



## BOARD OF APPEAL

GARRETT S. HOAG  
DANA T. LOWELL  
F. LESTER FRASER

KATHARINE E. TOY, CLERK  
TELEPHONE  
235-1664

Petition of Robert and Norman B. Leventhal

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 8:30 p.m. on March 31, 1966, on the petition of Robert and Norman B. Leventhal requesting the approval of plans pertaining to the proposed construction of a building on the north side of Glenwood Avenue No. 37, within an Administrative and Professional District in accordance with the requirements of Section IX of the Zoning By-law.

Thomas J. Carens, attorney, represented the petitioners at the hearing.

The Planning Board in its report cited certain deficiencies found in the plans submitted and suggested changes in drainage, parking and miscellaneous details.

On March 4, 1966, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The lot involved is part of a parcel of land located within an Administrative and Professional District and contains 95,401 square feet. It is proposed to construct a building to be used for purposes allowed within the District. There are two existing buildings within the area and the proposed building is to be similar to those already erected. The building will cover 14,684 square feet in area with facilities for parking of motor vehicles containing an area of 48,140 square feet. There will be twenty-six spaces between the building and the street for transient parking only.

Plans showing the location and elevations of the building, its exterior materials and indicating provisions for off-street parking, interior roads, driveways, drainage and landscaping were submitted. The sewer is presently installed in front of Building No. 2, on the opposite side of the street and the sewer will be connected to that point, or if the sewer is extended, it will be connected in front of the building.

Formal assurance has been received from the Metropolitan District Commission and is on file with this Board authorizing the building to drain surface drainage into the Charles River.

The height of the building shown on the revised plans, from the top of the foundation wall to the top of the penthouse roof beam will be less than forty-five (45) feet. The building will have three stories, as that term is defined in the Building Code on which we rely in the absence of a definition of the term in the Zoning By-law, but above the top of the ceiling beams above the third story is a penthouse which contains necessary facilities for a modern office building, which may in fact be a fourth story within the definition referred to.

Decision

The plans submitted including revisions, in the opinion of Mr. Fraser show compliance with the provisions of paragraph (a) through (f) of Section IX of the Zoning By-law. Messrs. Hoag and Lowell believe that the plans violate paragraph (e) which deals with the location of parking areas. The Board finds that adequate provision has been made by the petitioners for the matters of public interest referred to in said paragraph (f). Mr. Fraser finds that the plans as revised comply with the provisions of the first paragraph of Section XX of the Zoning By-law as to the height of buildings. Messrs. Hoag and Lowell disagree. In their opinion, the building may neither exceed forty-five feet (45) or three stories and that the plans do provide for height in excess of three stories as that term is defined in the Building Code. They further believe the penthouse though admittedly essential, violates the three-story restriction and that the penthouse is not a "necessary projection" within the meaning of said paragraph of Section XX. They believe the exceptions specified in the last clause of that paragraph, "parapets, chimneys, flag and radio poles" clearly indicate that the Town intended that nothing of bulk or substance should rise above the third story. It did not in their opinion intend "necessary projections" to include a structure anything like or as substantial as the proposed penthouse. In the absence of a request for an exception from Section XX of the Zoning By-law or a variance, this Board is not authorized to approve plans which would violate that section.

Mr. Fraser would approve the plans submitted and on file with the Board's identification as No. L-1 and L-2 Revised 5/23/66 and A-1, through A-4, dated February 25, 1966, and A-5, A-6 and A-7, revised on March 31, 1966, and would direct the Inspector of Buildings to issue a permit for the proposed office building when and if the Department of Public Works of the Town of Wellesley approves detailed definitive drainage and utility plans and specifications. Messrs. Hoag and Lowell, however, disagree on the ground that the plans as revised violate the height limitations set forth in Section XX of the Zoning By-law. Therefore, they find it unnecessary to pass on the validity of the parking facilities planned.

Accordingly, the request is denied and the petition dismissed.

Garrett S. Hoag  
Garrett S. Hoag

Lana T. Lowell  
Lana T. Lowell

F. Lester Fraser  
F. Lester Fraser

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