



BOARD OF APPEAL

RICHARD O. ALDRICH
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of Edward M. Levitt

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 8:05 p.m. on July 24, 1969, on the petition of Edward M. Levitt, requesting permission to enlarge and use the building located at 617 Washington Street as a Rest Home.

The petitioner further requested an exception from the terms of Section XIX of the Zoning By-law which would permit the construction of an addition on the rear of the building involved with a side yard less than the required twenty feet, and an exception from the terms of Section XVIII-B of the Zoning By-law which would allow the building and addition to cover more than 25% of the area of the lot involved.

On June 24, 1969, the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of the request at the hearing.

No objections were made at the hearing to the granting of the request.

A letter was submitted from Robert A. Bauer, Assistant Administrator, The Department of Public Health, Commonwealth of Mass., in which he stated, "...I wish to advise you that the Department of Public Health is the licensing authority for Rest Homes in accordance with the provisions of Massachusetts General Laws, Chapter III, Section 71.

Statement of Facts

The building involved is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. It is a four-story, brick, stone and frame building, built over sixty years ago and has been used as a sanitarium, mental hospital, Wellesley College dormitory, convalescent and nursing home and lodging house. It has nineteen rooms and seven baths on the four floors.

At the Board of Appeal hearing, held on March 20, 1969, the petitioner requested permission to construct a two-story addition approximately 45' x 101' at the rear of the building involved and to use the entire building as a rest home. Although no objections were made at the first hearing, the petition was denied by the Board of Appeal as the Board could not make the required findings on the basis of the evidence submitted by the petitioner at the hearing.

In the finding made by the Board of Appeal, it stated, "Although the request for permission for the building at 617 Washington

Street, together with the proposed addition, to be used as a rest home, was made under the provisions of Section II 8 (d) of the Zoning By-law, the petitioner emphasized at the hearing that his proposal was for a rest home and specifically stated that he was not asking for permission to conduct a hospital or other institution designed for the medical treatment of patients.

"The authority possessed by it under Section II 8 of the Zoning By-law is not applicable to this petition, where the petitioner specifies that the use for which he seeks permission of the Board is not one of those enumerated in the section of the By-law under which relief is sought."

The petitioner again seeks permission to construct the same addition to the existing building and to use both the building and the proposed addition as a rest home.

It was alleged at the hearing that a "rest home" is a "medical institution" and is required to be licensed as such by the State Department of Public Health. Therefore, it was represented that the request made to use the existing building and addition as a rest home is applicable in this case and the Board has the authority to grant the request under Section II 8 (d) of the Zoning By-law.

The petitioner stated at the hearing that the building involved has been used for non-conforming uses since 1890, and for approximately ten years was used as a convalescent and nursing home. This use ceased two years ago when the license was revoked because the State requirements could not be met. Since then it has been used as a lodging house.

The petitioner further requests an exception from the terms of Section XIX of the Zoning By-law which will permit the proposed addition to be constructed fourteen feet from the lot line on the northerly side rather than the required twenty feet. The proposed addition, if built, will continue the line of the existing building and will be thirty-nine feet from the lot line on the southerly side. The building and proposed addition will cover 30.3% of the lot rather than the allowable 25% as provided by Section XVIII-B of the Zoning By-law.

The petitioner described the proposed facilities as follows: The new addition will accommodate forty-eight patients and the existing building, which is to be remodeled to comply with all State requirements, will accommodate nine patients, all with one or two persons to a room. In addition to the rooms provided for the patients, there will be provided in the existing building a kitchen, dining room and living room, and in the new addition there will be a recreation room in addition to the patients' rooms. Therapy facilities and modern devices are proposed to be provided for the needs of the elderly as well. There will be a staff of seven employees on duty during the day and one or two from the hours of 11:00 p.m. to 7:00 a.m. Parking facilities for eleven cars would be provided and more could be made available if necessary. All rules and regulations required by the Department of Public Health and the Department of Public Safety would be complied with and, except for the exceptions requested in this petition that all local ordinances would be met.

Plans were submitted showing the elevations of the new addition as well as the floor layouts of both the existing building and the proposed addition. A plot plan, drawn by Richmond-Paley Associates, Cambridge, Mass., dated February 7, 1969, was also submitted which showed the proposed parking area and landscaping. Said plan showed the proposed provision for parking space for eleven cars. It was stated at the hearing, as previously noted, that additional parking space could be provided if the Board requested it, but the petitioner felt that sufficient space had been provided and that until a need for additional parking was shown, the remaining area would be better landscaped and grassed and used by the occupants of the building for outdoor activities.

The petitioner claims that the proposed use of the building will not prove detrimental to surrounding properties, that there is a need for a rest home within the Town as determined by the Department of Public Health, and that the proposed use of the building will be beneficial to the Town.

Decision

Mr. Cahill and Mr. Lowell believe that the petitioner might properly be granted the requested permission and exceptions under the provisions of Section II 8 (d), Section XIX and Section XVIII-B of the Zoning By-law, subject to appropriate conditions and provision for additional off-street parking. In their opinion, because of the size of the house, its location and its many non-conforming uses in the past, its desirability for a residential use is limited. It is their further opinion that the proposed use of the property would not substantially reduce the value of any property within the district and will not otherwise be injurious, obnoxious, or offensive to the neighborhood. It is their opinion that a real need exists for a rest home within the Town and the proposed use of the property would not be injurious to the neighborhood. They considered it significant that there was no opposition to the petition from any of the neighboring residents or institutions.

