



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman
JOHN A. DONOVAN, JR.
ROBERT R. CUNNINGHAM

MARY ANN McDOUGALL
Executive Secretary
Telephone
~~335-1664~~
431-1019

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

RECEIVED
SECRETARY'S OFFICE
WELLESLEY, MASS.
SEP 13 2 05 PM '85

85-52

Petition of Exxon Company USA
9 Central Street

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, August 15, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, on the petition of EXXON COMPANY USA requesting permission pursuant to the provisions of Section XXIIA, Section XXV and Section XXIV-D of the Zoning Bylaws for a standing internally illuminated sign approximately 40 square feet in size at 9 CENTRAL STREET at the corner of CREST ROAD, in a Business District.

On July 25, 1985, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Edward Gallagher, Consulting Engineer for Exxon, who presented plans for the sign and explained the reasons for the new location. A variance is requested for the height and for three colors in an illuminated sign. The sign would contain price letters that would change as needed.

Other than Mr. Gallagher, no one was present at the hearing opposing or favoring the petition.

Statement of Facts

The property in question is located at 9 Central Street at the corner of Crest Road, in a Business District. The property is owned by Exxon Co. USA and used as a gasoline service station.

The petitioner proposes to relocate a standing sign on the property. The existing standing sign was permitted by Special Permit from the Board of Appeals in 1972 (ZBA Case 72-70). The proposed sign would be 40 square feet in area, 16 feet high, with a setback from Central Street of 5 feet, and internally illuminated with three colors, red, white, and blue. A variance and/or a Special Permit is requested to allow the height of 16 feet, the requirement being 10 feet, and to allow three colors instead of the required two colors. The sign would contain price letters.

A location plan (85-183), dated 5/16/85 and drawings (85-175-1), dated 5/28/85, of the sign were submitted, by Edward J. Gallagher Associates, Inc., Squantum, Ma. Photos were also submitted.

The Design Review Board held a preliminary review of the sign on July 18, 1985 and a final review on August 1, 1985. In a letter of August 6, 1985, the Design Review Board strongly recommended denial of the request due to its size and height.

The Planning Board, at its regular meeting of August 6, 1985, voted to recommend denial of the request as stated in a letter of August 7, 1985.

A letter opposed to the request was presented from Robert L. DiSchino, Trustee, Damiano G. DiSchino Trust et al., 6 Delanson Circle.

Decision

This Authority has made a careful study of the evidence presented. It is the opinion of this Board that the proposed standing sign in a new location at 6 Central St. close to Crest Road will be less offensive than the existing standing sign, that the size can be allowed and is in harmony with the general purpose and intent of Section XXIIA of the Zoning Bylaw.

Regarding the height of the sign which exceeds the 10 foot requirement of the Zoning Bylaw and the existence of three colors in the illuminated sign, this Authority is of the opinion that a literal enforcement of the provisions of Section XXIIA would involve a substantial hardship to the petitioner. It is the further opinion of this Authority that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

However, it is the opinion of this Board that the height of the sign should not exceed 15.4 feet.

Therefore, a variance is granted pursuant to Section XXIV-D and a Special Permit is granted pursuant to Section XXV to allow a standing sign at 9 Central Street, 40 square feet in size, no higher than 15.4 feet, internally illuminated and containing no more than three colors, as shown in drawings presented by Edward J. Gallagher Associates, dated 5/16/85 and 5/28/85. Said sign shall not be illuminated except while the gas station is open to the public.

The Building Inspector is hereby authorized to issue a permit for the sign upon his receipt and approval of an application.

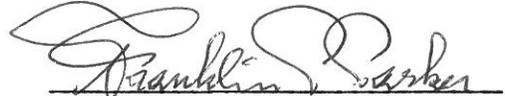
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

cc: Planning Board _____
Building Inspector _____

mam



Stephen S. Porter, Chairman



Franklin P. Parker



William E. Polletta

RECEIVED
TOWN CLERK'S OFFICE
WELLISLEY MASS.
AUG 13 2 05 PM '85

TOWN OF WELLESLEY



MASSACHUSETTS

ALBERT S. ROBINSON, TOWN COUNSEL

P. O. BOX 375
47 CHURCH STREET
WELLESLEY, MASS. 02181
(617) 235-1020

January 13, 1987

John L. Sullivan, Esquire
NUTTER, MCCLENNEN & FISH
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

Re: Wellesley Planning Board v. Exxon Company USA and
Wellesley Board of Appeals
Norfolk Superior Court
C.A. No. 85-2728

Dear John:

The Board of Appeals has voted to approve Exxon's withdrawal in the two sign cases. Accordingly, the forms accepting the withdrawal which you prepared have been signed and are enclosed herewith.

