



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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84-40

Petition of Emanuel T. Manoloules

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 9, 1984 at 8 p.m. on the petition of EMANUEL T. MANOLOULES requesting variances from the terms of Section XIX of the Zoning Bylaw which will allow an existing dwelling approximately 29.1 feet by 29.7 feet at 30 RIVER RIDGE ROAD with less than the required sideyard on the southeasterly and northeasterly side of the dwelling. Said request is pursuant to Section XXIV-D of the Zoning Bylaw.

On July 20, 1984 the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case on August 9 was Attorney Stanley Weinberg of Collins and Associates, Shrewsbury. He stated that the MDC right of way issue had been resolved but that there were issues not yet resolved with the Klingmeyers at 32 River Ridge Road. He requested that the hearing be continued until a future date. No one present was opposed to the continuation of the hearing until September 6, 1984, and the Board voted unanimously to continue the case.

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 6, 1984 at 8 p.m. in the Upper Town Hall Main Hearing Room. Presenting the case was Attorney Stanley Weinberg, representing Mr. Manoloules, who presented a new plan of land dated September 4, 1984 by Theodore Brahm, Registered Land Surveyor of Moore Survey and Mapping Corp., Shrewsbury, Ma. He stated that Parcel 1 (1 square foot) would be deeded by Frederick Klingmeyer to Emanuel Manoloules. Parcel 2 (565 square feet) would be deeded by Manoloules to Klingmeyer. The easterly side of the 30 River Ridge Road dwelling would have no sideyard, but the owner would be given the right to use the property at 32 River Ridge Road in order to maintain the house (paint, install storm windows). Attorney Weinstein stated he intended to record the new plan with a deed at the Registry of Deeds and to present the plans to the Planning Board.

Present at the hearing in favor of the request were Frederick Klingmeyer, 32 River Ridge Road, Donna Stone, 39 River Ridge Road, Ann Likely, Auburndale, prospective purchaser of the property at 30 River Ridge Road. No one was present in opposition to the request.

Statement of Facts

The property in question is located at 30 River Ridge Road, containing approximately 19,000 square feet of land. The dwelling was constructed 70 to 80 years ago, purchased approximately 12 years ago by Mr. Manoloules. The dwelling originally was a

T-shaped structure, but at some unknown date two additions were built, creating a rectangular structure 29.1 feet by 29.7 feet, leaving no right side yard. In August, 1980, the Building Inspector of the Town of Wellesley took action against Emanuel Manoloules to remove the non-conforming addition to the dwelling, Case #132239, Norfolk Superior Court. In 1982, the Norfolk Superior Court entered the following stipulation: "If by October 1, 1982, Emanuel Manoloules has not conveyed to Frederick Klingmeyer a portion of his property on River Ridge Road pursuant to an Agreement between Manoloules and Klingmeyer, and has not paid compensation to Klingmeyer and filed application for variance and paid building permit fees, such breach shall result in an Entry of Judgment for Plaintiff according to Prayers for Relief 1, 2 and 3. If such actions are taken by Manoloules, then the case shall be dismissed after action by the Town of Wellesley if a variance is granted. Judgment Nisi to enter with respect hereto."

A variance was requested by Mr. Manoloules in 1982 (ZBA Case 82-56) to allow the existing house to remain. The variance was denied because the Plot Plan submitted at that time showed the dwelling extending into a right of way presumably used by the Metropolitan District Commission. The decision, dated February 3, 1983, stated the Board of Appeals would be willing to consider a variance request if the petitioner could provide a release or license from the MDC re: the encroachment on the right of way. The petitioner has now submitted a letter from the MDC, dated October 13, 1983, stating that the MDC "does not have any right of way over the property of the Manoloules" and specifically does not have the benefit of the right of way as shown on Plan of Land in Wellesley, Ma., dated November 3, 1931 and recorded in the Norfolk Registry of Deeds on November 17, 1931".

Mr. Manoloules is requesting a variance from the terms of Section XIX to allow the structure to exist at 30 River Ridge Road. A Plot Plan was submitted, drawn by Theodore Brahm, Registered Land Surveyor, Moore Survey and Mapping Corp., Shrewsbury, Ma., dated July 11, 1984. A subsequent Plot Plan dated September 4, 1984 was submitted, drawn by Theodore Brahm.

