

TOWN OF WELLESLEY



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WELLESLEY MASS
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KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

BOARD OF APPEAL

RICHARD O. ALDRICH
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of Oleg Pomerantzeff

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 March 21, 1968, on the petition of Oleg Pomerantzeff, requesting a variance from the terms of Section XIX of the Zoning By-law which would allow him to construct a dwelling at No. 1 Bacon Street on land now owned by H. Ambrose Knights, Trustee of the Knights Trust with side yards less than the required twenty feet and a front yard which narrows to less than the required forty feet. Said request was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On March 4, 1968, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White, attorney, represented the petitioner at the hearing.

Statement of Facts

The lot involved is located within a Single-residence District requiring a minimum lot area of 15,000 square feet. The total area of the lot is 17,800 square feet, the area of the right-of-way over the lot is 3,950 square feet, with the area remaining 13,850 square feet.

The petitioner has a purchase and sale agreement to purchase the lot involved provided the above request is granted. He seeks permission to construct a dwelling on the lot which will be located approximately 130' back from Bacon Street, 18' from the westerly side lot line and 2' from the 16' right-of-way on the easterly side. It was pointed out that due to the topography of the lot which has a steep drop towards Moses Pond, it would be impracticable to place the house any farther back from the street although the lot widens as it extends back. Grading would be out of reason and prohibitive in cost. The house is designed to be 29'6" x 33'6", outside dimensions including a side entrance and balcony.

The front yard has a frontage on Bacon Street of forty feet which reduces to thirty feet as it extends back a distance of approximately 122'. There is an eight-foot right-of-way extending across the front of the lot which widens to sixteen feet as it extends in a northerly direction across the entire lot to the shore of Moses Pond.

It is the opinion of the petitioner that the lot has a legal forty-foot frontage and front yard as required by Section XIX of the Zoning By-law, but seeks a variance from said section, if in the opinion of the Board, it is required.

It is the feeling of the petitioner that undue hardship will result unless a variance is granted and that the proposed dwelling will not

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in any way prove detrimental to the neighborhood.

A site plan dated September 6, 1967, was submitted, drawn by George O. Lloyd, Jr., Boston, Mass., which showed the location of the proposed dwelling on the lot. Also submitted was a plan of the house showing its exterior elevations and floor layouts. Said plan was drawn by George O. Lloyd, Jr., Architect, dated September 6, 1967.

Decision

This request was brought before the Board of Appeal in conjunction with a request by the owner of the property to obtain permission to sell the lot involved as a house lot. The Board has made a finding that the lot can be used as a house lot and has granted the necessary variance and exception. See Board of Appeal decision, "Petition of H. Ambrose Knights, Trustee of the Knights Trust, filed with Town Clerk 6/24/68".

This petition further requests permission to construct a dwelling with side yards less than the required twenty feet. The Board has made a study of the plans submitted and while it feels that the house could be redesigned so that it could be located on the lot in compliance with the side yard requirements, it feels that a variance can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law. The lot does widen as it extends back toward Moses Pond, but there is a steep drop of approximately forty-five feet which makes it impracticable to place the house any farther back than is proposed. It is the further feeling of this Board that the house as planned is not excessive in size and to cut it down in width would not be feasible.

Accordingly, the requested variance is granted and the Inspector of Buildings is authorized to issue a permit for the construction of a dwelling on the lot involved in accordance with the plans submitted and on file with this Board, subject to the following conditions:

1. That all necessary permits are obtained from the Board of Health for the construction and maintenance of a suitable sanitary system.
2. That a certificate or letter from a registered professional engineer, satisfactory to this Board, be addressed to the Board, prior to the issuance of any building permit, stating that construction and use of a dwelling and sewage disposal system constructed in accordance with the plans and specifications on file with the Board will not involve any risk of pollution of the waters of Moses Pond and a certificate of satisfactory completion in accordance with said plans and specifications shall be furnished to the Board by said engineer before occupancy of said dwelling
3. That the rights-of-way involved shall be left open at all time and unobstructed.

