



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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WELLESLEY, MA 02181

ZBA 91-32
Petition of R. John and Carolyn R. Fletcher
44 Norwich 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 R. JOHN AND CAROLYN R. FLETCHER, 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 a two-story addition, approximately 29 feet 9 inches by 6 feet 8 inches, along the length of the right side of their dwelling at 44 NORWICH ROAD, in a Single Residence District. Said addition would necessitate raising the ridge line of the existing garage roof approximately 9 feet 9 inches and would connect to a two-story addition with a maximum width of 18 feet narrowing to 6 feet 8 inches by 33 feet 9 inches across the rear of the dwelling. Said addition has less than the required right side setback at all points.

On June 3, 1991, the petitioners requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Carolyn Fletcher, who was accompanied by Sam Streibert, the project architect. Mrs. Fletcher said that the proposal had been drawn to meet the conditions of an unusual lot. The lot has a pie-shaped wedge and an enormous rock in the front yard, which necessitated siting the house farther back on the property than other homes on the street. The house is at setback on both sides.

Mrs. Fletcher said that the proposed addition would add a small hallway to access a new family room on the first floor, and two bedrooms and a bathroom on the second floor as the family is in need of expanded living space. The addition would not crowd the space of the right side abutter, as that house is set in front of the Fletcher house.

The Board stated that the requested variance was a gross encroachment into a conforming side yard and asked if any other solution was possible. Both Mrs. Fletcher and Mr. Streibert said that there was no other solution. Mr. Streibert stressed that the long and narrow shape of the lot, the presence of the rock in the front yard and the grade change in the rear denying access to the back yard were reasons to grant a variance. Adding living space at the rear and the internal addition of a short passageway to the back would allow normal use of the house on the land.

No other person present had any comment on the petition.

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Statement of Facts

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The subject dwelling is located at 44 Norwich Road in a Single Residence District on a 23,326 square foot lot and is conforming in all setback requirements.

The petitioners are requesting a variance to construct a two-story addition, approximately 29 feet 9 inches by 6 feet 8 inches, along the length of the right side of the dwelling which would connect to a proposed two-story addition at the rear, as heretofore described. The proposed addition would leave a nonconforming right side yard setback of 14.1 feet along the entire length of the addition.

A Plot Plan dated May 14, 1991, drawn by Richard B. Betts, Professional Land Surveyor; construction drawings and elevations dated April 23, 1991, drawn by Streibert Associates; a letter of explanation from the petitioners; and photographs were submitted.

The Planning Board reviewed the petition on June 18, 1991, and voted to recommend that the variance request be denied, as the house is sited appropriately on the lot in regard to setback requirements, and granting the proposed request would create a nonconformity.

Decision

This Authority has made a careful study of the evidence presented. The subject house presently conforms to the setback requirements of the current Zoning Bylaw.

Variances 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 sufficient to allow this conforming property to become grossly nonconforming. This Authority is of the opinion that the granting of this variance request 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 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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