



JOHN L. HAYDEN
GARRETT S. HOAG
DANA T. LOWELL

BOARD OF APPEAL

KATHARINE E. TOY, CLERK
TELEPHONE
CE. 5-1664

Appeal of Stewart G. and Mildred L. Kennedy

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:05 p.m. on October 17, 1963, on the appeal of Stewart G. and Mildred L. Kennedy from the refusal of the Inspector of Buildings to issue a permit to them to construct an addition on the side of their dwelling at 189 Cedar Street. The reason for such refusal was that said addition would violate Chapter IV, Section 1, of the Building Code which requires that all such buildings shall be placed at least thirty feet from the side line of any public or private street and Section XIX of the Zoning By-law which requires that there shall be provided a thirty-foot side yard for all such buildings.

Stewart G. Kennedy represented the appellants at the hearing and spoke in support of the appeal.

The Planning Board opposed the granting of the request.

A letter favoring the request was received from F. R. Wegerdt, 185 Cedar Street.

On September 24, 1963, the Inspector of Buildings notified the appellants in writing that a permit for the proposed construction could not be issued for the above-mentioned reasons and on the same date the appellants took an appeal from such refusal. Thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved is located in a single-residence district requiring a minimum lot area of 15,000 square feet. It was constructed over fifty years ago prior to the enactment of the Zoning By-law requiring a thirty-foot setback and thirty-foot side yard, and was held of record on April 1, 1940 under separate and distinct ownership from adjacent lots. The lot contains only 6,512 square feet which is less than the minimum area now required for a house lot within the district. The lot is located within an older neighborhood which has been generally developed by the construction of houses with side yards and setbacks less than the required distance.

The appellants seek permission to alter their existing porch on the southerly side of their house, which is badly in need of repair, and convert it into a sun room. The porch is presently 7'4" x 17' with a portion of it open. As it is only 7'4" wide it is the desire of the appellants to widen it 2'8" in order to have a room 10' x 17', which will be more useable and improve the property value.

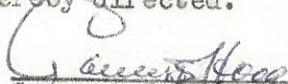
A plot plan drawn by Gleason Engineering Company, dated August 9, 1963, was submitted which showed the existing house on the property as well as the proposed addition. Said plan showed the proposed addition, if built, would lie 23' from Hastings Street at the nearest point.

Decision

The Board finds that a real need exists for the proposed addition and the facts in this case satisfy the conditions set forth in Section XIX of the Zoning By-law and Chapter I, Section 10 of the Building Code on which the Board's authority depends to grant a special exception from the application of the side yard restrictions of the Zoning By-law and the set-back requirement of the Building Code.

Compliance with the side yard requirement of thirty feet is impractical because of the width, depth and shape of the lot. In our view a denial of the appeal would result in a manifest injustice in preventing the appellants from making a needed repair because of an encroachment less than is common in the neighborhood.

Accordingly, the requested exception and variance are granted and the issuance of a permit for the proposed addition in accordance with the plan submitted and on file with this Board is hereby directed.


Garrett S. Hoag


John L. Hayden


Dana T. Lowell

Filed with Town Clerk 11/14/03

RECEIVED
CLERK'S OFFICE
TOWN OF
LEY, MASS.

9:34

PLAN OF LAND
IN
WELLESLEY, MASS.
OWNED BY
STEWART G. & MILDRED L. KENNEDY

SCALE 40 FEET TO AN INCH
AUGUST 9, 1963.
GLEASON ENGINEERING COMPANY

