78-17

TOWN OF WELLESLEY

MASSACHUSETTS

ZONING BOARD OF APPEALS

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Administrative Secretary
Telephone
235-1664

Appeal of Michael J. Saks

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:05 p.m. on July 27, 1978, on the appeal of Michael J. Saks, from the order of the Inspector of Buildings, requiring that a section of the dwelling located at 26 Morses Pond Road be removed. The reason for such order was that said section of the dwelling is located less than the required twenty feet from the lot line on the northerly side and in violation of Section XIX of the Zoning By-law. Said appeal was made under the provisions of Section XXIV-C of the Zoning By-law.

On June 29, 1978, the Inspector of Buildings notified the appellant in writing that the dwelling owned by him at 26 Morses Pond Road was located only 15.32' from the lot line on the northerly side instead of the required twenty feet, and was, therefore, in violation of Section XIX of the Zoning By-law. He further ordered him to either remove the section of the dwelling in violation of the by-law or apply to the Zoning Board of Appeals for a variance.

On July 3, 1978, the appellant took an appeal from such order and thereafter due notice of the hearing was given by mailing and publication.

The appellant spoke in support of the appeal at the hearing.

Richard Satterfield, 24 Morses Pond Road, stated that at the time he purchased the adjacent property last year, his title attorney discovered that the boundary line separating the properties was not where Mr. Saks thought it was, but rather down the middle of his side yard and across a corner of his driveway. Mr. Satterfield further stated that at one time he was willing to swap a section of land with Mr. Saks to provide him with a conforming lot, but at the advise of his attorney, it was concluded that his interests would be best protected by Mr. Saks removing part of his driveway from the adjacent property.

A letter was received from Richard Satterfield, 24 Morses Pond Road, in which he requested that if a variance is granted by the Board, that the removal of a portion of Mr. Saks' driveway which is on Mr. Satterfield's property be made a precondition for issuance of a variance.

Statement of Facts

The property involved consists of three lots, Lot 739 containing 6,780 square feet, Lot 740 containing 5,984 square feet and Lot 741 containing 6,584 square feet. It is located within a Single Residence District requiring a minimum lot area of 10,000 square feet. On July 7, 1958, a building permit was issued for the construction of a dwelling on a lot containing 21,600 square feet. Prior to issuance of the permit, a

variance was granted by the Board of Appeal which allowed the house involved to be located twenty feet from Morses Pond Road rather than the required thirty feet.

The appellant stated at the hearing that he purchased the property involved in 1973, from Mr. Bubert, which included three lots, and that Mr. Bubert retained the remaining three lots until 1977 when he decided to sell the adjacent undeveloped lots. At that time the property was surveyed and as a result of this survey, it was established that the house involved had only a fifteen-foot side yard at the narrowest point, instead of the required twenty feet. This was the first time that the appellant became aware that his house was standing in violation of the Zoning By-law. In August of 1977, the appellant brought suit in Norfolk Superior Court against the Buberts in an effort to have them convey from the vacant lot the additional land needed to restore a twenty-foot side yard, but before court action could solve the problem, the Buberts conveyed the remaining land to a third party. The appellant, therefore, now seeks a variance from this Authority to correct the inadequate side yard.

A plot plan was submitted, drawn by Alexander Crucioli, Land Surveyor, dated July 7, 1978, which showed the lots involved with the existing house thereon as well as the adjacent lots on the northerly side.

Decision

After a careful study of the plans submitted and the facts presented, it is the opinion of this Authority that the granting of the requested variance will not in any way prove detrimental to the character of the immediate neighborhood. The property is located in an area where many of the houses have side yards less than the required setback, and some even closer than the house involved. While this Authority recognizes the apparent neglect of the former owner of the property involved to have his property subdivided properly, in its opinion, the correction of this violation by removing a part of the house, would result in substantial hardship to the appellant, which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law. The Authority has viewed the locus and it appears that the house was built originally in its present location due to the topography of the lots, which drop sharply at the rear of the house.

Accordingly, the requested variance is authorized and granted under the provisions of Section XXIV-C and D of the Zoning By-law and the house may remain in its location as shown on the plot plan submitted and on file with this Authority.