Filed with Town Clerk _____

F. Lester Fraser
F. Lester Fraser

Richard O. Aldrich
Richard O. Aldrich
Dana T. Lowell
Dana T. Lowell



THOMAS M. REYNOLDS, CHAIRMAN
SHERMAN J. L. BROWN
JOHN L. HAYDEN

BOARD OF APPEAL

KATHARINE E. TOY, CLERK
TELEPHONE
WE. 5-1664

Petition of H. Ambrose Knights, Tr.
Knights Trust

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the first floor of the Intermediate Building at 324 Washington Street at 8:50 p.m. on August 8, 1957 on the petition of H. Ambrose Knights, Tr., Knights Trust, for a variance from the terms of Section 9-A, Area Regulations, of the Zoning By-law which would permit the erection of a dwelling on Lot 5-A, Bacon Street which contains less than the required 15,000 square feet of land above water.

Statement of Facts

Section 9-A of the Zoning By-law requires a lot area of at least 15,000 square feet for a residence in the district here involved. Although the total area of the lot involved contains 15,744 square feet, only approximately 7,568 square feet of land are ordinarily above water with the remaining portion under water abutting Morses Pond. It is now proposed to construct a one-family dwelling on said lot with a portion of the area under water.

On July 30, 1957 the petitioner filed with this Board its written request for a special exception to said section and thereafter due notice of the hearing was given by mailing and publication.

At the hearing the petitioner was represented by David H. Locke who stated that the petitioner owns a parcel of land abutting Morses Pond containing approximately 135,000 square feet. The land has been divided into seven house lots each of which contains in excess of the required 15,000 square feet. However, a portion of each lot is under water. A plot plan was submitted, drawn by MacCarthy Engineering Service, Inc., Natick, Mass., dated July 8, 1957, which showed the total area of each lot as well as the number of square feet of land above water in each lot. Mr. Locke stated that in his opinion a dwelling can be built on each of the seven lots and comply with all the zoning by-laws and building requirements. The only question which has been raised is whether the area of the land under water can be included in providing the required number of square feet for a house lot. In the event that the Board does not wish to make an interpretation of Section 9-A of the Zoning By-law with respect to its application to the lot involved, it is the petitioner's desire to seek a variance which would permit a dwelling to be erected on the lot involved. The proposed layout of the lots appears to be the most practical, stated Mr. Locke, and most desirable for the land involved.

Clarence T. Reynolds, 11 College Road stated that he opposed the proposed development. If the variance is granted, the petitioner could divide the remaining land into any number of lots which would be undesirable for the neighborhood.

Lodge D. Staubach, 21 College Road, stated that this part of the Town is zoned for lots of 15,000 square feet and it was with this understanding

that the people purchased their properties. If the variance is granted, it could lower the standard of the neighborhood.

F. Ervin Prince, 19 College Road, stated that while he did not favor the proposed layout, he would prefer the plan submitted to an alternate plan which would involve filling in the land to meet the requirement of the Zoning By-law.

A petition signed by five nearby property owners, was submitted favoring the granting of the requested variance.

The majority of the Planning Board is reluctant to make a definite recommendation in this case, preferring that a legal interpretation of the intent and meaning of the regulations be made governing this particular situation.

Decision

The Board has given careful study to the plot plan submitted and is familiar with the site involved and the topography of the land. The total area of land involved is approximately 135,000 square feet and the petitioner desires to divide it into seven lots each of which will contain in excess of the required 15,000 square feet but a portion of each lot will be under water. The petitioner is seeking a variance on the lot involved which will permit the construction of a dwelling on said lot a portion of which is under water.

We know of no legal reason to prevent the petitioner from extending the upland by filling in the shallow water covering the submerged portion of the lot and thus extending the upland to the full area requirement.

It is the opinion of this Board that if the land is developed in accordance with the plot plan submitted, it will not substantially reduce the value of any property within the district or otherwise injure the neighborhood.

