

TOWN OF WELLESLEY



RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MASS.

ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

FEB 3 11 44 AM '83

STEPHEN S. PORTER, Chairman  
JOHN A. DONOVAN, JR.  
ROBERT R. CUNNINGHAM

MARY ANN McDOUGALL  
Executive Secretary  
Telephone  
235-1664

WILLIAM E. POLLETTA  
FRANKLIN P. PARKER  
SUMNER H. BABCOCK

82-56

Petition of Emanuel Manoloules

The Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, December 16, 1982 on the petition of Emanuel T. Manoloules, requesting a variance from the terms of Section XIX which will allow an existing addition approximately 15 feet by 7.5 feet to his dwelling at 30 RIVER RIDGE ROAD, leaving less than the required right side yard. Said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On November 24, 1982, the petitioner filed a request for a hearing before this Authority, and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Cornelius Sullivan, attorney representing Mr. Manoloules. He stated that the dwelling was built seventy to eighty years ago, and purchased approximately ten years ago by Mr. Manoloules. The dwelling was originally a T-shaped house and at some unknown date two additions were built, creating a rectangular structure 29'7" by 29', leaving no right side yard. Two years ago the abutter, Frederick Klingmeyer, 32 River Ridge Road, suggested that an encroachment on the right of way existed and requested that the Town of Wellesley enforce the bylaw. The Town took Manoloules to Norfolk Superior Court, and a subsequent agreement between Manoloules and the Town of Wellesley deeded property to the Klingmeyers. Mr. Sullivan stated that a plot plan showing this transaction would be available in two weeks. Mr. Sullivan stated that the right of way is a ten foot strip of land running from River Ridge Road, between Manoloules' and Klingmeyers' property, leading to MDC land. He read a letter from Mr. J. F. Hennessey, Civil Engineer, stating that marking stones could not be found and that he would not certify any lot line. Mr. Manoloules now wishes to clear the title on the property in order to sell it.

Present at the hearing in support of the petition were Frederick Klingmeyer, Mrs. Manoloules and a son of the Manoloules.

No one was present in opposition to the request.

Statement of Facts

The property in question is located at 30 River Ridge Road, containing 19,000 square feet of land. The dwelling was constructed 70 to 80 years ago, purchased approximately ten years ago by Mr. Manoloules. The dwelling was originally a T-shaped

structure, but at some unknown date two additions were built, creating a rectangular structure 29'7" by 29', leaving no right side yard. A right of way exists on the property, part of a ten foot strip of land running from River Ridge Road, between Manoloules' and Klingmeyers' property, leading to MDC land. The right of way at 30 River Ridge Road is a five foot strip, 93.17 feet long.

Mr. Manoloules now wishes to clear the title on the property in order to sell it. He is requesting a variance to allow the existing dwelling to extend to the right side line. This would encroach on the right-of-way.

A Plot Plan was submitted, drawn by George Giunta, Registered Land Surveyor, dated February 18, 1978. Cornelius Sullivan, attorney for the petitioner, stated at the hearing that a new plot plan showing the recent land transaction between Manoloules and Klingmeyer would be available shortly.

On December 23, 1982, the following letter was sent to Cornelius J. Sullivan from Albert S. Robinson, Town Counsel, with a copy sent to the Board of Appeals:

" I have just learned of the surprising and unfortunate development that the encroachment of your client's addition not only involves the sideyard problem but also an apparent encroachment in an MDC right-of-way. Up to this point, to my recollection, I was not aware of any right-of-way aspect of the problem and it changes the complexion of the proposed course of action entirely, as I see it.

My advice has been sought by the Zoning Board of Appeals as to whether or not a variance can be granted given an encroachment into an existing right-of-way. In my opinion, it cannot and I have so advised the Board of Appeals.

I have also advised the Board that it would be appropriate for me to inform you of my opinion herein, and to tender to you the opportunity to provide the Board with a release or license from the MDC to your client for maintenance of the encroachment on the right-of-way. If you could obtain such a license, that would solve the immediate problem and then pave the way for consideration of your client's application on the merits.

If I can assist in your approaching the MDC in the matter, feel free to let me know. Unless the MDC problem is cleared up, the ultimate resolution of your application for a variance will necessarily have to be denied in my opinion."

#### Decision

This Authority has made a careful study of the evidence presented.

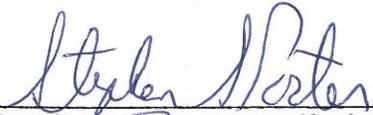
The petitioner is requesting a variance to allow the existing dwelling to extend to the right side lot line. This would constitute an encroachment into an existing right-of-way to MDC property.

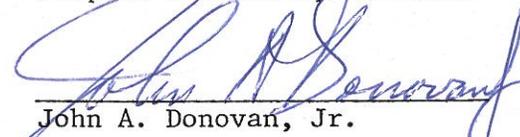
RECEIVED  
TOWN COUNSEL'S OFFICE  
MAY 11 1983

It is the opinion of this Authority that a variance cannot be granted on an existing right-of-way. The petitioners' dwelling extends into the right of way.

This Authority would be willing to consider the request if the petitioner could provide a release or license from the MDC for maintenance of the encroachment on the right-of-way.

The variance requested by the petitioner is hereby denied and the petition is dismissed.

  
\_\_\_\_\_  
Stephen S. Porter, Chairman

  
\_\_\_\_\_  
John A. Donovan, Jr.

  
\_\_\_\_\_  
Robert R. Cunningham

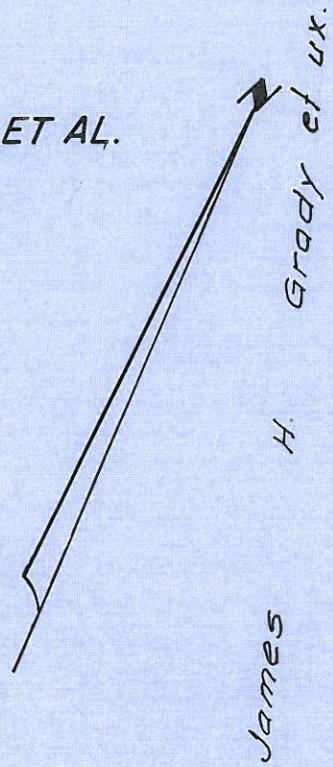
mam

cc: Robinson, Town Counsel

RECEIVED  
TOWN CLERK'S OFFICE  
WELLS RIVER, MASS.  
FEB 3 11 44 AM '83

# PLAN OF LAND IN WELLESLEY—MASS

Belonging to  
EMANUEL T. MANOLOULES ET AL.  
FEB. 18, 1978 SCALE 1" = 40'  
GEORGE N. GIUNTA R.L.S.  
NEEDHAM MASS.



19,000 S.F.

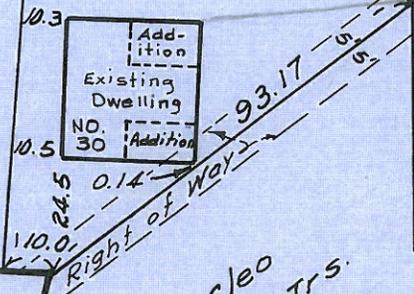
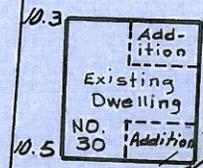
299.30

57.13

239.96

Commonwealth of Massachusetts Metropolitan  
Park Commission

Note: Plan to accompany petition



RIVER RIDGE ST.  
RD.

Gilbert & Cleo  
Masciocchi et al. Trs.  
River Ridge Trust

NOV 24 11 29 AM '82  
OFFICE  
MASS.