



## BOARD OF APPEAL

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KATHARINE E. TOY  
 Administrative Secretary  
 Telephone  
 235-1664

Petition of Joseph T. and A. Gertrude Sullivan

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 August 5, 1976, on the petition of Joseph T. and A. Gertrude Sullivan, requesting a special exception or variance from the terms of Section XIX of the Zoning By-law which will permit the construction of an addition on the rear of the dwelling at 20 Cliff Road with a side yard less than the required twenty feet. Said request was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On July 16, 1976, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Joseph T. Sullivan spoke in support of the petition at the hearing.

Michael P. Last, attorney for Marguerite G. Steadman, abutting property owner on the southerly side, the side involved, stated that he wished to register Mrs. Steadman's opposition to the request. It is felt, he stated, that the proposed addition will adversely affect her property and cause discomfort to her. Her house stands above the petitioners' house and in the summer it is relatively well screened, but in the winter with the leaves gone, the view is more exposed. Since the addition will be only approximately fifteen feet from the lot line, it will be even more visually obtrusive and thereby augment the sense of overcrowding as well as intrusion of privacy.

Mrs. Steadman is critically ill, it was stated, and it is felt that the noise and disturbance from the construction work will be disturbing to her. It is further believed that there is sufficient buildable land to construct the addition in conformity with the applicable zoning requirements and that factors do not especially affect the site which would create substantial hardship to warrant a variance being granted. If allowed, it is felt, that significant detriment will result to the Steadman property,

Marguerite Steadman Iverson, daughter of the abutting property owner at 14 Cliff Road, stated that her mother, who is eighty-four years old, is very ill. She will have to look from her living room window right at this structure, if it is allowed to be built. While she can see the house now, it was stated, if the porch is enlarged, she will see a greater roof area.

Harold Stoddard, Senior Real Estate Officer, State Street Bank Conservator, 225 Franklin Street, Boston, stated that he hoped that there would be no construction because of Mrs. Steadman's condition which, he felt, would cause her great hardship as well as result in depreciation to her property.

Petition of Joseph T., and Gertrude  
Sullivan

A letter favoring the request was received from Robert E. Campanella, 24 Cliff Road, abutter on the northerly side.

The Planning Board opposed the granting of the petition on the basis that it represents a further encroachment on the inadequate side yard.

#### Statement of Facts

The house involved, which was built in 1954, is located on a lot containing 20,000 square feet, within a single-residence district requiring a minimum lot area of 20,000 square feet.

The petitioners seek permission to enlarge the existing porch on the southwesterly side of their house and convert it into a family room. The existing porch is approximately 10' x 10' and it is proposed to extend it to 14' x 20' by widening it 4' and lengthening it ten feet. If built, the addition will lie 16.86' at the nearest point from the side lot line and 19.9' at the point where it is attached to the house. It will be set back 1.5' from the house line and will continue back 20'. While the proposed addition, if built, will not encroach beyond the side line of the house, due to the angle of the southerly side lot line, it will be only 16.86' at the nearest point rather than the required twenty feet.

It was stated that the petitioners' grandchildren frequently visit and an extra room is needed to provide additional living quarters. It can be used as a den for the family and sleeping space for the children. There is a sewer easement on the northerly side of the house which prevents the construction of an addition on that side even though there is additional space on that side. Therefore, it is felt by the petitioners, that a hardship will result because of the uniqueness of this lot which does not occur in other lots in the area.

A plot plan was submitted, drawn by Alexander Crucioli, dated July 3, 1976, which showed the dwelling on the lot as well as the proposed addition.

#### Decision

The Board grants the variance requested by the petitioners. The Board finds that the requirements of General Laws, Chapter 40A, Chapter 15, are satisfied in this case.

There are conditions especially affecting the petitioner's parcel, that not affecting generally the zoning district in which it is located. A fifteen foot wide sewer easement extends along the other side of the petitioners' house. The proposed addition would not cause a set-back violation if it could be built on this side, however, it cannot be so built because of the easement.

This sewer easement affects only the petitioners' lot and the much larger lot behind the petitioners' lot. 3 22 6N 1E

A literal enforcement of the zoning by-law would involve substantial hardship. The Board questioned the petitioners about the feasibility of constructing the addition on the rear of the house, but nearer to the other side. The petitioners testified that such an alternative was not feasible because the kitchen was on that other side.

Desirable relief may be granted without substantial detriment to

the public good. The addition will not be visible from Cliff Road. It will be over ninety feet from the abutter at 24 Cliff Road and about seventy feet from the lot behind which fronts on Gilson Road.

Representatives from Mrs. Steadman warned that the noise of construction would aggravate the illness from which she was then suffering. Sadly, we must note such onstruction noise is no longer an issue, since Mrs. Steadman has subsequently died.

The Board has viewed the premises and must agree that the petitioners' house is indeed very visible from the Steadman property. However, the small addition which the petitioners propose will not substantially increase the visual impact already suffered by the Steadman property.

The variance may be granted without nullifying or substantially derogating from the intent or purpose of the zoning by-law. The proposed addition will allow a sideyard of 16.86 feet rather than the required twenty feet. The Board concedes that this is not a "de minimis" variance from the required distance. However, when considering the petitioners' lot and its relationship with the Steadman lot, the Board cannot find that such a variance substantially derogates from the by-law and it certainly does not "nullify" it.

While the petitioners' house may be close to the Steadman lot line the Steadman house is not. Admittedly, the Steadman garage is but four feet from the line (as shown by the plot plan); but, the garage is about 35 feet from the proposed addition. Therefore, from the point of view of density of dwelling houses, the Board finds that even with the proposed addition, there is space sufficient to be in harmony with the considerations of safety, welfare, and other amenities which it is the by-law's intention to preserve.

The members of the Board sitting for this hearing were F. Lester Fraser, William O. Hewett, and Henry H. Thayer, all of whom voted in accordance with this decision.

  
Henry H. Thayer

  
F. Lester Fraser

  
William O. Hewett

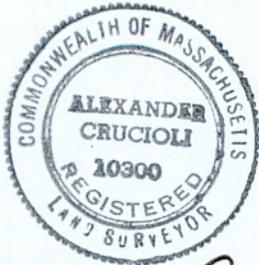
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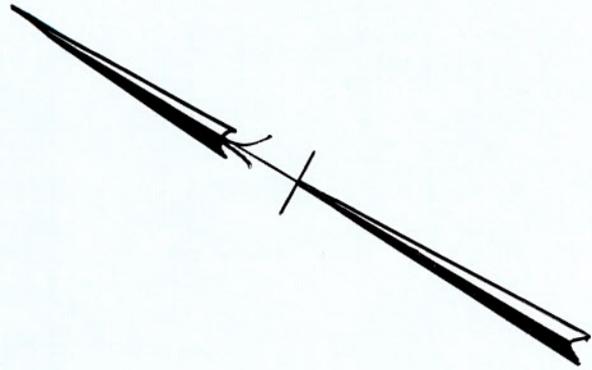
PLAN OF LAND  
IN  
WELLESLEY MASS.  
SCALE: 1"=40'  
JULY 3, 1976

SURVEYOR - ALEXANDER, CRUCIOLI  
ACRES-ENG'RS-SURV'RS, INC.  
6. ABBOTT ROAD  
WELLESLEY HILLS, MASS.



*Alexander Cruciola*  
7/3/76

GARDEN  
RD.



C.B.

CLIFF ROAD (50')

