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TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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APR 21 9 29 AM '87

ZBA 87-26
Petition of Rockwood Keith
7 Sunnyside Avenue

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 26, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall at 525 Washington Street on the petition of ROCKWOOD-KEITH requesting a variance from the terms of Section XXIV-D of the Zoning Bylaw to allow the construction of a deck, approximately 10 feet by 30 feet and steps approximately 15 feet by 5 feet at 7 SUNNYSIDE AVENUE, leaving less than the required left (easterly) side yard.

On March 5, 1987 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 at the hearing was Rockwood Keith, who stated that he purchased the house three years ago. The house had been constructed in 1963 with a deck. The deck rotted away and Mr. Keith wants to replace it and extend it in the rear of the house. When he went to get a building permit, he discovered that the existing deck had been illegal with a left side yard of 16.1 feet.

Present at the hearing and speaking to the petition: Donald Chaffee, Wetlands Protection Committee, who asked if a Determination of Need had been applied for. Mr. Keith said that a Notice of Intent was not required.

Statement of Facts

The property in question is located at 7 Sunnyside Avenue, containing 14,794 square feet of land. A dwelling exists on the lot, constructed in 1963. Mr. Keith purchased the dwelling three years ago with a deck and stairs on the easterly side of the house. The deck wrapped around to the rear of the house. It was recently discovered that the deck was illegal, with an easterly side yard of 16.1 feet.

Mr, Keith proposes to reconstruct the existing deck and steps and construct an addition approximately 10 feet by 18 feet to the deck at the rear of the house. The deck would leave a left (easterly) side yard of 16.1 feet.

A Plot Plan was presented, drawn by George N. Giunta, Registered Land Surveyor, dated November 6, 1986. Construction sketches were submitted as were photos.

The Planning Board on March 17, 1987 voted to offer no objection to the request as it appears there is no further encroachment on the inadequate side yard.

The Wetlands Protection Committee on November 3, 1986 voted to issue a Negative Determination of Applicability for the proposed deck. A permit or Order of Conditions would not be necessary.

Decision

This Authority has made a careful study of the evidence presented. The petitioner evidently purchased the property without knowing that the existing deck was illegal.

It is the opinion of this Board that a hardship exists on the property due to the fact that the main living floor of the house is several feet higher than the ground level and that stairs and an entry level are necessary to exit from the kitchen. Uncovered stairs are allowed in a side yard by right. The actual area of deck encroaching into the side yard is about 5 feet by 15 feet.

The Board is of the opinion that a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the petitioner, that the hardship was not self created, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, a variance is granted to allow the deck as proposed and shown on the Plot Plan by George N. Giunta, Registered Land Surveyor, dated November 6, 1986, so long as the deck comes no closer than 16.1 feet from the left (easterly) side lot line.

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.

Stephen S. Porter, Chairman

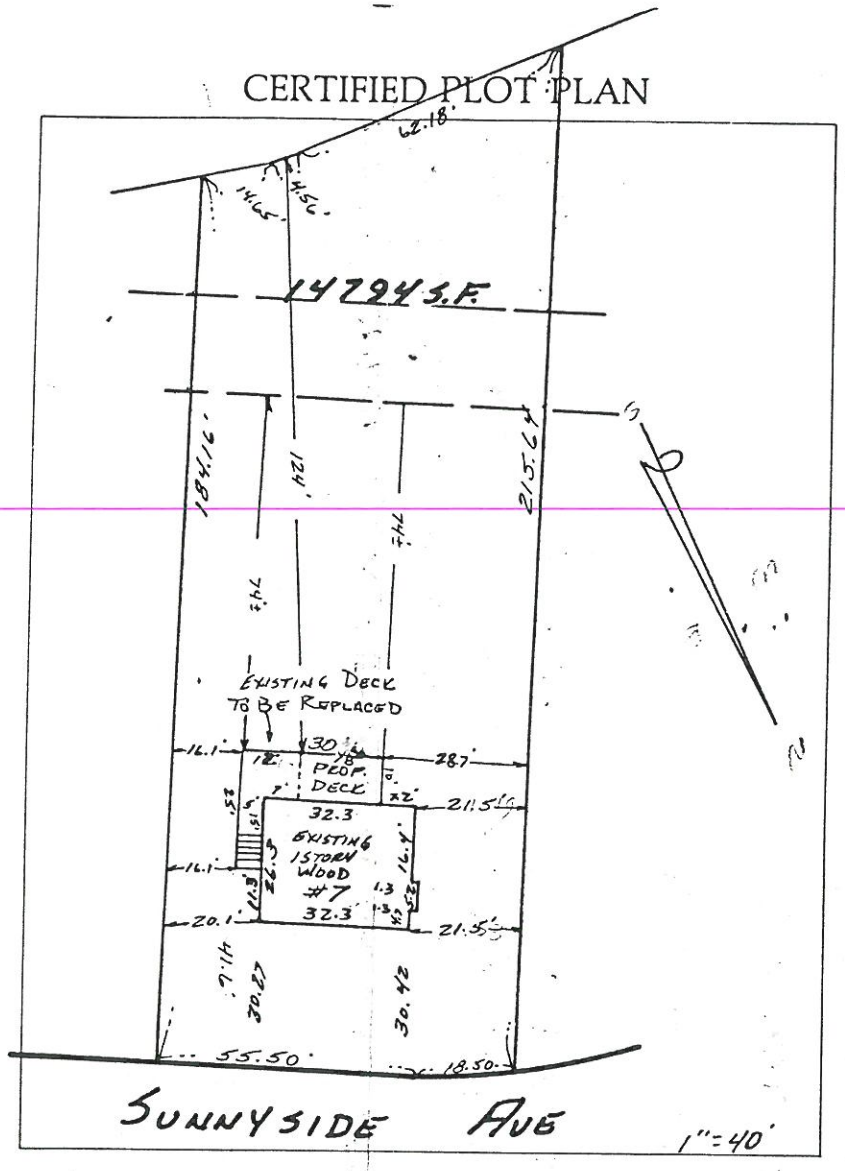
Robert R. Cunningham

William E. Polletta

APR 21 9 29 AM '87

mam
cc: Planning Board
Inspector of Buildings

CERTIFIED PLOT PLAN



NOV. 6, 1986

COMMONWEALTH OF MASSACHUSETTS
GEORGE N. GIUNTA
No. 27011
REGISTERED LAND SURVEYOR