



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 90-76
Petition of Michael and Ellen Kreopolides
27 Dunedin Road

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, September 27, 1990 at 8 p.m. in the Great Hall of the Town Hall, 525 Washington Street, Wellesley, on the petition of MICHAEL AND ELLEN KREOPOLIDES appealing the decision of the Inspector of Buildings pursuant to the provisions of Section XXIV-C and Section XXIV-D of the Zoning Bylaw that their deck, approximately 12 feet by 22.4 feet, at the rear of their conforming dwelling at 27 DUNEDIN ROAD, in a Single Residence District, must be removed as it was built without a building permit and is in violation of Section XIX of the Zoning Bylaw, as it has less than the required rear setback.

On September 10, 1990, the petitioners requested a hearing before this Board and thereafter due notice was given by mailing and publication.

Presenting the case at the hearing was Michael Eggert, an attorney representing the Kreopolides. Mr. Eggert said that the deck had been built to make the back yard usable. Due to a drainage problem, the back yard becomes flooded after rainfall. Mr. Eggert explained that the Kreopolides believed that the building permit issued in 1987 for construction of their addition, covered the construction of the deck. Although the deck is 3 feet from the rear lot line, it is screened by woods. He added that if the Kreopolides were forced to remove the deck, the use of the back yard would be eliminated.

No other person present had any comment on the petition.

Statement of Facts

The deck in question is attached to a conforming dwelling located at 27 Dunedin Road, in a Single Residence District, in which a 15 foot rear yard setback is required, on a 10,075 square foot lot. The subject deck is approximately 12 feet by 22.4 feet. It was constructed without a building permit and in violation of Section XIX of the Zoning Bylaw as it has a rear yard setback of 3 feet from the rear lot line.

On July 2, 1987, Building Permit #22,915 was issued to Michael and Ellen Kreopolides authorizing construction of a two-story addition, enclosed porch and attached garage. The submitted application for the building permit, plot plan and proposed construction plans did not reflect any plans to construct a deck, nor has any application for a building permit for a deck been submitted since that date.

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In response to a complaint from an abutting neighbor, the Inspector of Buildings conducted a site inspection on August 8, 1990, and issued a Notice of Violation on August 17, 1990, ordering the Kreopolides to completely remove the deck in order to bring their property into conformance with the Wellesley Zoning Bylaw and the Mass State Building Code.

The petitioners filed an Appeal to the decision of the Inspector of Buildings with the Town Clerk on August 30, 1990, pursuant to the provisions of Section XXIV-C (Appeals) of the Zoning Bylaw.

A Plot Plan dated August 28, 1990, drawn by Carmen A. Testa, Registered Professional Land Surveyor; and photographs were submitted with the appeal.

The Planning Board, on September 18, 1990, voted to recommend that the appeal be denied.

Decision

This Authority has made a careful study of the evidence presented. The petitioners are appealing a decision of the Inspector that their illegal non-conforming deck be removed.

It is the opinion of this Authority that the subject deck was built without a building permit and is in violation of Section XIX of the Zoning Bylaw as it is 3 feet from the rear lot line in a Single Residence District which requires a 15 foot setback from the rear lot line.

It is the unanimous opinion of this Authority that the Inspector of Buildings was correct in his conclusions.

It is the unanimous opinion of this Authority that this appeal be denied; the order of the Inspector of Buildings be upheld; and the request before this Board 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


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert R. Cunningham

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