



65-44

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Petition of Benjamin Mills, III and
 Medora B. Mills

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 October 28, 1965, on the petition of Benjamin Mills, III and Medora B. Mills, requesting a special exception and variance from the terms of Section XIX of the Zoning By-law which would permit the dwelling owned by them at 11 Shelley Road to remain in its present location with a side yard less than the required twenty feet. Said request was made under the provisions of Section XIX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On October 8, 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 15,000 square feet.

The petitioners seek permission which will allow the dwelling involved to remain in its present location 19.6' from the boundary line on the northerly side, rather than the required twenty feet. The house was built in 1941, after the effective date of the Zoning By-law requiring a twenty-foot side yard and has been sold several times prior to the petitioners purchasing it in September 1965. The bank at that time had its engineers check the location of the dwelling and it was then for the first time that the slight violation was revealed.

A plot plan was submitted drawn by Donald S. Fox, East Billerica, dated October 7, 1961, which showed the lot involved with the house located 19.6' from the boundary line on the southerly side. 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

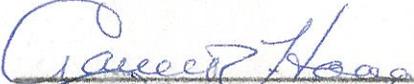
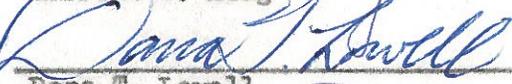
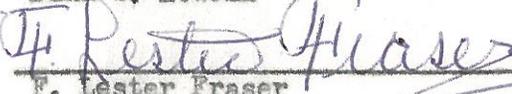
It is the opinion of this Board that the violation of the twenty-foot side yard requirement was due to error and that the correction of this violation would result in undue hardship to the petitioners.

The Board, however, is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of

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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 involved circumstances peculiar to this building 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 their house, 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.

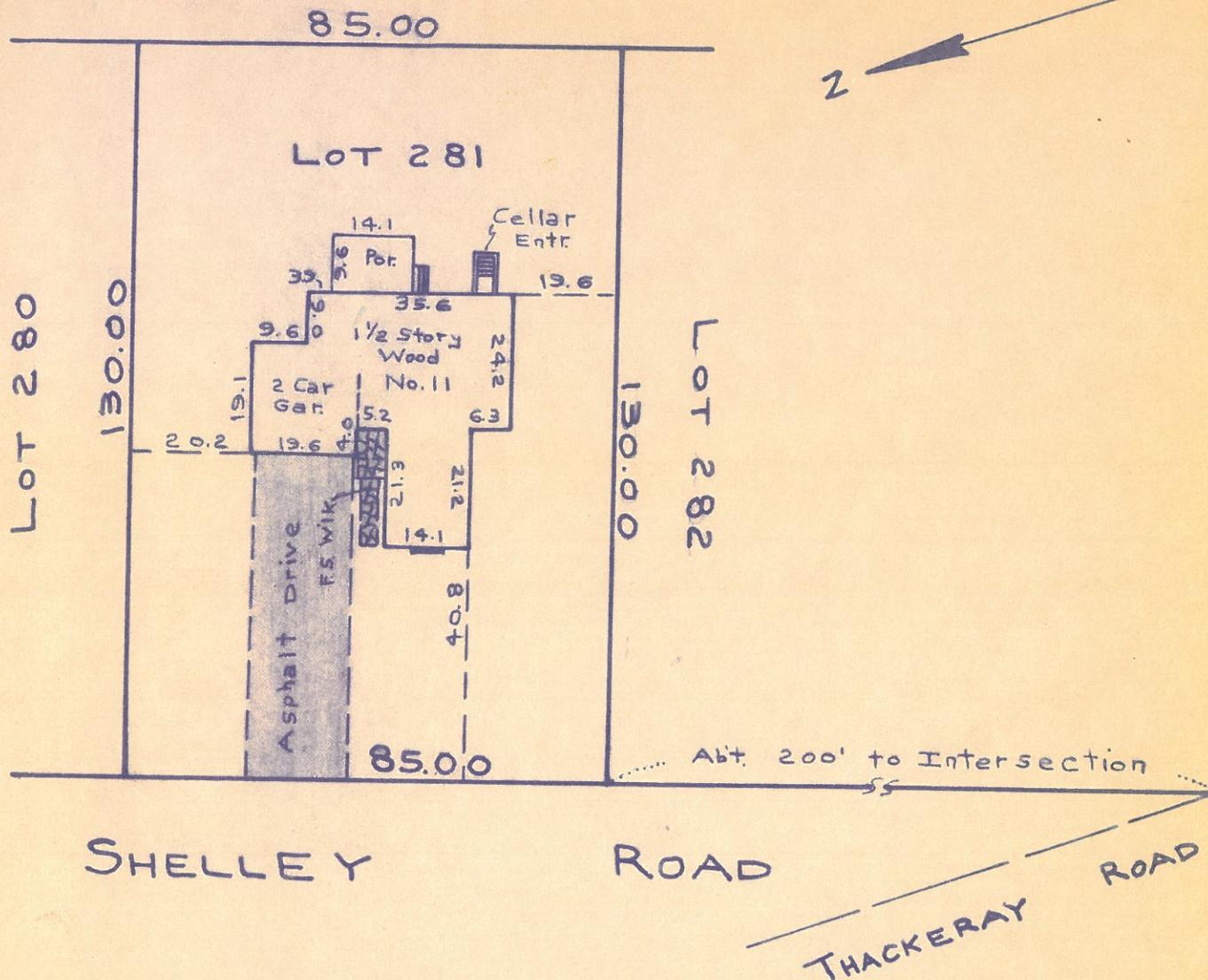
Accordingly, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws, and the dwelling involved may remain in its location as shown on the plan submitted and on file with this Board.


Garrett S. Hoag

Dana T. Lowell

F. Lester Fraser

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n. of Isabel F. Hudson et al



MORTGAGE SURVEY PLAN

DONALD S. FOX, REGISTERED LAND SURVEYOR
PATTEN ROAD, EAST BILLERICA, MASS.

LOCATION: WELLESLEY, MASS.

SCALE: 1"=30' DATE: OCT. 7, 1961.

PLAN REFERENCE:

Being Lot 281 on a plan by
Everett M. Brooks, C.E.
dated July 25, 1941 and recorded in
Norfolk County

Registry of Deeds.

Book No. 149 Page No. 84

* L.C. Certificate No. 29684
L.C. Plan No. 7129-9

NOTE:
Property line and street line offsets
shown on this plan are specifically for the
determination of zoning requirements only.

I hereby certify that the building
shown on this plan is located on the ground
as shown and that it conforms to the
zoning laws of the City/Town of:

WELLESLEY

when constructed.

SIGNED: Donald S. Fox

