TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
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KENDALL P. BATES

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ZBA 90-92
Petition of Beth Hennessey and Stephen Stathis
2 Alba Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, December 20, 1990 at 8:15 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of BETH HENNESSEY AND STEPHEN STATHIS 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 illegal enclosure of their nonconforming porch, approximately 10 feet by 13 feet 6 inches, attached to their dwelling at 2 ALBA ROAD, in a Single Residence District, to remain. Said enclosure was added without a building permit to a porch which has less than the required front setback from LINDEN STREET.

On December 10, 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 was Bob Cunniff, the carpenter on the project, who was accompanied by the petitioners. Mr. Cunniff explained that usually he is the assistant on a project, and has never had to deal with the permit process, and was unaware that such a small job required a building permit. As the project was nearing completion, the Assistant Building Inspector stopped the work, as no permit had been issued. When Mr. Cunniff came to the Building Department, he discovered that not only was a building permit required, but a variance was needed as the porch had been originally constructed in 1953 under grant of a variance (ZBA 52-36).

Stephen Stathis stated that when they purchased the property in 1987, the porch was standing, and they did not realize that a building permit was necessary to enclose it as the enclosure does not expand the porch.

Beth Hennessey said that when her parents enclosed their porch in Needham, they did not need a building permit, so that she thought it would not be required here.

Statement of Fact

The non-conforming dwelling is located at 2 Alba Road, in a Single Residence District, on a 10,807 square foot lot. In 1952, a variance was granted to construct a porch, which would have a minimum front yard setback of 25 feet from Linden Street (ZBA 52-36). The existing porch, approximately 10 feet by 13 feet 6 inches has a minimum front yard setback of 26 feet from Linden Street.

The petitioners have enclosed the nonconforming porch without a building permit and are now requesting a variance from Section XIX of the Zoning Bylaw to allow the enclosure to remain.

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A Plot Plan dated April 26, 1952, revised November 28, 1990, drawn by Michael P. Antonino, Professional Land Surveyor; elevations and floor plans drawn by Robert Cunniff; and photographs were submitted.

The Planning Board, on December 17, 1990, voted to recommend that the petition be denied and that the illegally installed materials be removed.

Decision

This Authority has made a careful study of the evidence submitted. 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 the enclosure of the nonconforming porch conforms to the present lines of the house and does not alter the relationship of the house to the front lot line on Linden Street.

It is the opinion of this Authority that although it does not look with favor upon construction commenced without a building permit, had the petitioners applied for a variance to enclose said porch, it would have been granted as the enclosure does not expand the allowed nonconformity.

It is the further opinion of this Authority that because of the shape of the lot and the location of 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 completion in accordance with the plot plan and construction drawings referenced in the foregoing Statement of Facts.

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

Robert R. Cunningham

cc: Planning Board
Inspector of Buildings
edg

Note: revisions marked in red.
11/20/90 Michael P. Antonino
R.L.S.

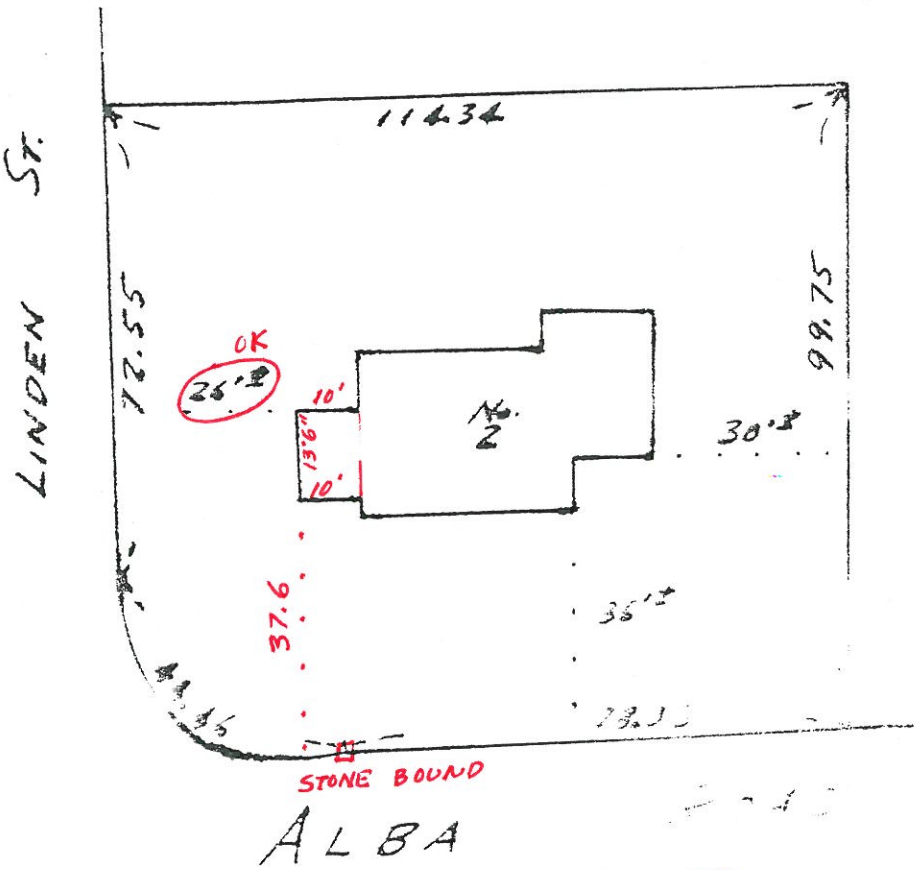
7750

The dwelling shown on this plan does not fall within a special flood hazard zone as delineated on a map of the community:

(Wellesley Map)

I certify the location of the dwelling shown on this plan conforms to the local zoning laws; now or at the time of construction.

This inspection was performed in accordance with the technical standards for mortgage loan inspections as adopted by the Mass. Assoc. of Land Surveyors & Civil Engineers, Inc.



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COMMONWEALTH OF MASSACHUSETTS
MICHAEL P. ANTONINO
No. 29411
REGISTERED PROFESSIONAL LAND SURVEYOR

This plan was not made from an instrument survey and these certifications are for mortgage purposes only. This plan applies only to conditions existing as of the date here on; and not for recording purposes.

CERTIFICATION PLAN

OF

No. 2 ALBA ROAD
WELLESLEY, MA.

Scale: 1 IN. = 30 FT. Date: APRIL 23, 1990

MICHAEL P. ANTONINO
REG. LAND SURVEYOR
7 CABOT PLACE
STOUGHTON, MASS.