TOWN OF WELLESLEY MASSACHUSETTS 80-8

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

WILLIAM F. CULLINANE, CHAIRMAN
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JOHN A. DONOVAN, JR.

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Executive Secretary
Telephone
235-1664

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Petition of Ralph D. Raphael and Virginia H. Raphael

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 8:30 P.M. on April 10, 1980, on the petition of Ralph and Virginia H. Ralphael requesting a variance from the terms of Section XIX of the Zoning By-laws in order to allow construction of an attached garage on the side of the dwelling at 7 Schaller Street with a side yard set back less than the required twenty feet.

Mr. Raphael appeared and stated that the new garage would be attached to the existing garage which would be remodeled into a family room with a wood stove. He stated that leaching fields and septic tank located in the backyard prohibited building the garage in that location.

Walter R. Frazee of 17 Schaller Street and Frederick F. Schaller of 10 Schaller Street appeared and spoke in favor of the petition.

A letter received by the Board on April 10, 1980 from Theresa and Ed Christopher, owners of the property next to the Raphaels', indicating opposition to the petition, was withdrawn via a telephone call from Mr. Christopher to Chairman Cullinane at the latter's home in the evening just before the hearing.

A plot plan, showing the proposed 15' x 20' addition to be 6'8" from the side yard line at the Christopher's premises to the southeast, was filed with the petition in the Town Cler's office on March 18, 1980. The petition for variance is made pursuant to the provisions of Section XXIV-D of the Zoning By-Law.

Statement of Facts

The applicants propose to construct an addition to the present dwelling at 7 Schaller Street. The present attached garage, shown on the plot plan, dated February 14, 1980, is 21'8" from the lot line at the Christophers' property to the southeast, is intended to be remodeled into a family room with wood stove. The proposed addition of a 15' x 20' garage to be attached to the existing garage would, at the closest point, be 6'8" away from the side lot line at the Christophers' property. A septic tank and leaching field are located in the backyard.

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Petition of Ralph D. Raphael and Virginia H. Raphael

Decision

The Board finds that there is no "substantial hardship" within the meaning of Section XXIV D 1. a. as required by General Laws, ch. 40A, section 10.

The Board does not have to reach the question whether such a variance could be granted without substantial detriment to the public good without nullifying or substantially derogating from the intent or purpose of theby-law. It is concerned about the substantial encroachment toward the side yard line.

The Board is unable to find from the evidence offered at the hearing that there are any circumstances especially relating to the said conditions, shape or topography of such land or structures and especiall affecting such land or structures but not affecting generally the zoning district in which it is located. See Barnhart v. Board of Appeals of Scituate, 343 Mass. 455, 458 (1962). The hardship test required by the statute and by-laws is not met solely by an owner's desire to use his premise in a particular manner. A circumstance unique tohis premises must be proven.

The Board was not pursuaded that alternative, nonencroaching plans for a family room could not be developed. The Board also considered that the family room could be accomplished without any violation of literal enforcement of the by-laws by simply reconstructing the garage.

The Board denies the requested variance and dismisses the petition.

William F. Cullinane
William F. Cullinane

Stephen S. Porter
Stephen S. Porter

John A. Donovan, Jr.

