



## BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK  
TELEPHONE  
235-1664

Appeal of Robert P. and Barbara A. Owen

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 8:10 p.m. on December 28, 1971, on the appeal of Robert P. and Barbara A. Owen, from the refusal of the Inspector of Buildings to issue a permit to them to construct an addition on their dwelling at 8 Madison Road. The reason for such refusal was that said addition would violate Section 311.6, Location of Buildings, of the BOCA Basic Building Code of Wellesley, which requires that all such buildings shall be placed at least thirty feet from the side line of any public or private street and all Type IV buildings shall be placed at least fifty feet from the center line of any public or private street, and Section XIX of the Zoning By-law, which requires that there shall be provided for all such buildings a side yard not less than twenty feet in width and a front yard not less than thirty feet in depth. Said appeal was made under the provisions of Section 127.2 of the BOCA Basic Building Code of Wellesley and Chapter 40A, Section 13, and Section 15, of the General Laws.

On December 6, 1971, the Inspector of Buildings notified the appellants in writing that a permit could not be issued for the proposed construction for the above-mentioned reasons, and on December 7, 1971, the appellants took an appeal from such refusal. Thereafter due notice of the appeal was given by mailing and publication.

Robert P. Owen spoke in support of the appeal at the hearing.

Letters favoring the request were received from the following: Dennis H. Pruslin, 20 Madison Rd., Gerald F. and Alice H. Frazee, 36 Hastings St., Erich K. Bender, 9 Madison Rd., and Thomas M. and Mrs. Thomas M. Botts, 3 Madison Rd.

A letter opposing the request was received from Stanley S. Setchell, 7 Madison Rd.

Statement of Facts

The house involved which was built in 1941, is located within a Single-residence District requiring a minimum lot area of 15,000 square feet, and is located on a lot containing 10,558 square feet.

The appellants seek permission to construct a one-story addition on the northwesterly side of their house. The addition is designed to enlarge the kitchen and provide a new entry with covered porch and a new single-car garage. It is proposed to convert the existing garage into a studio-family room and bath. It was pointed out that the existing kitchen is totally inadequate in size and there is very little eating space or counter space for the preparation of food. The present entry is directly into the kitchen with no protection and no area in which to leave wet boots, coats, etc. It was further pointed out that the present garage is too small for a full size American car with no side clearance for adequate passage or storage of garden tools.

A plot plan was submitted, drawn by Robert E. Dickinson, Reg. Professional Engineer, Newton, dated December 1, 1971, which showed the existing dwelling and the proposed addition. Said plan showed the addition to be 18' from Madison Road at the nearest point and 10' from the side lot line at the nearest point.

It was stated that because the lot involved is pie shaped with a rectangular house placed on it, there is substantially less buildable space, by comparison than if the lot were rectangular in shape, and not typical of a normal lot. The only other alternative, it was alleged, would be to construct a garage on the other side of the house. This would entail cutting down two large trees, blocking two of the three living room windows and two windows on the enclosed porch with the access to the house either through the living room or the porch.

It was the opinion of the appellants that the proposed addition would not only provide the needed space, but would be in keeping with the intent of the by-law, and would preserve the esthetic value of the property. Due to the particular set of circumstances involved, they urged the Board to grant the requested variance.

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, 1939. The Board, therefore, is not authorized to make a special exception under Section XIX of the Zoning By-law, as said section authorized the Board to grant such exceptions only if on or before April 1, 1939 the lot was owned of record under a separate and distinct ownership from adjacent lots, in the case of a front yard and April 1, 1940 in case of a side yard. The Board, however, has considered the appeal under the provisions of General Laws, Chapter 40A, Section 15.

In the opinion of the Board the conditions which are a requirement to the granting of a variance under the provisions of Chapter 40A, Section 15, of the General Laws, 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. Madison Road 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, and a detrimental effect on the neighborhood. The Board, therefore, cannot find that the appellants' inability to construct the addition as designed, when it can be accomplished in an alternate manner, is a "substantial hardship" within the meaning of the term as used in Chapter 40A, Section 15, of the General Laws.

Accordingly, the request is denied and the appeal dismissed.

