67-47

TOWN OF WELLESLEY MASSACHUSETTS

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BOARD OF APPEAL

1967 OCT 25 PM 2:51

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

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Brenton H. and Delia Miller

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 5, 1967, on the appeal of Brenton H. and Delia Miller from the refusal of the Inspector of Buildings to issue a permit to them to construct a new roof and extend the side walls on their dwelling at 131 Overbrook Drive. The reason for such refusal was that said roof and side walls 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 fifty feet from the center line of any public or private street and 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.

On September 5, 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 September 6, 1967, the appellants took an appeal therefrom. Thereafter due notice of the hearing was given by mailing and publication.

Brenton H. Miller represented the appellants at the hearing.

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 change the present flat roof to a pitched roof. It will be approximately eight feet at the ridge and extend to the eaves. The roof is badly in need of repair and has been leaking for some time. The proposed rebuilding of the roof appears to be the only way to correct the situation and protect the house from further leakage.

A plot plan was submitted, drawn by Wm. F. Drake, dated August 14, 1967, which showed the dwelling on the lot to be located twenty-two feet back from Overbrook Drive and twelve feet from the lot line on the northerly side.

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

The house was built prior to the enactment of the front yard and side yard requirements and was held of record on April 1, 1939, and on April 1, 1940, under a separate and distinct ownership from adjacent lots. While the lot is rectangular in shape, the house is so situated on the lot, that the necessary roof repair cannot be made without encroaching into the front and side yards. Compliance, therefore, with the front and side yard requirements is impracticable because of the depth and shape of the lot. It is the further opinion of this Board that manifest injustice would result to the appellants 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 involves only the raising and rebuilding of the existing roof with no increase to the encroachment to the front or side yards. The Board feels that the proposed alteration to the roof will not prove detrimental to the neighborhood 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 to raise the roof and extend the walls 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.

Richard O. Aldrich

Richard O. Aldrich

Dana T. Lowell

Dana T. Lowell

F. Lester Fraser

F. Lester Fraser

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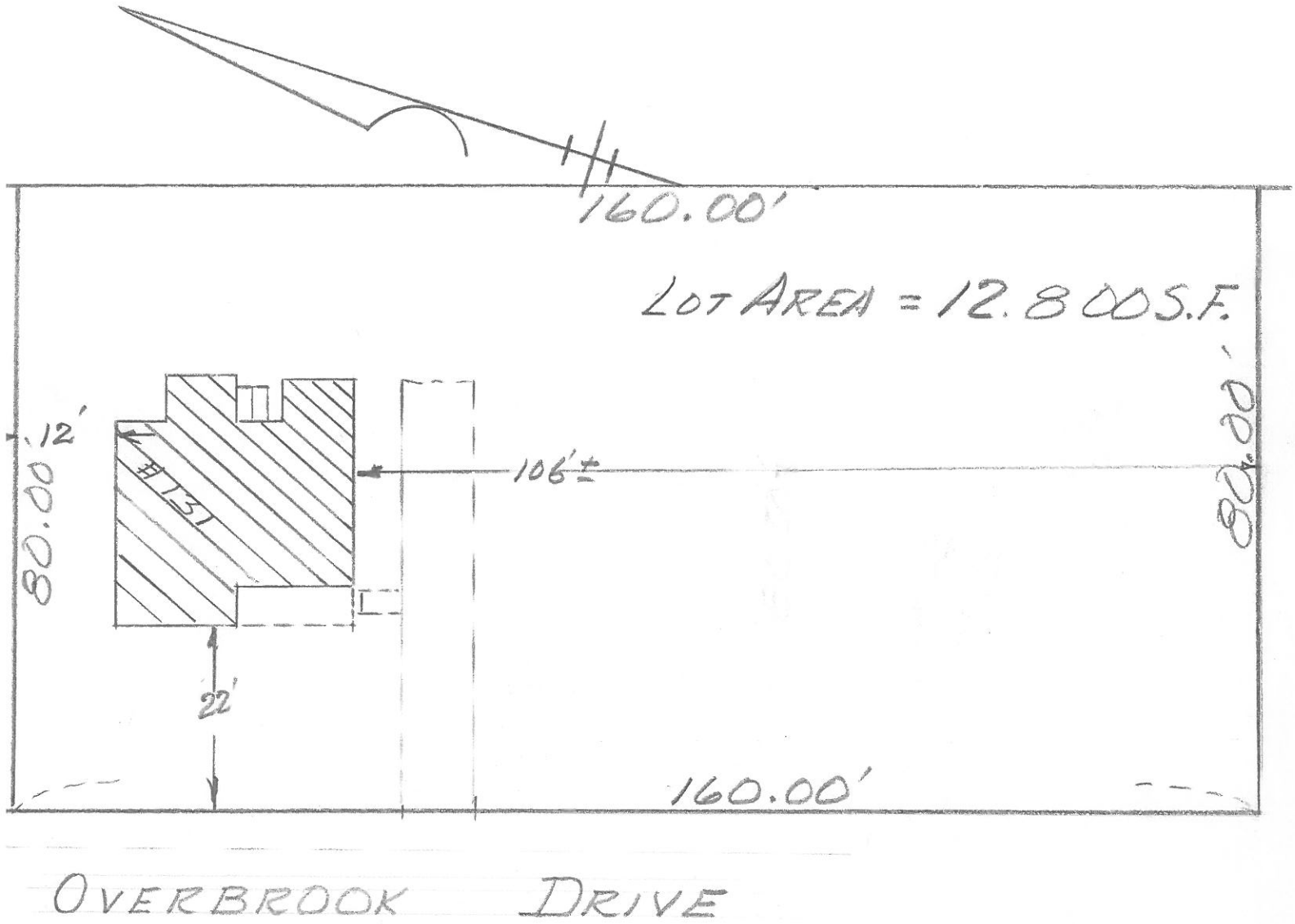
PROPERTY OF MILLER



COMMONWEALTH OF MASSACHUSETTS
WILLIAM F. DRAKE #6957
REGISTERED LAND SURVEYOR

I HEREBY CERTIFY THAT THE BUILDING SHOWN ON THIS PLAN IS LOCATED ON THE GROUND AS SHOWN HERON AND THAT IT CONFORMS TO THE ZONING AND BUILDING LAWS OF THE TOWN OF WELLESLEY WHEN CONSTRUCTED. AND TO RESTRICTIONS OF RECORD.

Signed Wm. F. DRAKE

Date AUG 14. 1967

PLOT PLAN of LAND
in
WELLESLEY, MASS

Scale of One Inch = 20 Feet

By W. F. DRAKE