

TOWN OF WELLESLEY



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67-62

BOARD OF APPEAL

RICHARD O. ALDRICH  
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F. LESTER FRASER

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TELEPHONE  
235-1664

Petition of 20 Walnut Street Trust

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 8:40 p.m. on November 30, 1967, on the petition of the 20 Walnut Street Trust requesting an exception from the terms of Section XX of the Zoning By-law which will allow it to erect an office building at 20 Walnut Street with more than three stories so as to exceed a height of forty-five feet.

On November 10, 1967, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Edward O. Proctor, Jr. attorney, represented the petitioner at the hearing.

Michael Breen, attorney for Honeywell, Inc., tenants in the building at 40 Walnut Street, opposed the granting of the request.

Joseph E. Scammon, Building Inspector, submitted a letter to the Board in which he stated that in his opinion an elevator shaft is a necessary projection within the meaning and intent of the Zoning By-law, and that he felt the petition before the Board did not require a variance or exception for the issuance of a permit.

Statement of Facts

The lot involved is located within a Business "A" District and contains 48,800 square feet. It is proposed to construct an office building and parking garage, each approximately 40' x 100', 24' apart, and to be joined at their common segments by additional construction.

The request for the exception affects only the office building. It is proposed to construct a building consisting of a basement and three stories, thirty-five feet in height measured from the top of the foundation. In addition the plans include air-conditioning equipment and elevator shaft sheltering on top of the roof. The height of such construction as proposed is five feet, which results in the total height of the proposed building measured from the top of the foundation wall to the top of the mechanical equipment as forty feet. While the proposed building will not exceed the height limitation of forty-five feet, it will exceed the limitation of three stories.

It was the contention of the petitioner that any modern office building, in order to be made attractive to proposed tenants, must have air-conditioning and elevators. Unless an exception is granted by this Board, the air-conditioning would have to be installed in a separate building or in the lower portions of the proposed building. It was pointed out that air-conditioning on top of a building is the preferable way of designing it as the air intakes housed at ground level would be adversely affected by the atmospheric conditions of fog and moisture caused, in this case by the proximity

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to the Charles River.

It was further pointed out that in the opinion of the petitioner, the proposed mechanical equipment on top of the building would not cause undue congestion of traffic or population; nor would it cause interruption of light and air or be otherwise detrimental to the owners or occupants of nearby land.

A plot plan was submitted, drawn by Veo & Wheeler, Inc., Hudson, Mass., dated October 27, 1967, which showed the proposed buildings on the lot. Also submitted were elevations and proposed floor layouts of the building.

#### Decision

After careful examination of the plans submitted, it is the opinion of this Board that an exception is required from the terms of Section XI of the Zoning By-law and that the proposed building as designed exceeds three stories. See Board of Appeal decision, "Robert and Norman B. Leventhal" filed with the Town Clerk on September 2, 1966. The Board made a finding in the decision referred to, that a building may neither exceed forty-five feet or three stories and that a penthouse though admittedly essential, violates the three-story restriction and that a penthouse is not a "necessary projection" within the meaning of said paragraph of Section XI of the Zoning By-law. The Board felt that the exception 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.

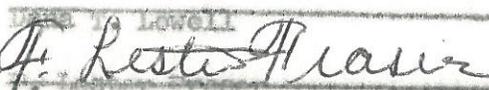
The Board, however, finds that an exception can be granted from the terms of Section XI, as in its opinion, the proposed penthouse will not cause undue congestion of traffic or population, or interruption of light and air, or result in a detriment to the owner or occupants of nearby land, and that a literal enforcement of Section XI of the Zoning By-law would cause a substantial hardship to the petitioner 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.

Accordingly, the requested exception is granted, subject to the following conditions, and a permit may be issued for the construction of the proposed office building in accordance with the plans submitted and on file with this Board:

1. That a suitable enclosure shall be erected around the mechanical equipment located on the roof of the building; and that the plan of such enclosure shall be approved by the Board of Appeal prior to its erection.
2. With the above exception, that all work shall be performed in accordance with the plans hereby approved and in compliance with all applicable provisions of the Zoning By-law and Building Code.

  
Richard O. Aldrich

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

DESS T. LOWELL  
  
F. Lester Travis