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82-37

Petition of Gary Simon (Copley Investments Companies)

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Thursday, September 16, 1982, at 8 p.m. on the petition of GARY SIMON of COPLEY INVESTMENTS COMPANIES, requesting a Special Permit which will allow the premises located at 37 CENTRAL STREET to be expanded without providing additional off-street parking spaces as required by Section XXI, Part C-3, Part D, Subpart 2 and Part E, Subpart 2 of the Zoning Bylaw. Said request is pursuant to Section XXV of the Zoning Bylaw.

On August 27, 1982, Mr. Simon filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Alain Munkittrick, Architect, who stated that a building permit had been issued on December 3, 1981, but work was not started because the building contractor went bankrupt. The building permit was cancelled on June 11, 1982. On March 31, 1982, the town passed the new bylaw requiring off-street parking spaces, with the result that the petitioner cannot now obtain a building permit.

Mr. Munkittrick stated that Dellaria Ltd, tenant, which operates John Dellaria Salon, was presenting the request for the following reasons:

1. That the use of the addition for facial and skin care would not increase auto traffic, because current customers would be using the facility.
2. That the building is landlocked, so no parking spaces are available.
3. That a hardship be acknowledged because the building permit had been issued for the construction but expired in June, 1982.

Elaine McCarthy, representing the tenant, spoke in favor of the request, stating that Dellaria was in jeopardy of losing clients because it could not furnish them with more complete facial, hair, and skincare facilities.

Gary Simon, owner of the property at 37-45 Central Street, spoke in favor of the request.

Other than the above-mentioned, no others were present favoring or opposing the petition.

Statement of Facts

The property in question is located at 37 Central Street, in a Business District, owned by Gary B. Simon, Trustee, Copley Investments Companies, 69 Newbury Street, Boston. Mr. Simon owns the entire building including numbers 37, 41, 43, 51 Central Street, said property containing 6,098 square feet of land.

The tenant occupying 37 Central Street and wishing to expand facilities is Robert Dellaria, President, Dellaria Limited, which operates John Dellaria Salon, a hair salon. The proposed addition at the rear of the dwelling would total 500 square feet at the rear of the building. No additional off-street parking spaces could be provided, as required by Section XXI, Part C-3 of the Zoning Bylaw, passed by 1982 Town Meeting.

A Plot Plan was submitted, drawn by John J. Regan, Registered Land Surveyor of Apex Associates, Newton Highlands, dated August 2, 1982. Construction drawings by Alain Munkittrick Associates, Newton, Ma. dated June 22, 1982, were also submitted.

The Design Review Board, at its meeting of August 17, 1982, voted to pass no judgement on the application because no design issues were involved in the application.

The Planning Board, in a letter dated September 16, 1982, stated that they were opposed to the granting of the request. They believe it is contrary to the intent and purpose of the off-street parking requirements for Business Districts, which were recently adopted to insure adequate off-street parking for commercial expansion.

#### Decision

This Authority has made a careful study of the evidence submitted.

Section XXI, Part C, states: "No new building or structure shall be constructed or used in whole or in part, and no building or part thereof shall be altered, enlarged, reconstructed or used, and no land shall be used unless there is provided off-street parking in accordance with the following conditions:

- 1) A plan submitted in accordance with Part E of this Section shall have been approved by the Inspector of Buildings or the Special Permit Granting Authority as provided in Section IIIA2 (k)."

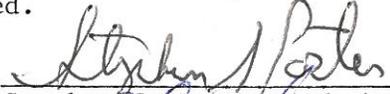
Section XXI, Part D, Subpart II states the minimum number of parking spaces (off-street) are to be one space for each 150 square feet of ground coverage of buildings. The petitioner's proposed addition being 500 square feet, four additional parking spaces would be required. The petitioner has presented no plan to provide four parking spaces. Section XXI, Part E, Subpart 2, allows for provision of a Special Permit if parking is insufficient but parking spaces could be maintained on another lot accessible to and within a walking distance of 600 feet from the building. The petitioner has failed to show that he could meet any of the above mentioned sections of the bylaw.

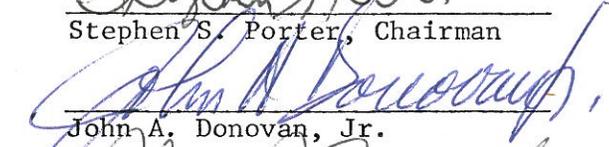
Parking is inadequate in Wellesley Square, and the intent of the recently adopted bylaw is to insure adequate off-street parking for commercial expansion.

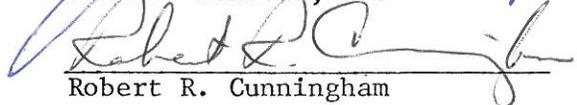
Therefore, it is the unanimous opinion of this Authority that this request for a Special Permit be denied and this petition is dismissed.

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