



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
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ZBA 91-30
Petition of Richard Shufro
29 Pinewood Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, June 20, 1991, 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 SHUFRO requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of an infill approximately 6 feet by 8.1 feet at the left front corner of his existing garage at 29 PINEWOOD ROAD, in a Single Residence District. The left front corner of said infill would have less than the required left side yard setback.

On June 3, 1991, 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 Richard Shufro, who said that his garage had been designed without the infill so as not to encroach on the side line. In order to create sufficient frontage for the abutting lot, the lot line is drawn at a skew angle of almost 40 degrees. His driveway actually crosses the lot line, which has been resolved through a permanent easement. The practical lot line used by the Shufros and their neighbors is drawn perpendicular to the street. Although the infill will encroach about 4 feet on the actual lot line, it will not appear to do so. The abutting neighbor, Mr. Barry, has no objection to the request.

Mr. Shufro explained that the existing garage is about 1 and 1/2 cars wide, but that the garage door is single car width. Access to one-half of the garage is not possible as there is no door into the left side. Addition of the infill would allow access to that portion of the garage, which might then hold two small cars, but would not have sufficient space for two full size cars. The Board noted that addition of a 4 foot door would allow access to the left side of the garage.

Mr. Shufro said that the house was built in 1974 as part of a subdivision in which the houses had been carefully sited on the lots to meet setback requirements. A land swap with his neighbor of front and rear triangles had been considered to gain the 20 foot side yard setback. However, the swap would have reduced the abutting frontage to a nonconforming measurement of about 40 feet.

No other person present had any comment on the petition.

Statement of Facts

The nonconforming dwelling is located at 29 Pinewood Road, in a Single Residence District, on a 10,571 square foot lot, with a minimum front setback from Worcester Street of 27.34 feet and a minimum right side yard clearance of 17.75 feet.

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In August, 1988, the Board of Appeals granted a variance to bring an illegally constructed nonconforming deck into conformance with the Zoning Bylaw. The deck had been built by a previous owner without a building permit, and with less than the required front setback from Worcester Street, and less than the required setback from the right side lot line. (ZBA 88-67)

The petitioner is now requesting a variance to construct a garage infill, approximately 6 feet by 8.1 feet at the left front corner of the existing conforming garage, which would leave a minimum left side yard clearance of 16.3 feet from the left front corner of the infill.

A Plot Plan dated May 16, 1991, drawn by George N. Giunta, Registered Land Surveyor; construction sketches and elevations; and photographs were submitted. A letter in support of the request, signed by George Barry, 31 Pinewood Road, the left side abutter, was also submitted.

On June 18, 1991, the Planning Board reviewed the petition and voted to recommend denial of the variance request. The Planning Board noted that there are other methods to access the presently inaccessible garage space which would not require a variance. The Board further noted that, in its opinion, the angle of the left side lot line does not create a qualifying lot shape precondition. The width of the lot is equal to or greater than the standard 75 foot width required for lots in this district. The house was sited to meet the setback requirements of the lot, which was created under a subdivision plan approved in 1973.

Decision

This Authority has made a careful study of the evidence presented.

Variations may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from the Zoning Bylaw):

"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."

This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw. This Authority is of the further opinion that the granting of this variance would substantially derogate from the intent and purpose of this Zoning Bylaw.

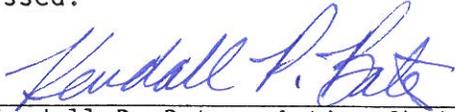
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Therefore, it is the unanimous decision of this Authority that this request for a variance be denied and that this petition be dismissed.

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


Kendall P. Bates, Acting Chairman


Robert R. Cunningham


William E. Polletta

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ROUTE

9

152.00

14A

10,571 S.F.

15A

13A

161.75

PROP. ADDITION
22.7
16.3
20.0

6.0
8.1

EXISTING HOUSE NO. 29

DECK

110.27

55.85

13.28

PINEWOOD ROAD

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PLOT PLAN OF LAND
IN
WELLESLEY — MASS.

MAY 16, 1991 SCALE 1" = 30'
NEEDHAM SURVEY ASSOCIATES, INC.
281 CHESTNUT ST
NEEDHAM, MASS.

