



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman  
ROBERT R. CUNNINGHAM  
KENDALL P. BATES

ELLEN D. GORDON  
Executive Secretary  
Telephone  
431-1019

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

ZBA 87-91

Petition of Gordon T. and Catherine H. Walker  
22 Birch Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, November 19, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of GORDON T. AND CATHERINE H. WALKER, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which would allow the addition to their non-conforming dwelling at 22 Birch Road, in a Single Residence District, of a detached two-car garage approximately 21 feet by 19.6 feet leaving less than the required front setback and less than the required left side yard.

On November 2, 1987, the petitioner's requested 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 Christopher Donovan, attorney for the Walkers, who was accompanied by Ron Margolis, their architect and Mr. and Mrs. Walker. Mr. Donovan stated that it was impossible to locate the garage without violating yard regulations.

Mr. Margolis stated that it was impossible to position the garage at the front as it would block the front entrance, nor could it be sited at the rear, as there is no driveway. The grade is extremely steep. On the right side, there is a 12 foot right-of-way which is shared with the abutters.

The Board stated that the garage would represent a major encroachment on the property line and that such a sizable encroachment was not looked upon with favor. Mr. Margolis said that all other site possibilities had been explored.

Mr. Walker added that previously there had been a garage at the right rear of the property, but that the garage had been severed from the property before he purchased it, so that the hardship was not self-created. The abutting neighbors had voiced no opposition.

The Board questioned the front setbacks for the existing homes on Birch Road. Mr. Walker stated that there were two homes across the street which had non-conforming front setbacks due to existing one-car garages, which provided precedent.

No others were present expressing favor or opposition to the request.

Statement of Facts

The non-conforming dwelling is located at 22 Birch Road in a Single Residence District, on a 10,004 square foot lot with a left side yard of 9.51, a 12 foot right-of-way on the right side line and a conforming front setback of 38.96 feet.

DEC 9 11 17 AM '87  
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WELLESLEY, MASS.

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The petitioners are requesting a variance as stated above which, if granted, would leave a left side yard of 10 feet and a front setback of 16 feet from Birch Road.

A Plot Plan, dated October 27, 1987, drawn by Theodore E. Dwyer, Registered Land Surveyor; construction plans consisting of Elevations and Site Plan, dated October 27, 1987, drawn by Margolis & Fishman, Inc.; and photographs of the property were submitted.

The Planning Board, in its letter of November 12, 1987, stated it had voted to oppose the granting of a variance as it appeared to constitute a substantial and unacceptable encroachment on the front and side yards.

Decision

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

Variations may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1 as quoted from the Zoning Bylaw):

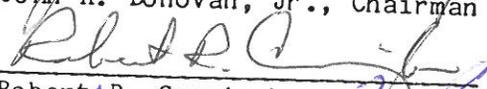
- "1. ...
  - a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning district in which it is located; and the hardship shall not have been self-created; and
  - b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D and also finds that, although the garage previously sited on the property was severed before ownership of said property by the petitioners, the construction of the garage would constitute a "self-created hardship". It is the further opinion of this Authority that the severe encroachment of the proposed garage on the front setback from Birch Road would substantially derogate from the intent or purpose of this Zoning Bylaw.

Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

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.

