



JOHN L. HAYDEN  
GARRETT S. HOAG  
DANA T. LOWELL

BOARD OF APPEAL

KATHARINE E. TOY, CLERK  
TELEPHONE  
CE. 5-1664

Petition of Wellesley Motor Inn, Inc.

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:35 p.m. on June 12, 1963 on the petition of Wellesley Motor Inn, Inc. requesting an exception from the terms of Section XVIII and/or Section XXI and/or such other sections as may be applicable of the Zoning By-laws of the Town of Wellesley, which will permit the petitioner to construct a three-story hotel on the south side of Worcester Street and west of the petitioner's present building on Stuart Road. Said lot contains less than the area required of 2,500 square feet of land for each family for whose habitation such building is designed or adapted and less than the area required for the parking and storage of motor vehicles of 150 square feet for each guest room.

Richard L. Wilder, attorney for the petitioner spoke in support of the petition.

Anna Betts, Stuart Road, appeared with her physician, and opposed the granting of the request as, in her opinion, the proposed building would tend to crowd her in. She has occupied her house for twenty-five years and to have another hotel across the street would create traffic and congestion, and prove detrimental to her property.

The Planning Board opposed the granting of the request in its report.

On April 30, 1963, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The petitioner owns a parcel of land on the easterly side of Stuart Road and abutting on the southerly side of Worcester Street containing 36,750 square feet (hereinafter referred to as parcel A) and a parcel on the westerly side of Stuart Road containing 32,295 square feet (hereinafter referred to as parcel B). Parcel B does not abut on Worcester Street. Stuart Road is a private right-of-way laid out as forty feet wide which runs south from Worcester Street, dividing parcels A and B, to a dead end. Mrs. Anna Betts owns and occupies a dwelling on the easterly side of Stuart Road at its southerly end and has a right of way over it to Worcester Street. The owner of the parcel of land on the southwesterly corner of the intersection of Stuart Road and Worcester Street also has a right of way over the northerly end of Stuart Road. This Board also understands that the abutters on each side of Stuart Road own to the middle of the road.

Both parcels A and B are in a Business District A.

On June 2, 1960, the Board held a hearing on the appeal of John G. Giarrusso from the refusal of the Inspector of Buildings to issue a permit for the construction of a "hotel" on parcel A. The reasons for such refusal were (1) that in the opinion of the Inspector of Buildings the proposed building

was to be a motel, not a hotel, and therefore was not permitted in a Business District A without a permit from this Board, and (2) because the land involved, which included all the land the present petitioner now owns in the locality except for 5,000 square feet which has been acquired since the June 2, 1960, hearing, did not contain the area required by Section 9-F B of the Zoning By-law for the thirty living units proposed. Our decision found the proposed building to be a motel but under the provisions of Section 5 A 10 we found that the proposed use of the land for a motel was similar to a permitted use namely for a hotel and granted permission for its use for a motel, and we found further that the provisions of Section 9-F B requiring that an area of not less than 2,500 square feet be provided for each family for whose habitation a building is designed does not apply to motels.

The petitioner now proposes to build a three-story "hotel" on parcel B and facing Stuart Road. It is to be 97 feet long and 54 feet deep covering 5,238 of the 32,295 square feet which parcel B contains. The plans submitted show that there will be ten rooms each with bath on each of the three floors all of which, as well as the employee and few service rooms on each floor, are entered only from a hallway running down the middle of each floor. There is to be one elevator but no office, lobby, dining room, shop or other public room except one room the same size as the bedrooms which is marked on the plan "conference room." The plan also optimistically indicates that provision will be made for parking fifty cars on parcel B.

The petition is before us because Section XVIII of the Zoning By-law provides that there shall be provided for a "hotel" or "inn" a lot containing "not less than 2,500 square feet for each family for whose habitation such building is designed" or 75,000 square feet for the thirty room "hotel" proposed, and parcel B contains only 32,295 square feet. In addition the petitioner seeks an exception from the provisions of Section XXI (b) which requires that there shall be provided for each "hotel" or "inn" facilities for parking motor vehicles having "an area of one hundred and fifty (150) square feet for each guest room."

