



## BOARD OF APPEAL

70-52

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

KATHARINE E. TOY, CLERK  
 TELEPHONE  
 235-1664

Appeal of Norman L. McDonald

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 8:05 p.m. on November 19, 1970, on the appeal of Norman L. McDonald from the refusal of the Inspector of Buildings to issue a permit to construct an addition on the rear of the dwelling at 21 Stonecleve Road. The reason for such refusal was that said addition would violate Section XIX of the Zoning By-law which requires that there shall be provided for all such buildings and additions a front yard not less than thirty feet in depth and on a corner lot a side yard not less than thirty feet in width. The proposed addition would also violate Chapter IV, Section 1 (a) of the Building Code which requires that all buildings shall be placed at least thirty feet from the side line of any public or private street and all Type V buildings shall be placed at least fifty feet from the center line of any public or private street. The proposed addition would further violate Section XVIII-C of the Zoning By-law which requires that no building or addition to any building shall hereafter be placed on any lot of land which will result in covering by buildings of more than 25% of the area of such lot.

On September 4, 1970, the Building Inspector notified the appellant in writing that a permit for the construction of an addition to the dwelling involved as well as other alterations, could not be issued for the above-mentioned reasons. On September 14, 1970, the appellant took an appeal from such refusal and thereafter due notice of the hearing was given by mailing and publication.

Charles Prombain, attorney, represented the appellant at the hearing.

Statement of Facts

The house involved, which was built approximately fifty-five years ago, is located on a lot containing 3,285 square feet in area and located within a single-residence district requiring a minimum lot area of 10,000 square feet. It was originally built as a summer camp prior to the enactment of the present applicable Zoning By-laws and Building Code requirements, and is located 14.5' from Stonecleve Road, 0.5' from Bay Road a private way on the westerly side, 16' from the lot line on the easterly side and 8' from Moses Pond on the northerly side. There is also a carport located on the property which was formerly a one-car garage. This is located between the house and the easterly side lot line.

The appellant seeks permission to complete the remodeling and addition, now under construction, on the dwelling involved. The work consists of the replacement of deteriorated framing members, trim and side walls, replacement of roof and construction of shed dormer window across the rear of the dwelling.

The appellant's attorney stated that through a misunderstanding work was started on the dwelling without a permit, but nothing has been done since the Building Inspector ordered work stopped on December 4, 1969. The appellant purchased the property in 1969 and prior to that time, it had not been occupied for ten or twelve years. It is small, approximately 24' x 28' and in very poor condition. It was alleged that the proposed work will make it liveable and should be an improvement to the neighborhood. The appellant has also removed most of the garage which was in a dilapidated condition and has replaced it with a carport. Said carport is on the northerly side of the house 2' from the lot line and 3.5' from the house. It was stated that the appellant already has invested a substantial amount of money in the property and unless relief is granted to him to complete the work, hardship will result to the neighborhood as well as to the owner. It was pointed out that almost the entire neighborhood is built up with houses and garages closer to the street and side yards less than the required setbacks and in some cases nearer than the setbacks requested.

A plot plan was submitted, drawn by Rodman J. Taylor, Land Surveyor, dated July 6, 1970, Revised November 30, 1970, which showed the dwelling on the lot as well as the proposed addition, also the remodeled garage.

#### Decision

The facts in this case satisfy the conditions set forth in Section XIX of the Zoning By-law, Section XVIII-C of the Zoning By-law and Chapter IV, Section 1 (a) of the Building Code on which the Board's authority depends to grant a special exception from the applicable front and side yard restrictions of the Zoning By-law, an exception to the coverage by buildings of more than 25% of the area of the lot and a variance from the Building Code.

The house was built prior to the enactment of the front and side yard requirements and was held of record on April 1, 1939, under a separate and distinct ownership from adjacent lots. The lot which contains only 3,285 square feet, has a frontage of only 45' and narrows slightly as it extends back to Morses Pond. Compliance, therefore, with the yard requirements is impracticable because of the width, depth and shape of the lot. Unless this Board grants the requested exceptions and variance, in the opinion of this Board, manifest injustice will result to the appellant and the property. The house is not liveable as it is now and unless the requested exceptions are granted it is likely that the house would have to be demolished. There is no way in which the house can be improved and enlarged sufficiently to make it suitable for occupancy and comply with the Zoning By-law and Building Code. Moreover, it seems clear that it would not be esthetically or economically practical to build a completely new house on the lot which would comply with the Zoning By-law and Building Code.

Upon examination of a plan of the neighborhood, it appears that the neighborhood has been generally developed by the construction of houses with side yards, front yards and lots smaller than required by the by-law, some of them smaller than those requested by the appellant.

