

TOWN OF WELLESLEY



3 Pickeral Rd.

MASSACHUSETTS

73-33

BOARD OF APPEAL

THEODORE C. MERLO  
F. LESTER FRASER  
WILLIAM O. HEWETT

KATHARINE E. TOY  
Administrative Secretary  
Telephone  
235-1664

Petition of Thomas A. Whirty

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 8:20 p.m. on July 26, 1973, on the petition of Thomas A. Whirty requesting a special exception or variance from the terms of Section XIX of the Zoning By-law, which will allow the construction of a dwelling on Lots 767, 768 and part of 769, Pickeral Road, with side yards less than the required twenty feet. Said request was made under the provisions of Section XIX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On July 9, 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.

Joseph T. Fleming, Jr., attorney for the petitioner, spoke in support of the request at the hearing.

Phyllis M. Butterman, 4 Pickeral Road, opposed the request. She felt that a dwelling with only a 15' side yard would interfere with her privacy. However, if permission is granted, she requested that the petitioner be required to erect a fence along her line.

Alma Stack, representing Irene Brown also, owners of land in the neighborhood, felt that there would not be sufficient parking space available for the occupants of the proposed dwelling.

Statement of Facts

The lot involved, which contains approximately 5,535 square feet, is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. The lot, however, did not adjoin other land of the same owner in March of 1937, the effective date of the Zoning By-law requiring a minimum lot area, therefore, under the exception provided in said by-law, a dwelling may be built upon it with less than the required area providing the requested variance is granted.

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It was stated at the hearing that the petitioner purchased the property involved in 1941, and until approximately ten years ago, there was a dwelling on it which burned down. The petitioner also owned the house on the adjoining lot until 1950.

The petitioner now seeks permission to build a dwelling on the lot with side yards fifteen feet in width rather than the required twenty feet. It was stated that a dwelling approximately 26' x 40' could be placed on the lot which would be comparable in size to most of the houses in the area. The petitioner feels that undue hardship will result, if permission is not granted to build the desired house, due to the loss of the previous house by fire. While a house could be built on the lot which would comply with the 20-foot side yard requirement, its size would be impracticable and not comparable to other houses in the neighborhood.

A plot plan was submitted drawn by Alexander Crucioli, Surveyor, dated December 2, 1972, which showed the lots involved and the location of the proposed dwelling on it.

Decision

= After a careful study of the plans submitted and the facts presented, it is the opinion of this Board that the proposed dwelling will not in any way prove detrimental to the character of the immediate neighborhood. The property is located in the Morse's Pond area where most of the houses were originally built as summer camps and subsequently improved and enlarged. It appears from the plan of the neighborhood that many of the houses in the area have side yards less than the required setback.

While the Board is unable to find the requirements of Section XIX of the Zoning By-law are met in the instance situation, it has considered the request under the provisions of Chapter 40A, Section 15, of the General Laws, and unanimously finds 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 petitioner, and that the variance requested 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.

Accordingly, the requested variance is granted and the issuance of a permit for the proposed dwelling as shown on the plan submitted and on file with this Board is hereby authorized, subject to the condition that a fence shall be erected along the easterly lot line, abutting property now owned by Phyllis M. Butterman, prior to the issuance of an occupancy permit by the Building Inspector, and that a plan of said fence shall be submitted and approved by this Board prior to the issuance of a building permit.

*Theodore C. Merlo*

Theodore C. Merlo

*F. Lester Fraser*

F. Lester Fraser

*William O. Hewett*

William O. Hewett

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