

TOWN OF WELLESLEY



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WELLESLEY, MASSACHUSETTS

65-28

BOARD OF APPEAL

1965 OCT 27 AM 11:50

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DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of John G. and Helene K. Jostyn

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 8:00 p.m. on September 15, 1965, on the petition of John G. and Helene K. Jostyn, requesting an exception from the terms of Section XIX of the Zoning By-law which would allow the dwelling owned by them at #24 Brookfield Road to remain in its present location with a side yard less than the required thirty feet.

On August 30, 1965, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White represented the petitioners at the hearing.

Statement of Facts

The house involved, which was built in 1941, is located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The petitioners seek permission which will allow the dwelling involved to remain in its present location twenty-six feet from Wilde Road rather than the required thirty feet. Although the dwelling was built in 1941, after the effective date of the Zoning By-law requiring the 30-foot setback, the error was not discovered until the house was being purchased in August of 1965. The bank at that time had its engineers check the location of the dwelling and it was then revealed for the first time that the house was too close to Wilde Road.

A plot plan was submitted drawn by Gleason Engineering Company, dated August 9, 1965, which showed the lot involved to be on the westerly corner of Brookfield Road and Wilde Road, with the house located 31' back from Brookfield Road and 26' back from Wilde Road at the nearest corner. It was pointed out that undue hardship would result to the petitioners if they were required to tear down that part of the house technically in violation.

Decision

It is the unanimous opinion of this Board that the violation of the thirty-foot setback requirement was due to error and that the correction of this violation would result in unnecessary hardship to the petitioners.

The Board, however, is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of the Zoning By-law, because the lot was not held of record under a separate and distinct ownership from adjacent lots on April 1, 1940, but it has considered the request under the provisions of Section 15, Chapter 40A, of the General Laws. 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, which would require the petitioners to remove a portion of the attached garage, would cause a substantial hardship

to the petitioners 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.

Accordingly, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws, and the dwelling involved may remain in its location as shown on the plan submitted and on file with this Board.

Richard O. Aldrich

Richard O. Aldrich

F. Lester Fraser

F. Lester Fraser

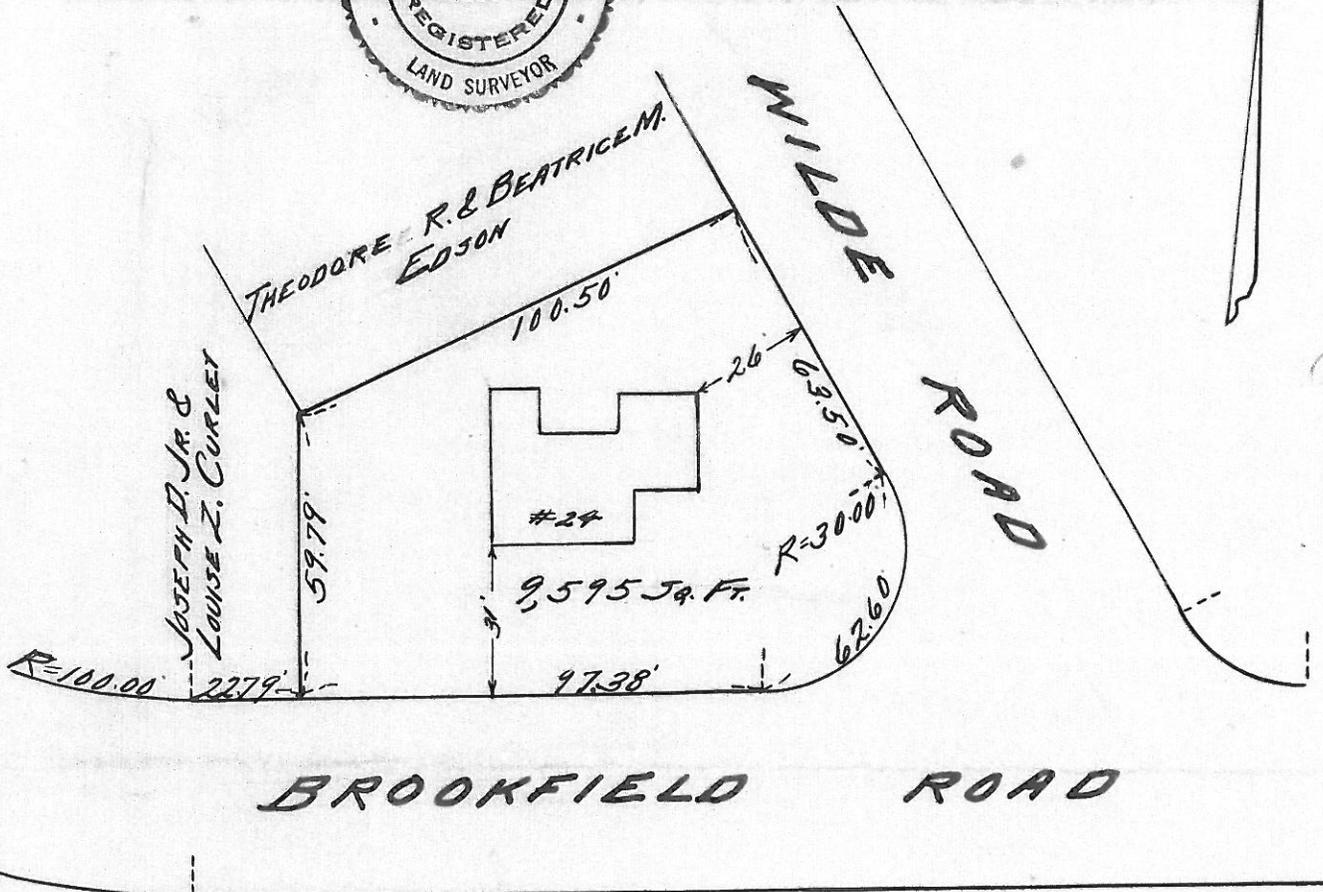
Filed with Town Clerk _____

Edward T. Kilmain

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PLAN OF LAND
 IN
WELLESLEY, MASS.
 OWNED BY
JOHN G. & HELENE K. JOSTYN
 SCALE 40 FEET TO AN INCH
 AUGUST 9, 1965.
 GLEASON ENGINEERING COMPANY



APPROVED BY BOARD OF APPEAL

J. W. Aldrich
J. R. Best
Edward J. Kelman

DATE 10/27/65

cc

WC