



RECEIVED
TOWN CLERK'S OFFICE
JUL 14 9 01 AM '88

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

88-48

Petition of James Byleckie
294 Weston Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, June 23, 1988 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 JAMES BYLECKIE requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow his illegally constructed deck, approximately 220 square feet, with less than the required right side yard, at his dwelling at 294 WESTON ROAD, in a Single Residence District, to be brought into conformance with the current Zoning Bylaw of the Town.

On June 6, 1988, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was James Byleckie who expressed regret at building the deck illegally. The deck was of his own design and was located to make it less obtrusive from the street, which resulted in the non-conformance. Dr. Byleckie stated that he was unaware of the necessity of a building permit until he received a letter from the Building Department stating that a permit was required, and that the deck was in violation of the side yard requirements.

Dr. Byleckie said that it would be a great hardship to bring the porch into conformance as 3 footings would have to be removed which have a 10 inch diameter and a depth of 4 feet. Disposal of 1 1/2 tons of concrete would be necessary.

The Board expressed disbelief that Dr. Byleckie could build such a complex structure without realizing that a building permit would be required.

Irving Talcoff, 302 Weston Road, and Ron Pounder voiced support for the petition.

No other persons had any comment on the petition.

Statement of Facts

The subject dwelling is located at 294 Weston Road, in a Single Residence District, on a 10,099 square foot lot. The existing dwelling was conforming until the illegal addition of the deck which comes to 18.10 feet from the right side lot line.

On January 5, 1988, construction of the illegal deck was observed by the Assistant Building Inspector, who notified Dr. Byleckie of the illegality of the construction of a deck without a building permit. The deck is approximately 220 square feet and comes to 18.10 from the right side lot line. A variance is now being requested to allow the existing deck to remain and to be brought into conformance with the current Zoning Bylaw of the Town.

ZBA 88-48
Petition of James Byleckie
294 Weston Road

RECEIVED
TOWN CLERK'S OFFICE
JUL 14 9 01 AM '88

A Plot Plan, dated February 19, 1988, drawn by John J. Regan, Registered Land Surveyor; construction plans drawn by James Byleckie; and a photograph were submitted.

The Planning Board, on June 14, 1988, voted to oppose the granting of the variance.

Decision

This Authority has made a careful study of the evidence presented. The subject house is presently conforming with the exception of the illegal deck which comes to 18.10 feet from the right side lot line.

The Board is disturbed that the petitioner constructed the deck without obtaining a building permit and frown upon such violations of the town regulations which were adopted for the protection of the community and the welfare of its citizens.

Variances 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."

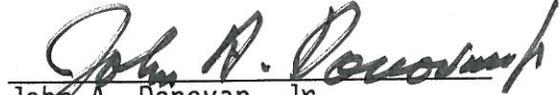
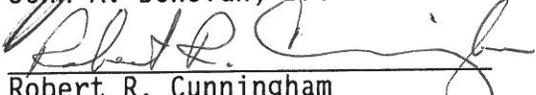
This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw.

Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied; and furthermore, the petitioner is hereby ordered to remove the portion of the existing deck which is encroaching further than 20 feet into the right side yard, and to complete this removal within 30 days of the date of this decision.

After the removal is completed and the deck conforms to the terms of this decision, a certified plot plan, drawn by a Registered Land Surveyor, must be presented to this Authority to be attached to this decision. The Building Inspector is then authorized to issue a permit for the deck upon his receipt and approval of a building application.

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


John A. Donovan, Jr.

Robert R. Cunningham

William E. Polletta

Address: 294 WESTON RD

Permit Number: 23952

Date: 11/22/1988

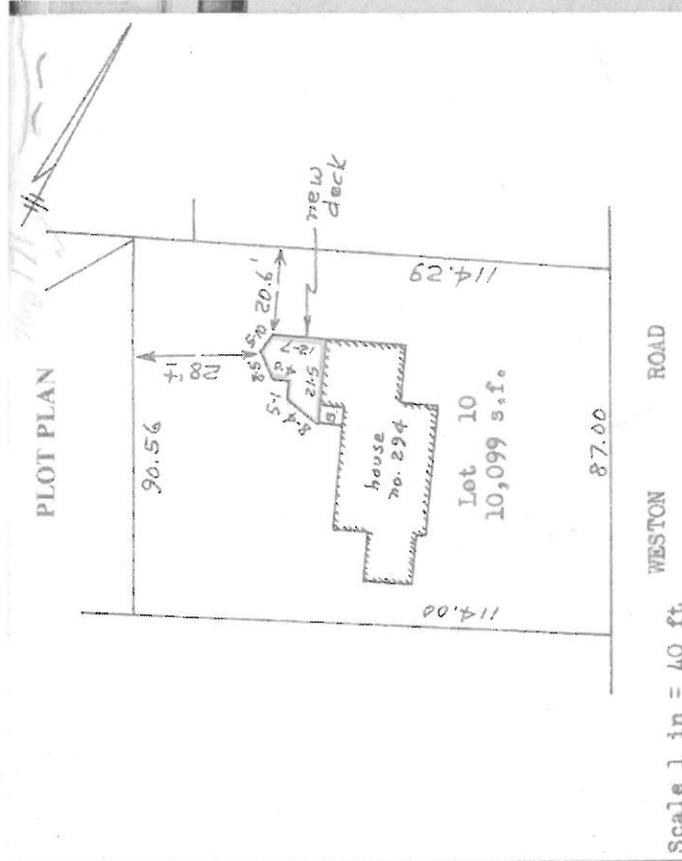
back scan image



ZONING CERTIFICATION FORM

Building Permit No. _____
Street Weston Road No. 294
Builder James Byleckie
Address 294 Weston Road, Wellesley
Owner James Byleckie
Address 294 Weston Road, Wellesley

Building dimensions 21-5 x 12-7
Distances:
Adjoining Bldgs. _____
Front Yard _____ Rear Yard 28'-+
Side Yard _____ Side Yard 20.6'
Area of Lot 10,099 s.f.



Scale 1 in = 40 ft WESTON ROAD
FOR BUILDING DEPARTMENT USE ONLY
Stamped & Signed By: John J. Regan
Reg. Land Surveyor
Date: November 3, 1988 Address: P.O. Box 416, Newton, 02161

COMPLETE INSTRUCTIONS ON REVERSE SIDE
OF DUPLICATE COPY
ORIGINAL