



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Petition of John T. Eiker, 3rd.

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 18, 1971, on the petition of John T. Eiker, 3rd, requesting an exception from the terms of Section XIX of the Zoning By-law which will permit him to construct an addition on the side of the garage attached to the side of his dwelling at 32 Wall Street, with a side yard less than the required twenty feet. Said request was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On November 9, 1971, the petitioner filed the above-mentioned request and thereafter due notice of the hearing was given by mailing and publication.

John T. Eiker, 3rd, spoke in support of the request at the hearing.

John Gordon Stipe, Jr. and Elma M. Stipe, 36 Wall Street opposed the granting of the exception. In their opinion, the proposed construction which would result in a reduced side yard, would adversely affect the resale value of their property and the general appearance and quality of the neighborhood. The petitioner has owned the property only a short time, it was stated, and at that time the residence and attached garage were as they are now, with only a one-car garage. Therefore, in their opinion, no exception should be granted.

Laura E. McQuide, 42 Wall Street, also opposed the granting of the request. She has owned her property for the past 17 years and feels the Zoning By-law should be upheld in this case. If this is granted, in her opinion, it will establish a precedent for others on the street who also have only a one-car garage.

Statement of Facts

The dwelling involved is located within a single-residence district requiring a minimum lot area of 10,000 square feet. It was built in 1941, approximately twenty feet from the lot line on the northerly side.

The petitioner seeks permission to construct a ten-foot extension to the existing attached garage which, if built, will lie 10.37' from the side lot line at the nearest point. The petitioner stated that he has three cars; the existing garage is undersized for a modern full-size car and the driveway is too short to park two full-size cars without projecting into Town property. In his opinion, the proposed addition will benefit the neighborhood as well as provide more adequate accommodations for his cars. If the request is not granted, he feels undue hardship will result, as it is impossible now to move the cars if one is stalled and difficult at all times.

A plot plan was submitted, drawn by Alexander Crucoli, Chelsea, Mass., which showed the existing dwelling and proposed addition. Said plan was

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dated September 14, 1971.

Decision

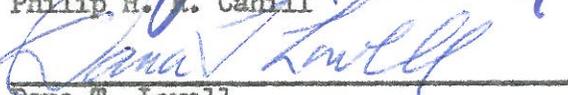
The Board has made a careful study of the plans submitted and has taken a view of the locus. The house was built in 1941 on a lot which adjoined other land of the same owner on April 1, 1940. The Board, therefore, is not authorized to make a special exception under Section XIX of the Zoning By-law, as said section authorizes the Board to grant such exceptions only if on or before April 1, 1940 the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, also considered the petition as seeking a variance under the provisions of General Laws, Chapter 40A, Section 15.

In the opinion of the Board the conditions which are a prerequisite to the grant of a variance under the provisions of Chapter 40A, Section 15, are not satisfied in this case. It does not appear that the problem which affects this parcel is unique; rather, it is frequently encountered in the zoning district in which the property is located. Wall Street has been developed since the enactment of the twenty-foot side yard requirement, and it appears to the Board that all the dwellings on the street have side yards at least the minimum width. To allow an encroachment of this kind would establish a precedent which could ultimately have an adverse effect upon the public good. Neighboring homeowners stated their belief that there would be an adverse effect on property values. While no expert testimony was offered, certainly there is an absence of any evidence from which the Board could affirmatively conclude that the grant of a variance would not have any detrimental effect.

The Board believes it should also take note, as pertinent to its decision, of the fact that the petitioner purchased the property in question only a few months ago, and must be charged with knowledge of the limitations of the By-law and the situation of the building on the lot, with respect to the requirements of the By-law, at the time of his purchase. The petitioner must have been aware of the fact that the attached garage could house only one automobile while he was registering three. The Board does not see how the instant situation of the petitioner's inability under the law to construct an addition to his attached garage can be regarded, under all the circumstances, as a "substantial hardship" within the meaning of the term as used in Chapter 40A, Section 15.

Accordingly, the request is denied and the petition dismissed.


Philip H. Cahill


Dana T. Lowell

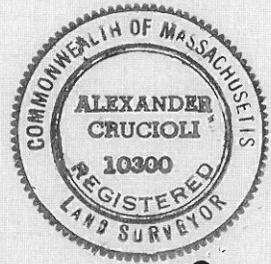

Robert T. Colburn

PLAN OF LAND
IN
WELLESLEY - MASS.

