



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 87-17

Petition of Wellplay Associates Limited Partnership
380-384 Washington Street

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, February 19, 1987 at 8 p.m. in the Great Hall of the Town Hall (Conference Room E) at 525 Washington Street, Wellesley on the petition of WELLPLAY ASSOCIATES LIMITED PARTNERSHIP requesting a Special Permit whereby the parking spaces which may be required for the building at 380-384 WASHINGTON STREET on the corner of LAUREL AVENUE, known as the Wellesley Community Playhouse, may be provided on an adjacent lot. The Wellesley Community Playhouse is located on a lot shown as Parcel A on a plan entitled "Plan of Land in Wellesley, Mass.", prepared by MacCarthy & Sullivan Engineering, Inc., dated June 2, 1980, and recorded with the Norfolk Registry of Deeds at Book 5828, Page 136, and also shown as Parcel A on a plan entitled "Topographical Plan of Land in Wellesley, Mass.", prepared by MacCarthy & Sullivan Engineering, Inc., dated October 23, 1986, submitted by petitioner (containing 12,763 square feet of land according to said plans), and which lot is listed as Lot 041 on Assessor's Map #75. Said adjacent lot (containing 51,412 square feet of land according to the above-referenced plans) and which adjacent lot is bounded by WASHINGTON STREET, FOREST STREET, AND LAUREL AVENUE and Parcel A (described above), said adjacent lot consisting of Parcels B & C (containing 8,149 square feet of land), Parcel D (containing 13,325 square feet of land), and Lot 2 (Land Ct. #21347C, containing 29,938 square feet of land) all as shown on said plans, and which adjacent lot is listed as Lots 027 and 018A on Assessor's Map #75. Said required parking spaces will be accessible to and within a walking distance of 600 feet from said building.

On January 28, 1987 the petitioner 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 at the hearing was James Koningisor, Senior Vice President of First Investments Co. Mr. Koningisor stated that they believe the legal non-conforming building, The Wellesley Community Playhouse, is grandfathered in regarding parking, but that a Special Permit is being requested in order to accommodate differing interpretations of the bylaw regarding alteration or "change of use" of a portion of the building. Change of use would involve 6,800 square feet of building coverage and require 46 parking spaces. Mr. Koningisor stated that they will guarantee that 46 spaces will be available on the adjacent parcel to satisfy requirements for the existing building at 380-384 Washington Street.

Petition of Wellplay Associates Limited Partnership
380-384 Washington Street

Statement of Facts

The property in question is located at 380-384 Washington Street on the corner of Laurel Avenue, in a Business and Business A District, containing 12,763 square feet of land. It is owned by Wellplay Associates Limited Partnership. A building known as the Wellesley Community Playhouse (containing 10,300 square feet of floor area) exists on the lot known as Parcel A (described on page 1 of this document). Parcel A contains no accommodations for parking. The building will constitute part of the project known as "Playhouse Square" which will also encompass the adjacent lot (containing 51,412 square feet of land, described on page 1 of this document). A new building of approximately 15,800 square feet of floor area and with a footprint of 11,900 square feet will be constructed on the adjacent lot with parking spaces for 130 cars. A Special Permit for Site Plan Approval was requested for the entire project (see ZBA 87-15) and a Special Permit and variance were requested to allow the existing marquee to remain on the building at 380-384 Washington Street (see ZBA 87-16).

A portion of the existing building at 380-384 Washington Street will be changed from a theater to retail space, said portion containing 6,800 square feet of floor area.

The petitioner is requesting a Special Permit pursuant to the provisions of Section XXI and XXV to allow the provision of any parking spaces which may be required for the building at 380-384 Washington Street. Said required spaces will be accessible to and within a walking distance of 600 feet from said building. Forty-six parking spaces have been provided to satisfy the requirement of one space for 150 square feet of building coverage involving change of use (6,800 square feet) on the adjacent lot.

A plan entitled "Parking for Parcel A" was presented, drawn by Peter Gross, Registered Architect, Gauchat Architects Inc., Cambridge, Ma., dated 1/26/87, revised 1/7/87.

The Planning Board, on February 5, 1987, voted to recommend"that a condition be added to any favorable decision that the individual lots comprising the development site cannot be sold separately. The Planning Board would prefer to see the merger of the three lots, as indicated in its recommendation on petition 87-15 (which would eliminate the need for the special permit), but if this merger is not possible then the above condition is suggested."

Decision

This Authority has made a careful study of the evidence presented. The petitioner is requesting a Special Permit pursuant to the provisions of Section XXI and Section XXV of the Zoning Bylaw to allow the provision of 46 parking spaces as shown on Parking Plan A by Peter Gross of Gauchat Architects Inc., dated 1/26/87, revised 1/7/87, to satisfy requirements for the change in use of a portion of the building at 380-384 Washington Street.