The Board has viewed the locus and is concerned with the proximity of the house to Morses Pond which could result in a sewage problem and pollution of the waters of Morses Pond. However, it is the unanimous opinion of this Board that, subject to the following conditions, the requested exceptions and variance can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-laws.

JOHN C. BERRY, 202 OFFICE RECEIVED

Accordingly, without condoning the manner in which the work has been started and proceeded without a permit, the requested exceptions and variance are granted and the Inspector of Buildings is authorized to issue a permit for the completion of the work involved in accordance with the plans submitted and on file with this Board, subject to the following conditions:

1. That all necessary permits are obtained from the Board of Health for the construction and maintenance of a suitable sanitary system.
2. That a certificate or letter from a registered professional engineer, satisfactory to this Board, be addressed to the Board, prior to the issuance of any building permit, stating that the use of a dwelling and sewage disposal system constructed in accordance with the plans and specifications which will be submitted to the Board, will not involve any risk of pollution of the waters of Morses Pond and a certificate of satisfactory completion in accordance with said plans and specifications shall be furnished to the Board by said engineer before occupancy of said dwelling.
3. That no commercial vehicle shall be parked on the property at any time.
4. Except as expressly permitted herein said construction shall comply in all respects with the Zoning By-law and Building Code.

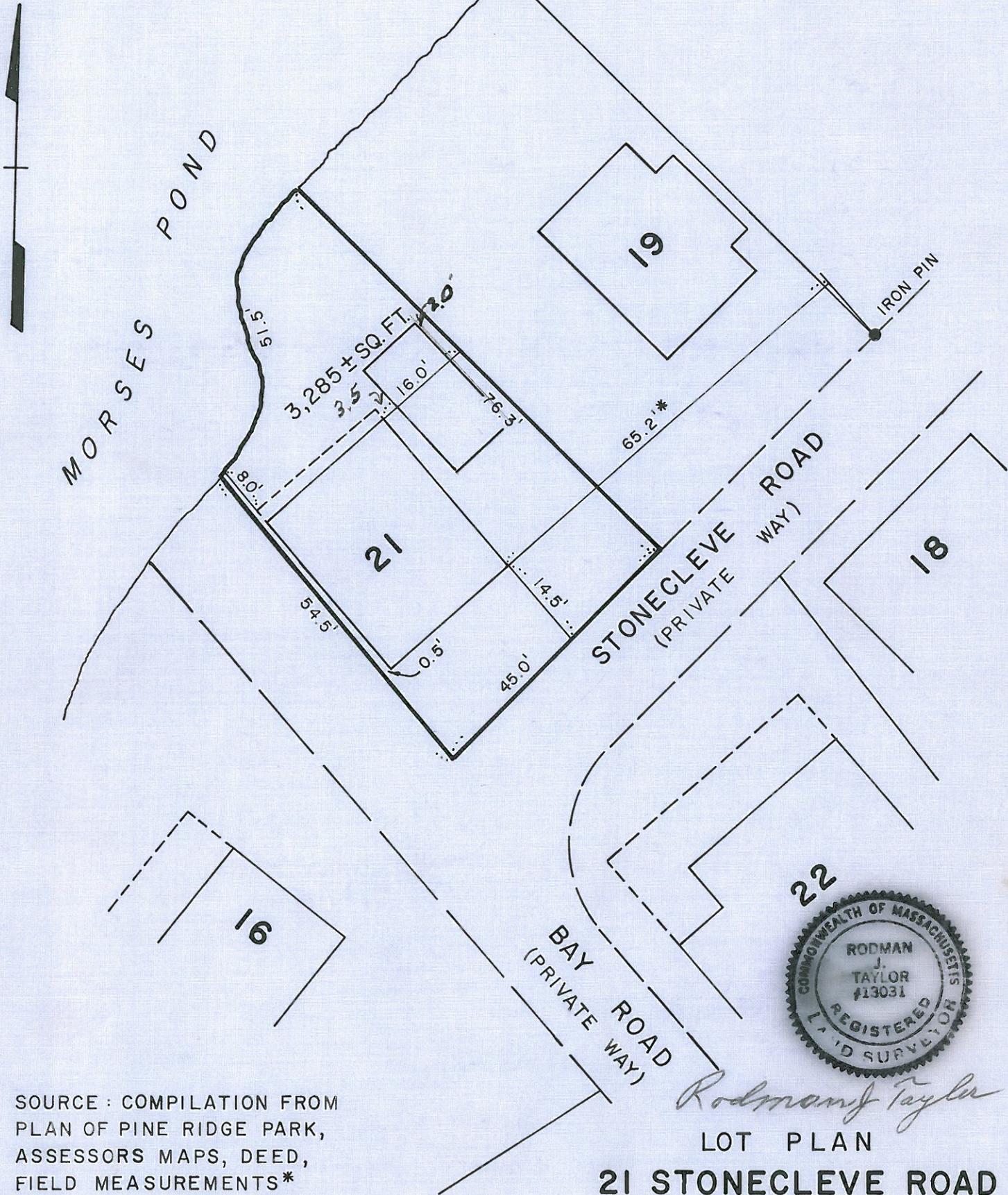
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 WELLESLEY MASS.

