



## BOARD OF APPEAL

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 235-1664

Appeal of Dorothy M. DiSchino

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 8:15 p.m. on April 30, 1970, on the appeal of Dorothy M. DiSchino, requesting a variance from the terms of Section II, of the Zoning By-Law which would permit the construction of a two-family dwelling on Lot 2, Belanson Circle, which is located within a Single-residence District. Said appeal was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On April 11, 1970, the appellant filed her request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Robert DiSchino, 114 Linden Street, husband of the appellant spoke in support of the request at the hearing.

Frederic B. Dailey, 64 Radcliffe Road, opposed the granting of the request. In his opinion, the proposed dwelling would prove detrimental to the abutting properties, one of which he owns at 7 Oakencroft Road.

Doris G. Lloyd, 112 Crest Road, questioned how high the proposed house would be and how many of the trees would remain undisturbed.

Harold Mock, member of the Planning Board, stated that he felt the matter is one of rezoning rather than a request for a variance.

The Planning Board in its report stated that the neighborhood in question appears to be relatively homogeneous in nature, where a desired or permissible use pertaining to the entire area can best be obtained by providing such use in a uniform manner by an amendment to the zoning by-law rather than by a petition for a variance.

Statement of Facts

The lot involved, which contains 10,678 square feet, is located within a Single-residence District, requiring a minimum lot area of 10,000 square feet. It is one of five lots within a Subdivision which was approved by the Planning Board on January 30, 1940. Three of the lots are within a General-residence District and two within a Single-residence District. A single-family dwelling and a two-family dwelling have been erected on the Circle and a second two-family dwelling is now under construction; thus leaving two lots undeveloped, the one involved within a Single-residence District and the adjacent lot on the southerly side within a General residence District.

The appellant seeks permission to construct a dwelling on the lot involved which will accommodate her family of eight children with separate living quarters for her mother. They are now living in a two-family dwelling nearby which has become too small for their needs.

Floor plans of the proposed dwelling were submitted which showed the first floor of the main part of the house containing a kitchen, dining room, living room, den, one bedroom and bath with the separate wing containing a kitchen, living room, two bedrooms and bathroom. The second floor of the main house is designed to have four bedrooms and bathroom, with no rooms above the separate wing.

Since the proposed house will have to be good size to accommodate the appellant's family and mother, it is felt that it would be difficult to sell a house of this size as a single-family home at some future time.

Certain peculiarities of the area and lot were pointed out to the Board for its consideration. It was alleged that the natural topography of the area sets it apart as a neighborhood in itself, the character of which is General-residence. Of the five lots within the Circle, the lot involved is the most difficult to develop, it was stated, and to be at all attractive, should be done in conjunction with the adjacent lot on the southerly side which is within a General-residence District.

Due to the elevation of the property which rises from 0° to 34°, and the large amount of ledge outcropping in the area, it has been difficult to design an attractive house and a driveway to be used in conjunction with it. It is proposed, therefore, to have a driveway which will be used for both Lot No. 1 and No. 2, which will have a grade of about 1½" to the foot, extending a distance of about one hundred and sixty feet to the cellar floor level of the house involved; this lot developed separately would have a grade to the cellar floor level of over 4" to the foot. This could be dangerous and very unattractive. The proposed house, if approved, will set twenty-one feet above the center of Delanson Circle with the surrounding area of Oakencroft Road at least seven or eight feet higher. There is no access to either Oakencroft Road or Crest Road.

It was stated that the area involved was proposed in a preliminary master plan for the Town as a high rise apartment area. The view from this lot is not one which is desirable, as one views the basement of a house on Oakencroft Road on the northerly side, the rear yards of General-residences and a carwash on the easterly side, a municipal parking area and railroad on the southerly side and the proposed house would be well below the first floor area of a multi-family house on the westerly side.

Because of these factors, it is the feeling of the appellant that substantial hardship will result if the proposed lot cannot be developed as requested.

A plot plan was submitted, drawn by MacCarthy Engineering Service, Inc., dated March 24, 1970, which showed the lot involved with the proposed dwelling located on it as well as the adjacent lot on the southerly side with a proposed dwelling located on it.

#### Decision

The Board has examined the plans submitted; has taken a view of the locus and has carefully considered the evidence introduced.

It is the Board's opinion that due to the physical characteristics of the lot and area involved, a literal enforcement of the provisions of the By-law which prevents the desired construction of a two-family dwelling would involve a substantial hardship, financial or otherwise to the appellant and that relief may be granted without substantial detriment to the public good and without

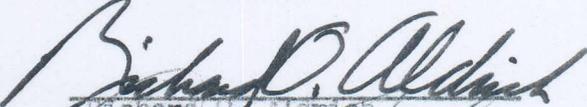
nullifying or substantially derogating from the intent or purpose of the Zoning By-law. The lot involved is the only remaining undeveloped lot within a Single-residence District and is adjacent to the other undeveloped lot located within a General-residence District. A house has been designed for the lot which from all appearance, will be in keeping with other houses in the area and will resemble, in fact, a single-family dwelling. A single-family dwelling can legally be built in the proposed location on this lot without a variance from this Board, therefore, the opposition presented relative to the development and the loss of trees, cannot properly be a determining factor in this case.

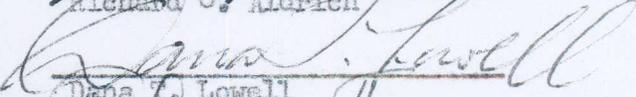
It is the opinion of the Board that the area involved is separate and distinct from adjacent properties on the north and west as there is no access to either of the neighboring streets and the houses on the adjacent lots are on a higher elevation. Therefore, the proposed house should not interfere in any way with the light and air of the adjacent properties. To the south of the property is a Town of Wellesley public parking lot and beyond that a railroad; approximately 200' to the east is business-zoned property and beyond that is industrial-zoned property.

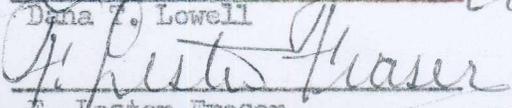
At the request of this Board, the petitioner submitted a revised plot plan which was drawn by MacCarthy Engineering Service, Inc., dated March 24, 1970, and revised on September 16, 1970. Said plan showed the location of the proposed dwelling to be 15.5' from the rear lot line rather than 10.5' as originally submitted at the hearing.

Accordingly, the requested variance is granted for the construction of the proposed dwelling with an attached apartment as authorized under the provisions of Chapter 40A, Section 15, of the General Laws, in accordance with revised plans submitted and on file with this Board subject to the following conditions:

1. That all work shall be performed in accordance with the plans hereby approved and in compliance with all other requirements of local and state laws.
2. That all possible healthy trees shall remain on the lot between the proposed dwelling and the properties numbered 112 Crest Road and 7 Oakencraft Road.
3. By accepting and acting upon this decision appellant agrees to erect a stockade type fence and/or plant shrubs along the southwesterly lot line if the Board in its discretion should determine that such is appropriate after construction of the proposed dwelling, and to maintain said fence and/or shrubs, and to abide by such rules and regulations with respect to use of subject premises as the Board may from time to time prescribe.

  
Richard O. Aldrich

  
Dana F. Lowell

  
F. Lester Fraser