



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 92-22
Petition of John G. Fischer
56 Pine Plain Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 30, 1992 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 G. FISCHER requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of a deck, approximately 24 feet by 15 feet with less than the required right side setback, at his nonconforming dwelling at 56 PINE PLAIN ROAD, with less than the required right side yard setback, in a Single Residence District.

On April 9, 1992, the petitioner 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 was Stephen Robbins, Mr. Fischer's builder, who explained that Mr. Fischer could not appear due to business commitments. Mr. Robbins said that a previous porch had been converted to a sun room about nine years ago. At that time, sliders were installed with the intention of building a deck. Mr. Fischer then discovered that the builder had not obtained a variance or permit necessary to proceed, so the deck was never built. Presently, there is a steep flight of stairs from the sliders to a slate deck at ground level. Mr. Fischer now wishes to construct the deck, which will be 31 inches high, over the slated area.

Mr. Robbins could not respond to the Board's question as to whether the conversion of the porch to a sun room had ever appeared before the Zoning Board. The Board noted that the garage had been converted to a family room. Mr. Robbins said that the conversion was done last summer with a building permit.

No other person present had any comment on the petition.

Statement of Facts

The nonconforming dwelling is located at 56 Pine Plain Road, in a Single Residence District, on a 7,083 square foot lot, with a minimum right side yard clearance of 16.25 feet from the right rear corner of the dwelling.

The petitioner is requesting a variance to construct a deck approximately 24 feet by 15 feet at the rear of the dwelling, which would have the same minimum right side yard clearance of 16.25 feet and a conforming rear setback of 10.30 feet. The addition of the deck will bring the total ground coverage to 20.6% of the lot.

A Plot Plan dated March 15, 1992, drawn by Roy C. Anderson, Jr., Professional Land Surveyor; a floor plan and construction drawing; and photographs were submitted.

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On April 14, 1992, the Planning Board reviewed the petition and voted to offer no opposition to the granting of the variance.

Decision

This Authority has made a careful study of the material submitted and information presented at the hearing. 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 proposed deck conforms to the present lines of the house and does not alter the relationship of the house to the right side lot line.

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

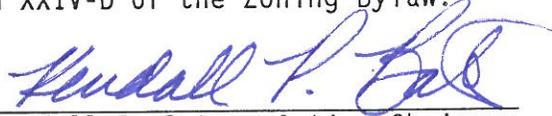
Therefore, the requested variance is granted subject to construction in conformance with the submitted plot plan and construction drawing.

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

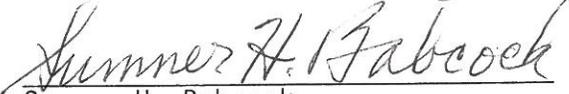
If the rights authorized by this variance are not exercised within one year of the date of grant of said variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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


Kendall P. Bates, Acting Chairman


Robert R. Cunningham


Sumner H. Babcock

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