



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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AUG 29 9 38 AM '91

ZBA 91-38  
Petition of Phillip W. and Laura A. Lee  
20 Shore Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, July 25, 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 PHILLIP W. AND LAURA A. LEE 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 one-story addition consisting of a 10 foot by 10 foot solar room, with an attached cantilevered porch of the same dimensions, and an attached deck approximately 14 feet by 4 feet at their dwelling at 20 SHORE ROAD, in a Single Residence District. Said porch and deck additions would leave less than the required rear setback and less than the required setback from public lands.

On July 9, 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 Phillip Lee, who said he is proposing to add a solar room with a full foundation, behind which and cantilevered from would be an unheated porch and a walkaround deck leading to stairs to the ground. The premises abut Morses Pond, which is Town property.

The Board noted that the house is now 10.2 feet from the rear lot line, and that the additions would leave about 8 inches from the rear line. The Board asked if the addition could be relocated. Mr. Lee said it could not as the solar room faces south for maximum solar gain. Relocation to a northern exposure would reduce solar gain. The rear of the property terraces steeply to the lake at the rear of the garage. Mr. Lee offered to remove the deck so that the rear setback would be about 6 feet instead of 8 inches.

Hugh Haggett, 30 Shore Road, expressed support for the petition.

Statement of Facts

The dwelling is located at 20 Shore Road, in a Single Residence District, on a 11,638 square foot lot, with a conforming rear yard setback of 10.2 feet. The property abuts Morses Pond, a Town owned recreational facility, at the rear.

The petitioners are requesting a variance to allow construction of a solar room, approximately 10 feet by 10 feet with an attached unheated porch of the same dimensions and an attached deck approximately 14 feet by 4 feet. The solar room is conforming as to setback. However, the porch and the solar room are attached and covered by one peaked roof. The porch would have a minimum rear yard clearance of 6.33 feet, and the deck would have a minimum rear yard clearance of .68 feet.

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A Plot Plan dated May 14, 1991, drawn by U.M. Schiavone, Registered Professional Land Surveyor; construction sketches and elevations; and photographs were submitted.

On July 2, 1991, the Wetlands Protection Committee voted to issue a Negative Determination of Applicability with conditions.

On July 16, 1991, the Planning Board voted to recommend that the petition be denied as it would not only be a substantial encroachment on the required rear yard, but would violate part C. of Section XIX of the Zoning Bylaw, which provides that no building or structure be placed closer than 10 feet from Town owned land used as a recreational facility.

Decision

This Authority has made a careful study of the materials presented. The petitioners require a variance from the terms of Section XIX of the Zoning Bylaw for construction of a solar room, attached porch and attached deck which would violate the required rear setback as noted in the foregoing Statement of Facts.

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 appellants 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, and is of the opinion that the granting of this variance would substantially derogate from the intent and purpose of this Zoning Bylaw.

Furthermore, Section XIX, part C. of the Zoning Bylaw states:

"No building or structure shall hereafter be erected or placed nearer than ten (10) feet to any public land held or in use for a park, playground or recreational purpose and no existing building or structure shall be so altered as to result in the said building or structure being nearer than ten (10) feet to such public land."

In the opinion of this Authority, construction of both the porch and the deck would violate Section XIX, part C. of the Zoning Bylaw.

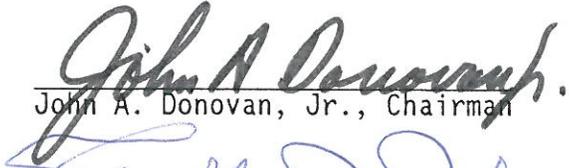
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Therefore, for all of the aforesaid reasons, it is the unanimous decision of this Authority that this request for a variance be denied, and this petition is dismissed.

