



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 88-61  
Petition of Joan M. Rowles  
35 Colburn Road

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 JOAN M. ROWLES requesting a variance from the terms of Section XIX and pursuant to Section XXIV-D of the Zoning Bylaw to allow construction at her non-conforming dwelling at 35 COLBURN ROAD, in a Single Residence District, consisting of enclosing an existing porch with an addition to said porch approximately 3.75 feet by 3.08 feet; and the addition of a bay window approximately 1.92 feet by 4.67 feet; said porch, addition and bay window leaving less than the required left side yard.

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

Presenting the case was Harwood Rowles who said he would like to enclose an open porch, add to the existing kitchen and install a bay window. The addition would be cantilevered and there would be no further encroachment beyond the existing porch.

The Board approved the request for the bay window as it does not require a foundation. Mr. Rowles said that the proposed enclosed porch and addition would be cantilevered so as not to require a foundation.

In the opinion of the Board, the "porch" is actually a "stoop" consisting of stairs and a landing. The stairs are uncovered, have neither foundation nor roof, and do not represent an encroachment as they are not included in the measurement of a side yard. The stairs are not an integral part of the building. In the opinion of the Board, Mr. Rowles actually is asking for an addition which would result in a 3 foot encroachment on an inadequate left side yard and not for the enclosure of an existing porch and an extension of the existing line of the house. The Board felt that it could not accept the enclosure of the "porch" and attached addition as it would represent too great an intrusion on the left side yard.

No other persons present had any comment on the petition.

Statement of Facts

The non-conforming dwelling is located at 35 Colburn Road in a Single Residence District on a 12,500 square foot lot with a minimum side yard clearance of 15.08 feet from the foundation and 11.29 feet from the rear stairs.

The petitioner is requesting a variance to enclose an existing porch, construct an addition to said porch approximately 3.75 feet by 3.08 feet and add a bay window approximately 1.92 feet by 4.67 feet leaving a left side yard of 11.29 feet.

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A Plot Plan dated June 25, 1988, drawn by Alexander Crucoli, Registered Land Surveyor; construction plans dated May 31, 1988; 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.

Section XIXA of the Zoning Bylaw defines Side Yard as follows:

"An area, on the same lot with the building, measured from the side line of the lot to the building, extending from the front yard to the rear yard, and unoccupied above ground level except by uncovered steps and projective eaves."

The petitioner has stated that he considers the structure on the left side of the house to be an open porch. In the opinion of this Authority, the structure is a landing and stairs which is not included in the measurement of the side yard. Therefore, the proposed enclosure of said landing and the proposed addition would entail a further encroachment of 3.79 feet onto the left side yard which, in the opinion of this Board, is too great to be allowed.

Variances may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1.):

- "1. ...
  - a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures, especially affecting such land or structures but not generally affecting the zoning district in which it is located; and the hardship shall not have been self-created; and
  - b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

In regard to the enclosure of the "porch" and the proposed addition, this Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw.

Therefore, it is the unanimous opinion of this Authority that this portion of the request for a variance be denied.

It is, however, the opinion of this Authority that in regard to the request for a variance for the construction of a bay window, approximately 1.92 feet by 4.67 feet, desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

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Therefore, a variance is granted to install a bay window at 35 Colburn Road, subject to construction in accordance with the plot plan and construction plans as submitted and noted in the foregoing Statement of Facts, said window coming no closer than 13.16 feet from the left side lot line.

The Inspector of Buildings is hereby authorized to issue a permit for the construction of said window only upon his receipt and approval of a building application and construction plans.

