



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 87-1  
Petition of Armand J. Schmitt  
118 Prospect Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, January 8, 1987 at 8 p.m. in the Great Hall of the Town Hall (Conference Room E) at 525 Washington Street, Wellesley on the petition of ARMAND J. SCHMITT requesting a variance from the terms of Section XIX and pursuant to Section XXV of the Zoning Bylaw to allow two existing decks at 118 PROSPECT STREET: 1) a deck approximately 10 feet by 16 feet leaving less than the required left (north-erly) side yard; 2) a deck approximately 10.6 feet by 12 feet at the rear of the dwelling leaving less than the required right (southerly) side yard.

On December 19, 1987 the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Armand Schmitt, who stated that he thought that permits would be taken care of by his contractor. After the two decks were built, the Building Inspector notified him that construction must cease. A variance had been granted in 1949, side yards of 5 feet and 10 feet.

No others were present at the hearing favoring or opposing the request.

Statement of Facts

The property in question is located at 118 Prospect Street, containing 5,468 square feet of land. A non-conforming dwelling exists on the lot with a right (southerly) side yard of 6.74 feet.

A variance on the property was granted in 1949 (49-16) to allow a dwelling and garage to be constructed on the lot leaving a left side yard of 10 feet and a right side yard of 5 feet. The house was constructed but the garage was never built.

The petitioner, Armand Schmitt, started construction of two decks without obtaining a building permit. The Building Inspector notified him that construction must cease so the decks are partially completed. Variances are requested to allow: 1) a 10 by 12 foot deck at the rear of the dwelling leaving a right (southerly) side yard of 6.74 feet. The deck comes no closer to the side lot line than the existing house; 2) a 10 by 16 foot deck at the left side of the house leaving a left side yard of 10.04 feet.

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A Plot Plan was presented, drawn by George N. Giunta, Registered Land Surveyor, Needham, dated October 16, 1986. Photos were also presented.

A letter was received from Vera Jackson, daughter of the former owner of the property, stating that her mother had built an 8 by 10 foot porch off the kitchen 14 years ago.

The Planning Board, at its regular meeting of January 6, 1987, voted to offer no objection to the 10 by 12 foot deck provided there is no further encroachment into the side yard than the existing house and to oppose the 10 by 16 foot deck as it proposes a new encroachment where the house presently conforms.

Decision

This Authority has made a careful study of the evidence presented. The particular house in question in its location on the lot does not conform to the present Zoning Bylaws. The dwelling comes to 6.74 feet from the right side lot line. A variance granted in 1949 (49-16) allowed a left side yard of 10 feet and a right side yard of 5 feet.

This Board frowns upon construction attempted without obtaining a building permit, in violation of the Zoning Bylaws. However, because of the previous variance granted in 1949 which allowed side yards of 5 feet and 10 feet, and because of the shape of the lot, the steep grade on the lot and the location of the house on 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.

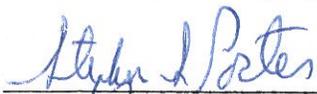
Therefore, the requested variances are granted to construct: 1) a 10.6 foot by 12 foot deck at the rear of the dwelling, leaving a right (southerly) side yard of 6.74 feet and 2) a 16 foot by 10 foot deck at the left side of the house leaving a left (northerly) side yard of 10.04 feet.

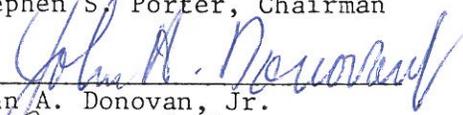
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

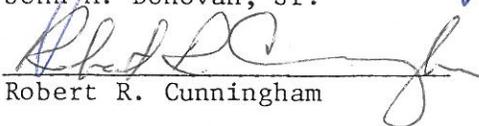
If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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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WILLESTON, MASS.

  
Stephen S. Porter, Chairman

  
John A. Donovan, Jr.

  
Robert R. Cunningham

cc: Planning Board  
Inspector of Buildings

mam



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DEC 19 1 25 PM '86

PROSPECT STREET

PLOT PLAN OF LAND  
IN  
WELLESLEY—MASS.

OCT 16 1986

SCALE 1"=20'

GEORGE N GIUNTA  
76 NEHOIDEN ST.  
NEEDHAM, MASS.

