

TOWN OF WELLESLEY



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BOARD OF APPEALS

MAR 5 9 44 AM '74

RICHARD O. ALDRICH  
F. LESTER FRASER  
WILLIAM O. HEWETT

KATHARINE E. TOY, CLERK  
TELEPHONE  
235-1664

Petition of Sylvia E. Cohen

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 8:15 p.m. on February 7, 1974, on the petition of Sylvia E. Cohen, requesting a special exception from the terms of Section XIX of the Zoning By-law which will permit the enclosure of an existing porch on the rear of the dwelling at 52 McLean Street, with a side yard less than the required twenty feet. Said petition was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On January 22, 1974, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

Letters favoring the request were received from the following: William I. and Anne M. Kelly, 46 McLean Street, Rosalind J. Goldberg, 4 Ashmont Road, David S. and Aida Dudelson, 56 McLean Street, Manfred Tidor, 60 McLean Street and Nathan J. and Bella Alpert, 51 McLean Street .

Statement of Facts

The dwelling involved is located within a Single-residence District requiring a minimum lot area of 15,000 square feet. It was built in 1957 on a lot containing 16,542 square feet.

The petitioner seeks permission to enclose an existing porch, located on the rear of the dwelling 17.97' from the lot line on the easterly side. It was stated that the petitioner purchased the property in 1968 and at that time the porch was on the house. It was not until the petitioner applied for a building permit to enclose the porch that the violation was called to her attention. She explained that at the time of purchase, she took over an existing mortgage from the former owner, and for this reason a new plot plan was not made at that time. The proposed enclosure of the porch will provide additional living space which is needed, it was stated. The petitioner hopes to have her mother-in-law come to live with her and her family and the proposed enclosure would provide a room for her on the main level of the tri-level house, thus avoiding all stairs. It is the opinion, that unless relief is granted, undue hardship will result.

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 slight encroachment into the side yard was due to an error when the house was built and that a literal enforcement of Section XIX of the Zoning By-law 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

public good and without nullifying or substantially derogating from the intent or purpose of said section.

The house was built in 1957 on a lot which adjoined other land of the same owner in 1940; this Board, therefore, cannot make a special exception under Section XIX of the Zoning By-law of the Zoning By-law as said section authorizes the Board to grant such exceptions only if on April 1, 1940, the lot was owned of record under a separate and distinct ownership from adjacent lots . The Board, however, considered the petition under the provisions of General Laws, Chapter 40A, Section 15.

The plot plan submitted, drawn by Apex Associates, John J. Regan, LandSurvey, dated January 4, 1974, showed the existing house on the lot with the porch located 17.97' from the side lot line rather than twenty feet as required by the provisions of Section XIX of the Zoning By-law. While the lot is large in area, it is peculiar in shape with a frontage of approximately 117', tapering down to 25' in the rear. Therefore, due to the width and shape of the lot, from all practical purposes, it would not be possible to construct an addition which will provide the desired space, and comply with the side yard requirement.

The Board, therefore, feels that although the existing porch is slightly under the required setback of twenty feet, it will not prove detrimental to the neighborhood, and that owing to conditions especially affecting this parcel but not affecting generally the zoning district in which it is located, a literal enforcement of the provision of the by-law would involve substantial hardship to the petitioner.

Accordingly, the requested variance is granted and the issuance of a permit for the proposed enclosure of the present porch is hereby authorized in accordance with the plan submitted and on file with this Board.

