



## BOARD OF APPEAL

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 TELEPHONE  
 235-1664

Petition of Evelyn P. O'Connell

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 October 5, 1967, on the petition of Evelyn P. O'Connell, requesting permission to construct an apartment building containing eighty-three rental units and a caretaker's apartment on premises at 941 Worcester Street, Wellesley, as shown on a plan filed with the Board of Appeal. Said request was made under the provisions of Chapter 40A, Section 15, of the General Laws.

On September 11, 1967, the petitioner filed her request for a hearing before this Board, and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White, attorney, represented the petitioner at the hearing.

Henry F. Barry, Jr., 91 Old Colony Road, spoke in favor of the request. Richard Baird, representing Eileen E. Baird, owner of the adjoining property, also favored the granting of the request.

The following persons spoke in opposition to the request: C. Stewart Whitla, 18 Shirley Road, Joseph S. Harkins, 26 Overbrook Drive, Charles Harvey, 22 Lexington Road, Thomas J. Johnson, 14 Shirley Road, Barbara V. Evans, 111 Parker Road, Eleanor Skula, 32 Woodside Avenue, Harold Bolles, 3 Cedar Brook Road, Donna D. Good, 15 Lexington Road and Harry J. Palladino, representing a minority of the Conservation Commission.

Royall Switzler, 18 Lexington Road, opposed the request and submitted a petition in opposition, signed by 249 persons.

The Planning Board stated in its report that the request should be directed to the Town Meeting.

Statement of Facts

The land involved which contains 209,621 square feet, is located on the northerly side of Worcester Street (Route 9) within a Single-residence District requiring a minimum lot area of 10,000 square feet for dwellings.

The petitioner seeks permission to erect a building which will consist of a series of connected buildings to provide eighty-three apartments. It is to be a three-story building with twenty-eight one-bedroom apartments, fifty-two two-bedroom apartments and three three-bedroom apartments. The total area of the site is 209,621 square feet. The building coverage will be 30,170 square feet, the yards will be 19,000 square feet, roads 28,600 square feet and parking 26,600 square feet. Spaces for 115 cars will be provided.

WELLESLEY AVENUE  
 TOWN CLERK'S OFFICE  
 WELLESLEY, MASS.

It was stated that the request was being made to the Board of Appeal, as the petitioner felt it was a better approach than through the Town Meeting. In this way, if permission is granted, the development will be strictly under Town control and assurance would be given to the neighborhood that the building, landscaping, parking area, etc., would be maintained to the satisfaction of the Town authorities. Otherwise, a request would have to be made through the Town Meeting for the property to be rezoned for Business purposes which would open it to a number of possibilities, some of which could be undesirable.

It was pointed out that the land is not conducive for single-family dwellings as a great deal of it is marsh land as well as rock and ledge. Approximately only 50% of the land would be used in the proposed development, with a large part of the low land converted into a pond. Therefore, due to the limited amount of the land which can be utilized because of the character of the land itself, as well as the fact that it is located on Route 9, a heavily travelled highway, and its proximity to the Business District across the street, it is the opinion of the petitioner that hardship will result unless a variance is granted by this Board. The building is to be attractive and, in the opinion of the petitioner, would provide a buffer between the residential area and the nearby business areas.

A plot plan was submitted, drawn by Ernest W. Branch, Inc., C. E., Quincy, Mass., which showed the location of the proposed building on the property. A plan of the proposed apartments was also submitted.

Decision

Petitioner's request is made under Chapter 40A, Section 15, of the General Laws which requires a showing of conditions especially affecting the parcel in question but not affecting generally the zoning district in which said parcel is located and of consequent substantial hardship incident to literal enforcement of the zoning by-law in respect of said parcel.

Petitioner has failed adequately to establish the existence of such conditions so as to justify the relief requested. The Board can take cognizance of the proximity of Route 9 and of various business properties and of other factors of possible relevance and persuasiveness when viewed as part of an entire picture. However, no expert testimony was offered as to the alleged subsurface conditions, drainage problems or on the question of economic feasibility of development of the parcel for single-family dwelling use. Mere assertions are not sufficient evidence of matters of this type. The desirability of the proposal from the standpoint of community self interest is a relevant consideration but has not independent probative force in establishing the conditions required by the statute. The Supreme Judicial Court aptly stated in, Coolidge v. Zoning Board of Framingham, 343 Mass. 742: "It may well be as the judge and board have said, that due to the conditions of the area in which the interveners' land is located such a change would be beneficial to the community. This, however, is a matter for consideration by the town under procedures adopted for amendments to its zoning by-laws."

