



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Mitchell Estates, Inc.

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 August 8, 1968, on the appeal of Mitchell Estates, Inc., from the refusal of the Inspector of Buildings to issue a permit for the construction of a dwelling on Lot 21-B #1 Scotch Pine Circle. The reason for such refusal was that said dwelling would violate Section XIX of the Zoning By-law which requires that all dwellings shall provide side yards not less than twenty feet in width within the Town of Wellesley and Chapter IV, Section 1, of the Building Code which requires that all Type V buildings shall be placed at least ten feet from any party line within the Town of Wellesley. Said appeal was requested under the provisions of Chapter 40A, Section 15, of the General Laws, and Chapter I, Section 11, of the Building Code.

On July 18, 1968, the Inspector of Buildings notified the appellant in writing that a permit could not be issued for the construction of a dwelling on the lot involved for the above-mentioned reasons. On the same date the appellant took an appeal therefrom. Thereafter due notice of the hearing was given by mailing and publication.

Mitchell Kontoff, President of Mitchell Estates, Inc., spoke in support of the appeal at the hearing.

Fred Coleman, 45 Falmouth Road, questioned the change in the lot from its original size and shape, and requested that the Board withhold its decision for ten days until adequate evidence has been produced to enable him to make a judgment.

Statement of Facts

The house lot involved is located within a Single-residence District requiring a minimum lot area of 30,000 square feet. The total area of the house lot is 43,043 square feet which includes Lot 21B containing 31,161 square feet and Lot 21C containing 11,882 square feet. The Town of Weston line bisects the house lot with Lot 21B within the Town of Wellesley and Lot 21C within the Town of Weston.

A plot plan was submitted, drawn by Everett M. Brooks Co., Newtonville, dated June 10, 1968, which showed the proposed dwelling on the lot. Said plan showed the dwelling to be 99' from Scotch Pine Circle, but only five feet from the Town of Weston boundary line which bisects the lot on the northerly side of the house.

The lot involved is one within a subdivision which was approved by the Planning Board on January 23, 1964. The shape of the lot has been changed twice since it was originally laid out; once in 1967 and more recently on July 15, 1968. Both plans were endorsed by the Planning Board as, "Approval Under the Subdivision Control Law not Required." and recorded in the Registry

of Deeds. The changes were made in the plan in order to give the lot a better frontage and because of the topography of the lot. It was pointed out that there is a large mound of ledge which prevents the house from being located the required distance from the lot line.

At the request of this Board, the appellant submitted subsequent to the hearing, a revised plan showing the house located on the most recent plan which had been endorsed by the Planning Board on July 15, 1968.

Decision

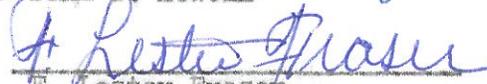
The Board is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of the Zoning By-law, but it has considered the request under the provisions of Chapter 40A, Section 15, of the General Laws, and unanimously finds that owing to conditions especially affecting this parcel but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the by-law would involve substantial hardship to the appellant.

The Board is of the further opinion that the construction of a dwelling on the lot involved as shown on the plan submitted will not change the character and appearance of the immediate neighborhood and that the requested exception may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law. After viewing the locus, it is the opinion of this Board that due to the excessive amount of ledge on the lot, a house could not be located on the lot and comply with the side yard requirement.

Accordingly, the requested variance is granted and the issuance of a permit for the proposed dwelling as shown on the revised plan submitted and on file with this Board is hereby authorized, subject to the conditions, however, that (1) only one dwelling house shall hereafter be erected on the lot involved which contains 43,043 square feet, (2) the portion of the lot in Weston shall remain under common ownership with the portion in Wellesley and (3) the proposed dwelling shall be located on said lot as shown on the plan submitted.


