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ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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KENDALL P. BATES

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ZBA 88-60
Petition of Richard and Marcia Weaver
36 Linden Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 21, 1988 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of RICHARD AND MARCIA WEAVER requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow an illegal bay window at their non-conforming dwelling at 36 LINDEN STREET in a General Residence District, to be brought into conformance with the current Zoning Bylaw of the Town. Said window is an illegal substitution to a prior granted variance and leaves less than the required left side yard.

On July 5, 1988, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Marcia Weaver who said she had changed her mind regarding the type of window to be installed at the time of construction, and had not realized that she needed a second variance to change the conforming window to a non-conforming bay window.

No other persons present had any comment on the petition.

Statement of Facts

The subject dwelling is located at 36 Linden Street, in a General Residence District, on a 6,000 square foot lot, with a minimum front setback of 24.47 feet, a minimum left side yard clearance of 10.2 feet and a minimum right side yard clearance of 19.8 feet.

On May 19, 1987 the petitioners were granted a variance (ZBA 87-33) to revise a variance granted October 16, 1986 (ZBA 86-56) for construction of a one-story addition approximately 15 feet by 22 feet, leaving a left side yard of 11.2 feet, the existing house coming to within 10.2 feet of the left side lot line. The construction plans submitted in April, 1987 showed a standard window. At the time of construction, a bay window was substituted for the standard window without an amendment to the Building Permit, or a request for a variance for a bay window with less than the required left side yard. The petitioners were sent a Notice of Violation on April 12, 1988 and a Final Notice of Violation on May 18, 1988 from Arthur LaConte, Inspector of Buildings/Zoning Enforcement Officer.

The petitioners are requesting a variance to allow said illegal bay window to be brought into conformance with the current Zoning Bylaw of the Town. The bay window leaves a minimum left side yard clearance of 10.2 feet.

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A Plot Plan dated June 15, 1988, drawn by James C. Vafiades, Registered Land Surveyor; a construction sketch and photographs were submitted.

The Planning Board, on July 12, 1988, voted to offer no objection to the request.

Decision

This Authority has made a careful study of the evidence presented. The subject house does not conform to the present Zoning Bylaws as noted in the foregoing Statement of Facts.

This Authority does not look with favor upon violations of the town regulations which were adopted for the protection of the community and the welfare of its citizens. However, this Authority is of the opinion that the violation might not have been intentional and that as the existing bay window does not encroach further than the existing line of the house, it does not alter the relationship of the house to the left side lot line. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

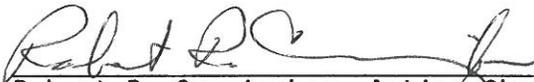
Therefore, the requested variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow the illegal bay window at 36 Linden Street with a minimum clearance of 10.2 feet from the left side lot line, as shown in the Plot Plan submitted and noted in the Statement of Facts, to be brought into conformance with the current Zoning Bylaw of the Town.

The Inspector of Buildings is hereby authorized to issue a building permit for said bay window.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse, and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings
edg


Robert R. Cunningham, Acting Chairman

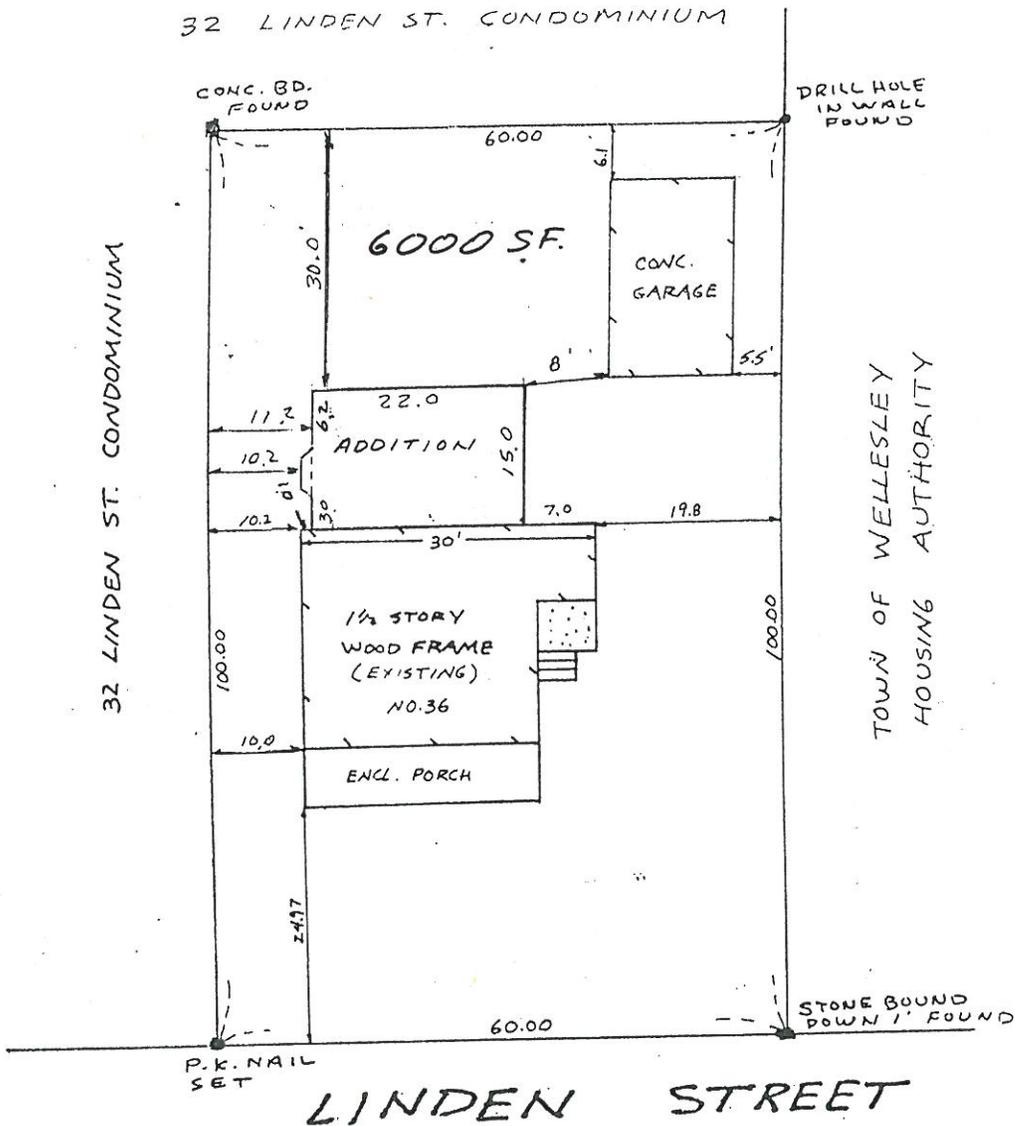

Kendall P. Bates


William E. Polletta

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32 LINDEN ST. CONDOMINIUM

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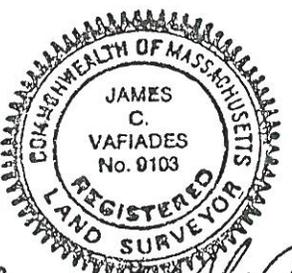
TOWN OF WELLESLEY HOUSING AUTHORITY

JUL 5 11 20 AM '88

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PLAN OF LAND

IN WELLESLEY, MASS.



James C. Vafiades

SCALE: 1" = 20' JUNE 15, 1988
 JAMES C. VAFIADES - REG. LAND SURVEYOR
 256 WORCESTER LANE, WALTHAM, MASS.