

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

RICHARD O. ALDRICH
F. LESTER FRASER
WILLIAM O. HEWETT

KATHARINE E. TOY, CLERK
TELEPHONE
235-1684

Petition of the Estate of Mary I. Sullivan

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 May 10, 1973, on the petition of the Estate of Mary I. Sullivan, requesting a special exception from the terms of Section XIX of the Zoning By-law or a variance as provided by Chapter 40A, Section 15, of the General Laws, which would permit the division of a parcel of land appurtenant to house No. 21 Burke Lane into three lots, namely Lot 1, Lot 2, and Lot 3, with Lot 3, containing a front yard and frontage with less than the required sixty feet in width.

On April 6, 1973, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Joseph T. Fleming, Jr., Attorney, represented the petitioner at the hearing.

Frederick W. Cronin, 5 Hayden Place, questioned whether Hayden Place would serve as an access to the proposed lot in the rear, and if so, would others living on Hayden Place have to pay betterments.

The Planning Board in its report suggested that the lot in question be divided into three parcels with adequate access for two lots onto Burke Lane and with access for the third lot onto Hayden Place. It further suggested that from a planning standpoint an area should be reserved for future construction of a cul de sac from Hayden Place.

Statement of Facts

The property involved is located within a Single-residence District requiring a minimum lot area of 15,000 square feet.

The petitioner seeks permission to divide the property involved into three lots; namely Lot No. 1, which would contain 15,116 square feet with a dwelling thereon, Lot No. 2, which would contain 16,490 square feet and Lot No. 3, which would contain 15,000 square feet. A special exception or variance is requested from the terms of Section XIX of the Zoning By-law which will permit the construction of a dwelling on Lot No. 3, with a front yard and frontage of twenty feet rather than the required sixty feet.

It was stated at the hearing that the parcel originally had a frontage of 213', but that it was reduced slightly a few years ago when the Town made a taking in order to widen the street. The strip taken varied in depth from 11.60' at the southerly corner to 15.18' at the northerly corner. While the parcel is approximately 300' in depth, it tapers down to 132.44' at the rear, making it impossible to locate two additional houses on the property and provide the required front yard and frontage.

Mr. Fleming stated that Mrs. Sullivan died in 1971, and since that time he has had the parcel for sale, but no one would make a/ offer unless two reasonable

additional house lots are available. The existing house, it was stated, is old and very small and has very little value. The betterment on the property is \$5,000. and at this time \$750. is due to the Town of Wellesley. There is no money in the Estate, Mr. Fleming stated, therefore, in his opinion, undue hardship will result if this request is not granted. He pointed out that there is a house on the adjacent lot located approximately the same distance back from Burke Lane as the proposed house would be on Lot No. 3, if the requested variance is granted. In his opinion, a house on the lot involved would not change the character of the neighborhood, that conditions affect this parcel which do not affect generally the neighborhood because of the land taking to widen the street, and that relief may be granted without derogating from the intent or purpose of the by-law.

A plot plan was submitted, drawn by Alexander Crucoli, Land Surveyor, dated January 13, 1973, which showed the proposed division of the parcel. Said plan showed Lot No. 1, having a frontage of approximately 77' on Burke Lane, Lot No. 2, with a frontage of approximately 113' on Burke Lane, and Lot No. 3, with a frontage of 20' on Burke Lane; said twenty-foot strip extends back 196' where it then widens out to approximately 150'. All lots contain at least 15,000 square feet as required by the Zoning By-law.

Decision

The Board has made a careful study of all the facts in this case and has taken a view of the locus.

The proposed three lots were held under one ownership as a single parcel of land on April 1, 1939, and, therefore, the Board is not authorized to make a special exception under Section XIX of the Zoning By-law with respect to the front yard requirement; nor can it make an exception to the frontage requirement under the same section of the by-law as the three lots were held as one parcel by the same owner on June 21, 1951. It has, however, considered the request under the provisions of General Laws, Chapter 40A, Section 15. It has given consideration to the facts that the proposed lots equal or exceed the area requirement for the zoning district, that some other lots in the area are of less area, that an existing house is located on an adjacent lot approximately the same distance from Burke Lane as would be the house on the lot in question and that a sewer connection is available in Burke Lane. The Board is also mindful of the large aggregate size of the three parcels (46,606 square feet), the peculiar shape of the total area, the less than minimal utility and desirability of Hayden Place as an access for any purpose and the uncertainty that necessarily will exist as to when, if ever, Hayden Place will be improved and accepted as a Town way. In the Board's view, development of the three lots in the manner proposed need not adversely affect the Town or the area either from the public safety or aesthetic standpoints. If and when Hayden Place is improved it may serve as an additional access to lot No. 3 if desired. In the meantime, the proposed access from Burke Lane should be adequate for all purposes. The Board feels that the circumstances peculiar to this property warrant action to grant relief under Section 15 of Chapter 40A. In its opinion a dwelling on each of the two undeveloped lots involved would not reduce the value of any property in the neighborhood and a literal enforcement of Section XIX of the Zoning By-law would cause substantial hardship to the petitioner which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-law.

In view of the evidence presented, it is the opinion of this Board, that a variance can be granted, subject to the following conditions, from the terms of Section XIX of the Zoning By-law under the provisions of Chapter 40A, Section 15, of the General Laws.

