TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-62
Petition of Robert and Phyllis Yawitt
65 Arnold Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, October 26, 1989 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 ROBERT AND PHYLLIS YAWITT requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow construction of a one-story addition approximately 8 feet 10 inches by 15 feet 8 inches with less than the required right side setback and a bay window approximately 8 feet by 4 feet 6 inches within the proposed addition, said window to have less than the required right side yard setback at their presently conforming dwelling at 65 ARNOLD ROAD, in a Single Residence District.

On October 10, 1989, the petitioners requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Robert and Phyllis Yawitt. Mr. Yawitt said that they wished to build a sunroom on the south side of the house. He said that the hardship was caused by the shape of the lot which has an extreme angle on the south boundary.

Mr. Yawitt submitted a petition signed by seven neighbors and abutters supporting the request. He also submitted a plot plan with the twenty foot setback line drawn through the proposed construction, showing that of the 149 square foot addition, only 19 square feet or about 13% of the total construction, would be non-conforming. Mr. Yawitt added that there are three different elevations moving from right to left across the rear yard.

No other person present had any comment on the petition.

Statement of Facts

The presently conforming dwelling is located at 65 Arnold Road, in a Single Residence District, on a 17,997 square foot lot, with a conforming right side yard of 22.4 feet at the right rear corner of the dwelling and 21.6 feet from the existing bay window at the right rear side of the dwelling.

The petitioners are requesting a variance to construct a one-story addition approximately 8 feet 10 inches by 15 feet 8 inches which would leave a minimum right side yard clearance of 18.5 feet; said addition to include a bay window approximately 8 feet by 4 feet 6 inches, which would leave a minimum right side yard clearance of 17.9 feet.

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A Plot Plan, dated October 3, 1989, revised October 10, 1989, drawn by Richard H. McKeown, Registered Land Surveyor; Construction drawings and elevations, dated October 3, 1989, drawn by David Galler Associates, Inc.; and photographs were submitted.

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The Planning Board, on October 17, 1989, voted to oppose the granting of the variance based on the belief that a similar addition could be built in conformity with the Zoning Bylaw setback and that the proposed addition would create a nonconformity for the dwelling where none presently exists.

Decision

This Authority has made a careful study of the evidence presented. The subject house is presently conforming in regard to the right side yard setback. The proposed one-story addition with the proposed bay window would create a nonconformity as the right side yard setback would no longer meet the 20 foot requirement as noted in the foregoing Statement of Facts.

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, and is of the opinion that the granting of this variance would substantially derogate from the intent and purpose of this 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.

John A. Donovan, Jr., Chairman

Kendall P. Bates

Robert R. Cunningham

cc: Planning Board
Inspector of Buildings
edg

PLOT PLAN
OF LAND IN WELLESLEY, MA.
Scale 1"=20' October 3, 1989
Prepared ~~for Robert~~ Yawitt

SCHOFIELD BROTHERS, INC.
PROFESSIONAL LAND SURVEYORS
PROFESSIONAL ENGINEERS
1071 WORCESTER ROAD,
FRAMINGHAM, MASSACHUSETTS
01701