The Planning Board, on September 11, 1984, certified the Plan of Land (PBC 84-15) and endorsed it as a re-division of two existing lots not requiring approval under the subdivision control law. Comments from the Planning Board were dated August 8, 1984 and September 12, 1984.

#### Decision

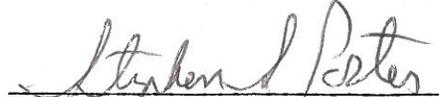
This Authority has made a careful study of the evidence presented, and is of the opinion that this is an extremely unusual case. Based on the circumstances of the case, the stipulation by the Judge of the Norfolk Superior Court, the lawsuits involved with this property, this Board feels an obligation to act on this matter in a way which will allow the issues to become resolved and which will allow the dwelling to become an occupied residential home again.

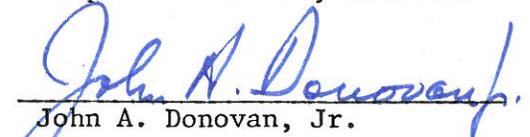
This Authority finds that a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the petitioner due to the shape of the lot and the placement of the structure on the lot. This Authority finds that desirable relief can be granted without substantial detriment to the public good. The decision on this case should not be interpreted in any way as precedent setting. The Board sees the circumstances of this case as unique and unusual.

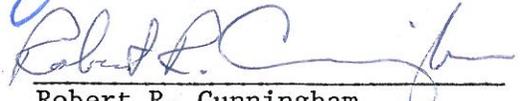
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Therefore, a variance is hereby granted to Emanuel Manoloules to allow the existing structure at 30 River Ridge Road to remain as shown on the Plan of Land drawn by Theodore Brahm, Registered Land Surveyor of Moore Survey and Mapping Corp., Shrewsbury, Ma., dated September 4, 1984, pursuant to Section XIX and Section XXIV-D of the Zoning Bylaw, subject to the deed being recorded at the Registry of Deeds.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

  
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Stephen S. Porter, Chairman

  
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John A. Donovan, Jr.