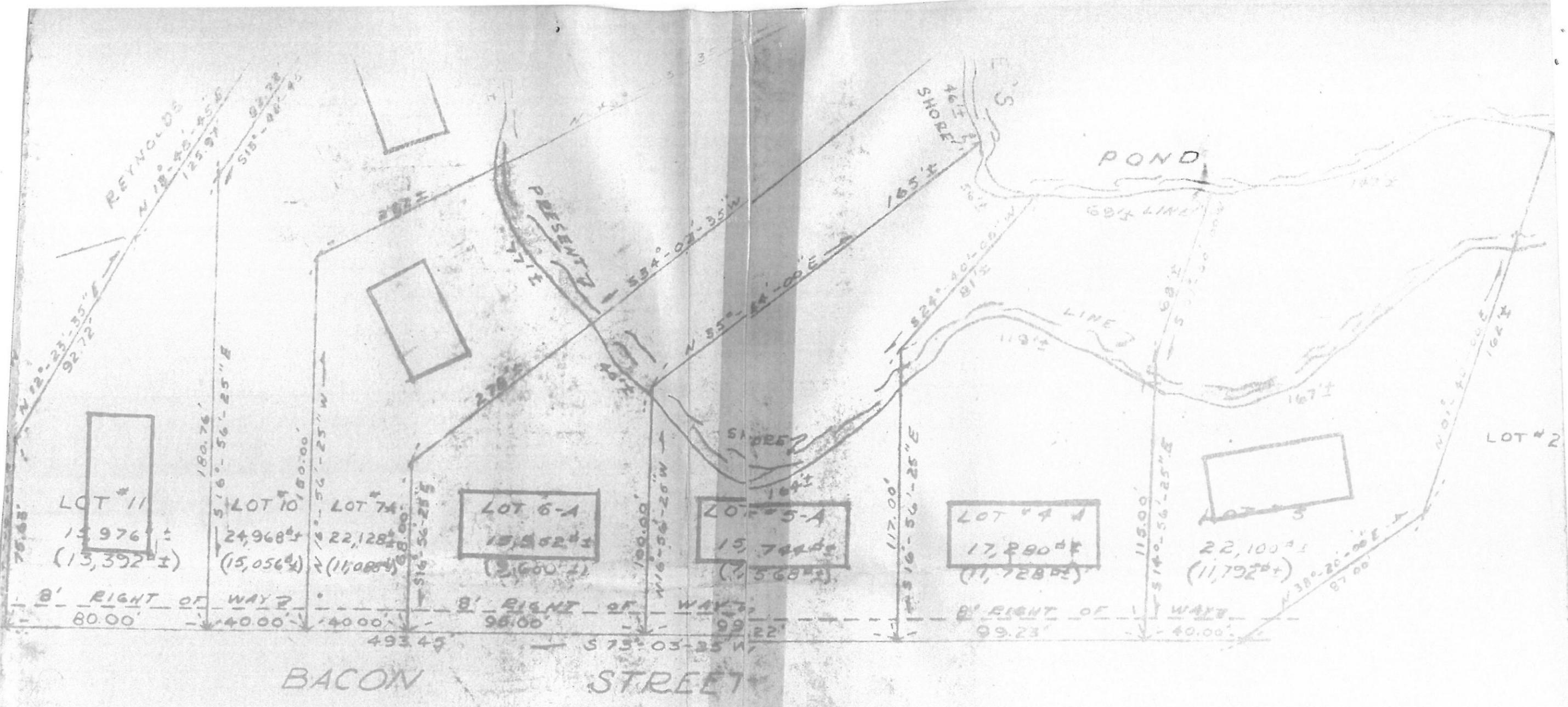
Accordingly, the requested variance is granted which will permit the erection of a one-family dwelling on Lot 5-A which contains less than the required area of upland under the condition that all the other lots remain as shown on the plot plan submitted and on file drawn by MacCarthy Engineering Service, Inc., Natick, Mass., dated July 8, 1957.

Thomas M. Reynolds

Sherman J. L. Brown

Filed with Town Clerk _____

John L. Hayden



PLAN OF LAND IN WELLESLEY, MASS.

SCALE 1" = 40'
 OWNED BY:
 SURVEY BY:



JULY 9, 1957
 R. KNIGHTS
 ROBERT E. MCCARTHY ENGINEERING SERVICE INC.
 NATTICK, MASS.