TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 87-41
Petition of Katherine M. Curran
5 Mellon Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, May 21, 1987 at 8 p.m. in the Great Hall (Conference Room E) of the Town Hall at 525 Washington Street, Wellesley on the petition of KATHERINE M. CURRAN requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to bring the existing non-conforming dwelling and concrete patio with awning at 5 MELLON ROAD into conformance with the current Zoning Bylaws. Said dwelling and patio structure leave less than the required right side yard.

On May 4, 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 Katherine Curran, who stated that she bought the house from her father in 1976. She is presently in the process of selling the house and has discovered that it does not have the required setbacks. The concrete slab in question was formerly a back porch and laundry which were torn down years ago. The slab area was then used as a patio with an awning structure.

Mr. Curran was present at the hearing in favor of the request. No others were present expressing favor or opposition to the request.

Statement of Facts

The property in question is located at 5 Mellon Road, containing 11,686 square feet of land, in a Single Residence District. Katherine Curran purchased the property from her father, Ernest Fisher, in 1976. She is currently in the process of selling the house and has discovered that it does not have the required setbacks. She is requesting a variance to bring the existing house into conformance with the current bylaws.

The house has a setback at the right rear corner of 14 feet from the southerly side line. A concrete slab patio exists on the right side of the house with poles supporting an awning which covers it, with a setback of 13.2 feet from the right side line. The slab patio was formerly an enclosed back porch and laundry area. The porch was torn down years ago and the concrete slab remained.

A Plot Plan was submitted, drawn by Carmelo Frazetti, Registered Land Surveyor, dated April 28, 1987. Photos were submitted as was a Plot Plan by Gleason Engineering Co. dated November 26, 1958 and a Survey Record of 1959.

The Planning Board, on May 19, 1987, voted to offer no objection "provided the concrete patio is not built into an enclosed porch or room."

Decision

This Authority has made a careful study of the evidence presented and is of the opinion that the existing dwelling at 5 Mellon Road is not in conformance with the Zoning Bylaws of the Town.

This Board is of the opinion that a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the petitioner. Furthermore, the allowance of a variance would not be detrimental to the neighborhood nor be in derogation of the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance from the terms of Section XIX of the Zoning Bylaw and pursuant to Section XXIV-D of the Zoning Bylaw is granted to allow the existing dwelling and patio with the awning structure at 5 Mellon Road with a sideyard setback of 14 feet at the right rear corner and 13.2 feet from the concrete slab patio to the right side line, as shown on Plot Plan by Carmelo Frazetti, Registered Land Surveyor, dated April 28, 1987.

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

cc: Planning Board
Building Inspector

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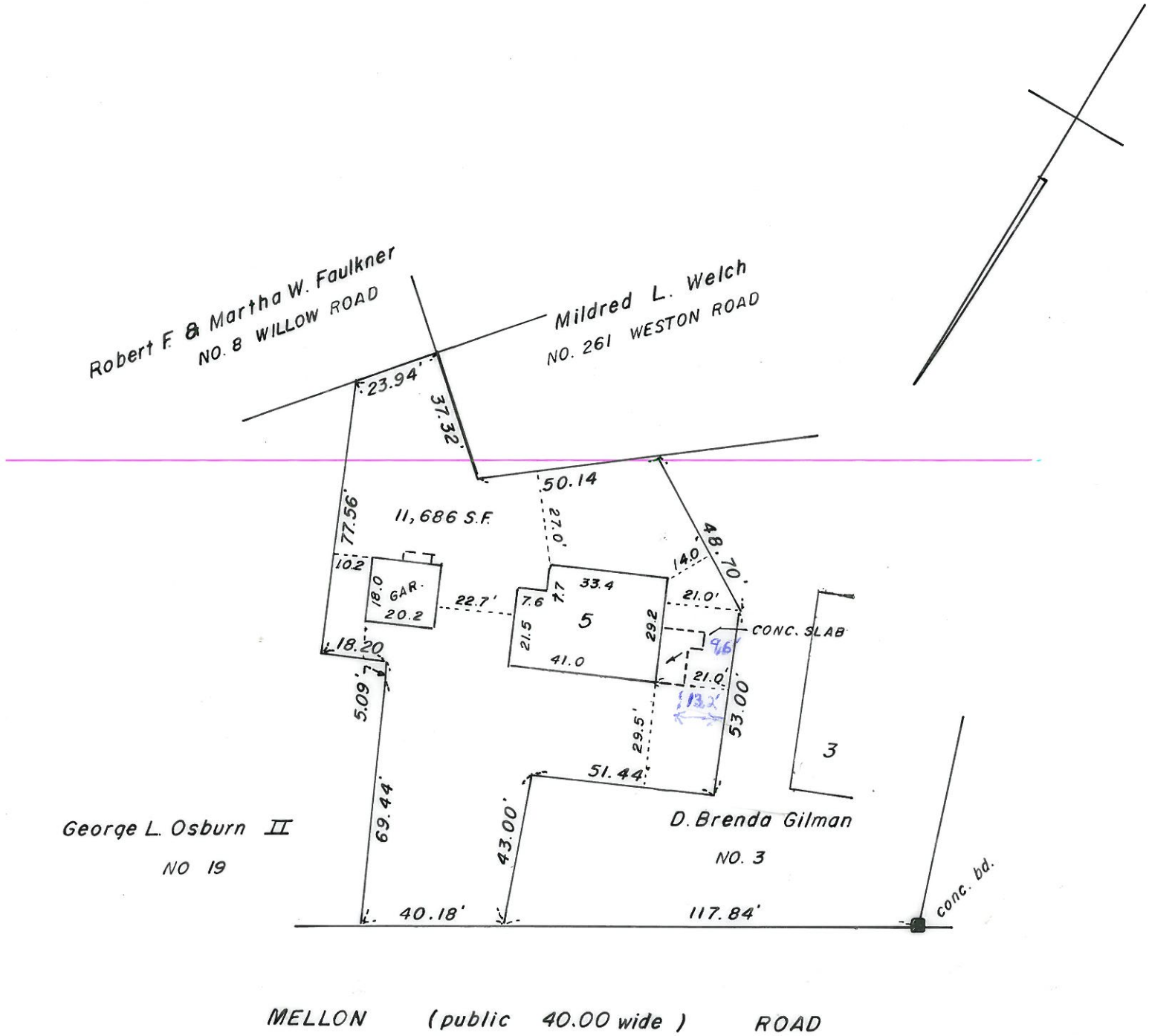

PLAN SHOWING LOCATION of DWELLING
in
WELLESLEY, MASSACHUSETTS
at
No. 5 MELLON ROAD

Owned by
Katherine E. Roderick
April 28, 1987
Carmelo Frazetti

COMMONWEALTH OF MASSACHUSETTS
CARMELO FRAZETTI
No. 8673
REGISTERED LAND SURVEYOR

Scale: 1" = 40'
Land Surveyor