TOWN OF WELLESLEY MASSACHUSETTS

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

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA 02181
MAY 9 9 00 AM '89

ZBA 89-19
Petition of Christina M. Browne
14 Oakland Circle

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 27, 1989, 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 CHRISTINA M. BROWNE, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw which will allow an illegal non-conforming deck with less than the required front setback and less than the required left side yard attached to her non-conforming dwelling at 14 OAKLAND CIRCLE, 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 prior to current ownership.

On April 10, 1989, the petitioner 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 Marie Taylor, attorney for Ms. Browne, who was also present. Ms. Taylor said that Ms. Browne had purchased the property a year and a half ago, at which time the mortgage company discovered that the deck had never been granted a variance. The mortgage was issued, but Ms. Browne wants the property to be legal, and is therefore requesting the variance.

The house, built about 98 years ago, is situated very close to the lot line. The deck, 16.3 feet by 10.7 feet and 1.2 feet above ground, provides one of the few areas of privacy on the lot. The side facing Oakland Street is fronted by a 4 foot fence; the side abutting 10 Oakland Street has a 6 foot fence.

Ms. Taylor said that they believe the deck was constructed by Mr. Harrington, a previous owner. Mr. Harrington had obtained a variance to enlarge the house, but had omitted the deck from the plot plan.

Tom Fields, 15 Oakland Circle, expressed support for the petition.

Statement of Facts

The non-conforming dwelling is located at 14 Oakland Circle, in a Single Residence District, on an 11,269 square foot lot with a minimum front setback of 7.8 feet and a minimum left side yard clearance of 16.7 feet. The illegal non-conforming deck is approximately 10.7 feet by 16.3 feet with a minimum front yard setback of 13.2 feet and a minimum left side yard clearance of 6 feet.

The house was built in the 1890's. It is believed that the deck was added by Edward J. Harrington who obtained a variance to construct a one story addition in 1970 (ZBA 69-75). The plot plan, dated November, 1986, drawn by James H. Harrington, Registered Land Surveyor, shows the proposed addition, but does not show a deck.

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA 02181
MAY 9 9 00 AM '89

The house has been owned by several persons since that time, but it was not until the petitioner purchased the dwelling a year and a half ago, that it was discovered that no variance had been granted for the deck.

A Plot Plan, dated March 9, 1989, drawn by Robert N. Backman, Registered Land Surveyor, and photographs were submitted.

The Planning Board, on April 24, 1989, voted to offer no objection to the granting of the variance.

Decision

This Authority has made a careful study of the evidence submitted. Neither the existing dwelling nor the illegal deck at 14 Oakland Circle are in conformance with the current Zoning Bylaws of the Town as is noted in the foregoing Statement of Facts.

This Board is of the opinion that a literal enforcement of the provisions of the Zoning Bylaw would involve a substantial hardship to the petitioner, who did not cause the illegal deck to be built, and that the allowance of a variance would not derogate from 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 non-conforming deck with a minimum front setback of 13.2 feet and a minimum left side yard of 6 feet as shown in the Plot Plan described in the foregoing Statement of Facts, at 14 Oakland Circle, to be brought into conformance with the current Zoning Bylaw of the Town.

