



BOARD OF APPEAL

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Appeal of Laszlo Reiszner

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 September 30, 1976, on the appeal of Laszlo Reiszner, from the order of the Inspector of Buildings, directing him to stop all work on the addition being constructed without a permit on his dwelling at 7 Vista Road, in violation of Section XIX of the Zoning By-law requiring a twenty-foot side yard.

On June 29, 1976, the Inspector of Buildings notified the appellant that a permit was required for the construction being performed on his dwelling and ordered that all work stop immediately. Again on August 30, 1976, an oral order was again given by the Inspector to correct the side yard violation which appeared on the plot plan which was submitted with an application.

On September 9, 1976, an appeal was filed by the appellant and a request for a hearing. Thereafter due notice of the hearing was given by mailing and publication.

David H. Ellinwood, Dover, the appellant's builder, spoke in support of the appeal and explained in detail the reason for the error.

The appellant also spoke in support of the appeal.

Speaking in favor of the appeal were William J. Fagan, 3 Vista Road and John B. Ford, 1 Vista Road.

Statement of Facts

The house involved is located within a Single Residence District which requires a minimum lot area of 10,000 square feet.

A plot plan was submitted at the hearing, drawn by Sidney R. Vaughan, Land Surveyor, dated August 5, 1976, which showed the existing dwelling on the lot as well as the screened porch located 10.3' from the northwesterly side lot line at the nearest point.

Mr. Ellinwood stated at the hearing that he had constructed the porch addition in two phases. In May of 1975, he replaced the existing porch which was falling down and in May of 1976, he built another addition 9' x 12' to enlarge the porch at the request of the owner. He further stated that he had no idea the addition was so close to the lot line and he did not know that a permit was necessary for the work involved.

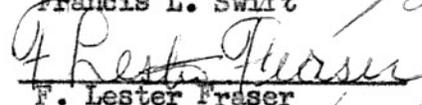
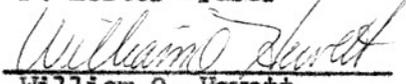
Decision

The Board has made a careful study of the facts in this case and has taken a view of the locus. In its opinion the work performed without a

permit was due to an error and misunderstanding and that a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship 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 house involved was built prior to the enactment of the side yard requirement, on a lot containing 9,750 square feet. The lot is narrow, having a width of approximately 75' with house located only 10.7' from the lot line on the side involved. Therefore, the possibility of enlarging the porch to a reasonable size and in compliance with the side yard requirement of the Zoning By-law is impracticable because of the width, and shape of the lot as well as the location of the dwelling on the lot. The house was built on a lot which was held of record on April 1, 1940, under separate and distinct ownership from adjacent lots. The Board feels that there is a need for an enlargement of the porch as proposed, and the facts in this case satisfy the conditions set forth in Section XIX of the Zoning By-law on which the Board's authority depends to grant a special exception from the application of the side yard restrictions of that section.

Accordingly, without condoning the apparent lack of knowledge on the part of the owner as well as the builder that a permit was required under the Building Code to perform such construction and that a twenty-foot side yard was required under the Zoning By-law, the Board grants the requested exception and the Inspector of Buildings is authorized to issue a permit for the completion of the alteration of the porch as shown on the plot plan submitted and on file with this Board.


 Francis L. Swift

 F. Lester Fraser

 William O. Hewett

Filed with Town Clerk _____

7M 2 5 00 6W JJ
 MAY 22 1940
 TOWN CLERK'S OFFICE