



BOARD OF APPEAL

F. LESTER FRASER
 STANLEY J. GLOD
 WILLIAM O. HEWETT
 FRANKLIN P. PARKER
 FRANCIS L. SWIFT
 HENRY H. THAYER

KATHARINE E. TOY
 Administrative Secretary
 Telephone
 235-1664

Appeal of Wellesley Housing Authority

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 January 8, 1976, on the appeal of Wellesley Housing Authority from the order of the Inspector of Buildings, that all work stop on the construction of the 26 dwelling units at 41 River Street. The reason for such order was that one corner of the foundation was poured less than the required twenty feet from the boundary line on the southerly side and in violation of Section VI and Section XIX of the Zoning By-law.

On December 19, 1975, the appellant appealed the Inspector of Buildings' order of the same date to proceed no further with the construction of the 26 units involved, until the terms of Permit No. 17714 were complied with. Thereafter due notice of the hearing was given by mailing and publication.

Edward T. Kilmain, Executive Director of the Wellesley Housing Authority, explained in detail the circumstances which occasioned the violation resulting in the stop work order and pointed out the hardships involved if work is not allowed to proceed.

Robert A. Bastille, architect for the building involved, explained why the corner of the building where the violation exists cannot be redesigned to comply with the by-law. The State has approved the plans with certain minimum restrictions, he stated, and to reduce the corner involved would become a major problem.

Robert C. Dean, Chairman of the Wellesley Housing Authority, also spoke in support of the appeal.

Richard L. Wilder, attorney representing Bart Bratko, abutting property owner at 47 River Street, stated that his client was opposed to the request. To allow this exception, would reduce the width of the appellant's driveway so that it would be difficult for the fire trucks and delivery trucks to enter without going over Mr. Bratko's driveway.

Statement of Facts

The property involved is a parcel of land containing approximately 29,709 square feet, located within a Limited Residence District, with a foundation poured in connection with a building to be constructed to provide 26 dwelling units for the elderly.

It was stated at the hearing that the foundation had been poured in error 18.32' from the lot line on the southerly side rather than the required twenty feet. The section involved, it was stated, is approximately 23' in length and 3.7' in depth. The error was not discovered, it was stated, until the Survey Record was made by the engineer and ready to be submitted to the Building Department. The appellant then had three choices, to remove the entire foundation which is

approximately 56' x 200', to redesign the building and reduce its size, or to apply to this Board for relief. After exploring the first two choices, it appeared that a request to this Board for relief would result in the least hardship to all parties involved.

It was stressed that substantial hardship will result to the citizens of the Town who are planning to occupy the units, if relief is not granted. To have new plans drawn or to remove the entire foundation and replace it in a new location in compliance with the by-law, will result in a substantial delay, especially at this time of year with freezing temperatures.

A plot plan was submitted, drawn by Alexander Crucioli, Land Surveyor, dated December 13, 1975, which showed the location of the foundation involved.

Decision

This is an appeal from an order of the Inspector of Buildings directing the Wellesley Housing Authority to proceed no further with the construction of the building involved until the terms of Permit No. 17714 have been complied with.

The Board notes with no small degree of distress that this is the second appeal of this nature by the Wellesley Housing Authority. The apparent disregard of or at least inattention to the requirements of the Zoning By-law as it relates to the issue presented by this appeal is particularly not suited to a public authority nor to an agency of the Town which established the regulations. The Board is moved to question whether or not the owners of premises under construction, such as the Authority, or the Inspector of Buildings, or both, are failing to exercise that authority and control incumbent upon them so to do, to insure that contractors will follow plans and specifications as submitted and approved.

The Board has made a careful study of the facts in this case and has taken a view of the locus. It is the opinion of the Board that the section of the foundation in violation was poured in error and that a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the Town citizens as well as to the appellant, which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said section. The Board is satisfied that there is no feasible way to redesign the building and comply with the required setback, or to remove the entire foundation and move it over the slight distance involved without causing the appellant considerable expense and unnecessary delay as well as a definite hardship on the Town's elderly citizens.

The requested exception is granted. However, by this decision the Board does not grant relief, authorize any other extension of the permit, nor condone any other real or apparent violation of the laws governing the use of the premises involved.

Accordingly, the Inspector of Buildings is hereby ordered to permit work to continue on said building as shown on the Survey Record submitted, drawn by Alexander Crucioli, Land Surveyor, dated December 13, 1975, subject to the following condition:

1. That prior to work on said building re-commencing, a chain link fence shall be installed three inches inside the southerly lot line, and extending the entire length of said southerly lot line.