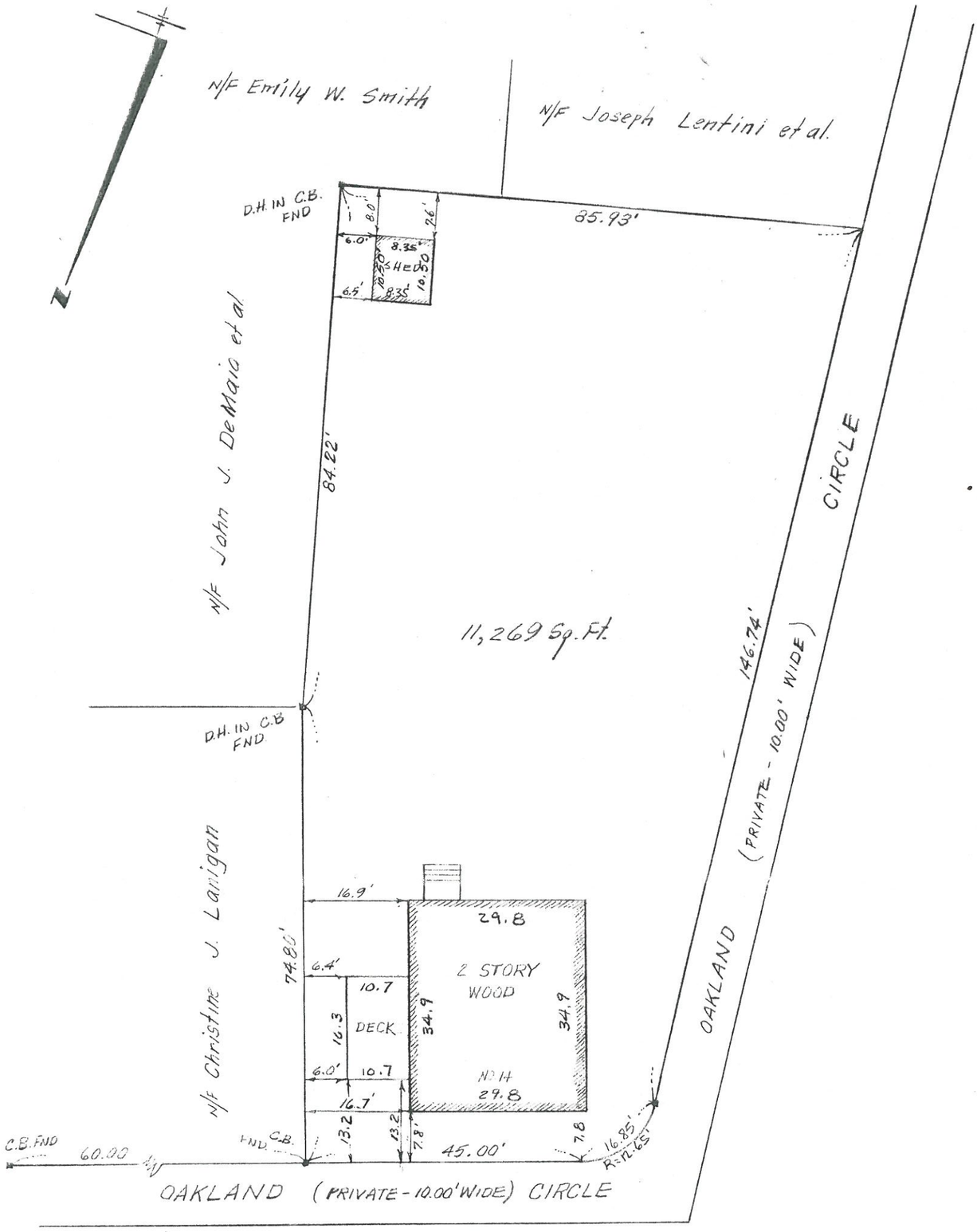
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

Robert R. Cunningham, Acting Chairman

Kendall P. Bates

William E. Polletta

cc: Planning Board
Inspector of Buildings
edg



I CERTIFY THAT THIS PLAN WAS PREPARED FROM AN ACTUAL FIELD SURVEY MADE ON THE GROUND.

3/29/89
DATE

ROBERT N. BACKMAN R.L.S.

OWNER:
CHRISTINA M. BROWNE
14 OAKLAND CIRCLE
WELLESLEY, MASS.

PLAN OF LAND
14 OAKLAND CIRCLE, WELLESLEY
NORFOLK COUNTY, MASS.

— PLOT PLAN —

SCALE	1"=20'	DATE	3-9-89	JOB NO.	2089
CALC	M.H.	DRAWN	G.K.H.	CH'KD	R.N.B.

YUNITS ENGINEERING CO., INC.
CONSULTING ENGINEERS
11 TECHNICAL PARK DRIVE
HOLBROOK, MASS. 02343.

DWG NO. 1

ROBERT N. BACKMAN NO. 30333

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA 02181
APR 10 11 08 AM '89