



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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82-34

Petition of Edward R. Rudeck

The Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Thursday, September 16, 1982 at 8 p.m. on the petition of EDWARD RUDECK, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow the construction of a deck approximately 10.15' by 19.5' to his dwelling at 7 INTERVALE ROAD, leaving less than the required left side yard and right side yard. Said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On August 27, 1982, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Edward R. Rudeck, who stated that the deck is an extension of the existing structure to the rear of the house and comes no closer to the lot lines than the existing structure.

Arline A. Turner, 5 Intervale Road, abutter to the Rudeck property, was present at the hearing and stated that she and her husband have no objection to the deck.

No one was present at the hearing in opposition to the request.

Statement of Facts

The property involved is located in a Single Residence District at 7 Intervale Road, containing 4,743 square feet of land. The house was constructed prior to the enactment of the Zoning Bylaw of 1925, extending to 8.8' from the left side lot line and approximately 10' at one point from the right side lot line. The rear corners of the dwelling extend 8.8' from the left side lot line and 16' from the right side lot line. A 10' by 20' deck existed at ground level to the rear of the dwelling, and the petitioner raised the deck six feet to create a walk-out deck from the first floor. He claims that he did not realize that the project was in violation of the town regulations and bylaws.

A Cease and Desist Order was issued to Mr. Rudeck on August 3, 1982 by Arthur LaConte, Inspector of Buildings, because a building permit had not been issued for the construction, and the construction did not conform to the yard requirements. The deck was 95% completed at that time. Mr. Rudeck contacted the Building Department on August 4, 1982, at which time he began the application process for a variance from the Board of Appeals.

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The deck is 10.15' by 19.5' and comes to 8.8' from the left side lot line and 15.8' from the right side lot line.

A Plot Plan was submitted, drawn by Philip R. Brown, Registered Land Surveyor, of MacCarthy and Sullivan Engineering, Inc., Natick, dated August 11, 1982. Construction drawings and photographs were also submitted.

The Planning Board, at its regular meeting of September 14, 1982, voted to offer no comment on the petition.

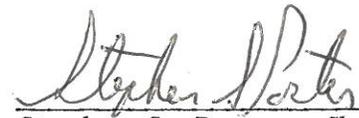
Decision

This Authority has made a careful study of the evidence submitted. The particular house in question in its present location on the lot does not conform to the present Zoning Bylaw. The home was built before the Zoning Bylaw was put into effect. The house as presently constructed comes to 8.8' from the left side line and 10' from the right side lot line. The deck conforms with the existing lines of the dwelling on the left side and is 15.8' from the right side lot line.

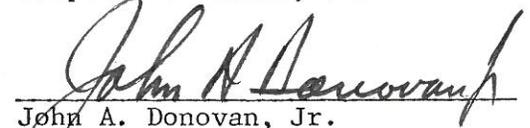
The Board is disturbed that the petitioner constructed the deck without any attempt at obtaining a building permit. The Board frowns upon such violations of the town regulations, which were adopted for the protection of the community and the welfare of the citizens.

However, it is the opinion of this Authority that, because of the shape of the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

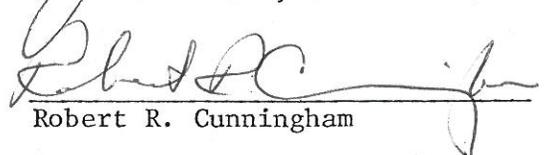
Therefore, the requested variance is granted and the Inspector of Buildings is authorized to issue a permit for the deck construction upon receipt and approval of a building application and construction plans.



Stephen S. Porter, Chairman



John A. Donovan, Jr.



Robert R. Cunningham

mam

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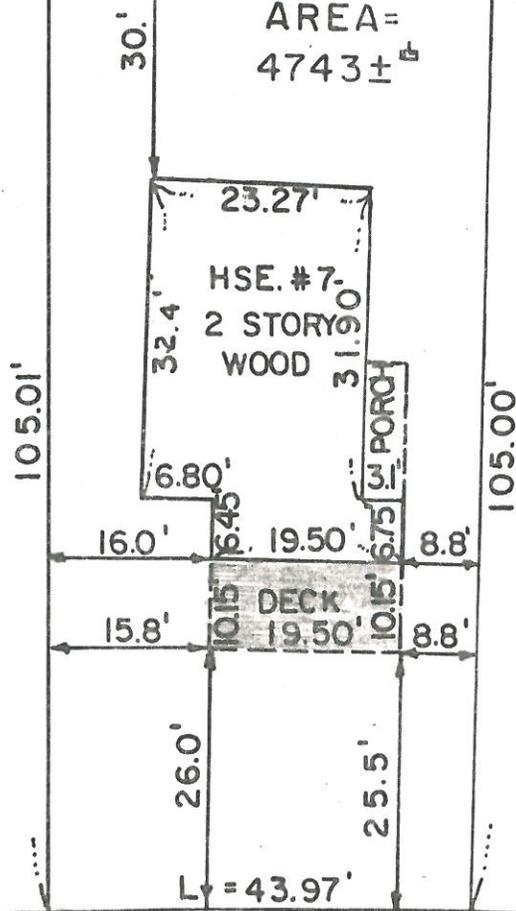
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WILMINGTON, MASS.

INTERVALE ROAD

R=1253.58'
L=46.19'

CARL B. & ARLINE A. TURNER

WILLIAM H. SYLVA



AREA=
4743±^{sq}

23.27'

HSE. #7-
2 STORY
WOOD

32.4'

31.90'

6.80'

6.75'

31' PORCH

16.0'

19.50'

8.8'

15.8'

19.50'

8.8'

DECK

26.0'

25.5'

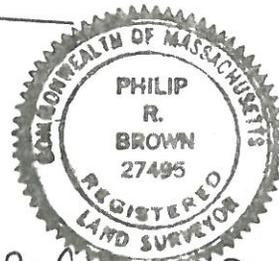
R=1148.58'

DANIEL S. & SUSAN C.
COOPER

WELLESLEY
BOARD OF APPEALS

DATE _____

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WELLESLEY MASS.
AUG 27 11 22 AM '82



Philip R. Brown

PHILIP R. BROWN
REGISTERED LAND SURVEYOR

PLAN OF LAND IN WELLESLEY, MASS.

OWNED BY:

EDWARD R. RUDECK

SCALE: 1" = 20'

AUG. 11, 1982

PLAN BY: MACCARTHY & SULLIVAN ENGINEERING INC.
81 SPEEN ST.,

NATICK, MASS.