

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

2000 MAR -1 P 12: 13

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ZBA 2000-13

Petition of George M. Levine
11 River Street (The River Café)

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 17, 2000 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 GEORGE M. LEVINE requesting renewal of a Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to continue to allow the existing awning structure at 11 RIVER STREET (THE RIVER CAFÉ), in a Business District, to have less than the required front setback.

On January 31, 2000, the petitioner filed a request for 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 George Levine, who said that he was requesting renewal of a variance that has been in existence since 1984 or '85. Nothing has changed on the premises.

The Board asked if the newspaper boxes were still in front of the restaurant. Mr. Levine replied that they were. He doesn't know how they got there, or how to get rid of them.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 11 River Street, in a Business District, on a 6,200 square foot lot. The building, which is owned by the River Street Realty Trust, of which George M. Levine is the trustee, is a legal nonconforming structure with a front setback of approximately 10 feet from the street line.

The principal of the River Café leases the first floor of the building, which has housed other restaurants in the past. As the principal of the café wishes to continue to have outdoor dining on the brick patio in front of the restaurant, Mr. Levine is requesting renewal of a variance to continue to allow the canvas awning, extending to the street line, leaving no front setback. Since 1983, the Board of Appeals has renewed this variance request on an annual or biennial basis.

On February 15, 2000, the Planning Board reviewed the petition and had no objection to renewal on the same terms and conditions as are currently in effect.

ZBA 2000-13
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Decision

This Authority has made a careful study of the application and the information presented at the hearing, and is of the opinion that although the canvas awning constitutes a structure, the design is less substantial than a permanent wooden structure; and the use of the awning is temporary and seasonal.

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

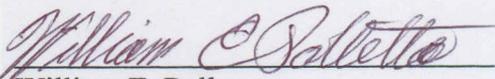
Therefore, a variance is granted, as voted unanimously by this Authority at the Public Hearing, to continue the use of the canvas awning structure at 11 River Street, in a Business District, subject to the following conditions:

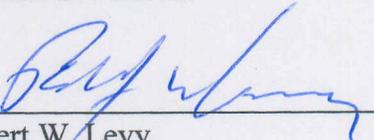
1. There shall be no outdoor storage of products or materials during the period when the outdoor dining is discontinued.
2. This variance shall expire two years from the date of this decision.

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, Chairman


William E. Polletta


Robert W. Levy

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