



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

Petition of Leo P. and Marion A. Doherty

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 8:15 p.m. on May 6, 1976, on the petition of Leo P. and Marion A. Doherty, requesting an exception or variance from the terms of Section XIX of the Zoning By-law. Said exception or variance would allow the construction of a porch and deck on the rear of their dwelling at 45 Prospect Street, with a side yard 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 April 19, 1976, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Leo P. Doherty spoke in support of the request at the hearing.

A letter favoring the request was received from Alice T. Fleming, 15 Prospect Street.

Statement of Facts

The lot involved, which contains 10,031 square feet, is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. It was not created, however, until 1952 when the petitioners acquired it, and was not held of record under a separate and distinct ownership from adjacent lots on April 1, 1940, the effective date for an exception within the Zoning By-law, allowing the construction of such buildings with side yards less than the required twenty feet. The dwelling involved was built by the petitioners in 1952.

The petitioners seek permission to construct a porch and deck on the southerly side of their dwelling; the porch to be 12' x 19' and the deck to be 10' x 16'. Both the porch and the deck will continue the existing lines of the house and will not encroach any closer to the side lot lines than the house, but will extend into the rear yard, with the porch 8.20' from the southerly boundary line and the deck 10.69' from the same line.

It was pointed out at the hearing that the petitioners planned to construct the porch in the proposed location when they built the house, but found financially it was not possible. Since then the By-law has been amended, which prohibits the proposed porch to be located in the desired location. As it is a corner lot, it must be set back at least twenty feet from the boundary line involved.

A plot plan was submitted which showed the existing house on the lot as well as the proposed porch and deck. Said plan was drawn by Alexander Crucioli, Land Surveyor, Wellesley Hills, Mass.

Decision

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 this Board that there is a need for the proposed addition which will provide a porch and a sun deck, and that the proposed construction will not reduce the value of property within the district or otherwise injure the neighborhood.

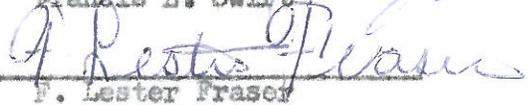
The house was built in 1952, on a lot which adjoined other land of the same owner on April 1, 1940. The Board, therefore, is not authorized to make a special exception under Section XIX of the Zoning By-law as said section authorizes the Board to grant such exceptions only if on April 1, 1940, the lot was owned of record under a separate and distinct ownership from adjacent lots. The Board, however, considered the petition under the provisions of General Laws, Chapter 40A, Section 15.

While the proposed porch and deck will lie only 8.20' and 10.69' respectively from the southerly lot line, at the nearest points, the lot abuts the Cochituate Aqueduct which is approximately 85' in width and, in the opinion of this Board, most unlikely to be developed with house construction. Because the lot involved is a corner lot, it is more difficult to construction an addition which would provide a porch and deck of practical size and comply with the setback requirements due to the greater restrictions imposed on corner lots.

For these reasons, the Board finds under the provisions of Chapter 40A, Section 15, of the General Law, that a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the petitioners and the requested relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said by-law.

Accordingly, the request 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.

Filed with Town Clerk _____


Francis L. Swift

F. Lester Fraser

Stanley J. Glod

700 10 10 11 AM '52
M.L. STEPHENS
TOWN CLERK'S OFFICE
RECEIVED

PLAN OF LAND
IN

WELLESLEY-MASS.

Scale: 1" = 40' March 6, 1976.

SURVEYOR Alex. Crucoli

ACRES-ENGINEERS, SURVEYORS, INC.

6 Abbott Road
Wellesley Hills, Mass.



Alexander Crucoli.

