



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

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ZBA 91-49
Petition of Robert I. and Linda A. Warner
24 Shadow Lane

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 26, 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 ROBERT I. AND LINDA A. WARNER requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to bring their existing nonconforming detached garage located on their property at 24 SHADOW LANE, in a Single Residence District, into conformance with the current Zoning Bylaw. Said garage, approximately 20.2 feet by 11.2 feet, has less than the required front setback from BAY VIEW ROAD.

On September 10, 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 were Robert and Linda Warner. Mr. Warner explained that when their builder came to the Building Department recently to obtain a permit for their proposed addition which will expand the garage and connect it to the house, he discovered that the original building permit issued in 1941 indicated that the garage was to be attached to the house, which would have resulted in a conforming structure. The original builder, for some unknown reason, built a detached garage and located it 27 feet from Bay View Road. This violation has gone undetected from that time to the present.

No other person present had any comment on the petition.

Statement of Facts

The subject garage, approximately 20.2 feet by 11.2 feet, is located at 24 Shadow Lane, in a Single Residence District, on an 11,350 square foot lot at the corner of Shadow Lane and Bay View Road. The house and garage were built in 1941 by Hodges-Farnham Realty Trust. According to the building permit issued February 27, 1941, the garage was to have been attached to the dwelling. Had the garage been constructed according to the permit issued, it would have been in conformance with the yard regulations. However, the builder constructed the garage 19.22 feet from the dwelling, and 27.03 feet from Bay View Road, which resulted in a nonconforming front setback from Bay View Road as the required front setback is 30 feet. The property has changed ownership several times since 1941, but the violation was detected only recently when the petitioners attempted to file for a building permit for a proposed one-story addition to connect the garage with their dwelling.

A Plot Plan dated August 13, 1991, drawn by Scott Giles, Registered Land Surveyor; a copy of the 1941 building permit, and photographs were submitted.

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On September 17, 1991, the Planning Board reviewed the petition and voted to offer no comment on the request.

Decision

This Authority has made a careful study of the materials submitted, and is of the opinion that the existing garage at 24 Shadow Lane is not in conformance with the current Zoning Bylaw.

This Board is of the opinion that a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve substantial hardship to the petitioners, and that allowance of the requested variance would not be detrimental to the neighborhood, nor be in derogation of the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance from the terms of Section XIX of the Zoning Bylaw is granted to allow the existing garage at 24 Shadow Lane with a 27.03 setback from Bay View Road to be brought into conformance with the current 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

John A. Donovan, Jr.
John A. Donovan, Jr., Chairman

Kendall P. Bates
Kendall P. Bates

William E. Polletta
William E. Polletta

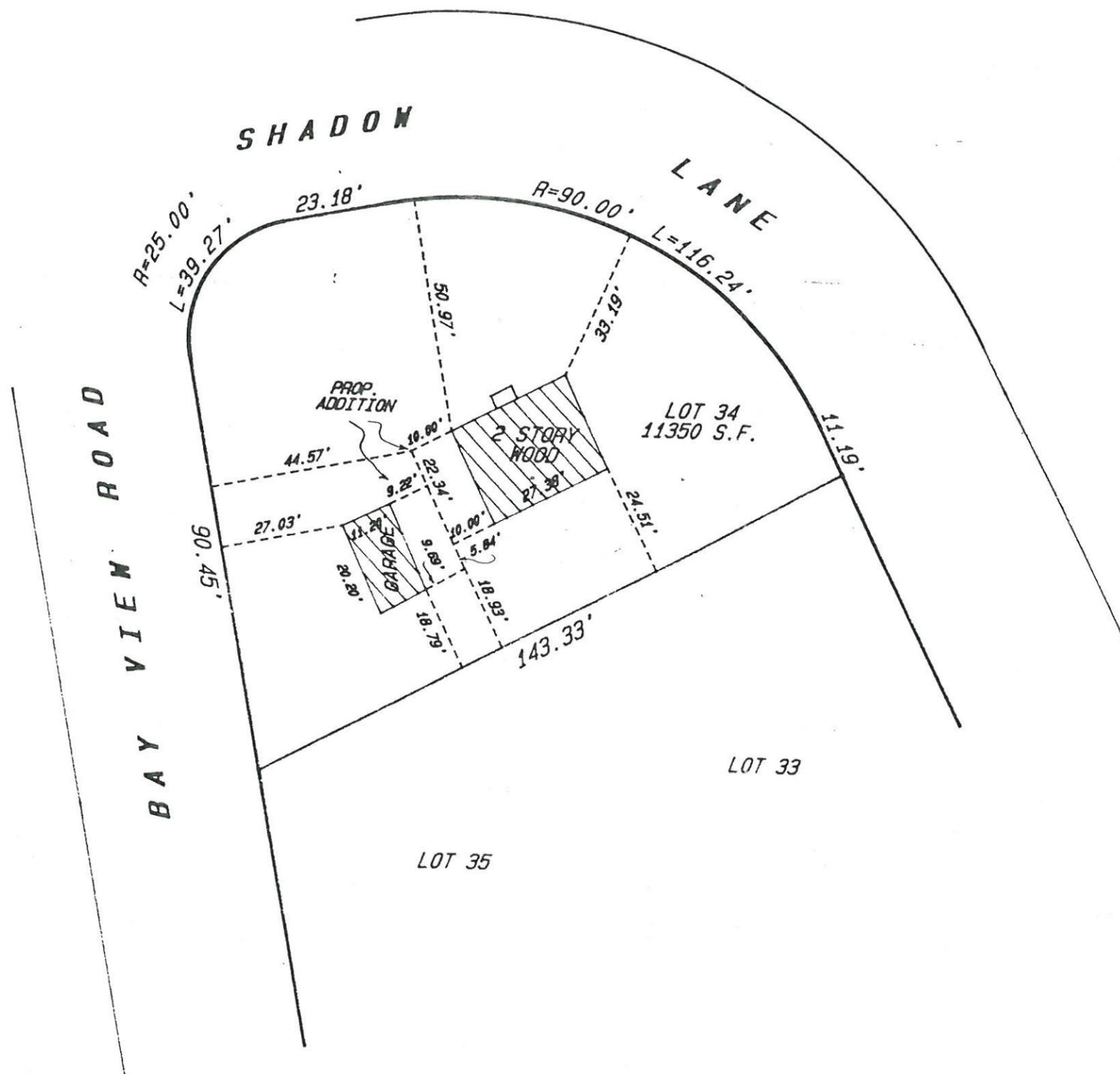
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CERTIFIED PLOT PLAN
LAND IN

WELLESLEY, MASS.
(24 SHADOW LANE)
PREPARED FOR

LINDA L. ALLE
DATE : AUG 13, 91 SCALE: 1"=30'

NORTHERN ASSOCIATES INC.
N. ANDOVER, MA



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