  
John A. Donovan, Jr., Chairman

  
Robert B. Cunningham

  
Kendall P. Bates

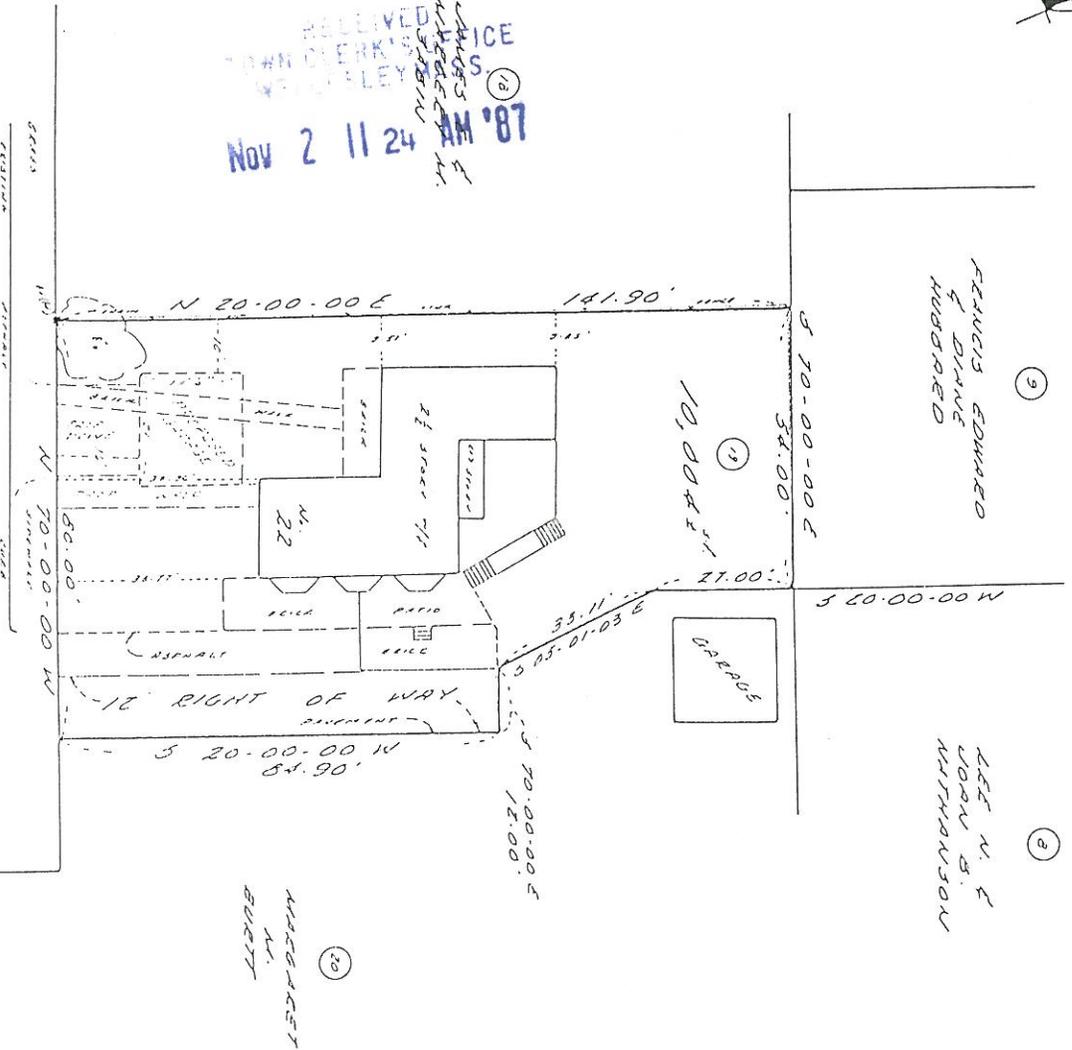
cc: Planning Board  
Inspector of Buildings

edg

DEC 11 11 27 AM '87  
TOWN CLERK'S OFFICE

REFERENCE (WORFOLD REGISTER OF DEEDS)  
DEED: BOOK 4582, PAGE 359

REDUCED SIZE - Do not scale



FINANCIS EDWARD  
& DIANE  
HARRIS

LEE N. &  
JOHN B.  
WILKINSON

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WILLESTLEY  
NOV 2 11 24 AM '87

BIRCH

ROAD

WILKINSON ROAD

WILKINSON  
N.  
BURY

ZONING: SINGLE RESIDENCE 10

REQUIREMENTS:  
AREA: 10,000 sq. ft. MIN  
FOOTING: 60' MIN.  
SET BACK: 30' MIN.  
SIDE YARD: 60' MIN.  
REAR YARD: 10' MIN.  
COVERAGE: 25% MAX. (AS PROVIDED U.S.)

NOTES:

1. WILLESTLEY 455535023 MAP 125
2. 455535023 PARCEL NUMBER

I HEREBY CERTIFY THAT THIS SURVEY  
WAS MADE ON THE GROUND, AND THE  
BUILDING IS LOCATED ON THE GROUND  
AS SHOWN. *Harold E. Dwyer* S.I.S.  
10-27-87



PLAT PLAN  
22 BIRCH ROAD  
WILLESTLEY, MASS.  
PREPARED FOR  
GORDON & CATHERINE WALKER

SCALE: 1"=20'  
OCT 17, 1987  
GTE & DANCE, INC. SURVEYORS  
196 CENTRAL STREET 30000, MASS  
P.O. BOX 202 (617) 553-6155