Could you please send me a copy of the Stipulation of Discontinuance in the Superior Court matter as filed.

Very truly yours,

Albert S. Robinson

ASR/bb

File: WJ-224

Enclosures

cc: Mary Ann MacDougall, Executive Secretary
Zoning Board of Appeals

cc: Richard Brown, Director
Wellesley Planning Board

(00351-5)

TOWN OF WELLESLEY



MASSACHUSETTS

ALBERT S. ROBINSON, TOWN COUNSEL

P. O. BOX 375
47 CHURCH STREET
WELLESLEY, MASS. 02181
(617) 235-1020

February 6, 1987

Mary Ann McDougall, Executive Secretary
Zoning Board of Appeals
Town Hall
Wellesley, MA 02181

Re: Wellesley Planning Board v. Exxon Company USA and
Wellesley Board of Appeals
Norfolk Superior Court
C.A. No. 85-2728

Dear Mary Ann:

Enclosed is a copy of the joint Stipulation of Dismissal now
filed in the Norfolk Superior Court to complete the referenced
matter, as previously discussed. I am closing my file.

Very truly yours,

A handwritten signature in black ink, appearing to read "Albert S. Robinson".

Albert S. Robinson

ASR/bb

File: WJ-224

Enclosure

cc: Richard Brown, Director
Wellesley Planning Board

cc: Thomas E. Lee, Executive Secretary
Board of Selectmen

(00661-6)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
C.A. NO. 85-2728

PLANNING BOARD OF WELLESLEY,)
)
Plaintiff,)
)
v.)
)
EXXON COMPANY, U.S.A.)
and BOARD OF APPEALS OF)
WELLESLEY,)
)
Defendants.)

JOINT STIPULATION OF
DISMISSAL

Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), plaintiff and defendants hereby jointly stipulate to the dismissal of the above-referenced action without prejudice.

PLANNING BOARD OF
WELLESLEY

EXXON COMPANY, U.S.A.

By its attorney,

By its attorney,

hw/cam
Harvey Weiner, Esq.
Peabody & Arnold
One Beacon Street
Boston, MA 02108
(617) 723-6700

Craig A. MacDonnell
Craig A. MacDonnell
Nutter, McClennen
& Fish
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
(617) 973-9700

BOARD OF APPEALS OF
WELLESLEY

By its attorney,

asr/cam
Albert S. Robinson
Wellesley Town Counsel
47 Church Street
Wellesley, MA 02108
(617) 235-1020

DATE: January 28, 1987

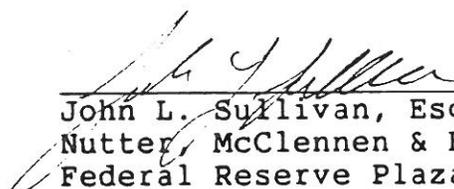
WITHDRAWAL OF APPLICATION FOR VARIANCES
AND SPECIAL PERMITS

Reference is made to: (1) the decision of the Zoning Board of Appeals of the Town of Wellesley in Case No. 85-52 relating to property located at 9 Central Street, Wellesley, Massachusetts (hereinafter "Case No. 85-52") and (2) the decision of the Zoning Board of Appeals of the Town of Wellesley in Case No. 85-53 relating to property at 46 Washington Street, Wellesley, Massachusetts (hereinafter "Case No. 85-53").

Exxon Company U.S.A. hereby withdraws its petitions in Case No. 85-52 and Case No. 85-53 and agrees that the decisions rendered by the Zoning Board of Appeals of the Town of Wellesley in those cases shall be of no force and effect.

Executed on the 18th day of December, 1986.

EXXON COMPANY, U.S.A.
by its attorney



John L. Sullivan, Esq.
Nutter, McClennen & Fish
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
973-9700

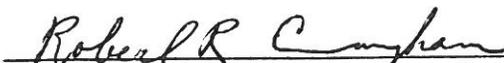
Withdrawal Accepted:
Zoning Board of Appeals of
the Town of Wellesley



Stephen S. Porter, Chairman



John A. Donovan, Jr.



Robert R. Cunningham