



## BOARD OF APPEAL

RICHARD O. ALDRICH  
 DANA T. LOWELL  
 F. LESTER FRASER

KATHARINE E. TOY, CLERK  
 TELEPHONE  
 235-1664

Appeal of Simon and Elizabeth Bacola

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 8:00 p.m. on March 29, 1967, on the appeal of Simon and Elizabeth Bacola from the refusal of the Inspector of Buildings to issue a permit to them to construct a shed dormer on the rear of the dwelling at 25 Overbrook Drive. The reason for such refusal was that said shed dormer would violate Section XIX of the Zoning By-law which requires that there shall be provided for every building or structure a front yard at least thirty feet in depth and a side yard at least twenty feet in width. Said dormer would also violate Chapter IV, Section 1 (a) of the Building Code which requires that all Type V buildings shall be placed at least fifty feet from the center line of any public or private street.

On March 2, 1967, the Inspector of Buildings notified the appellants in writing that their application for a permit had been refused for the above-mentioned reasons, and on the same date the appellants took an appeal therefrom. Thereafter, due notice of the hearing was given by mailing and publication.

Simon Bacola spoke in support of the request at the hearing.

Joseph S. Harkins, 26 Overbrook Drive, Freida Thompson, 35 Overbrook Drive and Harold Bolles, 3 Cedar Brook Road, all spoke in favor of granting the request.

Statement of Facts

The house involved, which was built prior to the enactment of Section XIX of the Zoning By-law and Chapter IV, Section 1, of the Building Code, is located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The appellants seek permission to construct a shed dormer on the rear of their dwelling to provide an additional bedroom upstairs. The house is now a one-story house with an attic. The house is located approximately fifteen feet from Overbrook Drive and 33' from Fairlawn Terrace, and the proposed dormer, which is to be approximately 10' x 30' will be 24' from Overbrook Drive and 33' from Fairlawn Terrace. Overbrook Drive is 40' wide and Fairlawn Terrace is 20' wide.

A plot plan drawn by Gleason Engineering Company, dated February 27, 1967, was submitted which showed the dwelling on the lot.

Decision

The facts in this case satisfy the conditions set forth in Section XIX of the Zoning By-law and Chapter IV, Section 1, of the Building Code on which the Board's authority depends to grant a special exception from the

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application of the front yard and side yard restrictions of the Zoning By-law and a variance from the Building Code.

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The house was built prior to the enactment of the front yard and side yard requirement and was held of record on April 1, 1939 under a separate and distinct ownership from adjacent lots. While the lot is rectangular in shape, it is narrow, and the house is so situated on the lot, that a dormer could not be constructed without encroaching into the front and side yards. Compliance, therefore, with the front yard and side yard requirement of thirty feet is virtually impossible because of the width of the lot. It is the further opinion of this Board that manifest injustice would result to the appellant if the requested variance is not granted and that the provisions of the Building Code did not contemplate the circumstances of this specific case which involved only the construction of a shed dormer at the rear of the dwelling, with no increase in the encroachment in the front or side yards. The Board feels that the proposed construction will not prove detrimental to the public good nor derogate from the intent and purpose of the by-law.

It is, therefore, the unanimous opinion of this Board that permission may be granted for the proposed construction of a shed dormer as shown on the plan submitted and on file with this Board, and the Building Inspector is hereby authorized to issue a permit for such construction.

*Philip H. R. Cahill*  
Philip H. R. Cahill  
*Dana T. Lowell*  
Dana T. Lowell  
*F. Lester Fraser*  
F. Lester Fraser

Filed with Town Clerk \_\_\_\_\_

PLAN OF LAND  
IN  
**WELLESLEY, MASS.**  
OWNED BY  
**SIMON & ELIZABETH BACOLA**  
SCALE 40 FEET TO AN INCH  
FEBRUARY 27, 1967.  
GLEASON ENGINEERING COMPANY



OVERBROOK DRIVE