It is the opinion of this Authority that the change of use of a portion of the building from theatre to retail space does require the provision of 46 parking spaces.

Petition of Wellplay Associates Limited Partnership
380-384 Washington Street

Section XXI, Part E, Subpart 2 of the Zoning Bylaw states:

"An applicant who proposes to erect, enlarge or substantially alter a building, for which parking is required by this Bylaw, which parking to be provided is insufficient, may apply to the Special Permit Granting Authority for a special permit in accordance with this Section XXI and Section XXV of this Zoning Bylaw subject to the following:

A special permit may be granted allowing provision of the parking spaces required by this Zoning Bylaw to be maintained on a lot other than the same lot with the building, provided the spaces are available on another lot accessible to and within a walking distance of 600 feet from the building."

It is the opinion of this Board that the required parking spaces have been provided on another lot accessible to and within a walking distance of 600 feet from the building at 380-384 Washington Street.

Therefore, a Special Permit is hereby granted to Wellplay Associates Limited Partnership to allow the parking spaces as shown on "Parking Plan A" by Peter Gross of Gauchat Architects, dated 1/26/87, revised 1/7/87, on the adjacent lot to be designated for use associated with the building at 380-384 Washington Street, subject to the following condition:

That a covenant running with the land and approved by Town Counsel must be filed with this Authority to guarantee that 46 parking spaces will be available on the adjacent parcel to satisfy parking requirements for the existing building at 380-384 Washington Street.

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
Inspector of Buildings

Town Counsel
mam *Selectmen*

John A. Donovan, Jr.
John A. Donovan, Jr.

William E. Polletta
William E. Polletta

Sumner H. Babcock
Sumner H. Babcock

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WILMINGTON, MASS.

PARKING COVENANT

WHEREAS, ANNE MARIE NAFF, TRUSTEE of PLAYHOUSE NOMINEE TRUST, under Declaration of Trust dated September 22, 1986, and filed with the Norfolk County Registry District of the Land Court as Document No. 501848 ("Playhouse Nominee Trust") is the owner of certain real property known as and numbered 380-384 Washington Street, Wellesley, Massachusetts, as further described in Exhibit "A" (the "Playhouse Parcel");

WHEREAS, Wellplay Associates Limited Partnership ("Wellplay Associates"), a Massachusetts limited partnership, is the sole beneficiary of the Playhouse Nominee Trust;

WHEREAS, the existing building on the Playhouse Parcel, which building is commonly known as the Community Playhouse, is to be renovated;

WHEREAS, the proposed renovation of the Community Playhouse building will result in the change of use of a portion of the Community Playhouse building from a theater to a retail use;

WHEREAS, in Decision No. ZBA-17, which Decision is recorded herewith, the Zoning Board of Appeals of the Town of Wellesley (the "Zoning Board") has interpreted the off-street parking provisions (Section XXI) of the Town of Wellesley Zoning Bylaw (the "Zoning Bylaw") to require the provision of parking spaces in connection with the proposed change in use of the Community Playhouse building;

WHEREAS, the proposed renovation preserves the existing Community Playhouse building which covers most of the lot on which it is located and, therefore, it is not possible to provide for any parking spaces on the Playhouse Parcel;

WHEREAS, the Zoning Board, in said Decision No. ZBA-17, has approved a special permit for off-street parking, pursuant to Part E, Subpart 2 of Section XXI of the Zoning Bylaw, which permit allows such parking to be provided on an adjacent parcel, which parcel is described in Exhibit "B" (the "Adjacent Parcel"), and which parcel is also owned in fee simple by Playhouse Nominee Trust; and

WHEREAS, the Zoning Board seeks to ensure the continued availability on the Adjacent Parcel of the parking spaces required by the Zoning Bylaw in connection with the aforesaid change of use;

NOW, THEREFORE, Playhouse Nominee Trust agrees as follows:

1. The forty-six (46) parking spaces indicated on the plan entitled "Parking Plan For Parcel A", prepared by Gauchat Architects, Inc., dated January 26, 1987, a copy of which plan is attached hereto as Exhibit "C", shall be and remain available for parking in connection with the use of the Community Playhouse building.

2. Playhouse Nominee Trust, as owner of the Adjacent Parcel, shall make no alterations to the Adjacent Parcel or to the Playhouse Parcel which would render forty-six (46) parking spaces inaccessible from the Community Playhouse building.