*Richard O. Aldrich*  
Richard O. Aldrich

*Dana T. Lowell*  
Dana T. Lowell

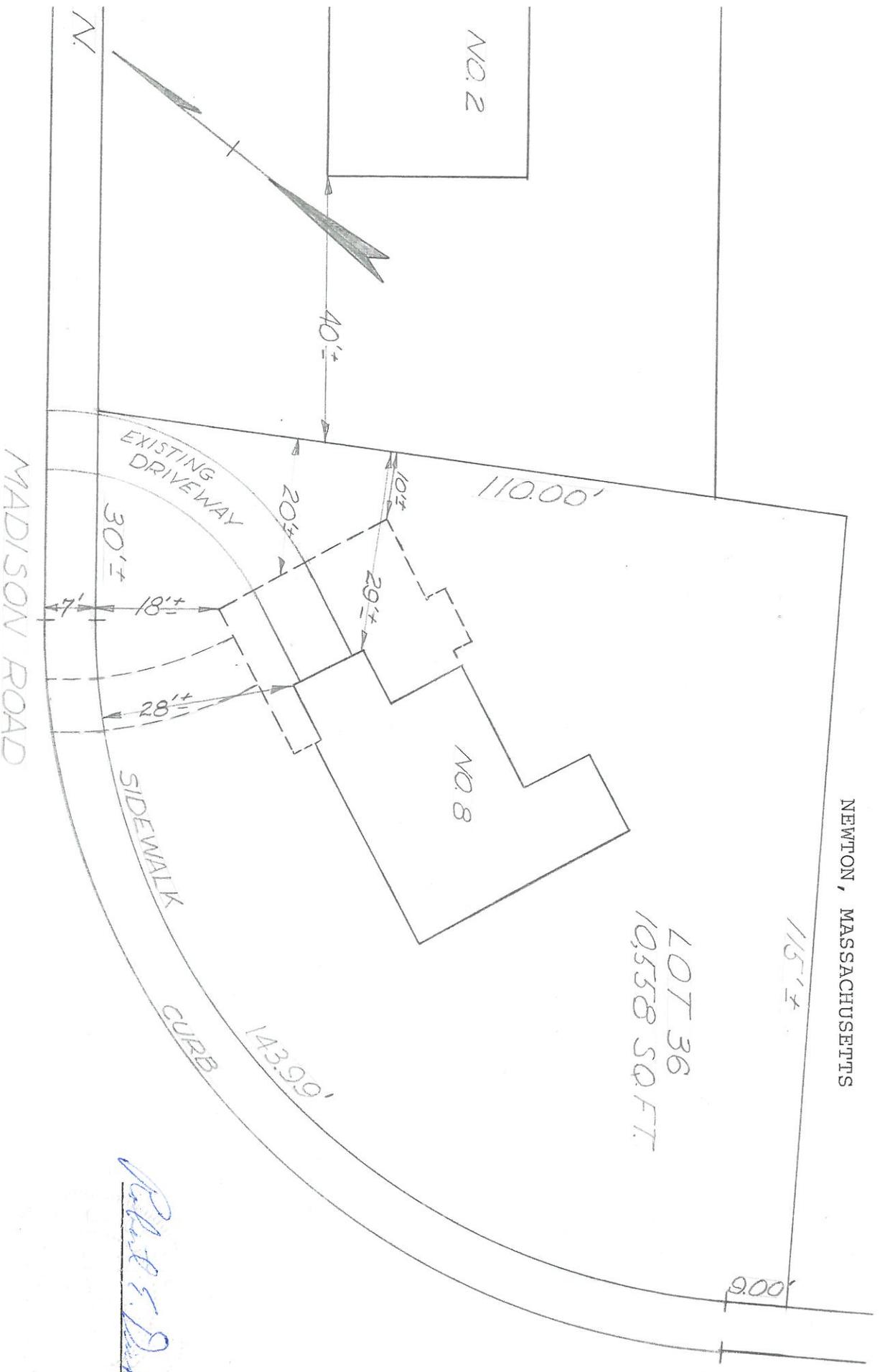
*Robert T. Colburn*  
Robert T. Colburn

Filed with Town Clerk 3/14/72

10  
MAY 23 1972  
TOWN CLERK'S OFFICE  
RECEIVED

PROPOSED ADDITION TO THE HOUSE OF MR. AND MRS. ROBERT OWEN, 8 MADISON ROAD, WELLESLEY

ROBERT E. DICKINSON  
REGISTERED PROFESSIONAL ENGINEER  
NEWTON, MASSACHUSETTS



*Robert E. Dickinson*  
12/1/21

PROPOSED ADDITION

SCALE 1"=20'