#### Decision

The request for an exception from the provisions of Section XXI is superfluous. Parcel B is much larger than required to provide the required parking facilities for a thirty-room hotel. The proposed "hotel" will cover only 5,238 square feet leaving 27,057 square feet available for parking. The plans submitted make ample provision for parking. No doubt the exception was requested in the erroneous belief that all of parcel B was committed to provide the 2,500 square feet per unit in the building on parcel A which it supposes is required for that building by Section XVIII of the Zoning By-law. If so, the petitioner is in error for in our decision with respect to the building on parcel A filed with the Town Clerk July 8, 1960, we found that the building then under consideration was a motel and not a hotel and hence not subject to the provisions of Section XVIII which refers to "hotels" and "inn" but not to motels.

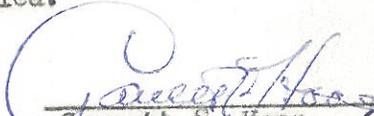
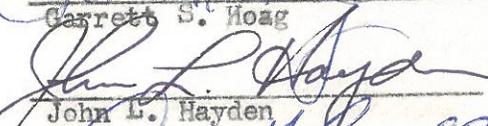
There remains the question of whether Section XVIII prohibits the construction of the proposed building on a lot of less than 75,000 square feet. We think it does. In the petition, the petitioner characterizes the building as a "hotel" and Section XVIII expressly includes hotels and inns as within the purview of its provisions. In our decision above referred to relative to the building on parcel A, we considered at length the characteristics of hotels and motels and found that it is often difficult, if not impossible to distinguish in a specific case, but concluded that the building then under consideration was a motel and so not subject to Section XVIII. In the instant case, it is again difficult to say with assurance whether or not the proposed building is a hotel and so should be considered within the purview of Section XVIII. Its plan,

however, with a single front entrance and access to the rooms from central halls is characteristic of hotels and not motels. But its lack of dining facilities, lobbies, and office and public rooms is more characteristic of motels than hotels. We accept the petitioner's designation of the proposed building as a hotel and in view of the express language of Section XVIII, find that that section controls. The proposed building may therefore not be built on parcel B unless we grant a variance under G. L. Chapter 40A, Section 15 (3).

If we should disagree with petitioner, as we do not, and find the proposed building to be a motel, we could not consider whether to grant a permit to build it in a Business District A by the exercise of our discretion under Section 5A 10 of the Zoning By-law because neither the petition nor the notice of the hearing gave the public notice of that issue.

As we said in our decision relative to the building on parcel A, we have not the power to grant such a variance. It is a condition precedent to such power that we find that owing to conditions especially affecting the parcel or building involved but not affecting generally the zoning district in which it is located a literal enforcement of Section XVIII would involve a substantial hardship to the petitioner. It is evident on its face that this criterion is not met in this case. The lot is vacant and so far as has been called to our attention, there are no conditions affecting it which do not generally affect the zoning district in which it is located. The only trouble is that it is too small to meet the standard set by Section XVIII for a hotel with thirty guest rooms. Nor can we find that the variance requested can be granted without substantially derogating from the intent or purpose of Section XVIII. The intent and purpose of Section XVIII is to assure a minimum of open space for each guest room in a hotel and that minimum has been fixed by the Town at 2,500 square feet. If we were to grant the variance that minimum would be cut to less than half. Certainly that would be a substantial departure from the Town's intent that the lot contain 2,500 square feet per guest room.

Mr. Hayden disagrees. He would grant the variance requested. Accordingly, the petition is denied.

  
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Garrett S. Hoag  
  
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John L. Hayden  
  
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Dana T. Lowell

Filed with Town Clerk \_\_\_\_\_

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REGISTERED MAIL  
TOWN OF WELLESLEY  
MASSACHUSETTS