



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Appeal of John E. Sheahan and Thelma A. Sheahan

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 8:20 p.m. on August 17, 1967, on the appeal of John E. Sheahan and Thelma A. Sheahan, from the refusal of the Inspector of Buildings to issue a permit to them to construct an addition on the front of their dwelling at 343 Weston Road.

The reason stated for such refusal was that said addition would violate the requirements of Chapter IV, Section 1, of the Building Code which requires that all Type V buildings shall be placed at least thirty feet from the side line of any public or private street and fifty feet from the center line of any public or private street, and Section XIX of the Zoning By-law which requires that all such buildings shall provide a front yard at least thirty feet in depth.

On August 1, 1967, 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 this appeal from such refusal, under the provisions of Chapter I, Section 11, of the Building Code, Section XIX of the Zoning By-law, and Chapter 40A, Section 15, of the General Laws.

Due notice of the hearing was given by mailing and publication.

John Cunniff, Esq., represented the appellants at the hearing. No one appeared in opposition to the appeal and no objections thereto were recorded. A view of the location was taken by a majority of the Board.

Statement of Facts

The dwelling house involved is located in a Single-residence District requiring a minimum lot area of 10,000 square feet. It was built in 1947, and a front entrance porch was added in 1965, including a concrete platform across the front of the house at ground level.

The appellants now seek permission to construct a roof over the platform which will also extend across the entire front of the house. The request was not made to enclose the area, but merely to provide protection against rain and winter storms. The proposed roof is designed to project a distance of 4.9' from the front of the house, and to extend to the sideline of the house on either side.

It was represented on behalf of the appellants that with the main roof and front entrance porch in their present state, their home is subject to water leakage during many of the rainstorms which occur, that such a condition constitutes a burden and hardship to the appellants who occupy the dwelling, and that the proposed roof additions will provide the necessary protection against such rain and storm damage. It was also represented that in the opinion of the appellants the appearance of the house will be enhanced.

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A plot plan was submitted, drawn by Gleason Engineering Company, dated July 20, 1967, which showed the location of the dwelling on the lot as well as the proposed roof extensions. It showed that the existing entrance porch is 4.9' x 9', and that the proposed addition will continue the existing entrance porch roof on both sides across the entire front of the house. It will extend 8.7' to the southeasterly front corner of the house and 10.6' to the northwesterly front corner of the house, and will lie 27.5' from Weston Road.

Decision

The Board finds, based upon the uncontradicted representations made on behalf of the appellants, that a real need exists for the proposed roof extensions, and that the facts satisfy the conditions set forth in Chapter I, Section 10, of the Building Code on which the Board's authority to vary the conditions of the Code depends. In its opinion a manifest injustice may be done to the appellants if they are not permitted to protect their dwelling house against the prospect of further storm damage.

Under Section XIX of the Zoning By-law, which also applies to this situation, the Board may not make special exceptions unless it finds that compliance with the requirements of said section is impracticable because of the width, depth or shape of the lot, and that the lot was held of record on April 1, 1939 under a separate and distinct ownership from adjacent lots. These requirements cannot be met in this case. However, the Board may also, upon appeal, grant a variance under Section 15, Chapter 40A of the General Laws, where it finds that due to conditions affecting the land or building involved but not affecting the zoning district generally a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of such ordinance or by-law but not otherwise.

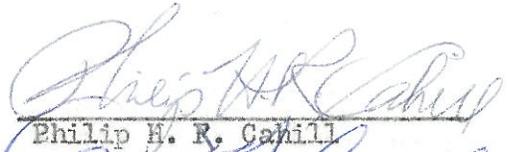
The location in question is situated in relatively close proximity to an area zoned as a "Business A" District, which lies across Weston Road westerly and somewhat southerly of the appellants' home. A number of operating business establishments are located in this "Business A" area.

Should the proposed addition be constructed, the resulting extension of the unenclosed, roofed-over entrance porch into the minimum front yard area prescribed under the zoning by-law will aggregate less than twenty-one (21) square feet in excess of the fifty (50) square feet of covered entrance porch which may under the by-law, lawfully extend into the required front yard.

In the opinion of the Board there exists here conditions which especially affect the appellants' building without affecting generally the other buildings in the zoning district. In its opinion a literal enforcement of the provisions of the zoning by-law will result in a substantial hardship to the appellants, and it appears from the representations made on behalf of the appellants and the absence of any opposition to their appeal that relief may be granted them without any substantial detriment to the public good, and, considering the minimal nature of the extension which they request and the substantial front yard area which will remain

without substantially derogating from the intent and purpose of the by-law.

Accordingly, the requested exception and variance are granted and the issuance of a permit for the proposed roof extension in accordance with the plan submitted and on file with this Board is hereby directed, subject to the condition that the area to be covered over shall not be closed in,



Philip H. R. Cahill



Dana T. Lowell



F. Lester Fraser

Filed with Town Clerk _____

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PLAN OF LAND
IN
WELLESLEY, MASS.
OWNED BY
JOHNE. & THELMA A. SHEAHAN
SCALE 40 FEET TO AN INCH
JULY 20, 1967.
GLEASON ENGINEERING COMPANY

WESTON ROAD