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Accordingly, the petition is granted and the premises involved may be divided in accordance with the plot plan submitted and on file with this Board subject to the following conditions:

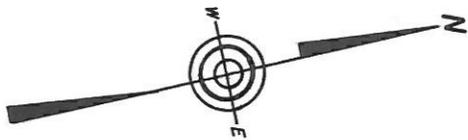
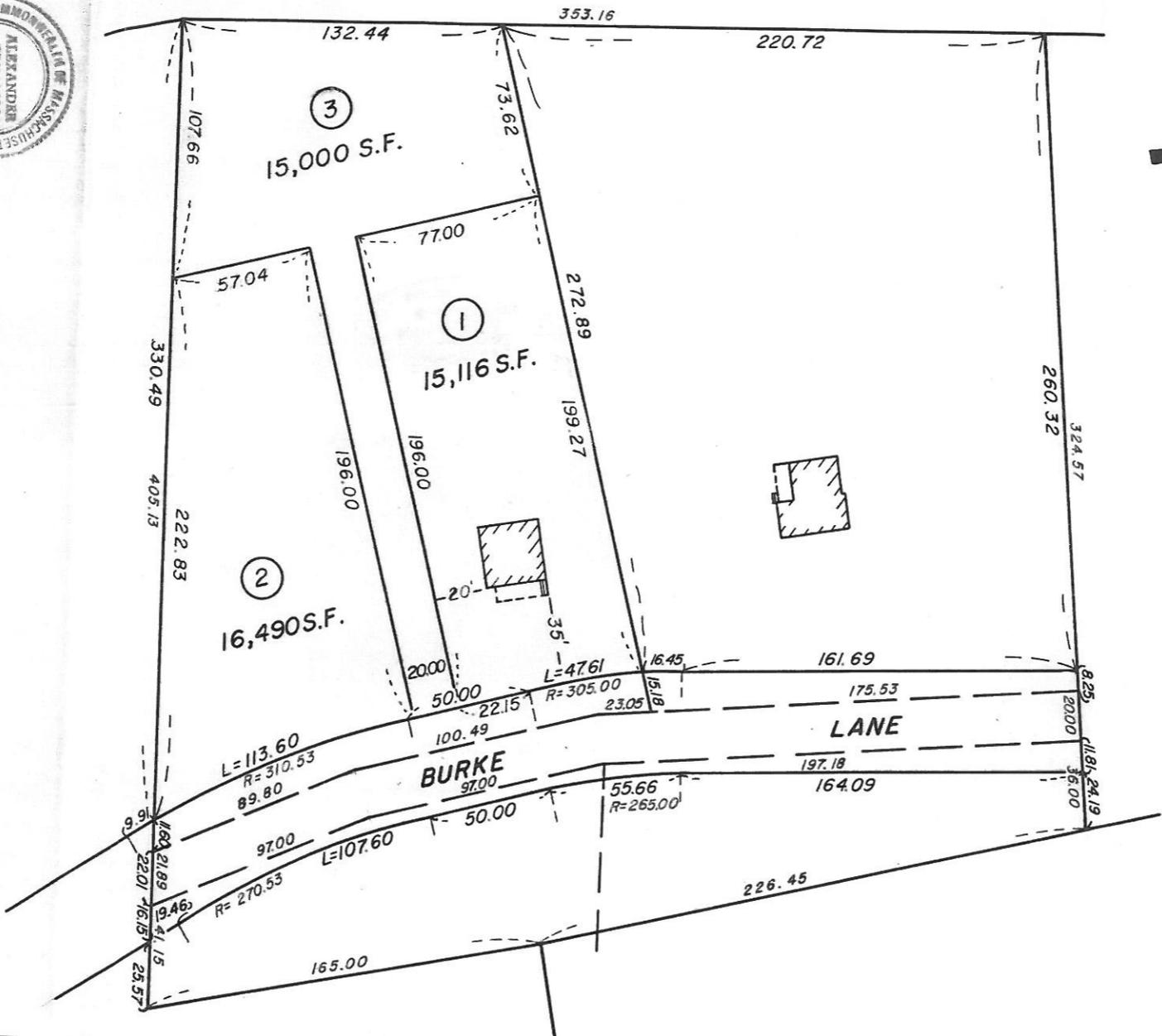
1. Prior to the issuance of any building permit for Lot No. 3, the Board shall have received a letter from the Fire Chief of Wellesley to the effect that the requested division of lots and construction of houses on the lots 2 and 3, subject to the conditions herein provided, will not adversely affect the use of fire apparatus or otherwise create or aggravate any fire hazard.
2. That an access driveway shall be built from Burke Lane back to Lot No. 3, sufficient in width to accommodate motor vehicles and that said driveway shall be finished and blacktopped prior to occupancy of the proposed dwelling on said lot.
3. Any dwelling to be constructed on lot 3, shall be connected to the Town sewer prior to occupancy and said connection and maintenance thereof shall be at no expense to the Town; also there shall be no expense to the Town for any utility connections, additions or relocations.

Richard O. Aldrich
Richard O. Aldrich
F. Lester Fraser
F. Lester Fraser
Stanley J. Glod
Stanley J. Glod

Filed with Town Clerk _____

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Alexandru Lucaci



PLAN OF LAND
IN
WELLESLEY - MASS.
Belonging to
MARY I. SULLIVAN
Surveyor
Alex Cruciolli
57 Winthrop Rd.
Chelsea, Mass.
Scale: 1" = 50'
JAN. 13, 1973