



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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APR 17 9 49 AM '88

ZBA 88-18
Petition of David and Barbara Rattner
11 Haven Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 3, 1988 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of DAVID AND BARBARA RATTNER requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow the illegal non-conforming deck attached to the existing dwelling at 11 HAVEN ROAD, in a Single Residence District, to be brought into conformance with the current Zoning Bylaw of the Town. Said deck was built without a building permit and has less than the required left side yard.

On February 8, 1988, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was David Rattner who stated that when he purchased the home in 1983, the deck was in existence. As the Rattners did not have a mortgage, no mortgage survey plan was necessary at that time. The existing deck was rotting, it was replaced in May, 1985. At that time, the contractor told the Rattners that a building permit was not necessary, as they were simply replacing an existing structure. The defect was discovered in the process of selling the property. The Rattners wish to bring the property into conformance so that a building permit can be obtained and the purchase of the property concluded.

No other person had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 11 Haven Road, in a Single Residence District, on a 12,727 square foot lot. The dwelling meets all of the required setbacks with the exception of the left rear corner of the deck which is 15.3 feet from the left side lot line, the requirement being 20 feet from said line. As stated above, the Rattners purchased the property in 1983 with no knowledge that the deck was either illegal or non-conforming. When the deck was replaced in 1985, they relied on the advice of their contractor that a building permit was unnecessary. The Rattners are in the process of selling their house. The non-conformity and illegality of the deck were discovered through the mortgage survey plan required by the Buyers' lending institution. The petitioners seek a variance to bring the property into conformity with the current Zoning Bylaw of the Town.

A Plot Plan dated January 26, 1988, drawn by Nathan Rossman, Registered Land Surveyor, was submitted together with a letter from Mr. and Mrs. J. Halloran, 15 Haven Road, the left side abutters, in favor of the petition. Photographs were also submitted.

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The Planning Board, at its regular meeting on February 16, 1988, voted to offer no opposition to the petition.

Decision

This Authority has made a careful study of the evidence submitted and is of the opinion that the existing dwelling with the attached deck at 11 Haven Road is not in conformance with the Zoning Bylaw of the Town.

This Authority is of the opinion that a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship to the petitioners and that 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 and pursuant to Section XXIV-D of the Zoning Bylaw is granted to allow the existing dwelling with attached deck at 11 Haven Road with a left side setback of 15.3 feet from the left side lot line, as shown in the Plot Plan described in the Statement of Facts.

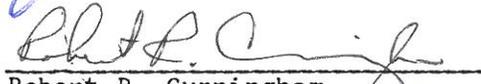
The Inspector of Buildings is hereby authorized to issue a building permit for said deck.

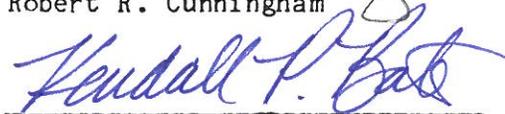
If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

cc: Planning Board
Inspector of Buildings
edg

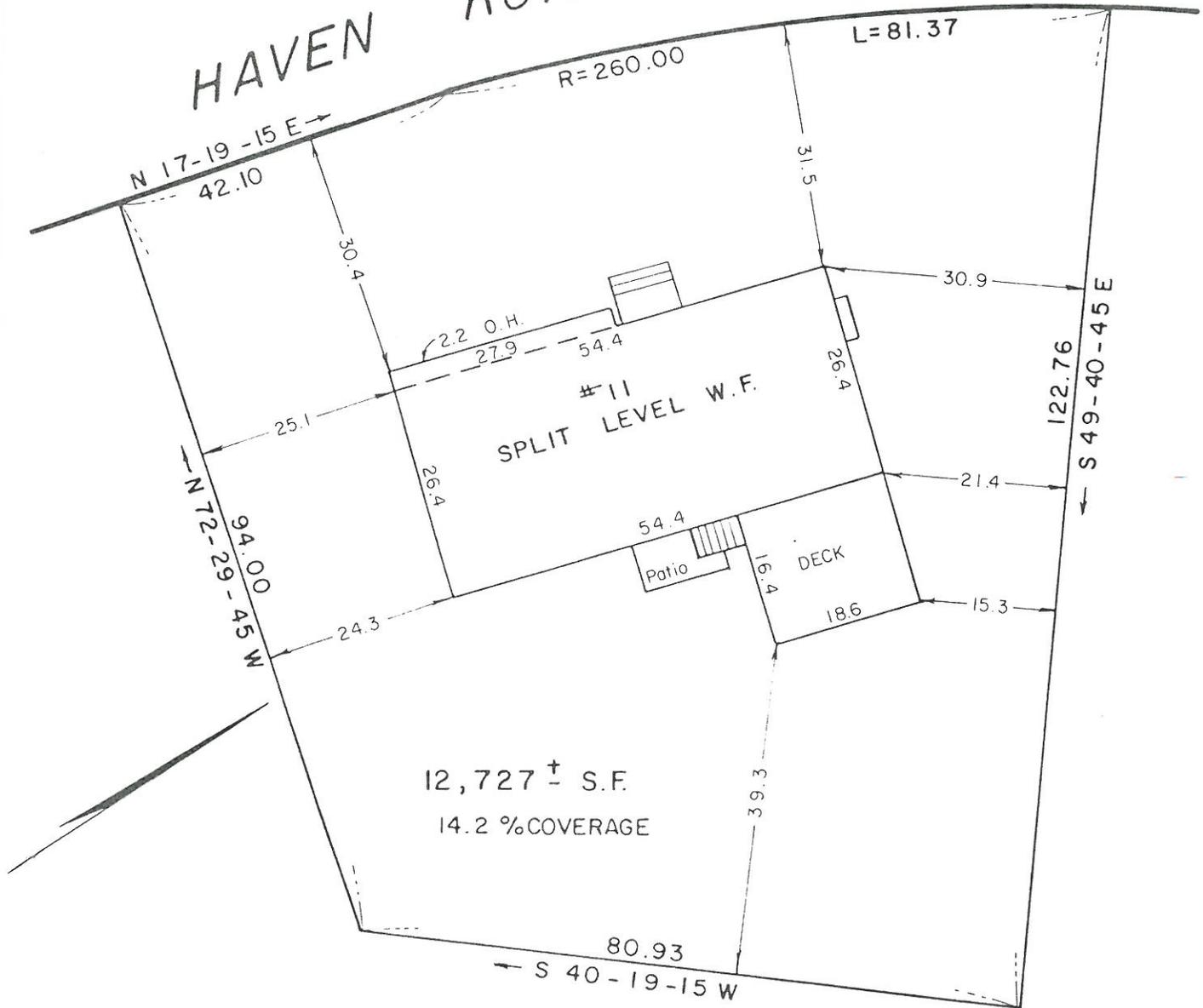

John A. Donovan, Jr., Chairman


Robert R. Cunningham


Kendall P. Bates

MAR 17 9 49 AM '88
TOWN CLERK'S OFFICE
NEWBLEY MASS.

HAVEN ROAD



12,727 \pm S.F.
14.2 % COVERAGE



Nathan Rossman

PLAN OF LAND
IN

WELLESLEY, MASS.

SCALE: 1" = 20'
MASS BAY SURVEY INC.

JAN. 26, 1988
NEWTON, MASS.