



BOARD OF APPEAL

RICHARD O. ALDRICH
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 November 9, 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 William Street No. 37, within an Administrative and Professional District in accordance with the requirement of Section IX of the Zoning By-law. The petitioners further request an exception from the terms of Section XX of the Zoning By-law which will permit them to erect a building more than three stories and over forty-five feet in height.

On October 10, 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.

The petitioners were represented at the hearing by their attorney Thomas J. Carens.

The Planning Board offered no objection in its report, but did question the parking being provided and whether it satisfies the requirements of Section IX.

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, which will provide space for 145 cars. There will be twenty-six spaces between the building and the street for transient parking only.

Plans showing the location and elevations of the proposed building, the proposed exterior materials, provision for off-street parking facilities, interior roads and driveways, water, sewerage disposal, drainage and landscaping were submitted.

In addition to the submittal of plans for approval, the petitioners seek an exception from the terms of Section XX of the Zoning By-law which will permit them to erect a building which exceeds the limitation of forty-five feet or three stories. It is proposed to construct a building which will be 39'8" to the top of the roof and 54' to the top of the so-called penthouse above the roof which will serve only to house mechanical equipment necessary for a modern office building. It was pointed out that redesigning to come within the height restrictions will result in lower ceilings and a generally less economic and less liveable building for the purposes for which it is designed to be used.

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.

Decision

On March 31, 1966, the petitioners submitted a similar petition to the Board of Appeal for approval of the plans involved, but it was found by a majority of the Board that the plans provided for height in excess of forty-five feet and in excess of three stories as that term is defined in the Wellesley Building Code. They further found that a penthouse, though admittedly essential, violates the three-story restriction and is not a "necessary projection" within the meaning of said paragraph of Section XX. It was further found that the exceptions in the last clause of the first paragraph, namely, "parapets, chimneys, flag and radio poles," clearly indicate that the Town intended that nothing of bulk or substance rise above the third story, and did not intend "necessary projections" to include a structure as the penthouse involved.

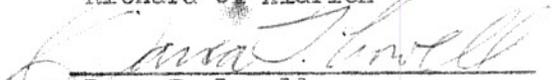
The Board has re-examined the plans submitted and find that they show compliance with the provisions of paragraph (a) through (f) of Section IX of the Zoning By-law and that adequate provision has been made by the petitioners for the matters of public interest referred to in said paragraph (f). The Board further finds that an exception can be granted from the terms of Section XX, Heights of Buildings, as in its opinion the proposed penthouse will not cause undue congestion of traffic or population, or interruption of light and air, or result in a detriment to the owner or occupants of nearby land, and that a literal enforcement of Section XX of the Zoning By-law would cause a substantial hardship to the petitioners and is impractical considering the need to develop a plan which is economic while at the same time complying substantially with the height restriction of the Zoning By-law and with lot coverage, parking and other applicable requirements.

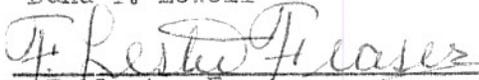
Accordingly, the plans submitted and on file with this Board bearing the Board's identification L-1, L-2, A-1, A-2, A-3, A-4, A-5, A-6, and A-7, respectively are approved as submitted and the Inspector of Buildings is hereby directed to issue a permit for the proposed office building subject to compliance with the Building Code and the following conditions:

1. That all work shall be performed in accordance with the plans hereby approved.
2. That the landscaping shall be maintained to the satisfaction of this Board for the life of the building.
3. That upon completion of the building a complete set of architectural plans, including a complete set of mechanical plans, shall be submitted to this Board showing exactly how the building was constructed. Said plans shall be submitted and approved prior to occupancy of the building.
4. That the lighting to be provided shall be installed in a manner to assure a minimum effect on the homes on Quinobequin Road.

5. That a surety performance bond running to the Town shall be provided in the amount of \$20,000 in form satisfactory to Town Counsel and the Board of Appeal which shall be posted with the Treasurer of the Town of Wellesley before commencement of the work. Said bond shall be conditioned on the completion of the work in accordance herewith and the performance of all conditions hereof, and shall be signed by party or parties satisfactory to Town Counsel.


Richard O. Aldrich


Dana T. Lowell


F. Lester Fraser

Filed with Town Clerk _____

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