Richard O. Aldrich

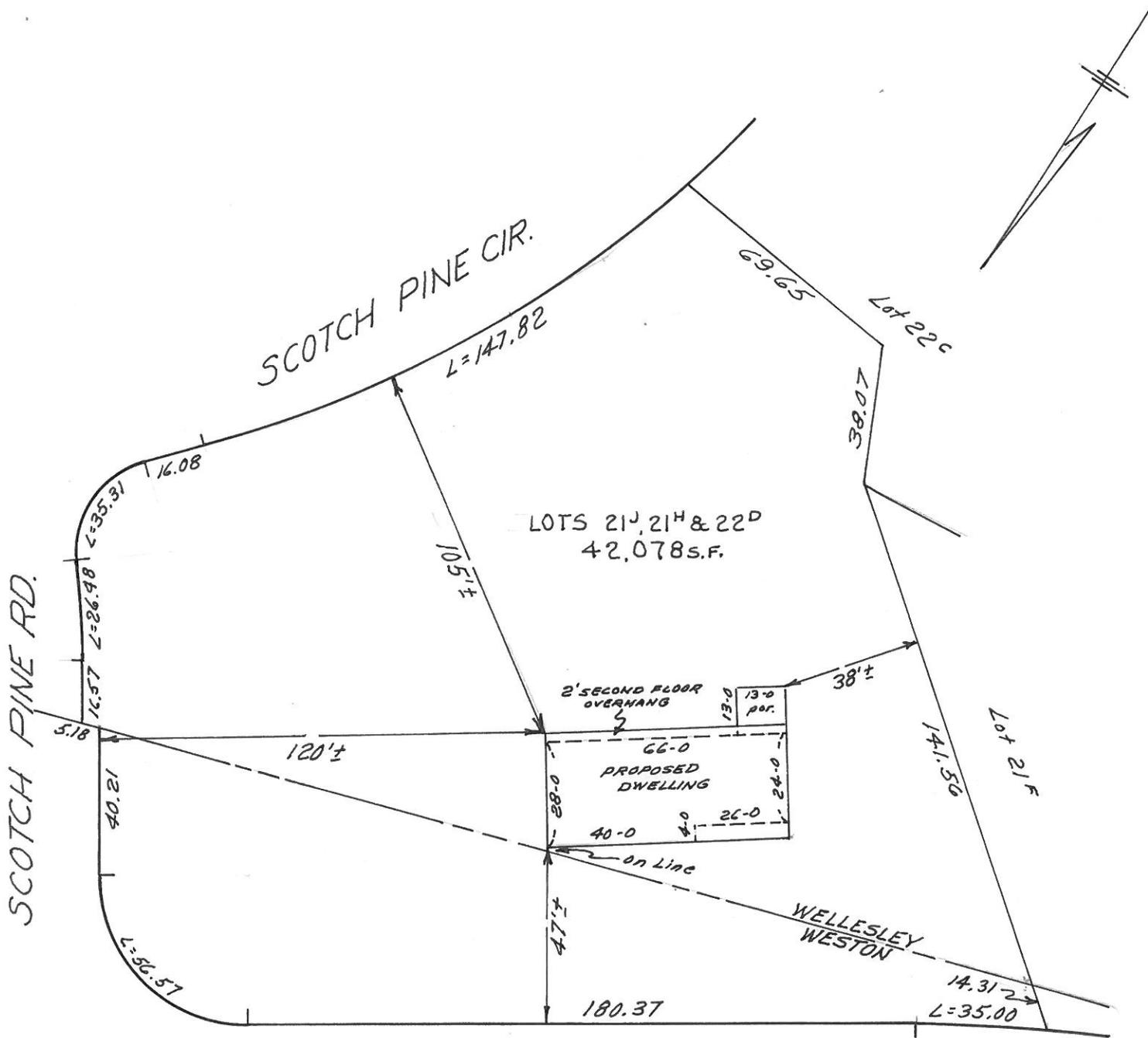

Dana T. Lowell


F. Lester Fraser

Filed with Town Clerk _____

1968 SEP 13 11 08 AM '68

RECEIVED TOWN CLERK
1968 SEP 13 11 08 AM '68



SCOTCH PINE RD.

SCOTCH PINE CIR.

LOTS 21^J, 21^H & 22^D
42,078 S.F.

2' SECOND FLOOR
OVERHANG
PROPOSED
DWELLING

WELLESLEY
WESTON

FALMOUTH RD.



PLAN OF LAND
IN
WELLESLEY • MASS.
(SHOWING PROPOSED HOUSE LOCATION)

SCALE: 1 IN. = 40 FT. AUG. 12, 1968
EVERETT M. BROOKS CO. CIVIL ENG'RS.
NEWTONVILLE • WAYLAND • W. ACTON ~ MASS.