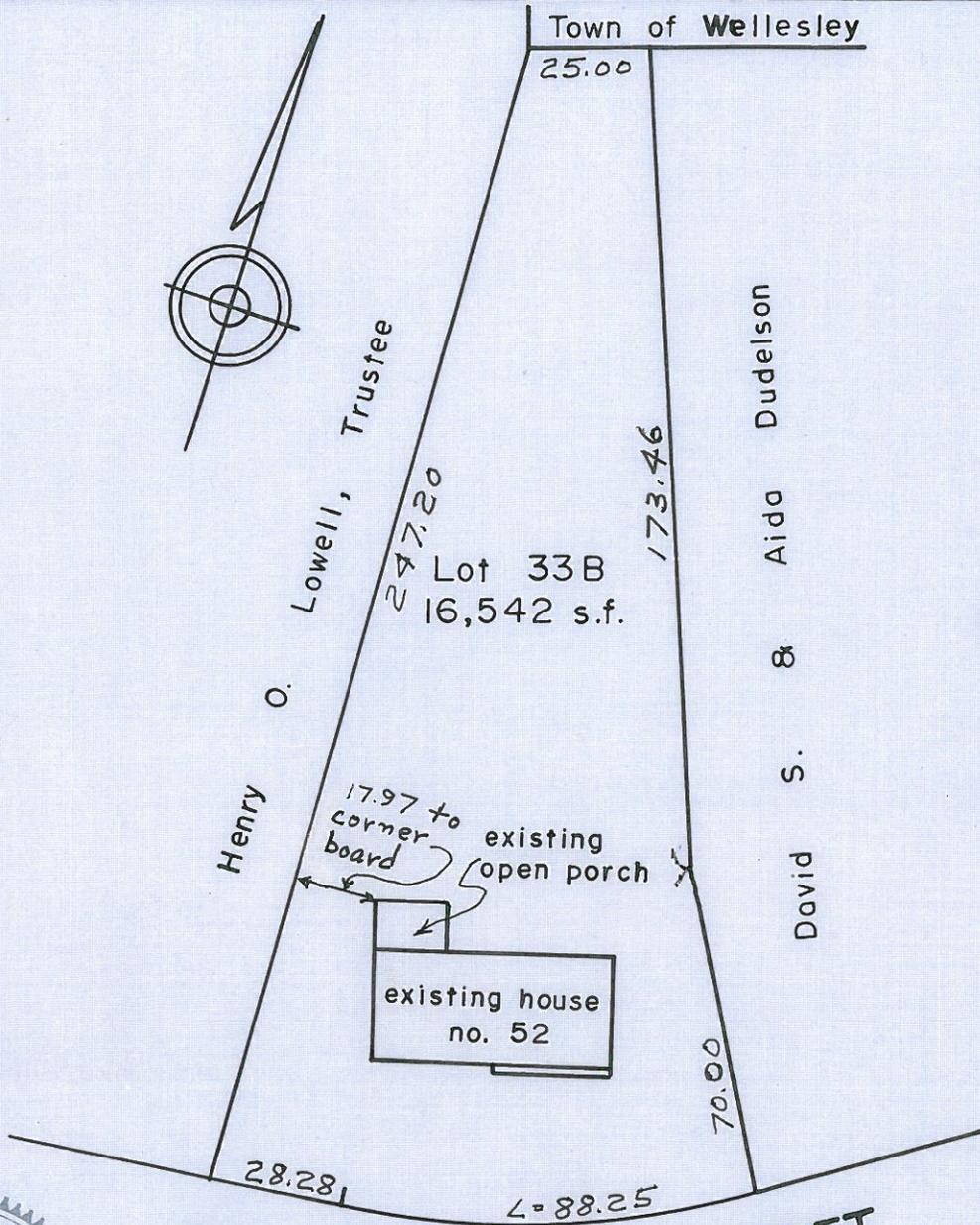
*Theodore C. Merlo*  
Theodore C. Merlo

*F. Lester Fraser*  
F. Lester Fraser

*William O. Hewett*  
William O. Hewett

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

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MC LEAN STREET

PLAN OF LAND  
IN  
WELLESLEY MASS.

TO ACCOMPANY THE PETITION OF  
MRS. SYLVIA E. COHEN  
52 MC LEAN STREET  
WELLESLEY



*John J. Regan*

SCALE 1 IN = 40 FT  
APEX ASSOCIATES  
NEWTON HIGHLANDS

JANUARY 4, 1974  
LAND SURVEYORS  
MASS.