



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-71  
Petition of John and Claire Rosser  
33 Bay State Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, December 21, 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 JOHN AND CLAIRE ROSSER, requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow construction of a sunroom addition approximately 8 feet by 15 feet with less than the required rear setback at their non-conforming dwelling at 33 BAY STATE ROAD, in a Single Residence District, with less than the required right side yard.

On December 4, 1989, the petitioners 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 were John and Claire Rosser. Mrs. Rosser said that they would like to expand their small kitchen which is only 4 feet by 8 feet. She stated that the shape of the lot was strange and that the rear lot line dips in at the point of the proposed addition, increasing the non-conformance. The back yard extends several feet before dropping down severely to the Aquaduct towpath. There are no rear abutters.

Mr. Rosser explained that although they could add onto the left side of the house, siting the sunroom on that side would provide a view of the garage, would be close to very active abutters and would position the sunroom on the southwest corner which, as the sunroom is mainly glass, would make the addition extremely hot. They could also add a bay window which would not give them the same amount of space.

No other persons present had any comment on the request.

Statement of Facts

The non-conforming dwelling is located at 33 Bay State Road, in a Single Residence District, on a 12,952 square foot lot with a minimum right side yard clearance of 10.8 feet. The rear setback of 20.4 is presently conforming as the rear setback requirement in a 15,000 square foot district is 15 feet.

The petitioners are requesting a variance to allow construction of a sunroom approximately 8 feet by 15 feet at the rear of their dwelling which would leave a minimum rear setback of 12.4 feet at the right rear corner and 13.6 feet at the left rear corner of said addition.

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A Plot Plan dated November 11, 1989, drawn by George Giunta, Registered Land Surveyor; construction drawings and elevations dated October 10, 1989, prepared by RAS Industries; and photographs were submitted. A catalog entitled "Splendor in the Sun", published by Sun Room Company, Inc. was submitted at the hearing.

The Planning Board, on December 12, 1989, voted to oppose the granting of the variance as it represents an encroachment into the otherwise conforming rear yard.

Decision

This Authority has made a careful study of the evidence presented. The subject house does not conform to the present Zoning Bylaws as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that although the construction of the sunroom does represent an encroachment on a presently conforming rear yard, the absence of a rear abutter and the location of the house in relation to the rear lot line constitute mitigating factors peculiar to this particular property.

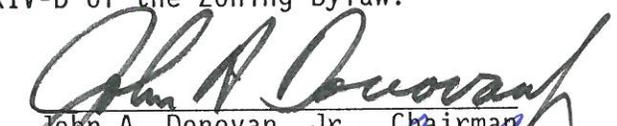
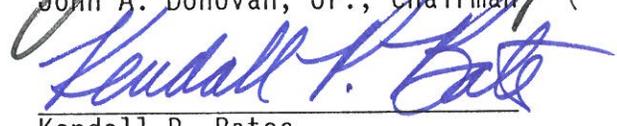
It is the further opinion of this Authority that, because of the shape of the lot and the location of the house on the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioners and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted subject to construction in accordance with the Plot Plan and construction plans submitted and noted in the foregoing Statement of Facts, said construction coming no closer to the rear lot line than 12.4 feet on the right rear corner and 13.6 feet on the left rear corner of the proposed addition.

The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

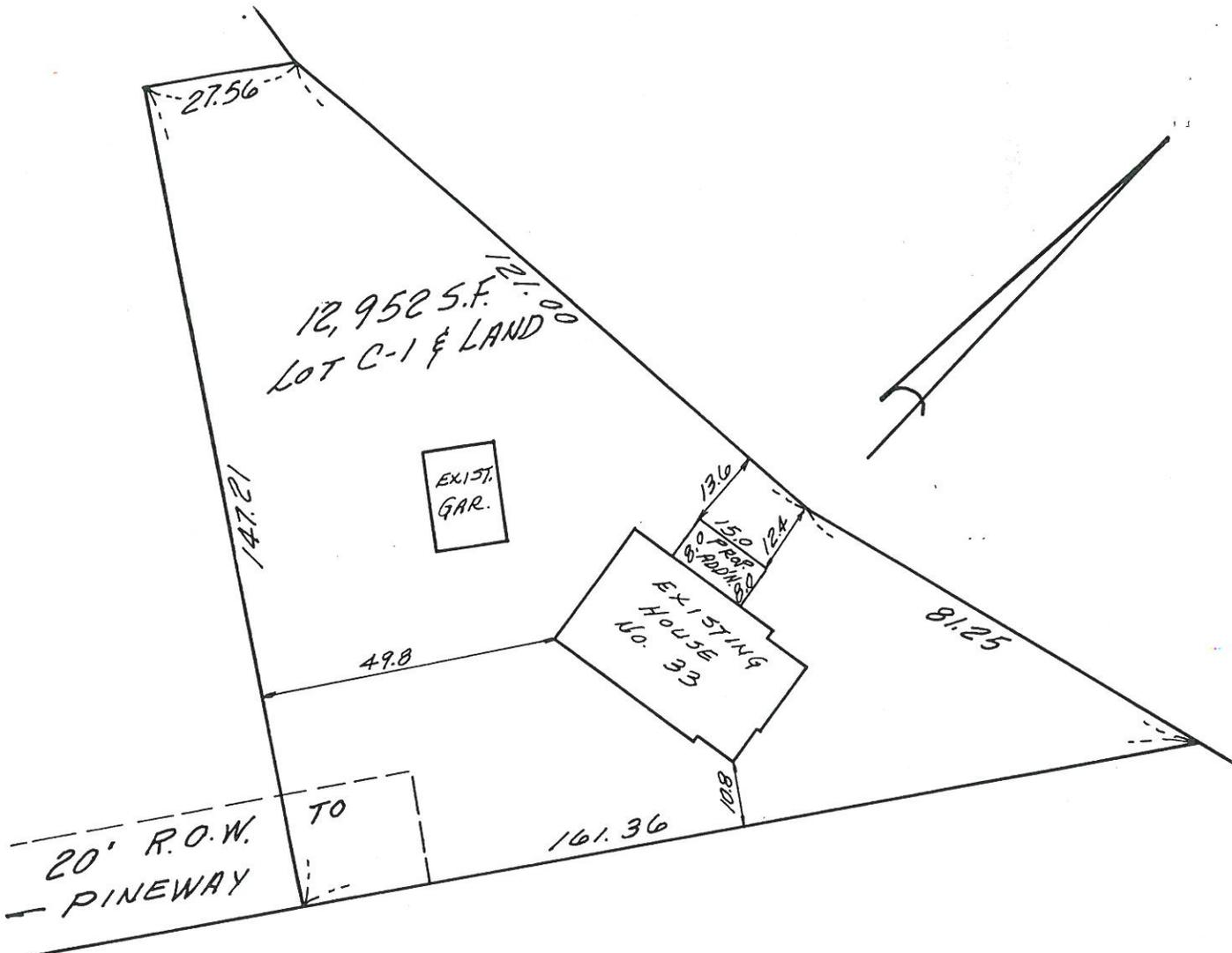
If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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

cc: Planning Board  
Inspector of Buildings  
edg

  
Robert R. Cunningham



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PLOT PLAN OF LAND  
 IN  
**WELLESLEY — MASS.**

NOV. 11, 1989 SCALE 1" = 30'  
 NEEDHAM SURVEY ASSOCIATES  
 281 CHESTNUT ST.  
 NEEDHAM, MASS.

