



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of the Estate of Jane D. Bonner

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 8:20 p.m. on April 29, 1969, on the appeal of the Estate of Jane D. Bonner, from the order of the Inspector of Buildings to take steps to correct the recent construction of an addition to the attached garage at 55 Pilgrim Road which now stands in violation of the Building Code and the Zoning By-law. The reason for such order was that said addition was built too close to the street line and in violation of Chapter IV, Section 1 (a) of the Building Code which requires that Type V buildings shall be placed at least thirty feet from the side line of any public or private street and Section XIX of the Zoning By-law which requires that there shall be provided a side yard at least thirty feet in width on yards next to the street. Said appeal was taken under the provisions of Chapter I, Section 11, of the Building Code and Chapter 40A, Section 15, of the General Laws.

On March 31, 1969, the appellant appealed the order of the Inspector of Buildings and requested a hearing before this Board. Thereafter, due notice of the hearing was given by mailing and publication.

Joseph M. Kelley, attorney, represented the appellant at the hearing.

Statement of Facts

The house involved was built in 1941, and is located within a Single-residence District requiring a minimum lot area of 10,000 square feet.

The appellant seeks permission which will allow the addition constructed approximately a year ago on the side of the attached garage on the house involved to remain in its present location 29.1' from Massasoit Road rather than the required thirty feet and 49.1' from the center of the street rather than the required fifty feet.

It was stated at the hearing that through an error on the part of the builder, the addition involved was placed slightly closer to the street line than allowed and the discrepancy was not discovered until the work was nine tenths finished. The owner of the property has since died and the sale of the house is being held up pending a possible exception and variance from the Board of Appeal.

A plot plan, drawn by Gleason Engineering Company, dated March 29, 1969, was submitted which showed the house and addition on the lot.

Decision

It is the opinion of this Board that the slight setback violation from the street line and the center of the street was due to error and that the correction of this violation would result in manifest injustice to the appellant.

The lot involved was not held of record under a separate and distinct

ownership from adjacent lots on April 1, 1940, therefore 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 Section 15, Chapter 40A, of the General Laws. In its opinion this case involved 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 appellant to remove a portion of the attached garage, would cause a substantial hardship to the appellant 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.

Therefore, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws and a variance is granted under the provisions of Chapter I, Section 11, of the Building Code, which will allow the addition involved to remain in its location as shown on the plan submitted and on file with this Board.


Richard O. Aldrich


Dana T. Lowell


Robert T. Colburn

Filed with Town Clerk _____

APR 11 1940 3:34

RECEIVED
TOWN CLERK'S OFFICE
MAY 1940

PLAN OF LAND
IN
WELLESLEY, MASS.

OWNED BY
JANE D. BONNER

Scale 40 feet to an inch
March 27, 1969
Gleason Engineering Company