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

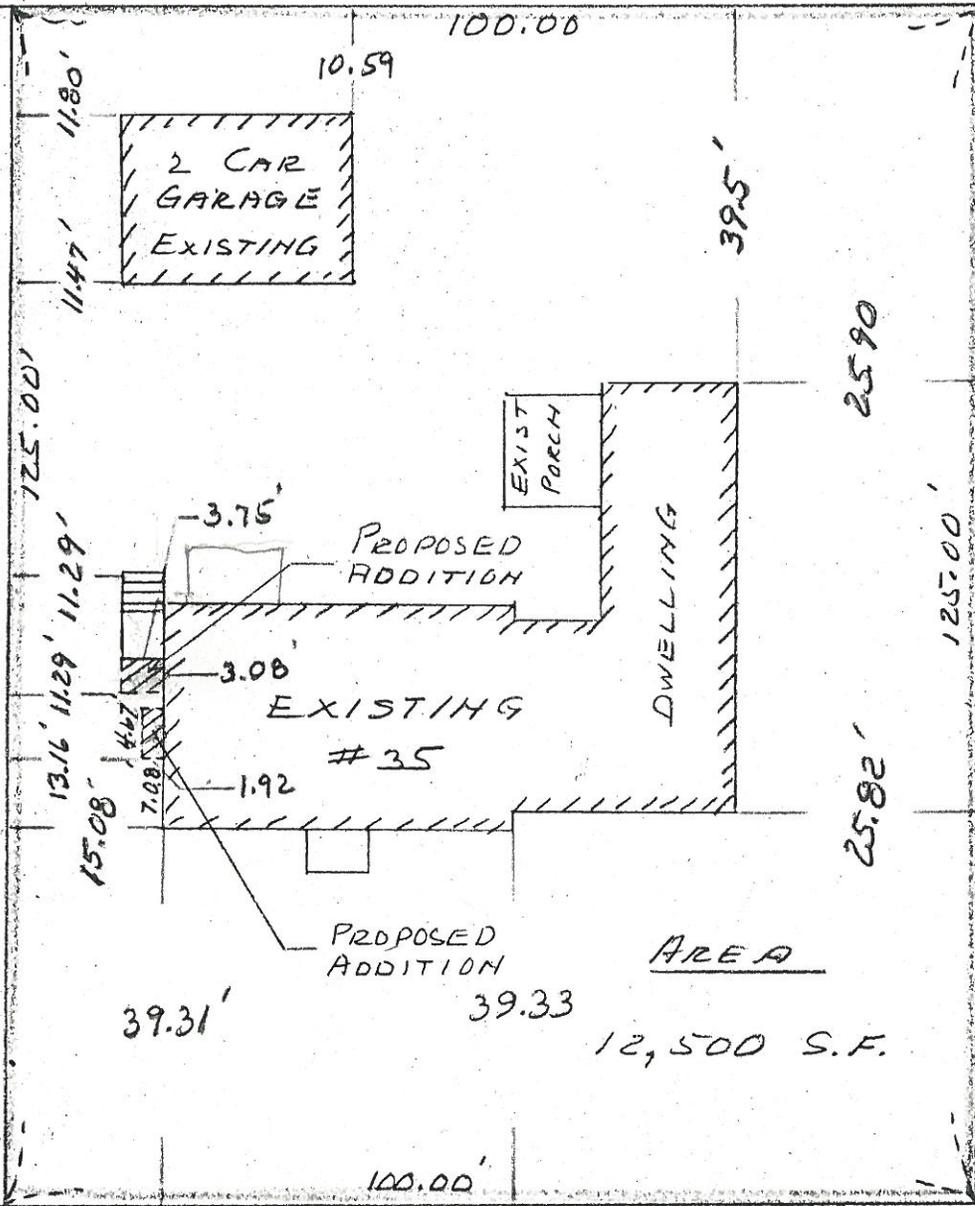
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PLAN OF LAND  
IN

WELLESLEY — MASS  
Scale: 1" = 20' JUNE 25, 1988

SURVEYOR Alexander CRUCIOLI  
ACRES-ENGINEERS, SURVEYORS, INC  
57 Winthrop Road  
Chelsea, Mass.

TOWN OF WELLESLEY



HSE # 43

HSE # 31

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TOWN OF WELLESLEY, MASS

COLBURN (40') ROAD



Alexander Cruciole