



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

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DEC 11 9 05 AM '89  
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FRANKLIN P. PARKER  
SUMNER H. BABCOCK

ZBA 89-67  
Petition of Ralph and Ann Gaudette  
2 Intervale Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, November 30, 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 RALPH AND ANN GAUDETTE requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow the following: 1) construction of a porch approximately 10 feet by 12 feet on the left side of the dwelling with less than the required front setback from both RIVERDALE ROAD AND INTERVALE ROAD; 2) construction of a one-story garage approximately 12 feet by 21 feet with less than the required front setback from INTERVALE ROAD and less than the required right side setback; 3) to be connected to the existing dwelling by a one-story addition approximately 20 feet by 14.17 feet with less than the required front setback from INTERVALE ROAD at their non-conforming dwelling at 2 INTERVALE ROAD AND RIVERDALE ROAD, in a Single Residence District, with less than the required front setback from INTERVALE ROAD.

On November 14, 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 Kevin Gordon of Design West and Ralph Gaudette. Mr. Gordon said that they were proposing to rebuild the pre-existing porch and garage, which had both been demolished in 1987, and to infill between the garage and the house. At the time of demolition, Mr. Gaudette was unaware that the pre-existing non-conforming status of the porch and garage would be lost after demolition.

Mr. Gaudette said that the dwelling has not been occupied since 1984, and may be occupied, after remodeling, by his daughter. Since the property has been in the family since 1924, he would be reluctant to sell it. He stated that he was attempting to rebuild only what existed before the demolition, and that the reconstruction would be consistent with the neighborhood since almost every house was non-conforming.

Joseph Fagin, 50 Riverdale Road, expressed opposition to the variance request.

The Board stated its concern with the possible misuse of the "grandfathering" provisions and of setting precedents in this regard. The Board also stated that this request differed from other variance petitions as, in most instances, the person requesting the variance occupied the dwelling and could state precise reasons for the request based on hardship. The Board noted that it is unusual for a petitioner who is not occupying the premises to claim hardship.

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Mr. Gaudette stated that the house is not livable until it is remodeled. He agreed with the Board that the house would be livable without the garage and the porch after the interior remodeling was finished, but protested the possible loss of the garage and porch.

#### Statement of Facts

The non-conforming dwelling is located at 2 Intervale Road at the corner of Riverdale Road, in a Single Residence District, on a 4,909 square foot lot with a minimum front setback of 17 feet from Intervale Road. The house was built in 1924 with an unattached garage and an attached porch, both of which would not conform to present Zoning requirements. On May 5, 1987, the Building Department issued a Demolition Permit (#22759) to Ralph Gaudette to demolish the porch and the garage. The dwelling has not been occupied since 1984.

The petitioner is requesting a variance to construct a porch, approximately 10 feet by 12 feet, on the left side of the dwelling, which would leave a minimum front setback of 22.6 feet from Riverdale Road and a minimum front setback of 23.1 feet from Intervale Road. He is also requesting a variance to construct a one-story garage, approximately 12 feet by 21 feet which would leave a minimum right side yard of 9.6 feet and a minimum front setback from Intervale Road of 18 feet; and an addition between the garage and the dwelling, approximately 14.17 feet by 20 feet, leaving a minimum front setback of 20.72 feet from Intervale Road. The total lot coverage resulting from this construction would be 24.97%.

A Plot Plan dated October 23, 1989, drawn by Joseph R. Sullivan, Registered Professional Surveyor; construction plans and elevations dated September 29, 1989, drawn by Design West; copies of the demolition permit and correspondence relating to the permit; and photographs were submitted.

The Planning Board, on November 28, 1989, voted unanimously to oppose the variance request as it represents overbuilding on a very undersized lot, and the demolished structures have lost their conforming status.

#### Decision

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

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."

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This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw and is of the opinion that any "hardship" perceived by the petitioner has been self-created.

This Authority is of the further opinion that the granting of this variance would substantially derogate from the intent and purpose of the Zoning Bylaw.

Therefore, it is the unanimous opinion 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 PETITION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board  
Inspector of Buildings  
edg

  
John A. Donovan, Jr., Chairman

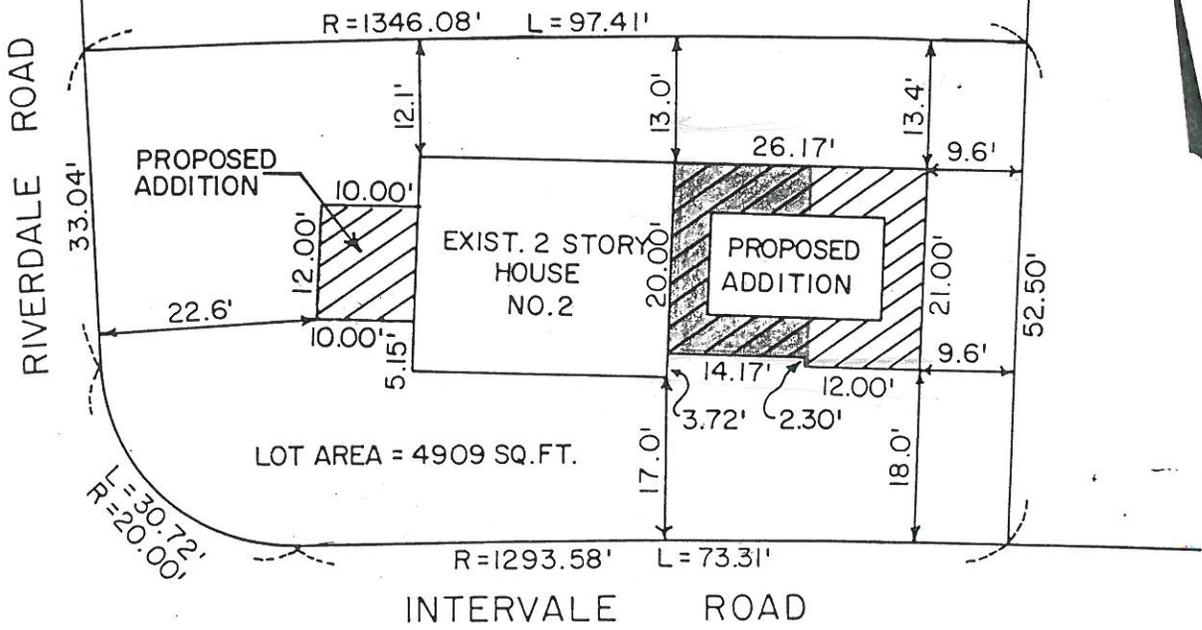
  
Kendall P. Bates

  
Robert R. Cunningham

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BUILDING AREA INCLUDING ADDITIONS = 1226 SQ. FT.  
LOT COVERAGE = 24.97 %

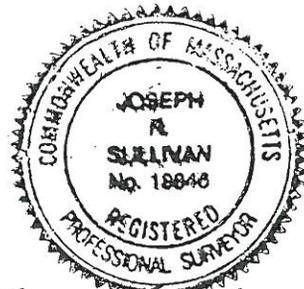


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BOARD OF APPEALS

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DATE: \_\_\_\_\_



*Joseph R. Sullivan*  
JOSEPH R. SULLIVAN  
REG. PROF. SURVEYOR

PLAN OF LAND IN WELLESLEY, MASS.

OWNED BY : RALPH R. GAUDETTE & ANNIE M. GAUDETTE

SCALE: 1" = 20' OCTOBER 23, 1989

PLAN BY : MACCARTHY & SULLIVAN ENGINEERING, INC.  
209 WEST CENTRAL STREET NATICK, MASS.