



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 90-72

Blair P. and Ann J. Melanson  
41 Atwood Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, August 30, 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 BLAIR P. AND ANN J. MELANSON requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to construct a deck approximately 19 feet by 20 feet and an L-shaped deck extension approximately 13.2 feet by 14.2 feet at their non-conforming dwelling at 41 ATWOOD ROAD, in a Single Residence District, with less than the required left and right side yards. Said deck and extension would also have less than the required left and right side yards.

On August 13, 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 Blair and Ann Melanson. Mr. Melanson said that they wish to construct the deck as they do a lot of entertaining in the summer and the only level space at the rear is about 70 feet from the house. There is an incline extending about 60 feet from the house to the rear of the lot, and access to the first floor of the house at the rear is via a twelve-step staircase. The house has two stories in the front, but three stories in the rear due to the severity of the slope. The deck addition is less of an encroachment on both sides than is the existing house.

Mr. Melanson added that as he would like to accommodate between 30 and 40 people on the deck, he felt that the deck was a reasonable size. He stated that the abutters had no problem with the petition.

No other person present had any comment on the petition.

#### Statement of Facts

The non-conforming dwelling is located at 41 Atwood Street, in a Single Residence District, with a minimum right side yard clearance of 6.1 feet, a minimum left side yard clearance of 10.2 feet and a minimum front setback of 24.9 feet.

The petitioners are requesting a variance to construct a deck approximately 19 feet by 20 feet with an L-shaped deck extension approximately 13.2 feet by 14.2 feet. Said construction would leave a minimum right side yard clearance of 7.2 feet and a minimum left side yard clearance of 14.1 feet.

A Plot Plan, dated July 11, 1990, drawn by Nathan Rossman, Registered Land Surveyor; construction drawings and elevations, drawn by the petitioner; and photographs were submitted.

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The Planning Board, on August 21, 1990, voted to recommend that the petition be denied as it represents a substantial encroachment on the inadequate side yard.

### Decision

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

It is the opinion of this Authority that the proposed deck conforms to the present lines of the house and does not alter the relationship of the house to either the left or right side lot lines.

It is the 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.

However, it is the opinion of this Authority that the proposed size of the deck, which is equal to approximately half of the footprint of the existing house, is not only too great an encroachment on the left side yard, but the number of people that could be accommodated on a deck of these proportions could become a detriment to the neighborhood insofar as noise and activity during the summer months.

Therefore, the requested variance to construct a deck is granted subject to the following conditions:

1. That the dimensions of the deck and L-shaped deck extension be no larger than 14.2 feet in length and 32.2 feet in width, with a landing no larger than 5 feet by 5 feet as part of an extension for stairs.
2. That a revised Plot Plan showing the reconfiguration of the deck and the relevant left side setback be submitted to the office of the Board of Appeals prior to the issuance of any building permit.

After the above conditions have been met, 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.

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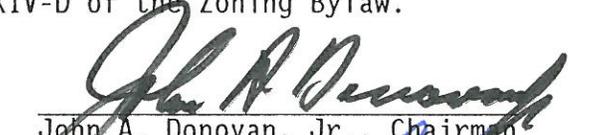
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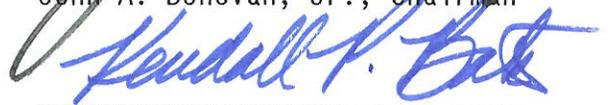
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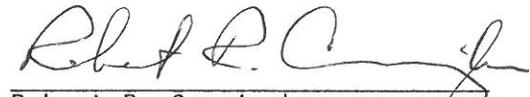
If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

cc: Planning Board  
Inspector of Buildings  
edg

  
John A. Donovan, Jr., Chairman

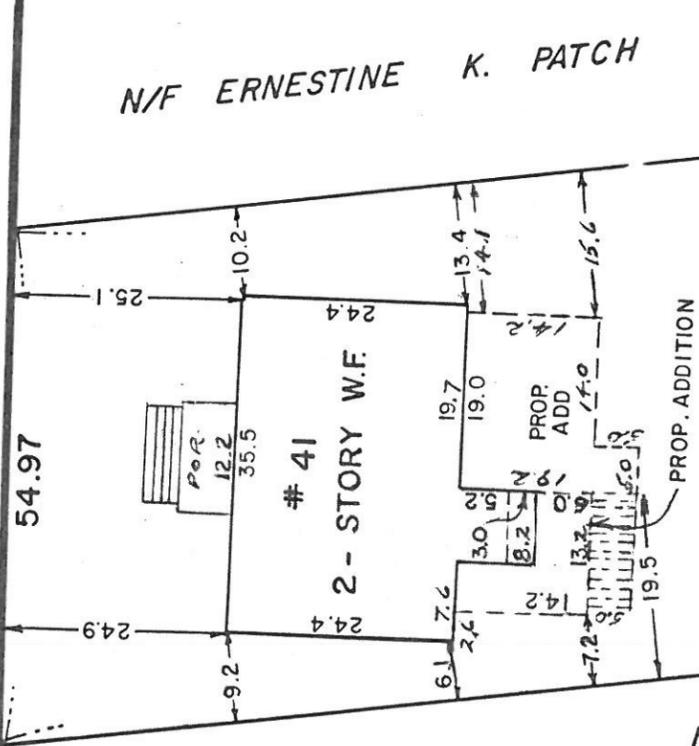
  
Kendall P. Bates

  
Robert R. Cunningham

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ATWOOD STREET



N/F ERNESTINE K. PATCH

N/F JULIANI & GILDA C. VINCENT

12,409 ± S.F.  
LOT COVERAGE = 13.5%

BLAIR P. & ANNE  
MELANSON

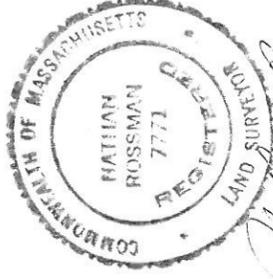
N/F ROBERT F. & ANNE C. MURRAY

222.31

231.34

16.1  
SHED 6.1  
2.1' O.H. ALL SIDES

54.90  
TOWN OF WELLESLEY



*Nathan Rossman*  
Nathan Rossman

PLAN OF LAND  
IN

WELLESLEY, MASS.

SCALE : 1" = 20'  
MASS BAY SURVEY, INC.

JULY 11, 1990  
NEWTON, MASS

ASSESSORS REF.  
MAP, 99 - PARCEL, 39

ZONING  
SINGLE RESIDENCE