74-25

TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

THEODORE C. MERLO
F. LESTER FRASER
WILLIAM O. HEWETT

KATHARINE E. TOY
Administrative Secretary
Telephone
235-1664

Petition of S. Christie Zafiris

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 22, 1974, on the appeal of S. Christie Zafiris, from the order of the Inspector of Buildings, directing him to proceed no further with the construction of a dormer window on the rear of his dwelling at 72 Martin Road, which is in violation of Section XIX of the Zoning By-law.

On August 1, 1974, the petitioner appealed the Building Inspector's order of July 30, 1974, to proceed no further with the construction of the dormer window which was in violation of the permit granted by the Board of Appeal. Thereafter, due notice of a hearing was given by mailing and publication.

Natalie E. Zafiris spoke in support of the request at the hearing.

Robert M. Stewart, 64 Martin Road, and Eleanor F. Sullivan, 73 Martin Road, both spoke in favor of the request.

Statement of Facts

The house involved was built in 1928, prior to the enactment of the Zoning By-law requiring a twenty-foot side yard and is located within a Single-residence District requiring a minimum lot area of 10,000 square feet.

The petitioner now seeks permission which will allow the dormer window, now under construction, to extend to the edge of the house, ten feet from the lot line on the southerly side rather than sixteen feet as approved by this Board on July 2, 1974.

It was stated at the hearing that due to an architectural error on the plans, the stairway leading to the third floor could not be installed as shown, as it ended on the roof outside the dormer window. This error was not discovered, however, until the roof had been removed and the house was exposed to the elements. Without realizing the further encroachment which would result into the side yard, the owner gave the builder permission to extend the dormer to the edge of the dwelling and thus violated the special exception granted by the Board of Appeal. It was further stated that the Building Inspector allowed the builder to make the roof temporarily "watertight" pending the Board's decision.

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Decision

The Board has made a careful study of the facts in this case and has taken a view of the locus. In its opinion, the work performed without the necessary permission was due to a misunderstanding and that a literal enforcement of Section XIX and the exception previously granted by this Board would cause a substantial hardship to the petitioner which can be avoided without substantial detriment to the public good and without nullifying

or substantially derogating from the intent or purpose of said section.

The Board found in its previous decision that the facts satisfied the conditions set forth in Section XIX of the Zoning By-law on which its authority depended to grant a special exception from the application of the side yard restrictions of the Zoning By-law. Therefore, the criteria necessary to be found in this case is also met.

The Board feels that as there will be no increase in the encroachment in the side yard on the ground level and that the dormer window will not extend beyond the edge of the house, it will not be detrimental to surrounding properties. From the evidence submitted and an examination of the plans, the Board is satisfied that there is no other feasible way to install a stairway to the third floor unless the window is extended.

Accordingly, the requested exception is granted and the Inspector of Buildings is authorized to issue a permit for the completion of the dormer window as shown on the plan submitted and on file with this Board.

Henry H. Thayer

William O. Hewett

Franklin P. Parker

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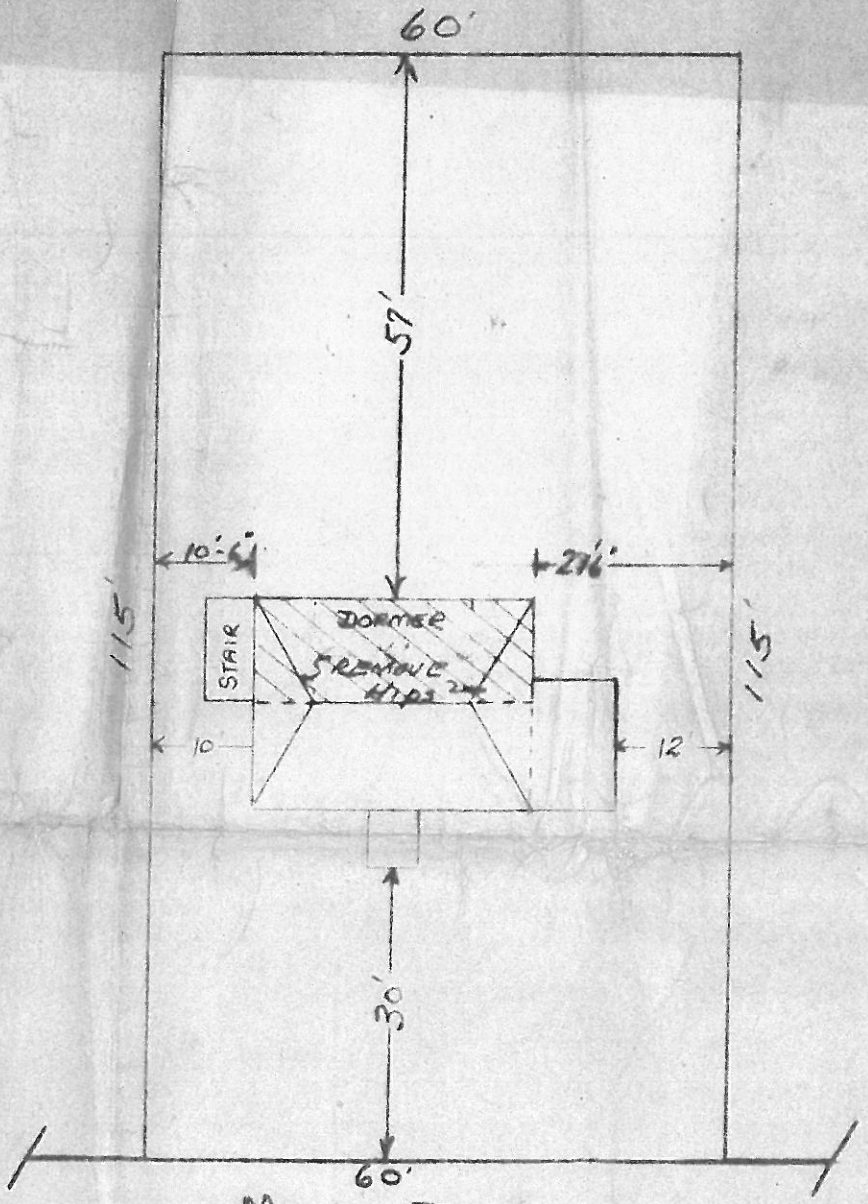
MR+MRS S. CHRISTIE ZAFIRIS
72 MARTIN ROAD
WELLESLEY MASS



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