



69-68

BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Petition of Burger King of Massachusetts, Inc.

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 8:45 p.m. on October 30, 1969, on the petition of Burger King of Massachusetts, Inc., requesting an extension of the business use at the rear of the property numbered 999 Worcester Street, now owned by Nadezda Ardoline; said extension to extend northerly across the present established boundary line of the Business District a distance of fifty feet, into a more restricted district. The proposed extension is requested for the purpose of parking cars by those connected with or going to the restaurant on the premises which is located within a Business District.

Said request is made under the provisions of Section XXIV-E 2 of the Zoning By-law.

On October 9, 1969, the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Walter J. Murphy, Manager of the New England Real Estate Department of the Company, represented the petitioner at the hearing.

Laura M. Surro, 20 Overbrook Drive, stated that she would have no objection to the request provided the restaurant is closed by 11:00 p.m.

Joseph S. Harkins, 26 Overbrook Drive, stated that he would have no objection to the request provided the existing evergreens are maintained along Overbrook Drive.

The Planning Board stated in its report that it would have no objections to the request being granted provided that the food and beverage will be consumed off the lot or within a building on the lot and that any existing restrictions both as to screening and access be reaffirmed.

Statement of Facts

The property involved, which contains approximately 29,420 square feet, is located on the northerly side of Worcester Street between Overbrook Drive and Edgemoor Avenue. The front portion of the property, varying in depth from approximately 100' to 150' is located within a Business District and the balance in the rear is within a Single-residence District. A special permit was granted by the Board of Appeal to the former owner of the property allowing the rear portion of the lot to be used for off-street parking in connection with a restaurant business.

The petitioner has contracted to purchase the land in question subject to its obtaining the requested permission to use the land involved for off-street parking in connection with the restaurant business which it proposes to conduct on the premises.

A plot plan, drawn by MacCarthy Engineering Service, Inc., Natick, dated September 4, 1969, was submitted which showed the proposed building on the business-zoned portion of the property as well as the proposed requested extension. Said plan also showed the proposed parking layout for the area.

It was stated at the hearing that the company involved, which does business on a nationwide basis with nine local restaurants, desires to raze the existing building on the property and replace it with a red brick building approximately 45' x 50'. It will be placed 72' back from Worcester Street and entirely within the Business District. The restaurant will have a seating capacity of 75, and will be staffed by six or seven people, with its manager responsible for its closing and cleaning up its interior and exterior. It will be open from 11:00 a.m. to 11:00 p.m.

It was stated that the desired additional parking space will be essential for the operation of the restaurant. It is proposed to rotate the cars around the building with an entrance and an exit onto Worcester Street. The additional space will provide approximately fifteen parking spaces as well as space to drive around the restaurant building.

Decision

It is the opinion of this Board that the proposed use of the land involved is reasonably necessary and will not substantially reduce the value of any property within the district or otherwise injure the neighborhood. For a number of years the area involved was used as a parking lot in connection with a restaurant business conducted by the previous owner under a special permit granted by this Board. It is the opinion of this Board that the new ownership will not alter the need for off-street parking and such use of the property should alleviate to some extent the traffic congestion in the area.

Accordingly, the requested permission is granted and the land involved may be used for off-street parking purposes while the business of a restaurant is being conducted by the petitioner on the portion of the lot which is zoned for business use, subject to the following conditions:

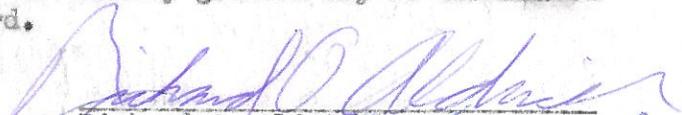
1. That the land in the Single-residence District to which the petition refers and which is shown on the plan submitted and on file with this Board, may be used, to an extent not exceeding a depth of fifty feet northerly of the existing Business District, for the off-street parking of motor vehicles in connection with the petitioner's business.
2. That said restaurant shall open no earlier than 9:00 a.m. and shall close no later than 11:00p.m.
3. That no tables or other facilities for sale or consumption shall be maintained on the premises outside the building.

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4. That permanent parking blocks at least six inches high be installed along a line at least four feet south of the line to which the business use is hereby extended; that a six-foot split sappling or other fence satisfactory to this Board be erected along a line from Edgemoor Avenue to Overbrook Drive not more than five feet north of the line to which the business use is hereby extended; that a solid hedge of evergreens at least six feet tall be planted along the northerly side of said fence; and that such fence and evergreen hedge be maintained in good condition to the satisfaction of the Inspector of Buildings and this Board for the life of the extension of the business use hereby granted. That the existing evergreens along Overbrook Drive shall be maintained.
5. That a solid curbing shall be installed along the entire westerly boundary of Overbrook Drive and the entire easterly boundary of Edgemoor Avenue from Worcester Street to the intersection of said boundaries and the line on which the fence is to be erected, except that openings in said curbing, each not more than twenty-five (25) feet wide, may be provided for egress and ingress in the portions of said boundaries that are within the Single-residence District.
6. That if all the work hereby provided to be done is not completed before January 1, 1971, or in the event of the breach of any condition hereof the extension of use hereby granted may be terminated by this Board.

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Richard O. Aldrich


Dana T. Lowell


F. Lester Fraser

Filed with Town Clerk _____

- *7. The Board reserves the right to make rules and regulations for the implementation of the foregoing conditions and otherwise to assure that petitioner's premises are maintained and its business is conducted in a manner consistent with preservation of property values and amenities in the neighborhood. Petitioner by proceeding with its proposed plan pursuant to this permission shall be deemed to have agreed to be bound by such rules and regulations.

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