



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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82-49

Petition of George M. Levine

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, November 18, 1982, on the petition of George M. Levine, requesting a variance from the terms of Section XIX of the Zoning Bylaw which will allow the construction of an addition to his property at 11 River Street, consisting of two separate projects: first, a deck 24' by 7.5' by 24' by 10', leaving less than the required front yard setback; secondly, an enclosed entryway 5' by 5', leaving less than the required front yard setback. Said property is in an Industrial District, said requests are made pursuant to Section XXIV-D of the Zoning Bylaw.

On October 29, 1982, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The original application for a variance included a request for a deck, but a letter dated November 4, 1982, signed by George M. Levine, amended the application to include only the entrance foyer.

Presenting the case was George M. Levine, owner of the property, who introduced his builder, Edouard Sandoz. Mr. Sandoz stated that the addition of the front enclosure would match the architecture and design of the existing building, that a restaurant would be housed on the first floor with a capacity of 50 initially, with possible future expansion to the second floor. He stated that parking requirements have been met. The foyer would act as a wind and temperature barrier.

Other than the above mentioned, no one was present favoring or opposing the petition.

Statement of Facts

The property in question is located at 11 River Street, in a Business District, containing 6,200 square feet of land. It is a legal non-conforming building, with a setback of approximately ten feet at one point from River Street. The legal notice of the Public Hearing in this case described the property to be in Industrial District, in error.

Mr. Levine proposes to operate a restaurant known as Lincoln Crossing on the first floor of the two-story building, and has petitioned for a variance to construct a five foot by five foot entrance enclosure, leaving a front yard setback of five feet.

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A Plot Plan was submitted, drawn by James A. Reger, Registered Professional Engineer, Millis Engineering Company, dated 10/25/82. Construction drawings were also submitted, drawn by Sandoz Construction Company, 44 Lincoln Street, Medway, Ma.

The original request for a variance included a deck 24' by 7.5' by 24' by 10' but a letter dated November 4, 1982 amended the application to include only the five by five foot entrance foyer, which would act as a wind and temperature barrier.

The Planning Board, in a letter dated November 15, 1982, stated that they have no objection to the petition.

A letter was received by this Authority, dated November 8, 1982, from William Fitzpatrick, owner of Lower Falls Sunoco Station at the corner of Washington and River Streets, granting permission for the use of his land, adjacent to 11 River Street, for the purpose of parking spaces for the new restaurant.

Decision

This Authority has made a careful study of the evidence submitted, and recognizes the condition which the applicant proposes to address, specifically that an entrance foyer would act as a wind and temperature barrier for the restaurant.

While this Authority recognizes that there are valid reasons for the request, the Bylaw specifically restricts such requests if an encroachment is involved.

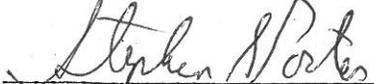
Variations may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from the Zoning Bylaw):

"1.....

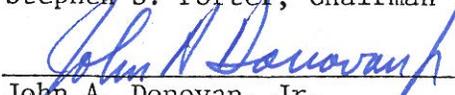
- a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures,
.....AND
- b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D

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



Stephen S. Porter, Chairman



John A. Donovan, Jr.



William E. Polletta

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 BUREAU OF PERMITS

INNER ST.

RIVER BRIDGE ASSOC

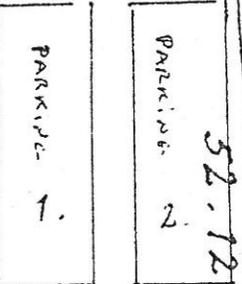
CONC. WALK

13.6
DOOR

14.2

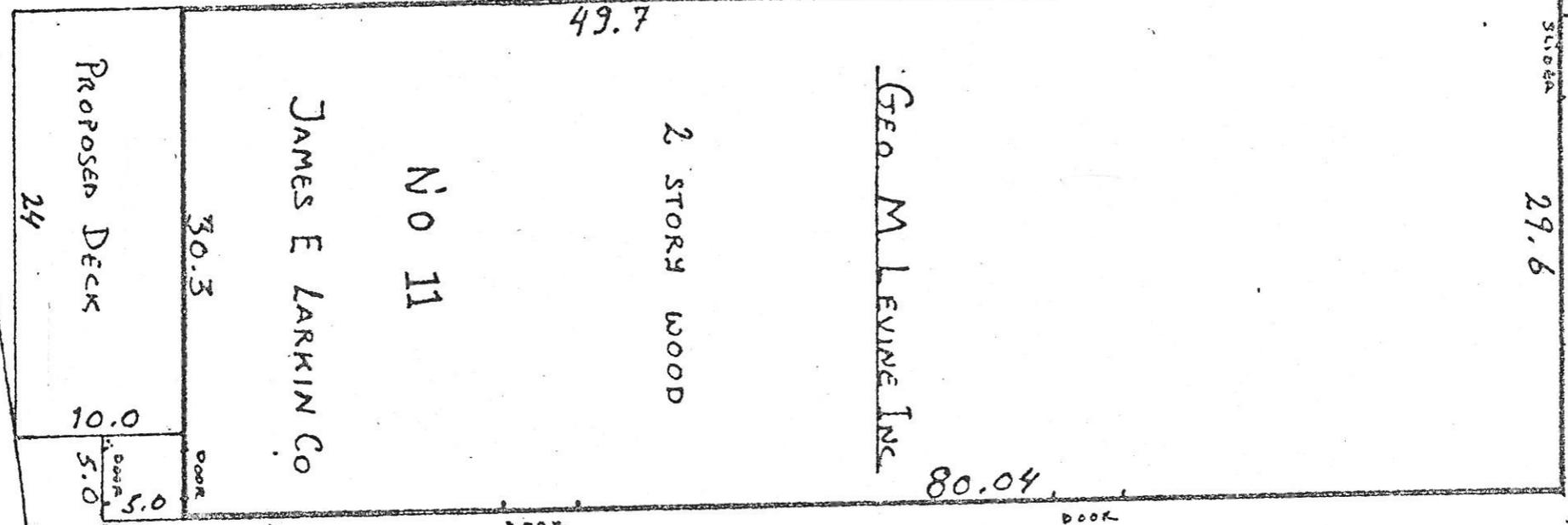
9.7

STAIRS



52.12

29.6



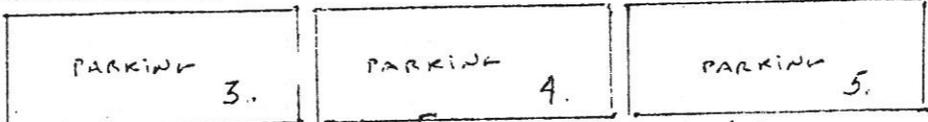
7.92

DRIVEWAY EASEMENT

14.0

Proposed
ENTRYS

76.82



ELEANOR M EARLY ET AL

RACHEL HAYNES

6.97

93.08



PARKING SPACES

3-4 & 5 ASSIGNED
BY LETTER OF AGREEMENT
WITH William FITZPATRICK
(ATTACHED)

James E
10/25/8

LOCATION
Westerly