

TOWN OF WELLESLEY



MASSACHUSETTS

80-49

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

STEPHANIE J. GOSSELIN

Executive Secretary
Telephone
235-1664

WILLIAM F. CULLINANE, CHAIRMAN
STEPHEN S. PORTER
JOHN A. DONOVAN, JR.

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

Petition of William Balderston III and South Shore Bank

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room on Tuesday, September 23, 1980 at 8:30 PM on the Petition of William Balderston III and South Shore Bank, requesting a Variance from the terms of Section XIX of the Zoning Bylaw, which requires a twenty (20) foot side yard setback from the building to the property line. The property is located at 49 Cottage Street, said request is made pursuant to Section XXIV-D of the Zoning Bylaws.

On September 5, 1980 the Petitioner filed his request for a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Present at the hearing and representing the Estate of Katherine C. Balderston was Attorney Neil Melone. Mr. Melone pointed out that the house in question was conveyed to Katherine C. Balderston in 1963; at that time the defect was not apparent from the record; and the defect consists of the location of the northerly corner of the house within approximately 19 feet of the northwesterly side lot line of the property.

Statement of Facts

The property is located at 49 Cottage Street. The house was built in 1954, when the Zoning Bylaws required a twenty (20) foot side line setback from the house to the property line. It was stated at the Hearing that when the Balderstons purchased the property in 1963 the defect was not apparent when the title was being searched. The defect consists of the location of the northerly corner of the house within approximately 19 feet of the northwesterly side line of the property, as is shown on a Plot Plan dated July 3, 1980 submitted with this Petition. Because the house is in violation of the twenty foot side yard requirement as required per Section XIX of the Town of Wellesley Zoning Bylaws, the petitioner is unable to convey good and clear title to prospective buyers.

OCT 11 16 AM '80

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MASS.





ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181
STEPHANIE J. GOSSELIN

WILLIAM F. CULLINANE, CHAIRMAN
STEPHEN S. PORTER
JOHN A. DONOVAN, JR.

Executive Secretary
Telephone
235-1664

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

Petition of William Balderston III and South Shore Bank, continued

Decision

The Permit Granting Authority has made a careful study of all the evidence submitted and have taken a view of the locus.

In reviewing the evidence submitted it becomes apparent that the house was purchased in 1963 with only the 19 foot side yard setback, therefore in violation of Section XIX of the Zoning Bylaws which was in force and effect at that time. This situation therefore cannot be a grandfathered situation as it is not a pre-existing non-conforming use.

It is the unanimous opinion of this Authority that a Variance should be granted as a literal enforcement of the provisions of the Zoning Bylaws would involve substantial hardship to the petitioner owing to the fact that the petitioner's testate did not bring about the condition for which relief is requested and the encroachment is de minimus. Furthermore, the allowance of the Variance would not be detrimental to the neighborhood nor in derogation of the intent of the Zoning Bylaws.

William F. Cullinane

William F. Cullinane, Chairman

John A. Donovan, Jr.

John A. Donovan, Jr.

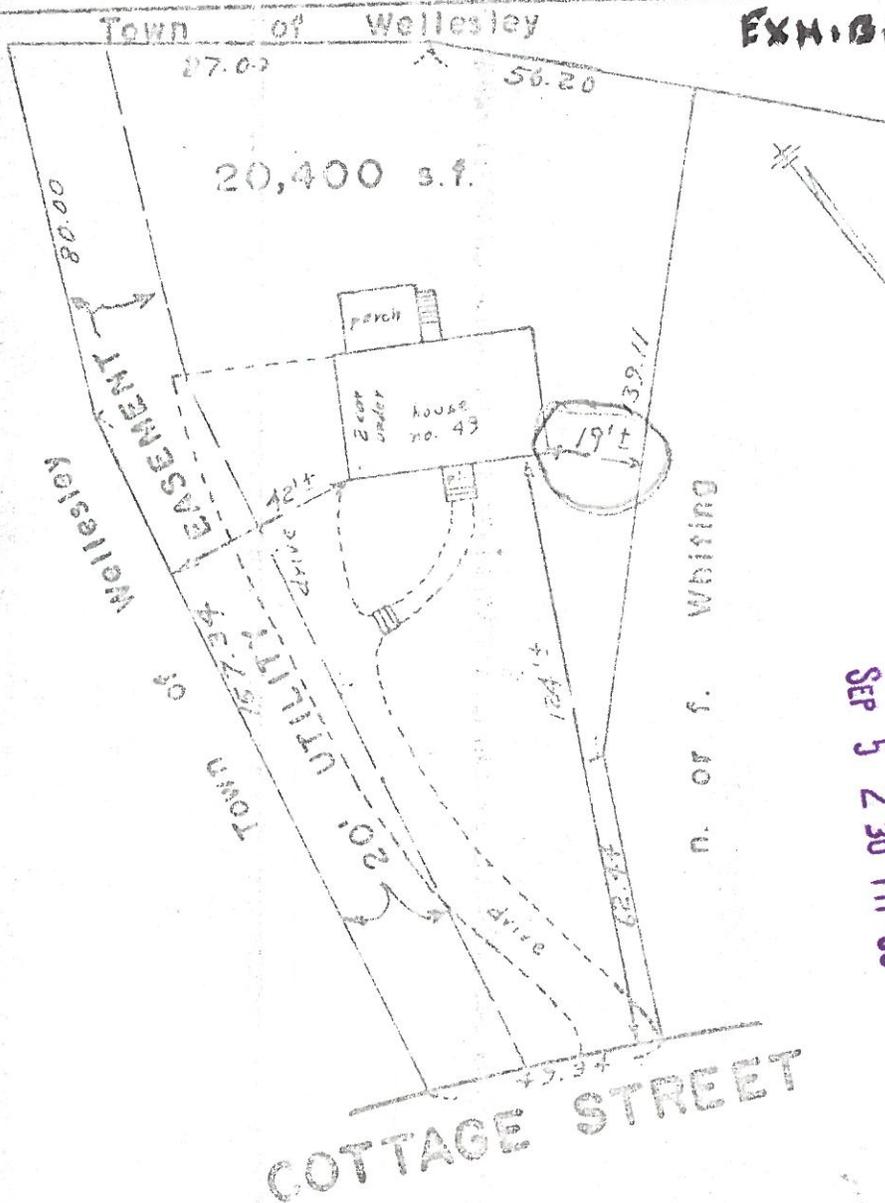
Stephen S. Porter

Stephen S. Porter

OCT 8 11 26 AM '80

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MASS.





RECEIVED
 TOWN CLERK'S OFFICE
 WELLESLEY MASS.
 SEP 5 2 30 PM '80

I certify that the house is located on the ground as shown on above plan.

John J. Regan

PLAN OF LAND
 IN
 WELLESLEY MASS.

SCALE 1 IN = 40 FT
 APEX ASSOCIATES
 NEWTON HIGHLANDS

JULY 3, 1980
 LAND SURVEYORS
 MASS.