



## BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK  
TELEPHONE  
235-1664

Appeal of Joseph A. Jr. and  
Alice Attanasio

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 8:35 p.m. on April 25, 1968, on the appeal of Joseph A. Jr. and Alice Attanasio from the refusal of the Inspector of Buildings to issue a permit to them to construct an addition on the side of their dwelling at 10 Brookdale Avenue. The reason for such refusal was that said addition would violate the requirements of Chapter IV, Section 1 (a) of the Building Code which requires that all Type V buildings shall be placed at least thirty feet from the line of any public or private street and fifty feet from the center of the street, and Section XIX of the Zoning By-law which requires that all dwellings on lots bounded by more than one street, shall provide side yards next to the street at least thirty feet in width. Said appeal was also taken under the provisions of Chapter 40A, Section 15, of the General Laws.

On April 5, 1968, the Inspector of Buildings notified the appellants that a permit could not be issued for the proposed construction and on April 8, 1968, the appellants took an appeal from such refusal. Thereafter due notice of the hearing was given by mailing and publication.

Joseph A. Attanasio, Jr. represented the appellants at the hearing.

Statement of Facts

The dwelling involved is located on the corner of Brookdale Avenue and Manor Avenue on a lot containing 11,603 square feet, in a Single-residence District requiring a minimum lot area of 10,000 square feet. It was built in 1949 on a lot which adjoined other land of the same owner on April 1, 1940.

The appellants seek permission to construct an enclosed porch 10' x 15' on the side of their dwelling to replace an existing open landing. The proposed addition is needed to provide protection to the kitchen and prevent the wind from blowing through the house as it does now. It was pointed out that while the proposed porch, if built, will lie only twenty-five feet from Manor Avenue at the northwesterly corner, it will be thirty feet from Manor Avenue at the northeasterly corner. The appellants feel it will not only provide the needed protection for the house, but will be an attractive addition.

A plot plan was submitted, drawn by Gleason Engineering Company, dated April 4, 1968, which showed the existing dwelling and proposed addition.

Decision

The Board has made a careful study of the facts submitted and has taken a view of the locus. The house was built in 1949 on a lot which adjoined other land of the same owner in 1940. This Board, therefore, cannot make a "special exception" under Section XIX of the Zoning By-law as said section authorizes the

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Board to grant such exceptions only if on April 1, 1940 the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, considered the appeal under the provisions of General Laws, Chapter 40A, Section 15, and in its opinion a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the appellants which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said section. The Board feels that there is a real need for the proposed enclosure which, in its opinion, will not prove detrimental to the neighborhood, but will tend to improve it.

The Board further finds that a literal enforcement of the setback provision of Chapter IV, Section 1, of the Building Code would result in manifest injustice to the appellants and that said section did not contemplate its application in a case such as this and should be varied in this instance.

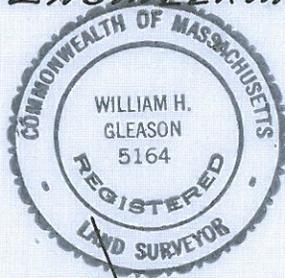
Accordingly, the appeal is granted and the issuance of a permit for the proposed addition as shown on the plan submitted and on file with this Board is hereby authorized.

  
Philip H. Cahill  
  
Dana T. Lowell  
  
F. Lester Fraser

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

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PLAN OF LAND  
IN  
**WELLESLEY, MASS.**  
OWNED BY  
**JOSEPH A. JR. & ALICE ATTANASIO**  
SCALE 40 FEET TO AN INCH  
APRIL 4, 1968.  
GLEASON ENGINEERING COMPANY



**BROOKDALE AVENUE**

