



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of Robert D. and JoAnn M. Fleming

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 8:25 p.m. on August 8, 1968, on the petition of Robert D. Fleming and JoAnn M. Fleming requesting a special exception from the terms of Section XIX of the Zoning By-law which will permit them to construct a dwelling on Lot 3, Berkeley Road with side yards less than the required twenty feet. Said request is made under the provisions of Chapter 40A, Section 15, of the General Laws.

On July 19, 1968, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Robert D. Fleming and Peter F. Gandolfo, 31 Fells Road, spoke in support of the petition.

The following persons spoke in favor of granting the request: Wesley S. Curran, 11 Berkeley Road, Donald Hanson, 5 Berkeley Road, Fred W. Fay, 41 Beechwood Road and Thomas M. McMahon, 10 Berkeley Road.

Statement of Facts

The lot involved which contains 11,675 square feet, is located within a Single-residence District requiring a minimum lot area of 10,000 square feet.

The petitioner seeks permission to construct a dwelling approximately 30' x 40', 41.5' back from Berkeley Road, with side yards seventeen feet rather than the required twenty feet. It was stated at the hearing that the proposed house is to be a split-level and would have to be placed end-on the lot in order to comply with the Zoning By-law. The lot is narrow with only a seventy-foot frontage and while it widens out to eighty-four feet in the rear, it was contended that the house would have to be placed back so far in order to comply with the by-law, it could not provide the proper distance in the rear. The petitioners recently purchased the lot and feel that after examining a number of plans, the proposed size house is essential for their growing family.

The house will be attractive, and in their opinion, a smaller house would not be comparable with other houses in the neighborhood and would depreciate surrounding values.

A plot plan was submitted, drawn by Gleason Engineering Company, dated July 1, 1968, which showed the proposed location of the house on the lot.

Decision

The Board has studied all the facts in the case and has taken

a view of the locus. It appears that the lot involved is the only remaining undeveloped lot in the area.

It is the unanimous opinion of the Board that no substantial hardship will result to the petitioners if the request is not granted as the Board feels that the house plans can be changed slightly so that a dwelling of adequate size and attractive in appearance can be located on the lot and provide the required twenty-foot side yards.

The lot involved adjoined other land of the same owner on April 1, 1940. The Board, therefore, is not authorized to make a special exception under Section XIX of the Zoning By-Law, however, it has considered the petition under the provisions of General Laws, Chapter 40A, Section 15. In its opinion the proposed dwelling with side yards less than the required twenty feet would reduce the value of property in the neighborhood. The street has been developed since the enactment of the present side yard requirement, and it appears to the Board that all the dwellings on the street have side yards at least the minimum width of twenty feet. To allow an encroachment, even though it is slight, the Board feels would result in detriment to the neighborhood. The Board, therefore, cannot find a substantial hardship within the meaning of Chapter 40A, Section 15, of the General Laws.

Accordingly, the request is denied and the petition dismissed.


Richard C. Aldrich


Dana T. Lowell


F. Lester Fraser

Filed with Town Clerk _____

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