William O. Hewett
William O. Hewett

F. Lester Fraser
F. Lester Fraser

Francis L. Swift
Francis L. Swift, Chairman



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Appeal of Wellesley Housing Authority

Pursuant to due notice the Board of Appeal held an Open Meeting in the hearing room on the second floor of the Town Hall at 8:00 p.m. on March 3, 1976, on the request of the Wellesley Housing Authority for a modification of the decision of the Board of Appeal, relative to the construction of 26 dwelling units at 41 River Street.

The requested modification was to amend said decision by striking out the following condition:

1. That prior to work on said building re-commencing, a chain link fence shall be installed three inches inside the southerly lot line, and extending the entire length of said southerly lot line.

On further consideration of the above-mentioned decision filed with the Town Clerk on January 20, 1976, the Board is of the opinion that public interest does not require the installation of a fence as referred to in the condition of said decision numbered one.

Accordingly, said decision is hereby modified by striking from the last paragraph the decision, the condition thereof numbered one in its entirety.

Except as herein specifically provided said decision is hereby ratified and confirmed.

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WELLESLEY TOWN CLERK'S OFFICE
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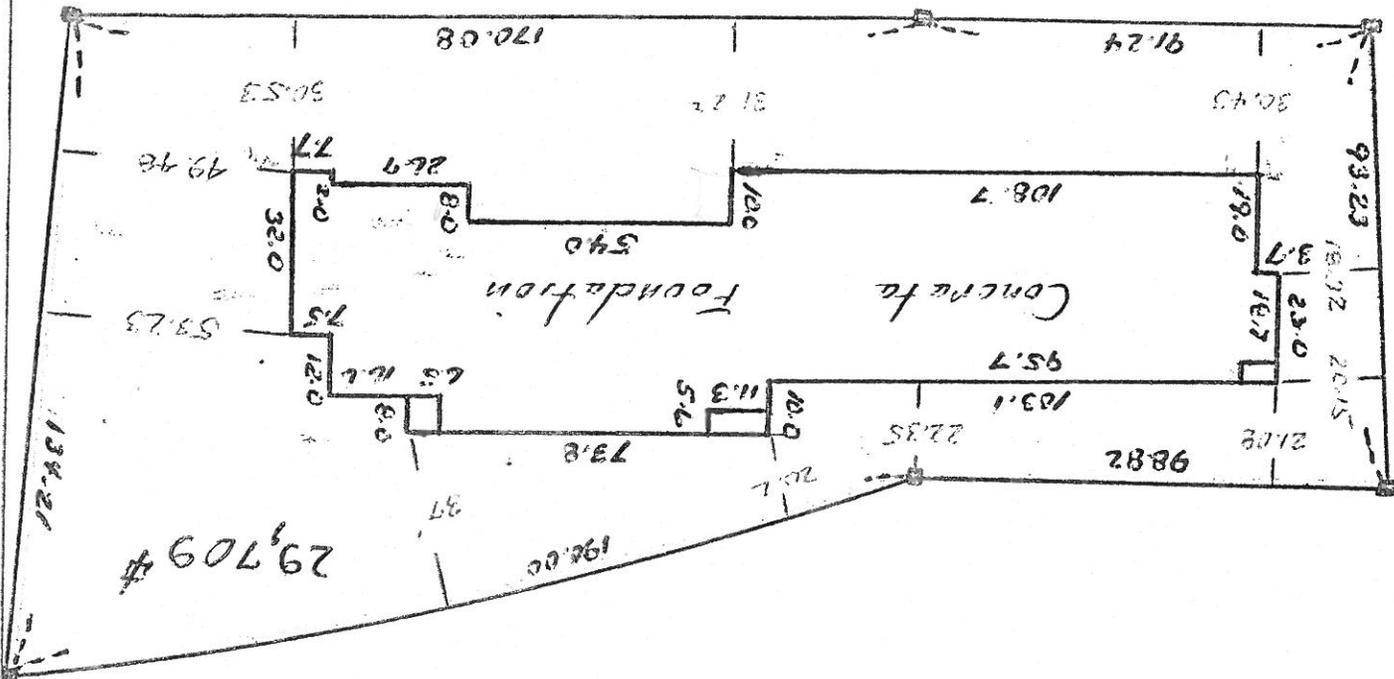
Francis L. Swift

F. Lester Fraser

William O. Hewett

Filed with Town Clerk _____

RIVER STREET



SURVEY RECORD



Permit No.

Street River No.

Builder Concrete Constr. Everett Inc

Address 165 Chelsea Everett

Owner

Address

Building dimensions 52' x 201'

Distances: Adjoining Bldgs.

Center of street

Front Yard 30.43 Rear Yard 20.2

Side Yard 18.32 Side Yard 49.48

Area of Lot 29,709 #

PLOT PLAN

ON

Reverse Side



Signed By: Alexander Crucoli
Registered Engineer or Surveyor

Date Dec 13, 1975 Address 6 Abbott Rd Waltham
ACRES - ENGRS, SURVRS, INC

DUPLICATE