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ZONING BOARD OF APPEALS

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JOHN A. DONOVAN
KENDALL P. BATES
WILLIAM E. POLLETTAELLEN D. GORDON
EXECUTIVE SECRETARY
TELEPHONE
(617) 431-1019 EXT. 208SUMNER H. BABCOCK
ROBERT A. BASTILLE

ZBA 97-54

Petition of Mark F. and Kara T. Sullivan
80 Pleasant Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 24, 1997 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of MARK F. AND KARA T. SULLIVAN requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow an existing 17.5 foot by 10.8 foot screened porch, which has a minimum right side yard setback of 15.26 feet. The porch was constructed by a prior owner without a building permit and in violation of the Zoning Bylaw.

On July 7, 1997, the petitioners filed a request for 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 Mark Sullivan, who said that when they purchased the house, the survey done by the mortgage company did not indicate that the porch was nonconforming. When he had a new survey done for construction of a conforming family room addition, he discovered that the porch was in violation of the right side yard setback, and did not have a building permit.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 80 Pleasant Street, in a Single Residence District, on a 16,355 square foot lot, with a minimum right side yard clearance of 15.26 feet.

The petitioners are requesting a variance to allow a 17.5 foot by 10.8 foot screened porch, with a minimum right side yard clearance of 15.26 feet, to remain. The porch was built by a prior owner without a building permit and in violation of the Zoning Bylaw.

A Plot Plan dated March 11, 1997, drawn by Mario D. Mandanici, Registered Land Surveyor; a Mortgage Survey Plan dated 8/24/95, drawn by James J. Abely, Professional Land Surveyor; a Plot Plan dated 1/4/50, drawn by Gleason Engineering Co.; an Existing first floor plan; and photographs were submitted.

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The original Gleason plan shows a 20 foot right side yard clearance without a porch. The Mortgage Survey Plan shows the screened porch, but does not show a right side yard setback. The most recent plot plan shows both the screened porch and the minimum right side yard setback of 15.26 feet.

On July 22, 1997, the Planning Board voted to offer no objection to the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject porch does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that, as the illegal construction of the nonconforming porch was not done by the petitioners, 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 to allow the nonconforming porch to remain 15.26 feet from the right side lot line, as voted unanimously by this Authority at the Public Hearing, with the condition that the petitioners shall apply for a building permit within 30 days of the date of this decision.

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

If the rights authorized by this variance are not exercised within a 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.



Kendall P. Bates, Acting Chairman



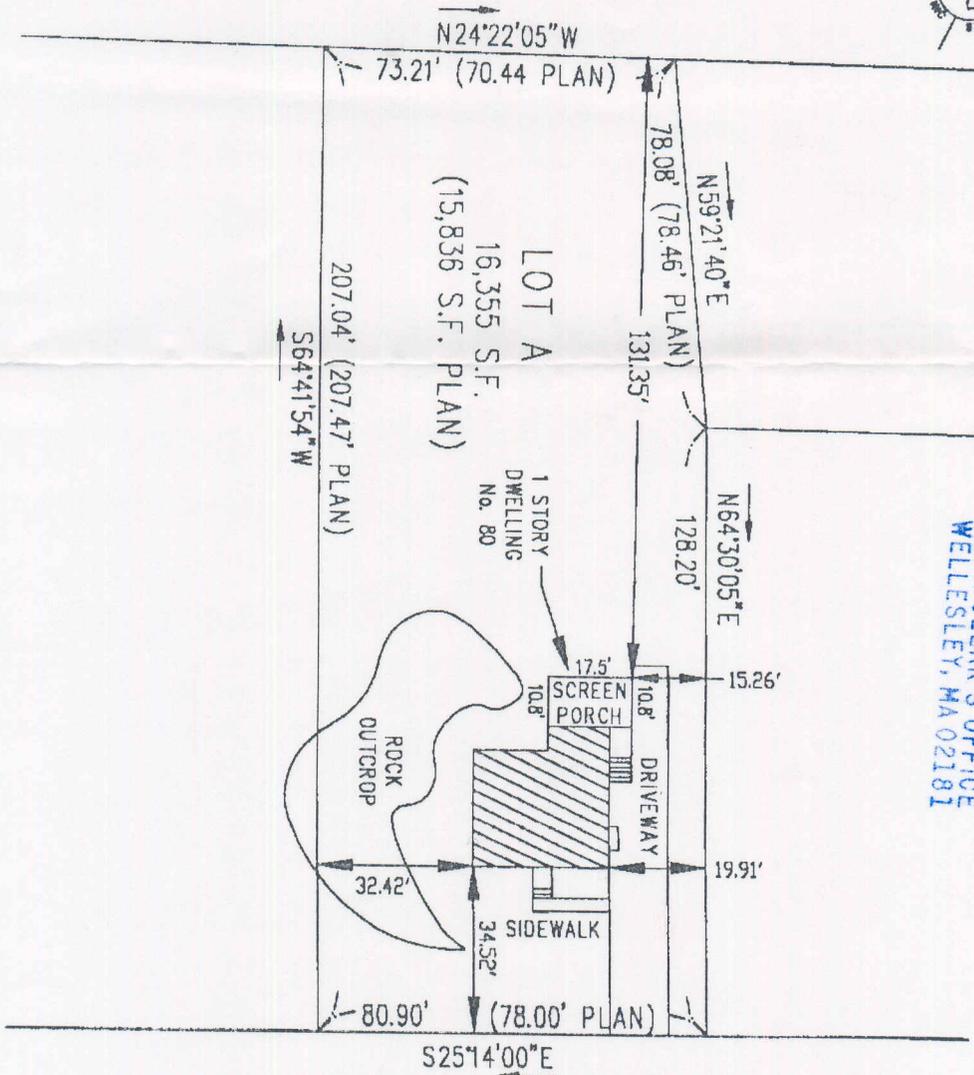
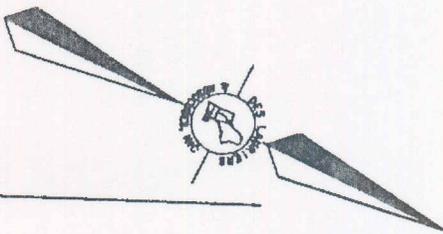
William E. Polletta



Robert A. Bastille

cc: Planning Board
Inspector of Buildings
edg

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PLEASANT (PUBLIC - 40' WIDE) STREET



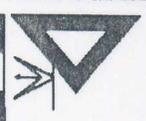
Mario D. Mandonici

BUILDING PERMIT PLAN OF LAND

**WELLESLEY
IN
MASSACHUSETTS**

SCALE: 1"=40' MARCH 11, 1997
 PREPARED FOR: MARK SULLIVAN
 80 PLEASANT STREET
 WELLESLEY, MA 02181

JOB NUMBER: 96269 ACAD FILE: 96269BP



DES LAURIERS & ASSOCIATES INC.

130 WEST STREET
 WALPOLE, MA 02081
 TEL: (800)287-8800 (508)668-5010
 FAX: (508)668-4512
 PROFESSIONAL LAND SURVEYORS