OCT 5 5 29 PM '78
MEDFIELD, MASS.
TOWN CLERK'S OFFICE
RECEIVED

Francis L. Swift

Francis L. Swift

William O. Hewett

William O. Hewett

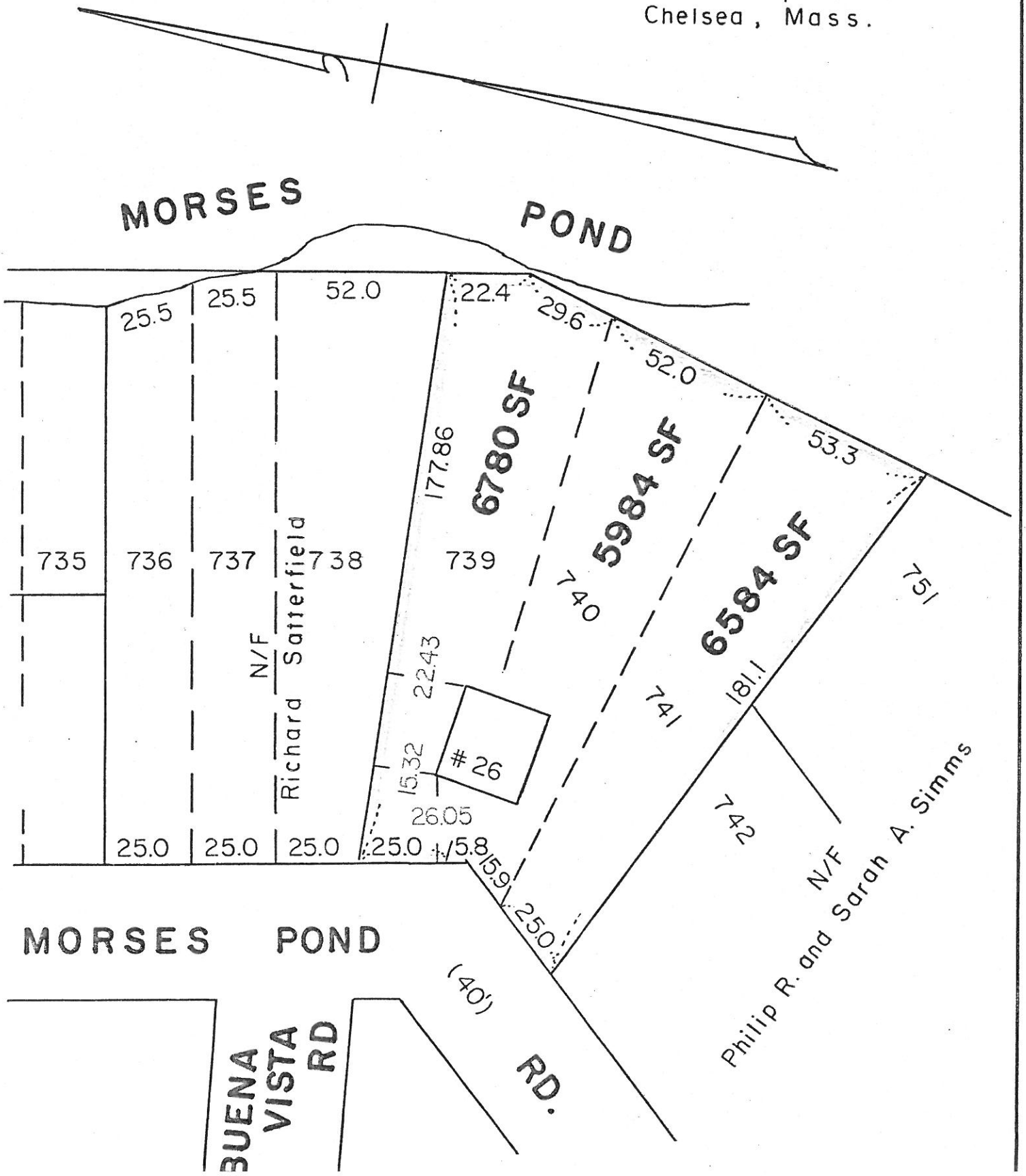
William F. Cullinane

William F. Cullinane

Filed with Town Clerk _____

Copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the Town Clerk.

COMMONWEALTH OF MASSACHUSETTS
ALEXANDER CRUCIOLI
16809
REGISTERED
LAND SURVEYOR

Alexander Crucioli

PLAN OF LAND
IN
WELLESLEY-MASS.
Belonging To
Michael J. and Jane E. Saks
Scale: 1" = 40' JULY 7, 1978
ACRES-ENGINEERS, SURVEYORS, INC.
57 Winthrop Road
Chelsea, Mass.