TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 88-90
Petition of Joan M. Rowles
35 Colburn Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, October 20, 1988 at 8 p.m. in the Great Hall 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 of an addition approximately 10 feet by 5 feet at the rear of her non-conforming dwelling at 35 COLBURN ROAD, in a Single Residence District, said addition to have less than the required left side yard.

On October 4, 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 at the hearing was Harwood Rowles, who stated that the addition would be sited at the rear, one foot in from the corner of the existing house, so that the addition would be less non-conforming than the present house. As the first petition had been denied (ZBA 88-61), Mr. Rowles hoped that the present reconfiguration of the addition would merit the approval of the Board.

No 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 with a minimum left side yard clearance of 13.16 feet from a bay window and 15.08 feet from the foundation of the dwelling. The petitioner is requesting a variance to construct an addition approximately 5 feet by 10 feet at the rear of the dwelling which would leave a minimum left side yard clearance of 16.08 feet.

At a Public Hearing held on July 21, 1988, the petitioner requested a variance to enclose an existing porch and construct an addition approximately 3.75 feet by 3.08 feet which would leave a left side yard of 11.29 feet (ZBA 88-61). This variance was denied by the Board of Appeals.

In accordance with the procedure outlined in Section XXIV-E (5) of the Zoning Bylaw, the petitioner appeared before the Board of Appeals on August 25, 1988, at which time, the Board unanimously found that there had been specific and material changes in the conditions upon which the unfavorable action had been based. Thereafter, the petitioner appeared before the Planning Board on September 13, 1988. The Planning Board voted (4-0-1) to offer no objection to the petition being brought before the Zoning Board of Appeals.

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A Plot Plan dated August 13, 1988, drawn by Alexander Crucioli, Registered Land Surveyor; and construction plans and elevations dated August 8, 1988, drawn by HSR, were submitted.

The Planning Board, on October 5, 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 Bylaw as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that the proposed addition represents less of an encroachment on the left side yard than the existing dwelling. It is the further opinion of this Authority that because of the shape of the lot and the location of the house on the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted to construct the addition at 35 Colburn Road, coming no closer than 16.08 feet from the left side lot line, and subject to construction in accordance with the Plot Plan and construction plans submitted and detailed in the foregoing Statement of Facts.

The Inspector of Buildings is hereby authorized to issue a permit for the construction 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.

John A. Donovan, Jr., Chairman

Robert R. Cunningham

Kendall P. Bates

cc: Planning Board
Inspector of Buildings
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