For the reasons stated the Board is unanimously of the view that the requested relief is not warranted by the facts adduced in this case. Accordingly, the requested variance is denied and the petition is dismissed.

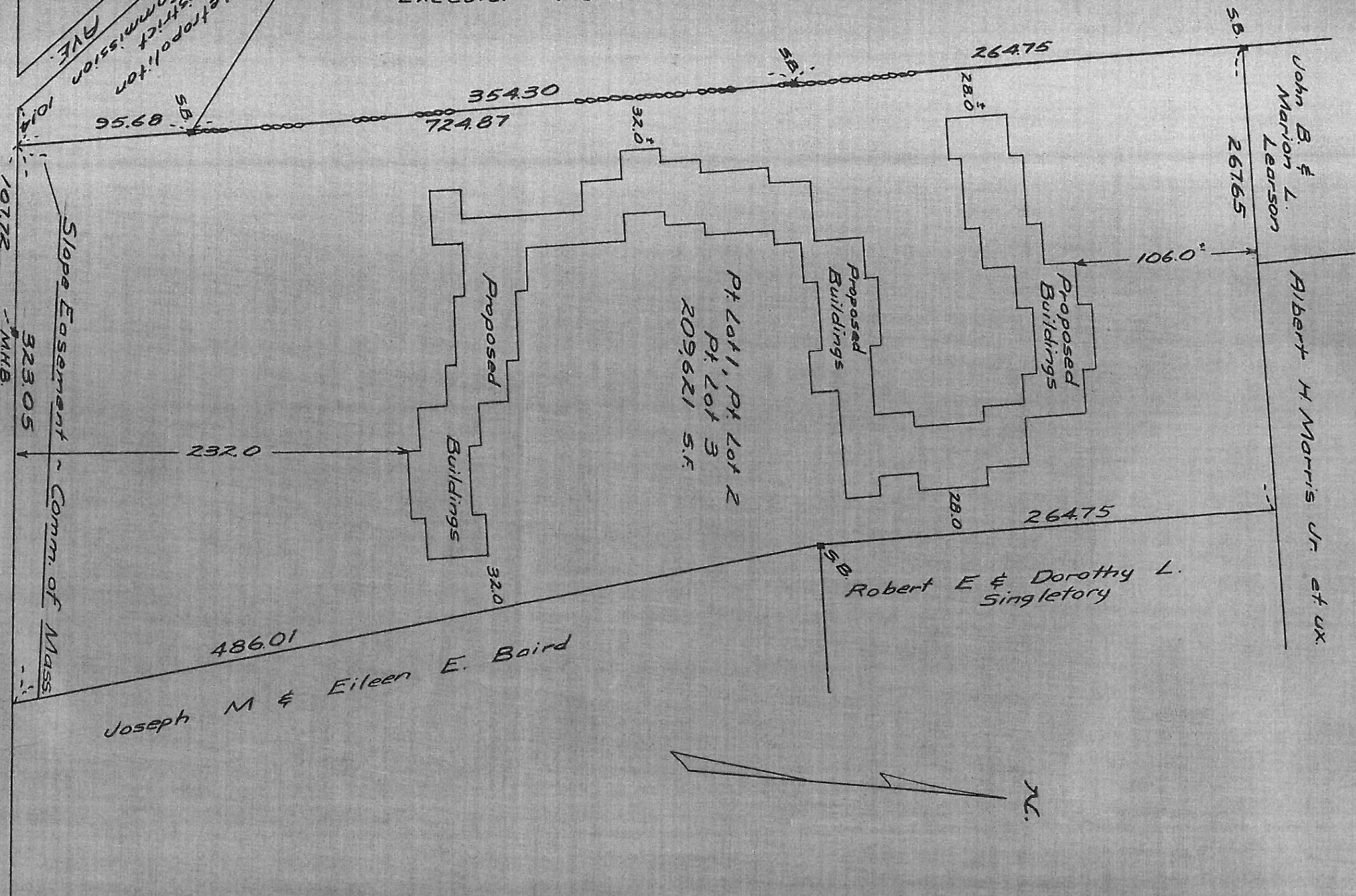
Filed with Town Clerk

F. Lester Fraser  
F. Lester Fraser

Richard O. Aldrich  
Richard O. Aldrich  
Dana T. Lowell  
Dana T. Lowell

RECEIVED  
TOWN CLERK  
MAY 22 1952  
MAY 22 1952

Estate of Martha S. Moffatt  
Executor - Kermit R. Stevens



WORCESTER ST. RT. 9

Plan of Land in Wellesley, Mass.  
Scale 60 feet to an inch

August 31, 1967  
Ernest W. Branch Inc., Civil Engineers  
301 Adams Building, Quincy

