



## BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK  
 TELEPHONE  
 235-1664

Petition of Ronald F. and Maureen A. Buchan

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 8:50 p.m. on October 28, 1965, on the petition of Ronald F. and Maureen A. Buchan, 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 Dukes 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 1958, is located within a single-residence district requiring a minimum lot area of 20,000 square feet.

The petitioners seek permission which will allow the dwelling involved to remain in its present location 19.37' from the northerly side boundary line, rather than the required twenty feet. Although the house was built in 1958, after the effective date of the Zoning By-law requiring a twenty-foot side yard, the error was not discovered until the house was being purchased recently. 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 the side line.

The plot plan was submitted drawn by MacCarthy Engineering Service, Inc., dated October 11, 1965, which showed the lot involved with the house located 19.37' from the northerly side line at the rear corner and 20.90' from the side line at the front 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.

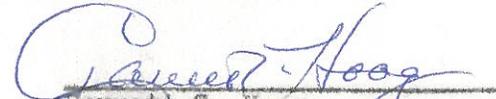
Decision

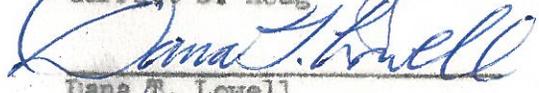
It is the opinion of this Board that the violation of the twenty-foot side yard requirement was due to error and that the correction of this violation would result in undue hardship to the petitioners.

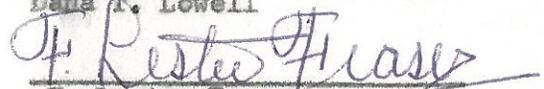
The Board, however, is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of the

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 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.

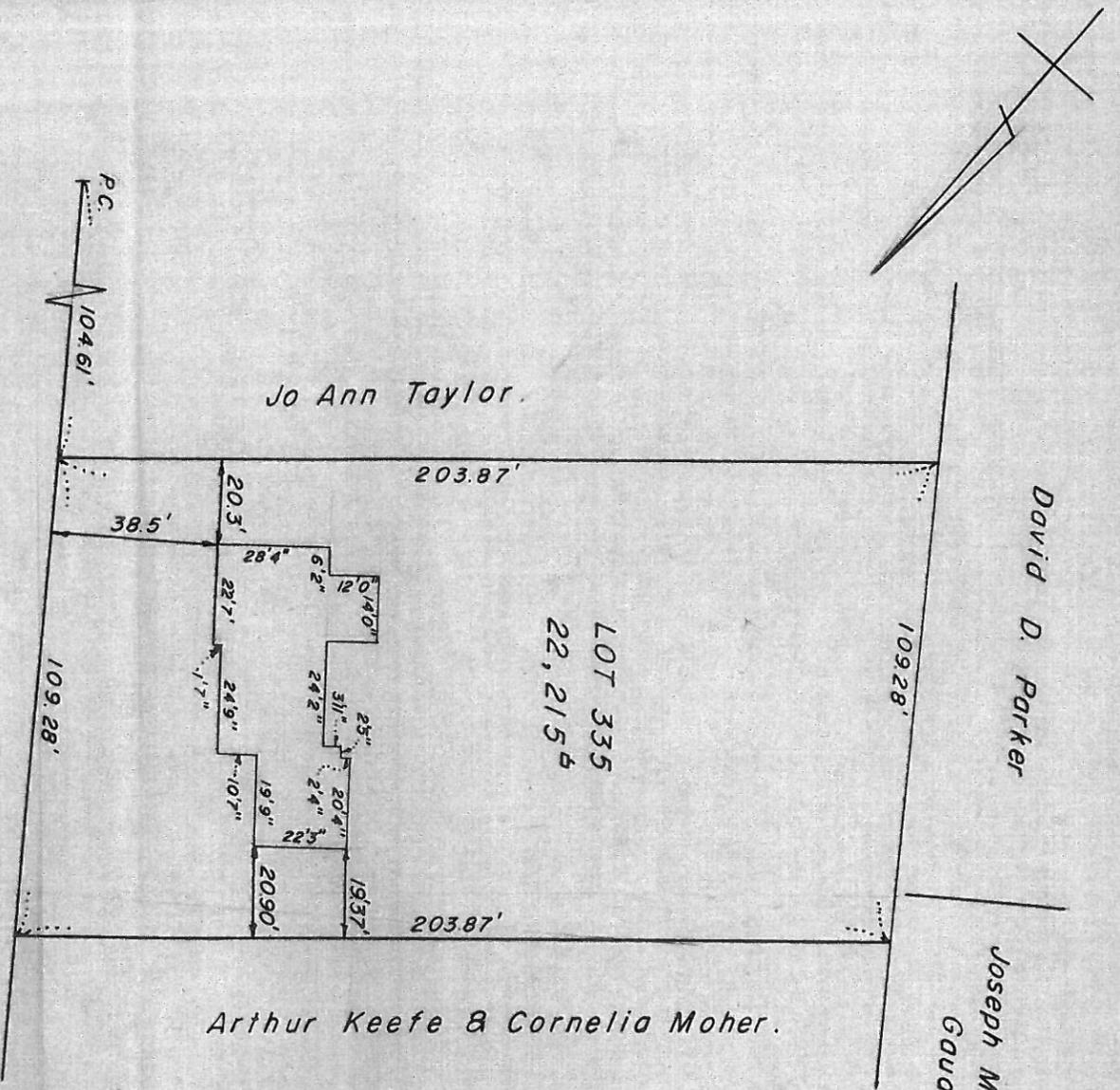
  
Garrett S. Hoag

  
Dana T. Lowell

  
F. Lester Fraser

Filed with Town Clerk \_\_\_\_\_

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TOWN CLERK'S OFFICE  
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Approved by:  
Wellesley Board of Appeals.

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\_\_\_\_\_  
Date \_\_\_\_\_

**Plan of Land in Wellesley, Mass.**  
(Showing Existing Building)

Owned by: **Ronald F. & Maureen A. Buchan.**  
 Scale: 1"=40'  
 Plan by: **MacCarthy Engineering Service Inc.**  
**Natick, Mass.**

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