

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Earl F. Mills, Jr.

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 8:30 p.m. on May 10, 1973, on the appeal of Earl F. Mills, Jr., from the refusal of the Inspector of Buildings to issue a permit to him to construct an addition on the dwelling at 58 Donazette Street.

The reason for such refusal is that said construction would violate Section 311.6, Location of Buildings, of the BOCA Basic Building Code of Wellesley, which requires that all such additions 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 a front yard not less than thirty feet in depth and a side yard not less than twenty feet in width. Said request was made under the provisions of Chapter 40A, Section 15, of the General Laws and Section 127.2 of the BOCA Basic Building Code of Wellesley.

On April 5, 1973, the Inspector of Buildings notified the appellant in writing that a permit for the proposed construction could not be granted for the above-mentioned reasons, and on the same date an appeal was taken from such refusal. Thereafter due notice of the appeal was given by mailing and publication.

The appellant spoke in support of the appeal at the hearing.

Statement of Facts

The property involved is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. The house was built approximately seventy-five years ago, prior to the enactment of the Zoning By-law requiring a twenty-foot side yard and a thirty-foot front yard. The lot contains 12,147 square feet.

The appellant seeks permission to construct an addition 20' x 24' on the southerly side of the dwelling which will provide a two-car garage, and an addition 16.5' x 20' on the westerly side of the dwelling which will provide a living room on the first floor and a bedroom above.

It was stated at the hearing that the existing house is very small; it has only four rooms and is only sixteen feet wide. At present there is a detached garage on the property which is in need of repair. If permission is granted, the existing garage will be removed. The proposed addition designed at the rear of the dwelling, will continue the line of the existing house and will not encroach any nearer to the side lot line than the house. It will be 18'3" at the point where it joins the house and 17.9' from the lot line on the northerly side. It was further stated that while the proposed attached garage

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will be only 5.17' from the southerly lot line, it adjoins the Town of Wellesley Junior High School parking lot which is unlikely to be developed.

A plot plan was submitted drawn by Albert B. Forbes, Land Surveyor, dated March 9, 1973, which showed the existing dwelling and garage on the property as well as the proposed additions.

Decision

Upon examination of a plan of the neighborhood involved and an inspection of the locus by this Board, it was found that several of the houses in the neighborhood are located closer than the required twenty feet from the side lot lines and closer than the required thirty feet from the street line. The lot is narrow, its width being only sixty feet, therefore, it would not be possible to construct an addition of any practical size on the dwelling involved and comply with the yard requirements. The lot involved 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 authorizes the Board to grant such exception only if on or before said date the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, has considered the appeal under the provisions of the General Laws, Chapter 40A, Section 15, and in its opinion, the desired additions will not change the character and appearance of the immediate neighborhood. It is the further opinion of the Board that owing to conditions especially affecting this parcel but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the by-law would involve substantial hardship to the appellant. Due to the width of the lot and the fact that it adjoins a Town of Wellesley parking lot used by the Junior High School, the Board feels that the criteria required to grant a variance are met in this case. It further feels that the requirement of Section 311.6, Location of Buildings of the BOCA Building Code was not contemplated to affect a situation such as the one involved.

The Board, therefore, feels that the requested variance 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, and that manifest injustice may result if the request is denied.

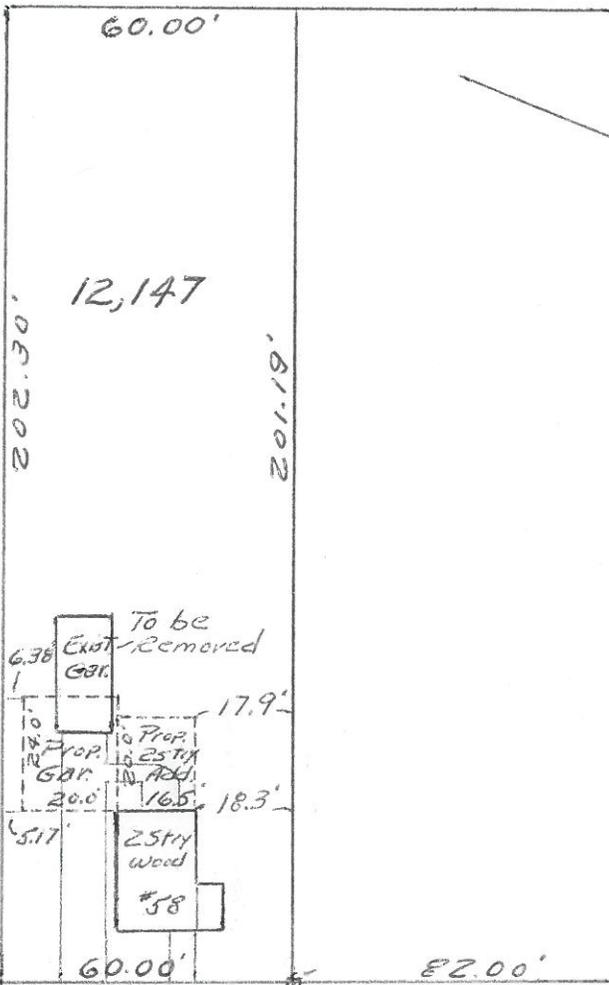
Accordingly, the requested variance is granted and the issuance of a permit for the proposed additions as shown on the plan submitted and on file with this Board is hereby authorized.

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

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WELLESLEY JUNIOR HIGH SCHOOL
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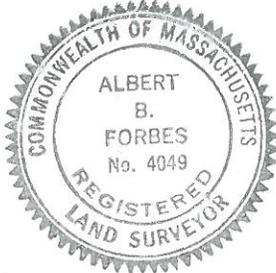
Town of Wellesley



Parking Lot

Town of Wellesley

DONAZETTE ST.



Albert B. Forbes

PLAN OF LAND
 IN
 WELLESLEY, MASS.
 WITH PROPOSED
 ADDITIONS
 Scale 1"=40' March 9, 1973