

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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

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TELEPHONE
235-1664

25-11-8-01-14-13
NOT RECEIVED
MAY 22 1973
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Petition of Stephen A. Black

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 8:00 p.m. on July 26, 1973, on the petition of Stephen A. Black, requesting a variance from the terms of Section XIX of the Zoning By-law which will permit the construction of a dwelling on a lot of land adjacent to House No. 34 Fuller Brook Road with a front yard and frontage less than the required sixty feet. The petitioner further requested a special exception or variance from the terms of Section XIX of the Zoning By-law which will allow the dwelling house at No. 34 Fuller Brook Road to remain on the lot with a front yard and frontage less than the required sixty feet. Said petition was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On June 7, 1973, the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

The following persons spoke in favor of the petition at the hearing: Priscilla C. Payne, 38 Fuller Brook Road, Michael A. Gigante, Jr., 39 Fuller Brook Road and Thomas F. Coughlin, 31 Fuller Brook Road. All stated that they were very much in favor of the request; that they had seen the plans and felt that a dwelling on the lot involved will improve the property and be in keeping with the neighborhood.

Letters favoring the request were received from Helen L. Black, 27 Fuller Brook Road, Peter E. and Mary Ann Hall, 28 Fuller Brook Road and Michael A. Gigante, Jr., 39 Fuller Brook Road.

Statement of Facts

The lot involved, which contains 39,000 square feet, is located within a Single-residence District requiring a minimum lot area of 20,000 square feet. The adjacent lot on which there is a dwelling house, contains 27,325 square feet. Both lots have a frontage of 40'.

The petitioner seeks permission to construct a dwelling on the vacant lot involved and to obtain a variance which will allow the dwelling house on the adjacent lot on the westerly side, to remain on the lot in violation of Section XIX of the Zoning By-law which requires a minimum front yard and frontage of not less than sixty feet. The proposed house will comply with all other Zoning By-laws and Building Code requirements as does the existing house on the adjacent lot.

A copy of a plan was submitted, dated November 20, 1962, and endorsed by the Planning Board as, "Approval not required under the Subdivision Control Law." Said plan was drawn by Gleason Engineering Company on November 16, 1962, and

recorded in the Registry of Deeds on November 30, 1962, Book 4036 Page 25.

The sixty-foot front yard and sixty-foot frontage requirement does not apply to any lot having a minimum Front Yard width of forty feet and less than sixty feet or a frontage of forty feet and less than sixty feet, if such lot on March 23, 1964, did not adjoin other land of the same owner on that date. The lots involved, however, did adjoin other land of the same owner on that date.

It was alleged at the hearing that severe hardship will result if the requested relief cannot be granted. The vacant lot is greatly in excess of the minimum lot area required, and although it has a narrow front yard of only forty feet in width, it widens as it extends back to a width of approximately 110'. It was stated that the vacant lot involved is the only remaining undeveloped lot on Fuller Brook Road, therefore a precedent cannot be started. It was further pointed out that if it were not owned by the same owner of an adjacent lot in 1964, it would be a buildable lot. Therefore, it is the opinion of the petitioner that conditions exist for this lot which do not exist for any other lot in the area, and that unless relief is granted to utilize the lot as a house lot, substantial hardship will result.

Decision

The Board has made a careful study of the facts submitted and has viewed the locus. In its opinion, a dwelling constructed on the vacant lot involved with a front yard and frontage less than the required width, will not in any way prove detrimental to the character of the immediate neighborhood. While the facts do not satisfy the conditions set forth in Section XIX of the Zoning By-law, as the lot was not held under a separate and distinct ownership from adjacent lots on March 23, 1964, this Board, however, considered the petition under the provisions of the General Laws, Chapter 40A, Section 15. In its opinion, the amendment to Section XIX of the Zoning By-law adopted in 1964, which deprived the petitioner the right to ever build on the lot or use it as a house lot, destroyed the value of the lot. The lot contains substantially in excess of the required 20,000 square feet and was laid out on a valid plan which was endorsed by the Planning Board and recorded in the Registry of Deeds.

For the foregoing reasons, the Board feels that circumstances exist peculiar to this lot which do not affect the district generally, and a literal enforcement of Section XIX of the Zoning By-law which would prohibit the construction of a dwelling on the lot, would cause a substantial hardship to the petition which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said by-law.

Accordingly, the requested variance in respect to the front yard and frontage requirements of the Zoning By-law under Section XIX, is granted under the provisions of Chapter 40A, Section 15, of the General Laws, and the Inspector of Buildings is authorized to issue a permit for the construction of a dwelling on the vacant lot involved as shown on the plan submitted and on file with this Board, and the dwelling house now located on the adjacent lot, No. 34 Fuller Brook Road, may remain on said lot.

