



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 88-50
Petition of James N. Marcotte
23 Oakland Circle

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 N. MARCOTTE, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow the construction of an unattached garage approximately 20 feet by 21 feet at his non-conforming dwelling at 23 OAKLAND STREET, in a Single Residence District; said garage to have less than the required left side yard.

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

Presenting the case was James N. Marcotte, who said he would like to construct a garage at the end of his driveway. Due to the topography of the land, locating the garage elsewhere would be more costly as a full foundation would be required rather than a less expensive slab foundation. The change in elevation is 6 feet. If the garage were to be located at grade, it would be 6 feet below the driveway. To add sufficient foundation to bring the garage to grade would be very costly.

The Board questioned the reality of the topographical problem without verifying statistics and stated that the primary hardship to be considered in granting a variance would have to be a topographical problem peculiar to the existing lot, rather than a financial hardship alone. The Board felt that the encroachment of 14 feet being requested was substantial.

Tom Fields, 15 Oakland Circle, said that he had no objection, and wanted to point out that the encroachment of the garage would abut property owned by Mass. Bay Community College.

No other persons had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 23 Oakland Circle, in a Single Residence District, on an 8,017 square foot lot with a minimum front setback from Oakland Circle of 10.1 feet and a minimum right side yard clearance of 15.7 feet.

The petitioner is requesting a variance for an unattached garage, approximately 20 feet by 21 feet, to be located at the left rear portion of his lot and coming to within 6 feet of the left side lot line.

ZBA 88-50
Petition of James N. Marcotte
23 Oakland Circle

RECEIVED
TOWN CLERK'S OFFICE
JUL 14 9 00 AM '88
TOWN OF NORTH ATTLEBOROUGH, MASS.

A Plot Plan, dated June 1, 1988, drawn by Carmelo Frazetti, Registered Land Surveyor; The Carriage Shed/Construction Details, drawn by Eli Townsend & Son, dated 1976, 1980; and photographs were submitted.

The Planning Board, on June 14, 1988, voted to oppose the granting of the variance as the Board did not believe that the ten percent grade constitutes a hardship, prerequisite to the granting of a variance.

Decision

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

Variations may only be granted by the Permit Granting Authority once it has 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.

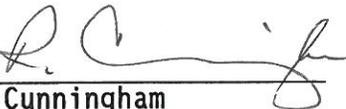
Therefore, it is the unanimous decision of this Authority that this request for a variance be denied, and this petition is dismissed.

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.

cc: Planning Board
Inspector of Buildings

edg


John A. Donovan, Jr., Chairman


Robert R. Cunningham


William E. Polletta

MASS. BAY Community College

No. 30 Cunningham Road
N/F Sava P. Harper

23.54'

76.06'

15.00'

PROP GARAGE
(20.0 x 21.0)

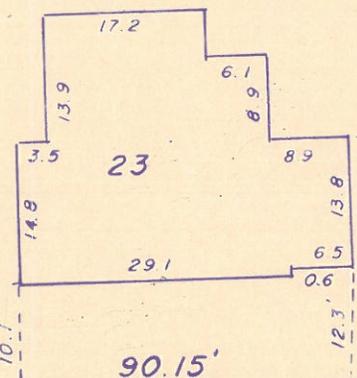
8017

s.f.

81.60'

74.70'

N/F
Malcolm R. & Jennifer A.
Mahan



No. 19

OAKLAND (private 10' wide) CIRCLE

OAKLAND CIRCLE
(private 20' wide)

RECEIVED
OFFICE
CLERK S. S. 11313
JUN 6 9 46 AM '88

PLAN OF LAND
in
WELLESLEY, MASSACHUSETTS
at
No. 23 OAKLAND CIRCLE

Owned by
James M. Marcotte
June 1, 1988
Carmelo Frazetti



Proposed Garage
Scale 1"=20'
Land Surveyor