Job # 14921-1

OFFSETS ARE TO BUILDING CORNERS
ALL EAVES EXISTING + PROPOSED ARE LESS THAN ONE FOOT

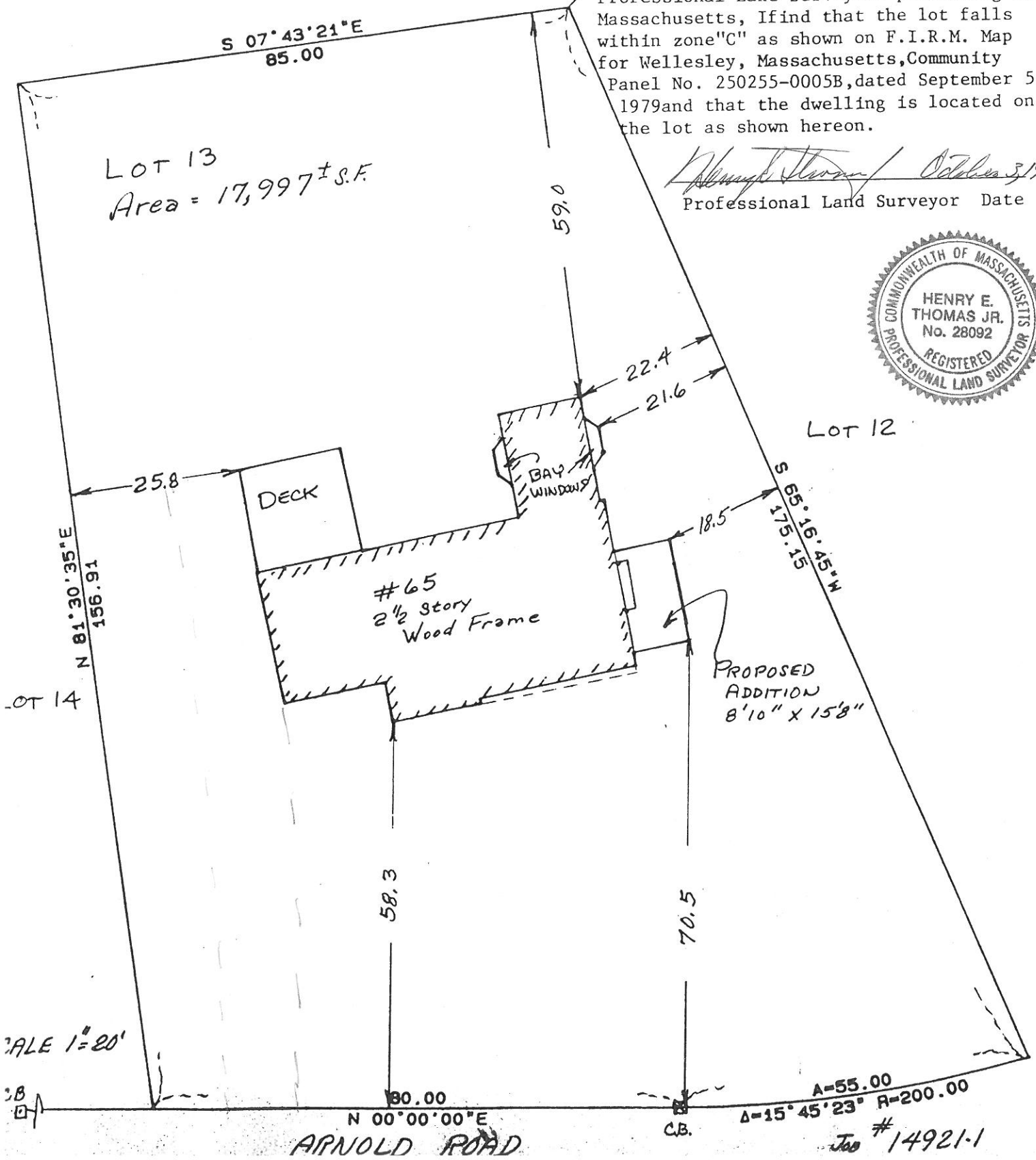
On the basis of my knowledge, information and belief, I certify to Robert Yawitt

that as a result of a survey made on the ground to the normal standard of care of Professional Land Surveyors practicing in Massachusetts, Ifind that the lot falls within zone"C" as shown on F.I.R.M. Map for Wellesley, Massachusetts, Community Panel No. 250255-0005B, dated September 5, 1979and that the dwelling is located on the lot as shown hereon.

October 3, 1989

Professional Land Surveyor Date

COMMONWEALTH OF MASSACHUSETTS
HENRY E. THOMAS JR.
No. 28092
REGISTERED
PROFESSIONAL LAND SURVEYOR



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