*Richard O. Aldrich*  
 Richard O. Aldrich

*F. Lester Fraser*  
 F. Lester Fraser

*Edward T. Kilmain*  
 Edward T. Kilmain

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



*Rodman J. Taylor*

**LOT PLAN**  
**21 STONECLEVE ROAD**  
**WELLESLEY, MASS.**

SOURCE : COMPILATION FROM  
 PLAN OF PINE RIDGE PARK,  
 ASSESSORS MAPS, DEED,  
 FIELD MEASUREMENTS\*

SCALE: 1" = 20'      APRIL 19, 1970

BY R. J. TAYLOR  
*95 Lake Road Framingham, Mass*  
 REV. JULY 6, 1970  
 REV. NOV. 10, 1970

TOWN OF WELLESLEY



MASSACHUSETTS

BUILDING DEPARTMENT

JOSEPH E. SCAMMON, INSPECTOR

TEL. 235.1664

September 4, 1970.

Mr. Norman L. McDonald  
36 Salmi Rd.  
Framingham, Mass.

Dear Mr. McDonald:

Your application for a permit to alter the dwelling at 31 Stonecleve Road, Wellesley, has been refused as the proposed alteration, which includes an addition to the dwelling, would violate Section XIX of the Zoning By-law which requires that there shall be provided for all such buildings and additions a front yard not less than thirty feet in depth and on a corner lot a side yard not less than thirty feet in width. The proposed addition would also violate Chapter IV, Section 1 (a) of the Building Code which requires that all buildings shall be placed at least thirty feet from the side line of any public or private street and all Type V buildings shall be placed at least fifty feet from the center line of any public or private street. The proposed addition would further violate Section XVIII-B of the Zoning By-law which requires that no building or addition to any building shall hereafter be placed on any lot of land which will result in covering by buildings of more than 25% of the area of such lot.

In connection with this work, I wish to call to your attention that I wrote a letter to you on December 4, 1969, informing you that a permit was required for the construction work being performed at the location involved and ordered that no further work be done until a permit had been issued.

Therefore, approval from the Board of Appeal will have to be obtained before a permit can be issued for the work involved.

Yours very truly,

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Building Inspector

March 1, 1978.

Mr. Joseph E. Scammon, Building Inspector  
Town of Wellesley  
Town Hall  
Wellesley, Mass.

Dear Mr. Scammon:

It appears from your letter of February 28, 1978, addressed to Michael Greene, 16 Bay Road, that the decision of the Board of Appeal authorizing the completion of the work involved at 21 Stonecleve Road, has been violated.

The deck referred to in your letter, which has been erected on the rear of the house involved without a permit or the approval of the Board of Appeal, does not appear on the plan submitted to the Board for its approval in 1970.

Condition No. 3, which states, "That no commercial vehicle shall be parked on the property at any time," also appears to have been violated.

It is, therefore, the opinion of this Board that the Board of Appeal's decision in the case of "Norman L. McDonald," recorded with the Town Clerk on May 7, 1971, has been violated, and the Board requests that you take steps to enforce this decision.

Yours very truly,

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Francis L. Swift, Chairman

TOWN OF WELLESLEY



MASSACHUSETTS

BUILDING DEPARTMENT

JOSEPH E. SCAMMON, INSPECTOR

TEL. 235-1664

November 3, 1977

Board of Appeal  
Town Hall  
Wellesley, Mass.

Re: 21 Stonecleve Road

Gentlemen:

The Board of Appeal, in a decision dated May 7, 1971, gave permission to the then owner to complete renovations to the house at 21 Stonecleve Road. One of the conditions of that decision was that a qualified sanitary engineer design a septic system to handle sewage from the house that would not pollute Morses Pond. Given the small size of the lot, it apparently was not possible.

The Town has recently completed installing sewer mains in this section of town and all the houses must tie in with the system.

I certify that on this day I have seen the pipe that now connects this house to the town sewer system. In my opinion, this sewer connection complies with the intent of the above condition in the Board of Appeal decision.

Yours very truly,

Joseph E. Scammon  
Building Inspector

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