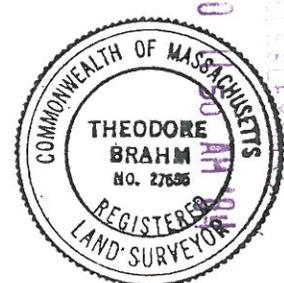
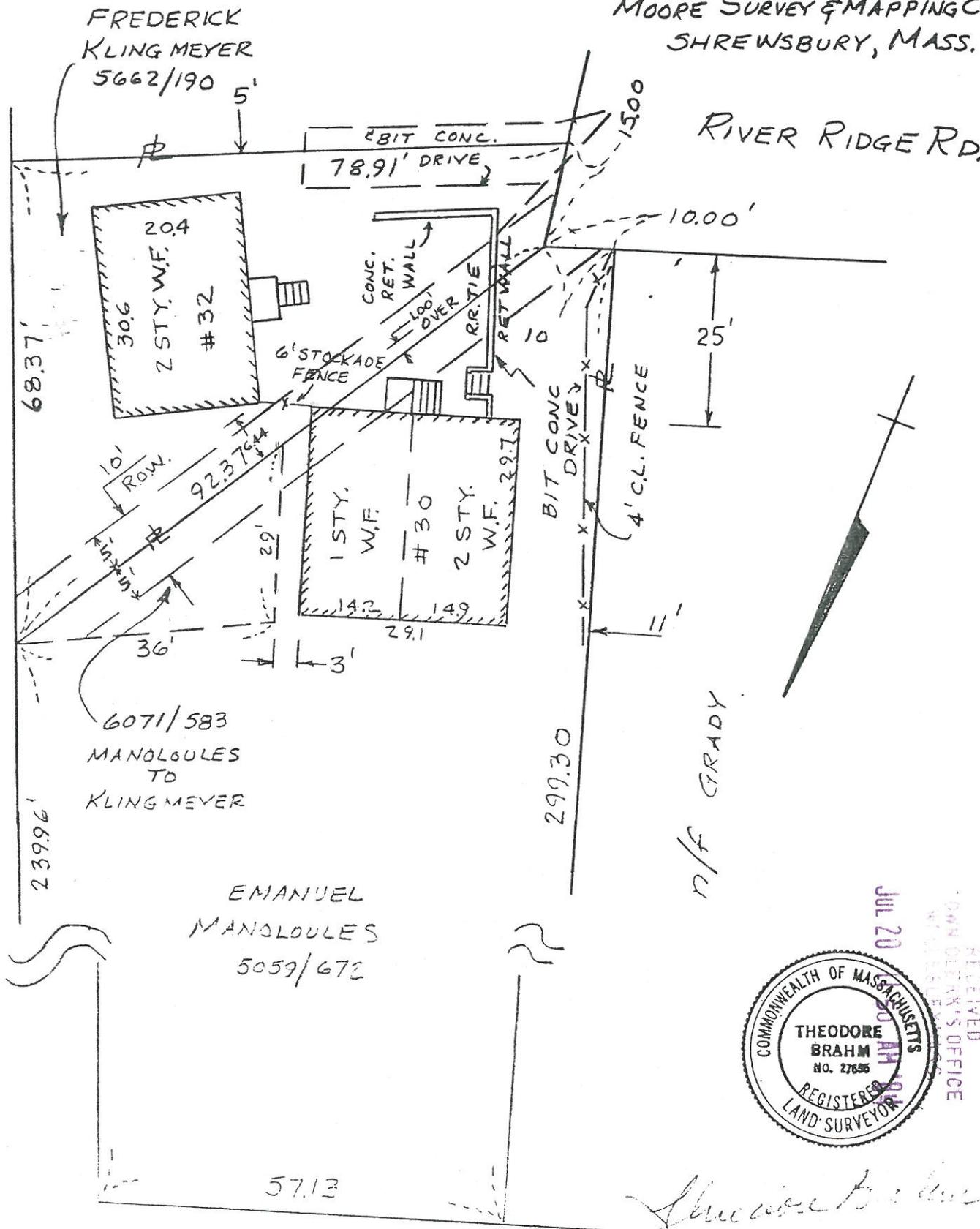
  
\_\_\_\_\_  
Robert R. Cunningham

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PLOT PLAN IN  
 WELLESLEY, MASS.  
 SCALE 1"=20' JULY 11, 1984  
 OWNERS: AS NOTED  
 MOORE SURVEY & MAPPING CORP.  
 SHREWSBURY, MASS.

M.D.C.



