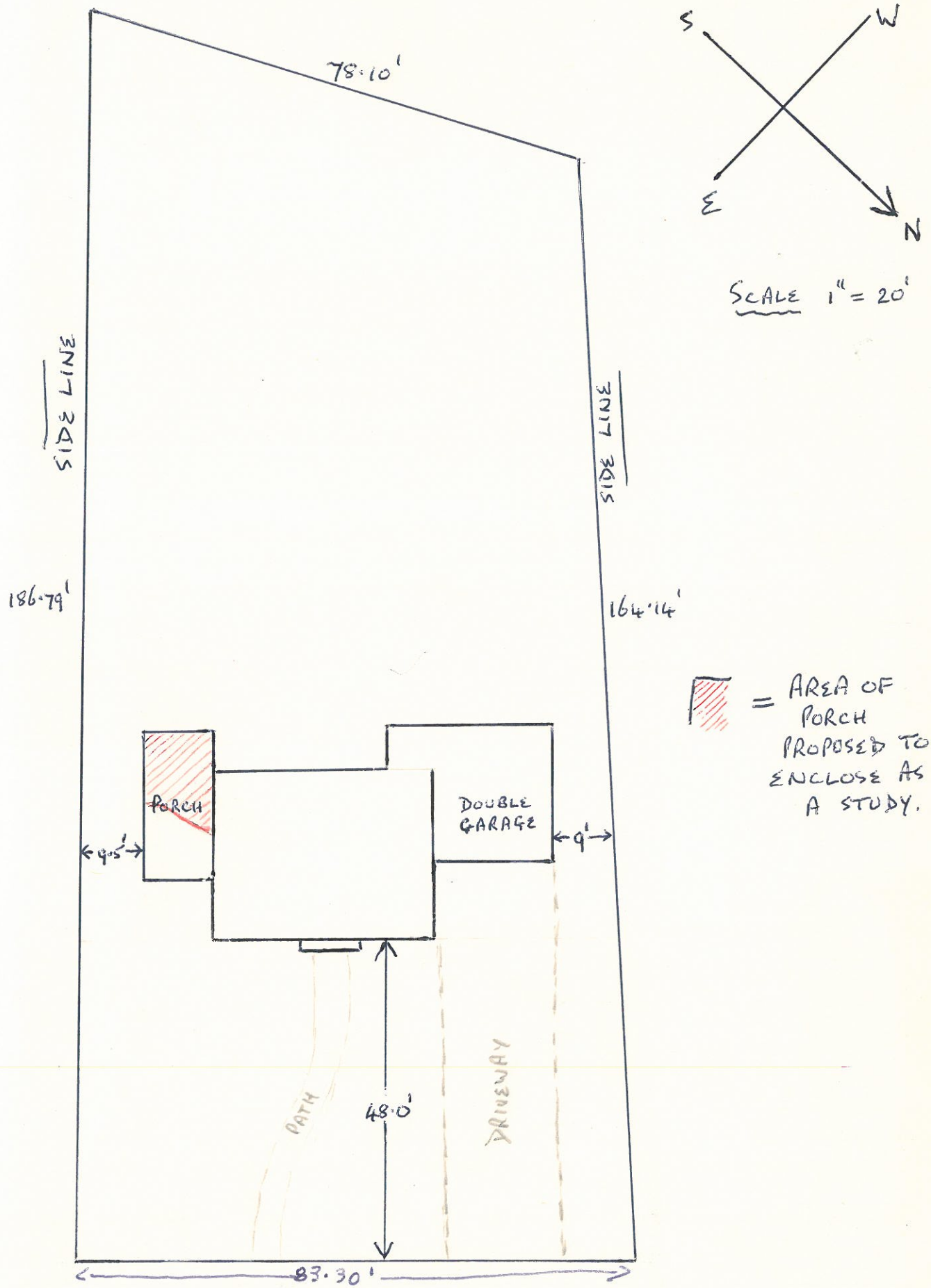
Accordingly, the requested exception is granted and the issuance of a permit for the proposed enclosure of the porch in accordance with the plan submitted and on file with this Board is hereby granted.

Garrett S. Hoag

Dana T. Lowell

F. Lester Fraser

Filed with Town Clerk _____



41 TENNYSON ROAD

JOSEPH H. and MYRA BRENNER.

DR. & MRS. J.H. BRENNER.