Mr. Fraser, however, does not agree. In his opinion, sufficient off-street parking cannot be provided, the proposed addition will be too close to the side lot line and that the coverage by buildings is too great for the requested exception to be made.

In the absence of agreement of all the members of the Board on the granting of the request, it cannot be granted.

The petition must, therefore, be denied.

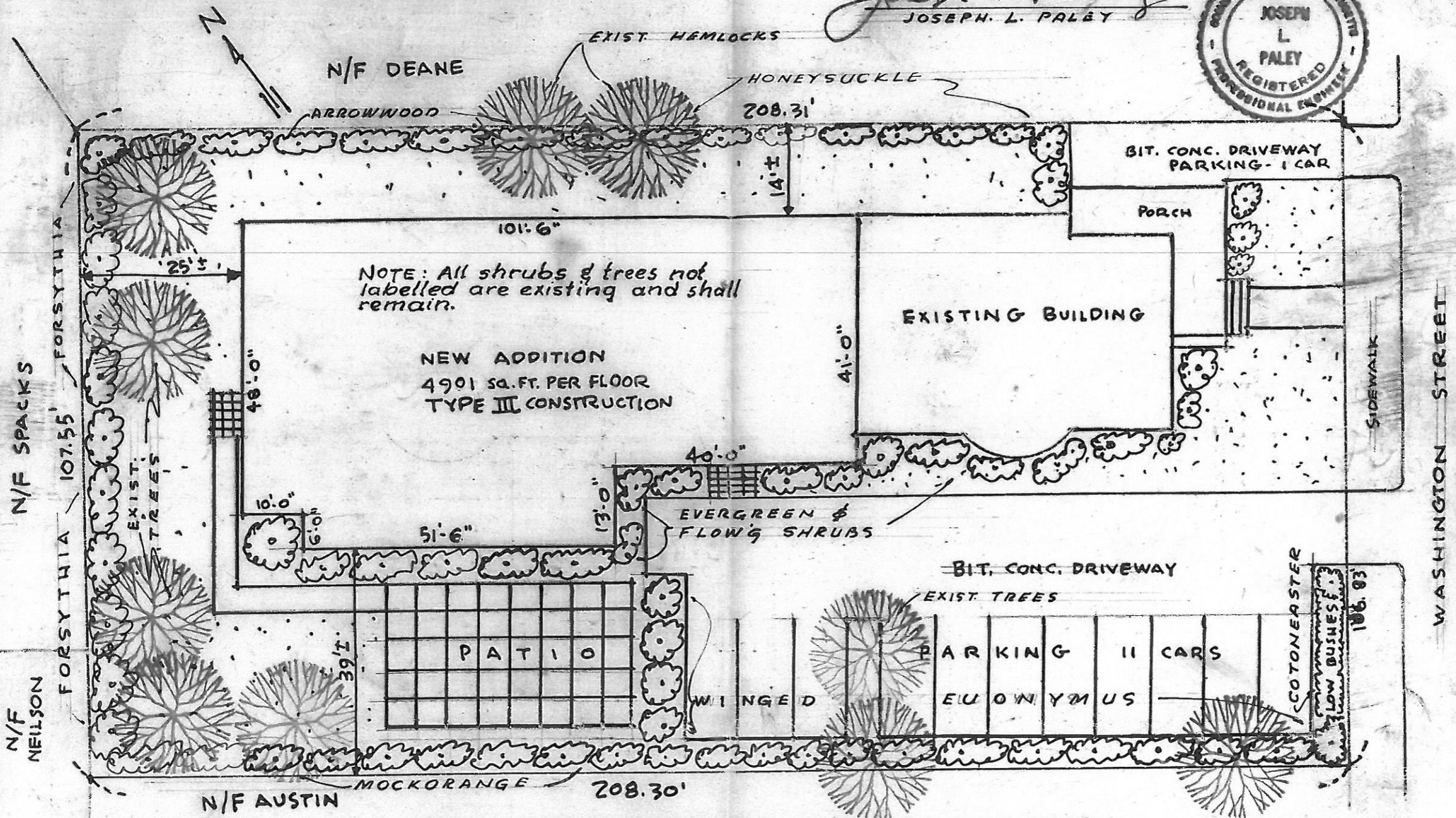

Philip H. R. Cahill


Dana T. Lowell


F. Lester Fraser

Filed with Town Clerk _____

Joseph L. Paley
JOSEPH L. PALEY



NOTE: All shrubs & trees not labelled are existing and shall remain.

NEW ADDITION
4901 sq. ft. PER FLOOR
TYPE III CONSTRUCTION

SITE PLAN SHOWING ADDITION, PARKING AND LANDSCAPING
SCALE - 1" = 20'

617 WASHINGTON ST.,
WELLESLEY, MASS.
FEB. 7, 1969