Scale: 1" = 20'
SURVEYOR

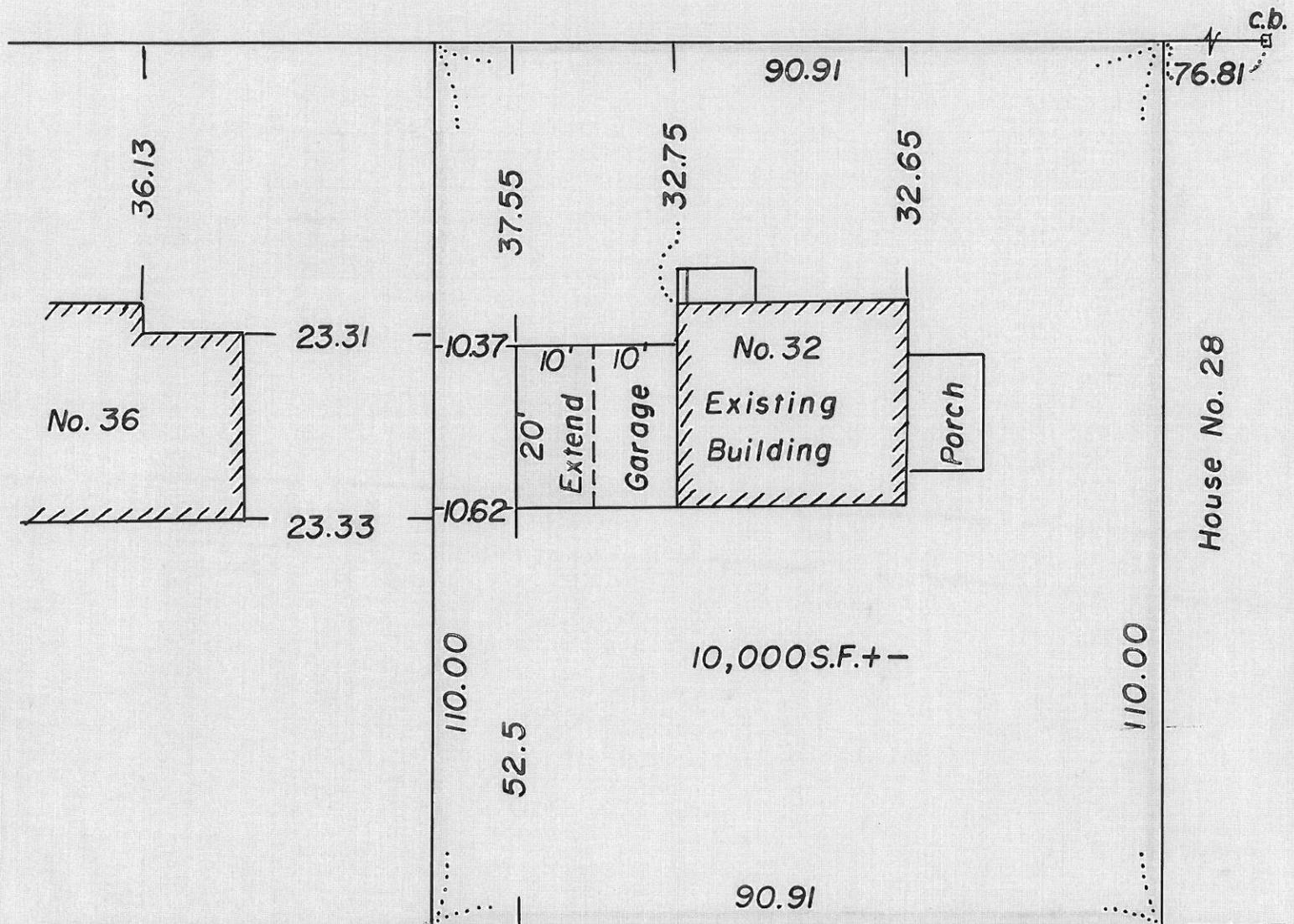
Sept. 14, 1971.

Alex. Crucioli
57 Winthrop Rd.
Chelsea, Mass.



Alexander Crucioli

WALL (40') ST.



House No. 55

House No. 51