



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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TOWN OF WELLESLEY, MA 02181

8 21 AM '93

ZBA 93-82

Petition of Andrew B. and Ellen Leiter
1 Lawrence Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, November 18, 1993 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of ANDREW B. AND ELLEN LEITER requesting a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow a deck approximately 21.3 feet by 14.5 feet, which was built by the prior owner without a Building Permit, and which has a minimum left side yard clearance, to remain at their nonconforming dwelling with less than the required left side yard at 1 LAWRENCE ROAD, in a Single Residence District.

On November 2, 1993, 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 Leslie Shea, attorney representing Dr. and Mrs. Leiter. Dr. Leiter and Mrs. Cooper, the prior owner, were also present. Mr. Shea said that the Building Department records show that two building permits have been pulled for this property: one in 1977 for a two-story addition, and one in 1988 to reshingle the roof and enclose the rear porch. According to Mrs. Cooper, while their contractor was working on the roof and porch in 1988, he suggested that they construct a deck. The Coopers agreed to have the deck built, but were unaware that the requisite permits had not been obtained until they went to sell the house, and the survey showed the deck was nonconforming.

Mr. Shea presented a letter from Edward Mahoney, 3 Lawrence Road, expressing support for the petition. Mr. Shea said that the deck adds to the presence of the house, and does encroach any further on the left side line than the existing house.

The Board noted that in granting a similar petition recently, the decision contained conditions whereby the petitioner had to apply for a building permit, and no further additions to the deck could be made without a variance and/or a building permit. Mr. Shea stated that the Leiters would have no problem with these conditions.

No other person present had any comment on the petition.

Statement of Facts

The subject dwelling is located at 1 Lawrence Road, in a Single Residence District, on a 9,623 square foot lot, and has a minimum left side yard clearance of 9.5 feet.

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The petitioners are requesting a variance to allow a deck, approximately 14.5 feet by 21.3 feet with a minimum left side yard clearance of 17 feet to remain. Said deck was constructed in 1988 without a Building Permit, and in violation of the 20 foot side yard requirement pursuant to Section XIX of the Zoning Bylaw.

A Plot Plan dated August 20, 1993, drawn by James W. Bougioukas, Registered Land Surveyor; and photographs were submitted.

On November 9, 1993, the Planning Board reviewed the petition and voted to recommend that the deck be allowed to remain.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject deck does not conform to the current Zoning Bylaw as noted in the foregoing Statement of Facts.

This Authority is of the opinion that a literal enforcement of the provisions of the Zoning Bylaw would involve a substantial hardship to the petitioners, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

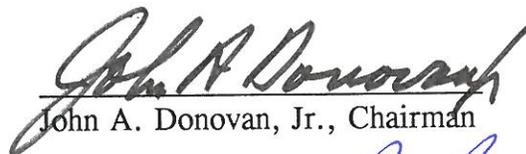
Therefore, the requested variance is granted to allow said nonconforming deck to remain, subject to the following conditions:

1. Application by the petitioners to the Inspector of Buildings for a building permit for said deck as shown on the submitted plot plan, shall be made within thirty (30) days of the date of grant of this variance.
2. No further alteration or addition to said deck shall be made without permission from the Board of Appeals and/or a building permit issued by the Inspector of Buildings.

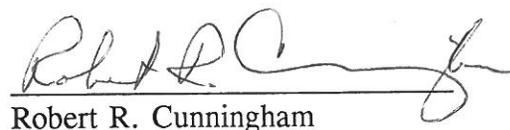
The Inspector of Buildings is hereby authorized to issue a permit for said deck upon receipt and approval of a building application and any other materials he may require.