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MAY 15 1964

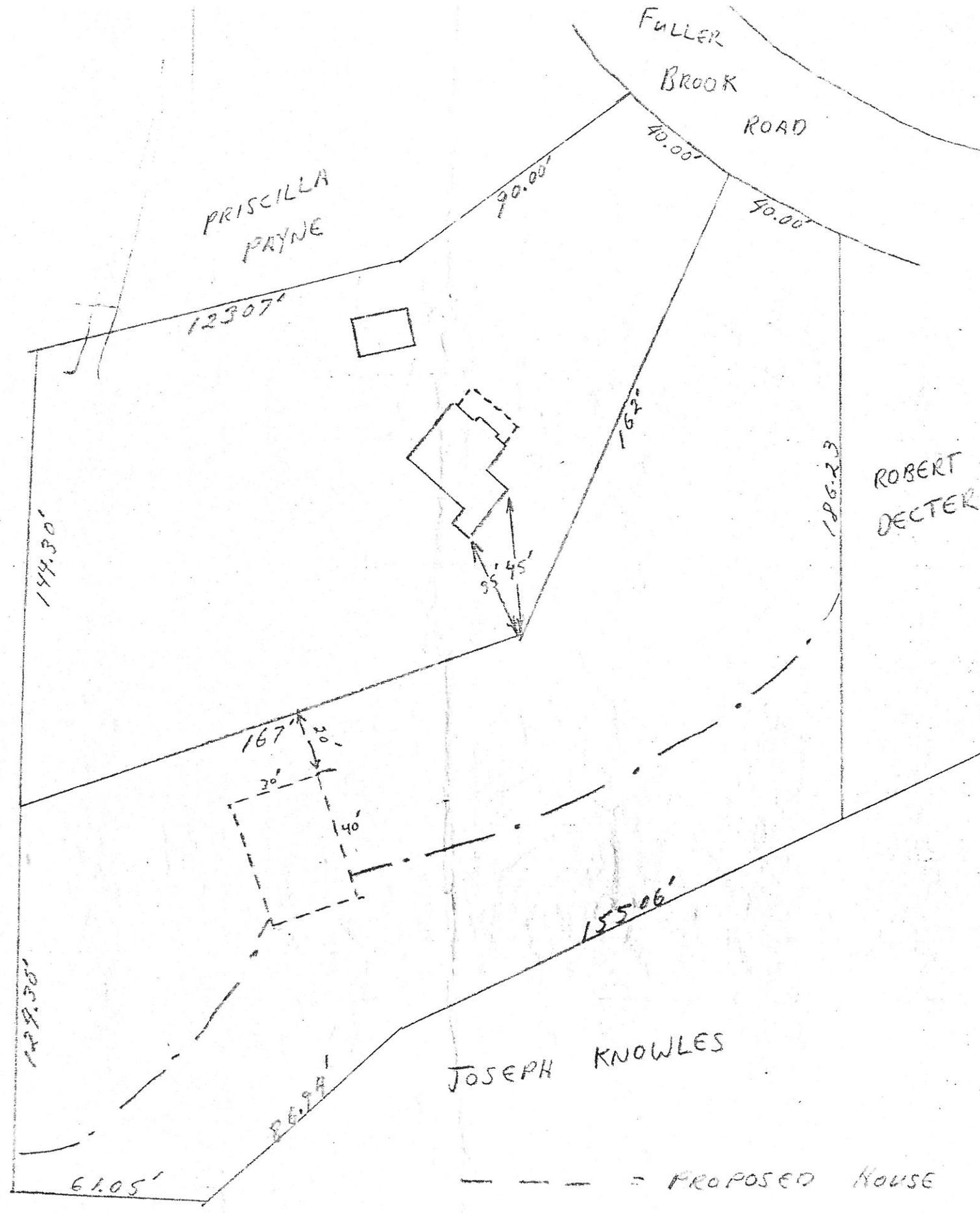
Theodore C. Merlo
Theodore C. Merlo

F. Lester Fraser
F. Lester Fraser

William O. Hewett
William O. Hewett

Filed with Town Clerk _____

JACOBY RIVER AQUEDUCT



ROBERT DECTER

JOSEPH KNOWLES

--- = PROPOSED HOUSE

--- = APPROXIMATE TOP OF SLOPE

STEPHEN A. BLACK
34 FULLER BROOK RD.
WELLESLEY, MASS.