



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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TOWN OF WELLESLEY  
WELLESLEY, MASSACHUSETTS

ZBA 90-22  
Petition of Earl and Patricia Hinkley  
282 Oakland Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 26, 1990 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 EARL AND PATRICIA HINKLEY requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow removal of an existing deck and construction of a two-story addition approximately 20.3 feet by 16.6 feet with less than the required front setback from SHERIDAN ROAD at their non-conforming dwelling at 282 OAKLAND STREET on the corner of SHERIDAN ROAD, in a Single Residence District, with less than the required front setback from SHERIDAN ROAD.

On April 9, 1990, 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 James McCabe, attorney for the Hinkleys, and Margaret Smart, project architect with the firm of Blake Allison. Ms. Smart said that the existing house is non-conforming as it is 26 feet from Sheridan Road. The Hinkleys now wish to encroach to within 21.6 feet of the street. She stated that locating the proposed addition in any other position would require a reconfiguration of the existing rooms which would result in a gut of the existing house.

The Board questioned if a variance had been granted or a building permit issued for the non-conforming deck. Mr. McCabe replied that the original porch had been removed and the deck constructed.

Mr. McCabe said that the house, which predates 1939, was used as a caretaker's house and is very small with minimal headroom on the second floor. The house was part of an old estate. The lot was created when Sheridan Road was cut by the Town. The road curves to the left which created the frontage setback deficit. Mr. McCabe added that only 12% of the addition will encroach as it is set in further than the existing house. If the variance is granted, the present backyard can be maintained; if it is not, the backyard will become the area abutting Sheridan Road.

No other person present had any comment on the request.

Statement of Facts

The non-conforming dwelling is located at 282 Oakland Street on the corner of Sheridan Road, in a Single Residence District, on a 12,587 square foot lot. The non-conforming house, built prior to 1939, has a minimum front yard setback of 26 feet from Sheridan Road and the non-conforming deck has a minimum front yard setback of 20.4 feet from Sheridan Road. There is no building permit on file for the deck,

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nor does a plot plan filed in 1974 for the installation of an inground pool show a deck.

The petitioners are requesting a variance to remove the deck and construct a two-story addition approximately 20.3 feet by 16.6 feet, which would leave a minimum front yard setback of 21.4 feet from Sheridan Road.

A Plot Plan dated April 3, 1990, drawn by George Giunta, Registered Land Surveyor; construction drawings and elevations drawn by Blake Allison Architects; Supporting Statements for Variance Petition, dated April 2, 1990, by Blake Allison; and photographs were submitted.

Letters supporting the variance request were received from Linda and Richard Stapp, 287 Oakland Street; Mr. and Mrs. Steven Rosenzweig, 280 Oakland Street; Audrey and Ralph Wagner, 11 Monroe Road; Dr. and Mrs. Peter Strock, 1 Sheridan Road; and David R. Gomer, 7 Monroe Road.

The Planning Board, on April 10, 1990, voted to recommend opposition to the variance request as the addition represents a substantial encroachment on the required setback, and other options appear to be available to building the addition in compliance with zoning.

#### Decision

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

Variations 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 to allow an additional 4.6 foot encroachment into the front yard setback would substantially derogate from the intent and purpose of the Zoning Bylaw.

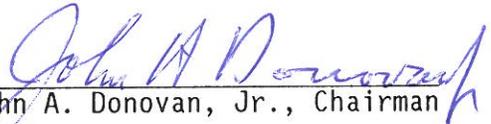
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Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

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 DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board  
Inspector of Buildings  
edg

  
John A. Donovan, Jr., Chairman

  
Sumner H. Babcock

  
William E. Polletta

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PT. OF LOT 9

78.56

42.5'

56'

CHIMNEY

21.4'

20.4'

96.87

PROPS  
ADD'N.  
EXISTING DECK  
TO BE RAISED

EXISTING  
HOUSE  
No. 282

20.0'

119.99

PT. OF LOT 9  
12,587 S.F.

46.4

84.57

56.65

OAKLAND ST.

PLOT PLAN OF LAND  
IN

WELLESLEY — MASS.

APRIL 3, 1990 SCALE 1"=30'

NEEDHAM SURVEY ASSOCIATES, INC.  
281 CHESTNUT ST  
NEEDHAM, MASS.

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*[Handwritten signature]*

LOT 8