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 PETITION IN
THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings

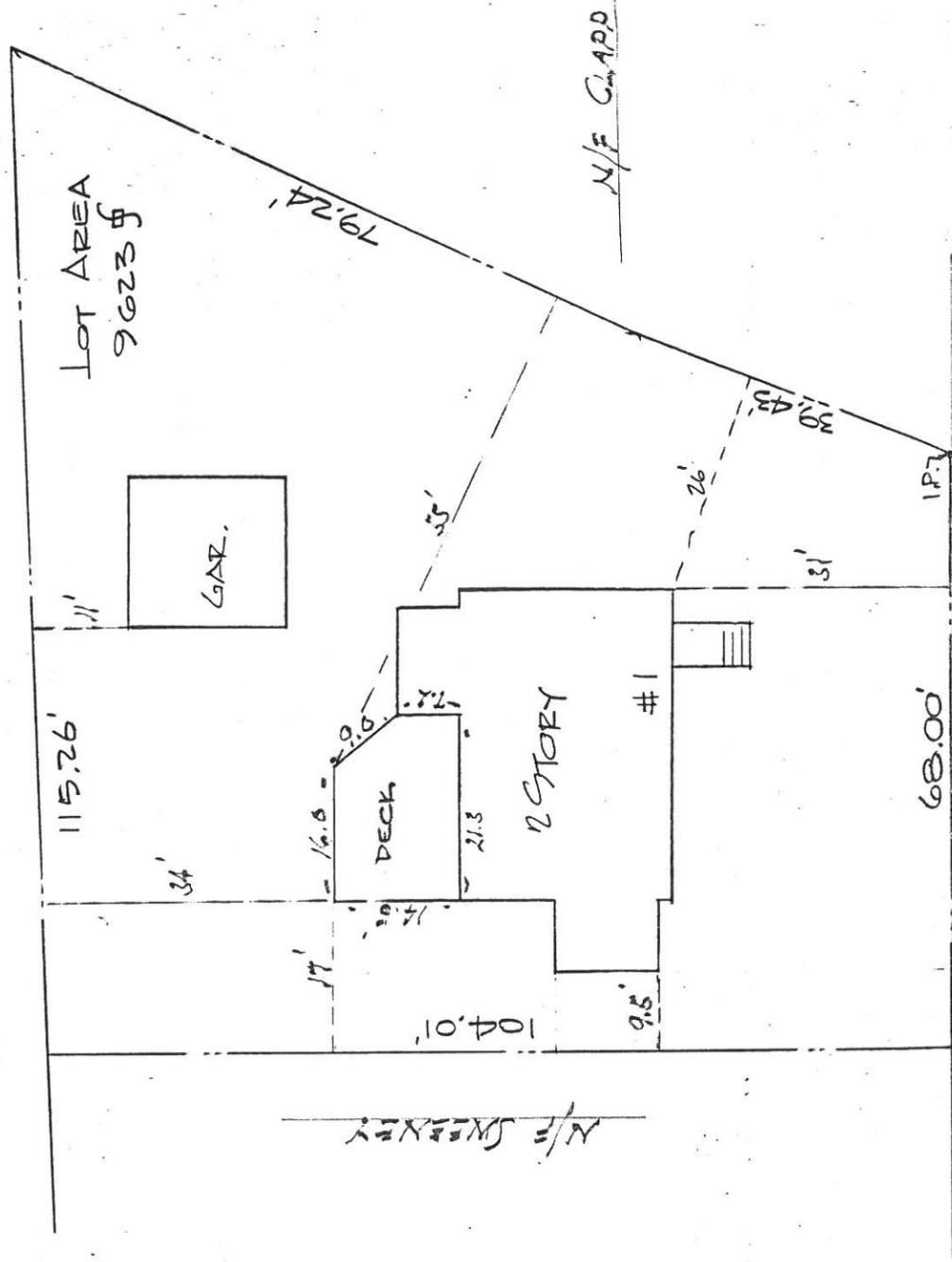

John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert R. Cunningham



N/E NONGS



LAWRENCE RD.

**PLAN OF LAND
ANDREW & ELLEN LEITER**

LOCATED IN

WELLESLEY
MASSACHUSETTS

OWNED BY

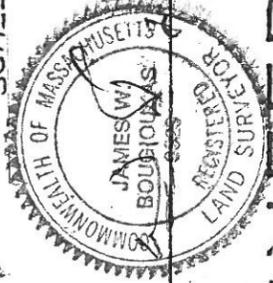
ANDREW & ELLEN LEITER

FOR VARIANCE

BOARD OF APPEALS

DATE:

SCALE 1" = 20'



[Signature]

DATE 8.20.93
REVISED 5.30.93

BRADFORD ENGINEERING CO.
3 WASHINGTON SQ.
HAVERHILL MA. 01831