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  
Wetlands Protection Committee  
Inspector of Buildings  
edg

  
John A. Donovan, Jr., Chairman

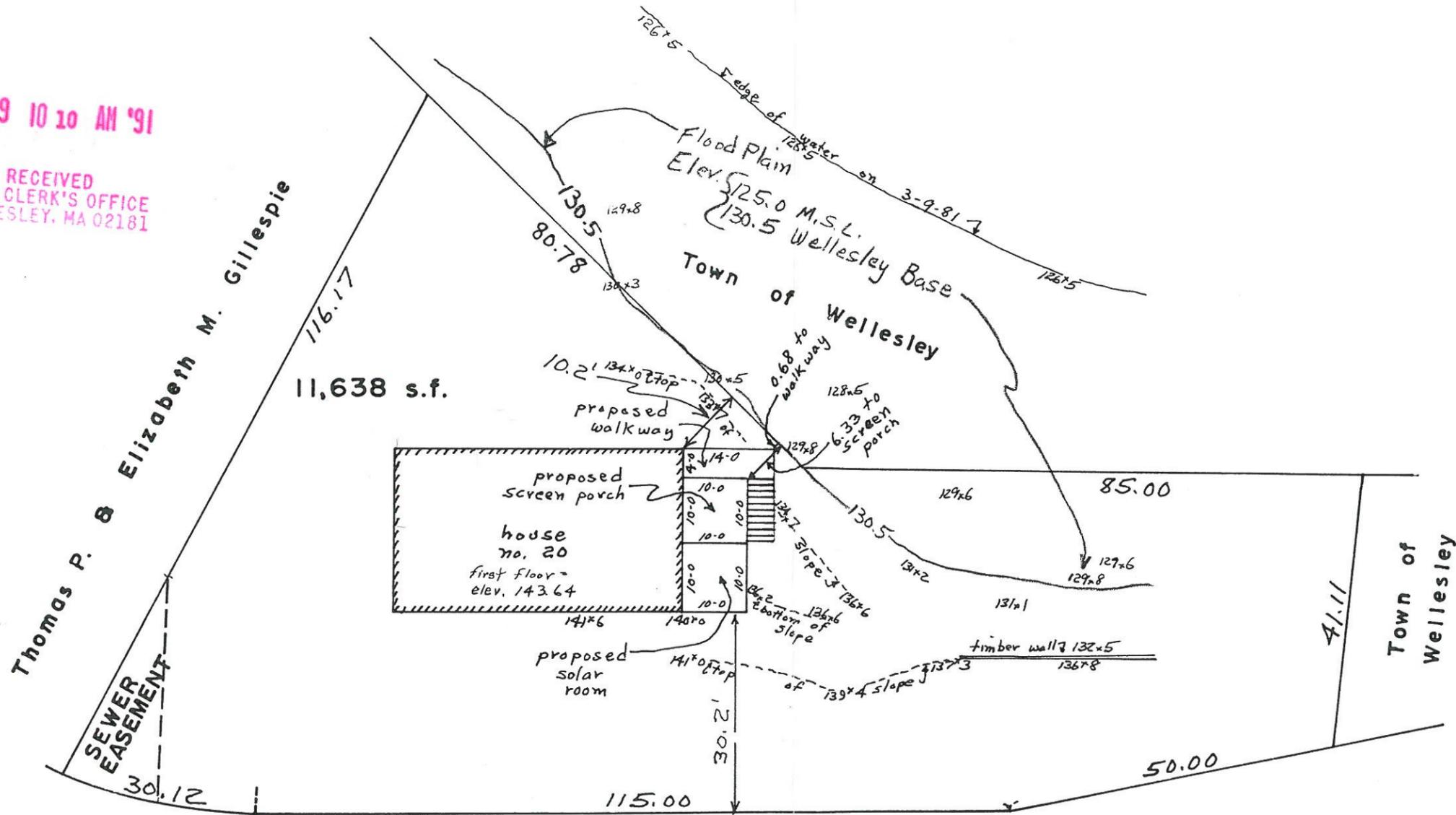
  
Franklin P. Parker

  
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Jul 9 10 10 AM '91

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SHORE

ROAD

PLAN OF LAND  
IN  
WELLESLEY MASS.  
TO ACCOMPANY THE PETITION OF  
PHILLIP & LAURA LEE  
20 SHORE ROAD  
WELLESLEY

Note:  
Building coverage will be 1410<sup>±</sup> s.f. or 12.1%

SCALE 1 IN = 20 FT  
U. M. SCHIAVONE  
NEWTON LOWER FALLS

MAY 14, 1991  
LAND SURVEYOR  
MASS.