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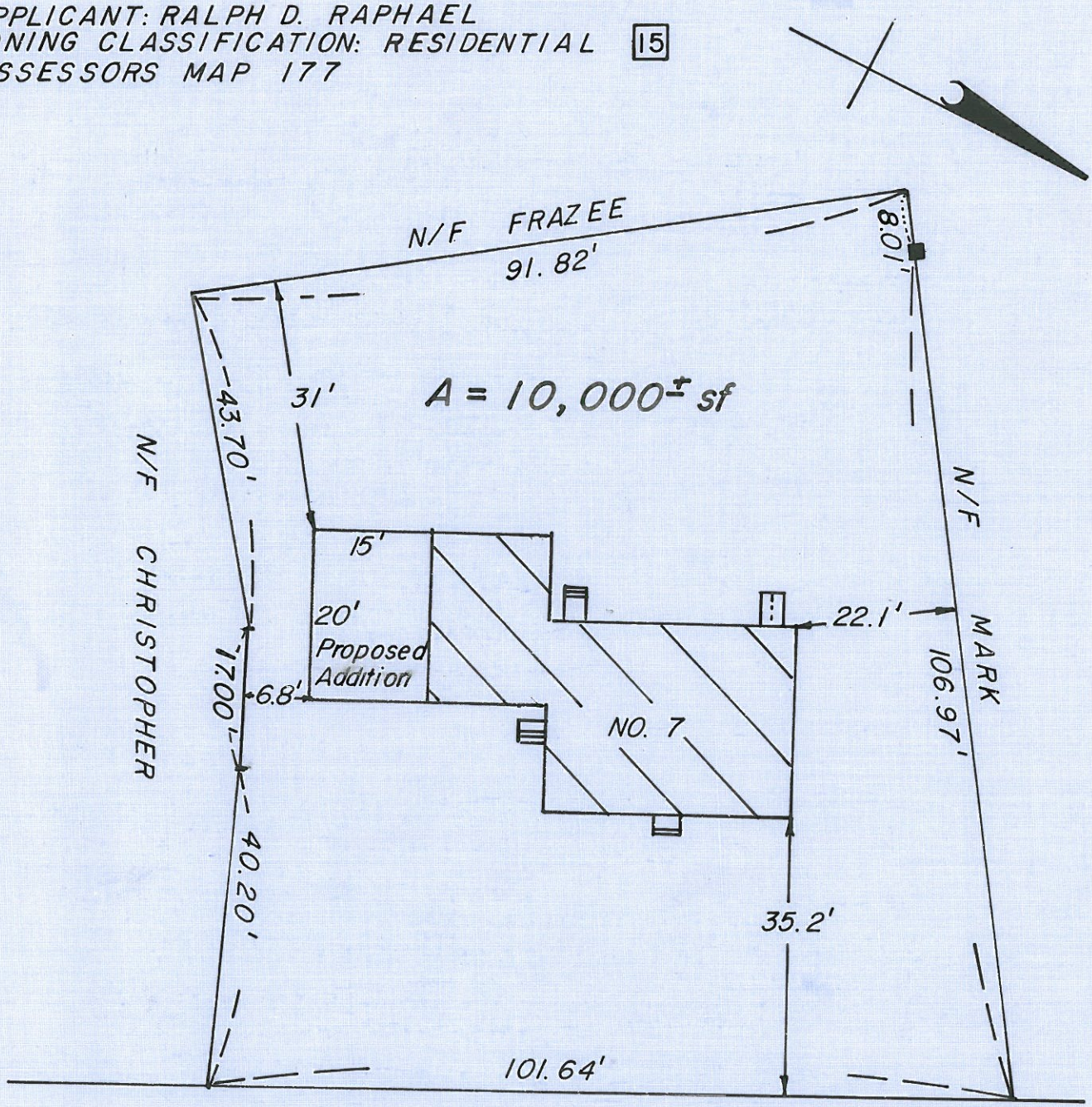
APPLICANT: RALPH D. RAPHAEL
ZONING CLASSIFICATION: RESIDENTIAL 15
ASSESSORS MAP 177



SCHALLER STREET

PLOT PLAN
IN
WELLESLEY, MASS.
SCALE 1"=20' FEB 14 1980
SURVEYED BY
DRAKE ASSOCIATES INC.
CIVIL ENGINEERS LAND SURVEYORS
770 GROVE STREET FRAMINGHAM, MASS.

COMMONWEALTH OF MASSACHUSETTS
WILLIAM F. DRAKE #6967 REGISTERED
LAND SURVEYOR

William F. Drake