77-25

TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

F. LESTER FRASER
WILLIAM O. HEWETT
FRANKLIN P. PARKER
WILLIAM E. POLLETTA
FRANCIS L. SWIFT
HENRY H. THAYER

KATHARINE E. TOY
Administrative Secretary
Telephone
235-1664

Petition of Marietta M. Ethier

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on July 7, 1977, on the petition of Marietta M. Ethier, requesting a variance from the terms of Section XIX of the Zoning By-law which will allow the construction of an open deck on the rear of the dwelling at 92 Parker Road with a side yard less than the required twenty feet. Said request was made under the provisions of Section XXIV-D of the Zoning By-law.

On June 7, 1977, the petitioner filed her request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

Statement of Facts

The house involved is located within a Single Residence District, requiring a minimum lot area of 10,000 square feet. It was built in 1939, on a lot containing 11,022 square feet.

The petitioner seeks permission to construct a deck 15.7' x 16.0' at the rear of her dwelling which will lie only 16.5' from the lot line rather than the required twenty feet. The petitioner stated that because of the lot being pie shape, as it is a corner lot, it precludes the construction of an adequate size deck which will comply with the requirements of the Zoning By-law, in this case the twenty-foot side yard requirement. She felt that if it were erected on the side of the house, it would be offensive to the neighbor. For these reasons she felt that a literal enforcement of Section XIX of the Zoning By-law would involve substantial hardship owing to circumstances relating to the shape of the lot.

Decision

It is the unanimous opinion of this Authority, after careful study of the plans submitted and a view of the locus, that to allow the proposed deck to be constructed only 16.5' from the side lot line at the nearest point, would prove detrimental to the public good and would substantially derogate from the intent or purpose of the Zoning By-law.

It appears to this Board that a deck of adequate size can be designed which will conform to the side yard requirement. It can be reduced in width to a size which will provide a small but usable open deck. While the lot is a corner lot, upon which greater restrictions are imposed, the Authority cannot find that because of its shape, an adequate size deck cannot be constructed, and conform to the by-law. No evidence was submitted at the hearing to justify the hardship which would result if this request is not granted, and it is the opinion of this Authority that the proposal as submitted, would be contrary

to the intent and purpose of the Zoning By-law.

Therefore, it is the opinion of this Board that the facts in this case do not satisfy the conditions set forth in Section XXIV of the Zoning By-law on which the Board's authority depends to vary the requirements of the side yard restrictions of the Zoning By-law.

Accordingly, the requested variance is denied and the case dismissed.

Francis L. Swift

Franklin P. Parker

William E. Polletta

Filed with Town Clerk_____

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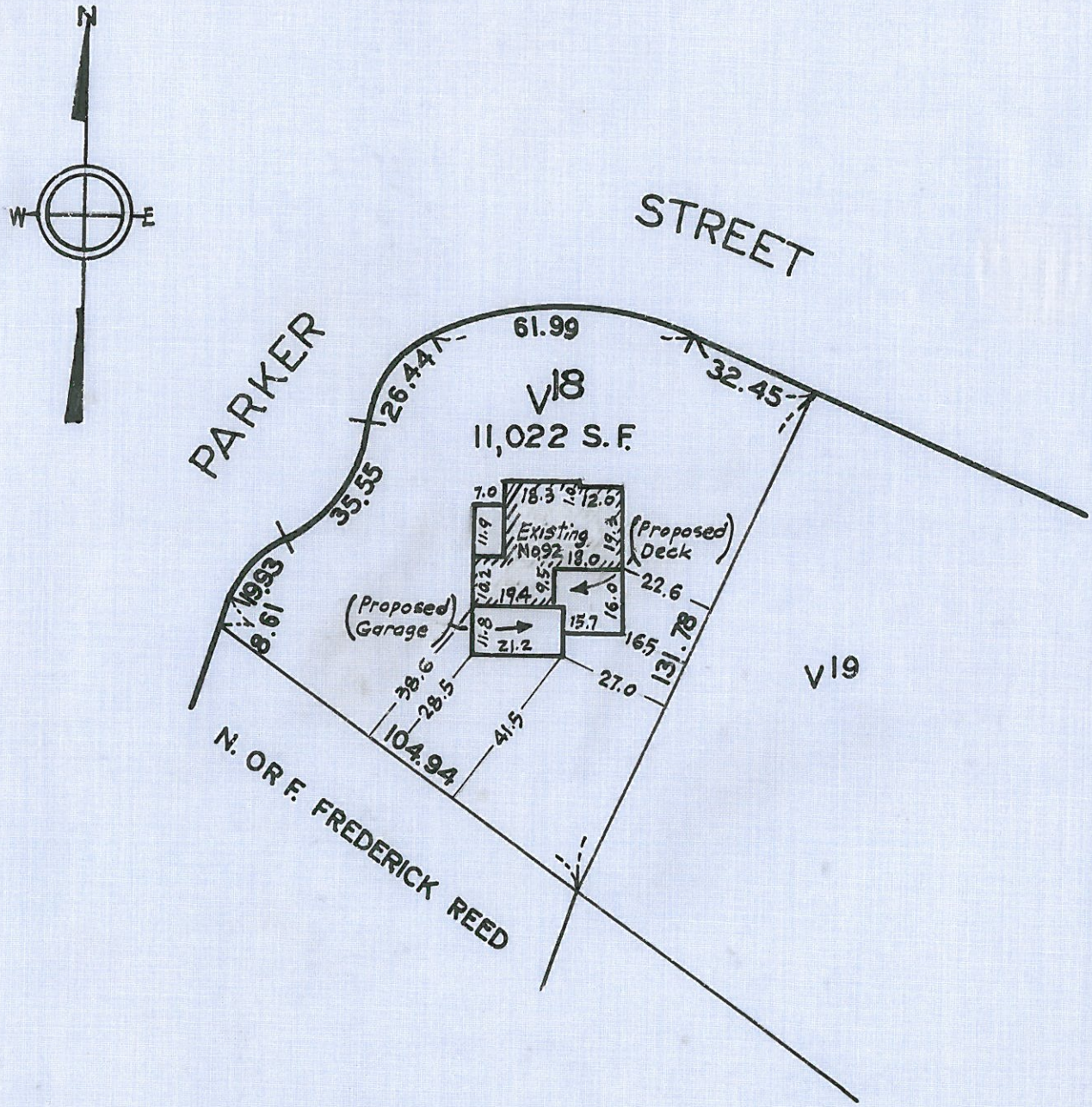

PLOT PLAN OF LAND
IN
WELLESLEY, MASS.

W.E. SAMPSON - R.L.SURVEYOR
171 OAK ST., FRANKLIN, MASS.

SCALE: 1" = 40' JUNE 1, 1977

COMMONWEALTH OF MASSACHUSETTS
WALTER E. SAMPSON
No. 9157
REGISTERED LAND SURVEYOR

PLAN OF LOT V-18 AS SHOWN ON PLAN L.C. PLAN 11123X CERT. No. 21582