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*Signature*

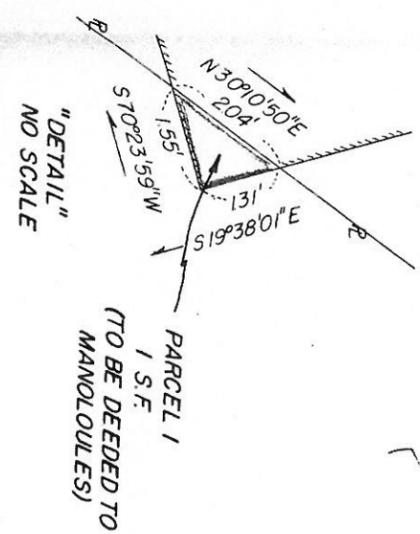
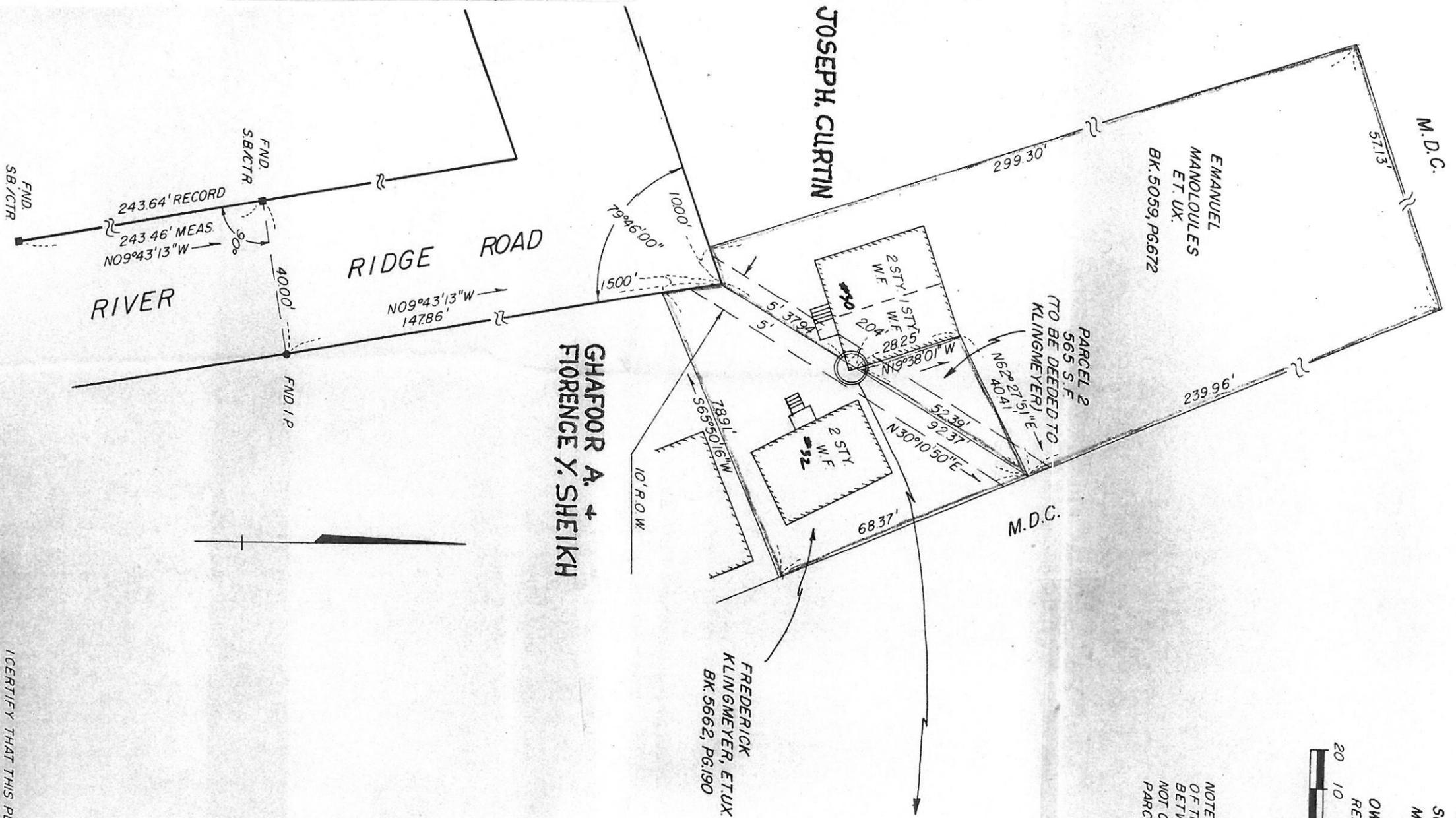
M.D.C.

11/27

PLAN OF LAND IN  
 WELLESLEY, MASS.  
 SCALE 1" = 20' SEPT. 4, 1984  
 MOORE SURVEY & MAPPING CORP  
 SHREWSBURY, MASS  
 OWNER: AS NOTED  
 REF. PLAN 827 OF 1931 IN BK. 1949, PG. 190, NDRD  
 NOTE: PARCELS 1&2 ARE FOR DESCRIPTIVE PURPOSES ONLY

GRAPHIC SCALE

NOTE: THIS PLAN ONLY INDICATES THE RELATIONSHIP OF THE MANOLOULES HOUSE AND THE PROPERTY LINE BETWEEN MANOLOULES AND KLINGMEYER AND DOES NOT CONSTITUTE A SURVEY OF THEIR LOTS.



This endorsement shall not be deemed to constitute a determination of compliance in any way with the provisions of the Zoning By-Law.

WELLESLEY PLANNING BOARD APPROVAL  
 UNDER SUBDIVISION CONTROL LAW NOT  
 REQUIRED

G.M.O. M.P.S.  
D.A.G.  
 DATE: Sept. 11, 1984  
 PBC-84-15



I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES & REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASS.

*Theodore Branch*