3. Notwithstanding the foregoing, upon any subsequent decision of the Zoning Board or final determination by a court of competent jurisdiction that the Zoning Bylaw requires the provision of fewer than forty-six (46) spaces in connection with the use of the Playhouse Parcel or upon the subsequent non-use of said special permit, the reservation of spaces pursuant to this covenant may be modified by Playhouse Nominee Trust to reduce or eliminate the number of spaces reserved under this covenant, provided that Playhouse Nominee Trust complies with the Zoning Bylaw.

4. The provision of parking spaces for the Playhouse Parcel pursuant to this covenant shall run with the land and shall be binding upon the successors and assigns of Playhouse Nominee Trust.

Executed as a sealed instrument on this 3rd day of April, 1987.

PLAYHOUSE NOMINEE TRUST

Anne Marie Naff
Anne Marie Naff, Trustee as
aforesaid and not individually

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

April 3, 1987

Then personally appeared Anne Marie Naff, Trustee as aforesaid and not individually, and acknowledged the foregoing to be her free act and deed as Trustee, before me.

Susan S. Craighhead
Susan S. Craighhead, Notary Public
My commission expires: 4/20/90

Approved
April 3, 1987

Albert S. Robinson
Albert S. Robinson,
Town Counsel,
Town of Wellesley

Filed with the Zoning Board
of Appeals of the Town of
Wellesley on April 3, 1987

Mary Ann McDougall
Mary Ann McDougall,
Executive Secretary

EXHIBIT A

Beginning at the intersection of the easterly side line of Washington Street with the southerly line of Laurel Avenue, thence running SOUTHEASTERLY along said southerly side line of Laurel Avenue one hundred fifty and 28/100 (150.28) feet; thence turning and running SOUTHWESTERLY and bounded southeasterly by the parcel described in Exhibit "B" attached hereto, eighty-nine and 64/100 (89.64) feet; thence turning and running NORTHWESTERLY and bounded southwesterly by the parcel described in Exhibit "B", one hundred forty-nine and 45/100 (149.45) feet to the easterly side line of Forest Street at its intersection with Washington Street; thence turning and running NORTHERLY curving northeasterly and bounded westerly by the side line of Washington Street by a radius of 85 feet, nine and 65/100 (9.65) feet; thence running NORTHEASTERLY by the easterly side line of Washington Street seventy and 92/100 (70.92) feet to the point of beginning.

Shown as Parcel A on a plan entitled "Plan of Land in Wellesley, Mass.", prepared by MacCarthy & Sullivan Engineering, Inc., dated June 2, 1980, and recorded with the Norfolk Registry of Deeds in Book 5828, Page 136. Containing 12,763 square feet, according to said plan.

EXHIBIT B

Beginning at a point in the southeasterly side line of Washington Street at land formerly of Adolph P.J. Bendslev, being the parcel described in Exhibit "A" attached hereto, thence running SOUTHEASTERLY by said land formerly of Adolph P.J. Bendslev one hundred forty-nine and 45/100 (149.45) feet; thence turning and running NORTHEASTERLY eighty-nine and 64/100 (89.64) feet; thence turning and running SOUTHEASTERLY along the southerly side line of Laurel Avenue seventy-two and 12/100 (72.12) feet; then turning and running SOUTHWESTERLY and bounded southeasterly by land formerly of Babson's Reports, Inc., one hundred fifty-eight and 37/100 (158.37) feet; thence turning and running SOUTHEASTERLY one hundred eight and 97/100 (108.97) feet; thence turning and running SOUTHWESTERLY two hundred twenty-one and 08/100 (221.08) feet; thence turning and running NORTHWESTERLY along the easterly side line of Forest Street three hundred fifty-seven and 65/100 (357.65) feet; thence curving NORTHERLY AND NORTHEASTERLY along the rounded-off corner of Washington Street and Forest Street on the arc of a circle found by a radius of 85 feet, sixty-seven and 33/100 (67.33) feet to the point of beginning.

Shown as Parcels B, C and D and Lot 2 on a plan entitled "Plan of Land in Wellesley, Mass.", prepared by MacCarthy & Sullivan Engineering, Inc., dated June 2, 1980, and recorded with the Norfolk Registry of Deeds in Book 5828, Page 136. Containing 51,412 square feet, according to said plan.

Said parcel contains a parcel of registered land separately described as:

A certain parcel of land situated in Wellesley, County of Norfolk, Massachusetts, bounded and described as follows:

WESTERLY: by the Easterly line of Forest Street, two hundred eleven and 65/100 (211.65) feet;

NORTHWESTERLY: one hundred forty-nine and 60/100 (149.60) feet;

NORTHEASTERLY: fifty (50) feet, by land now or formerly of W. Leslie Bendslev et al, Trustees;

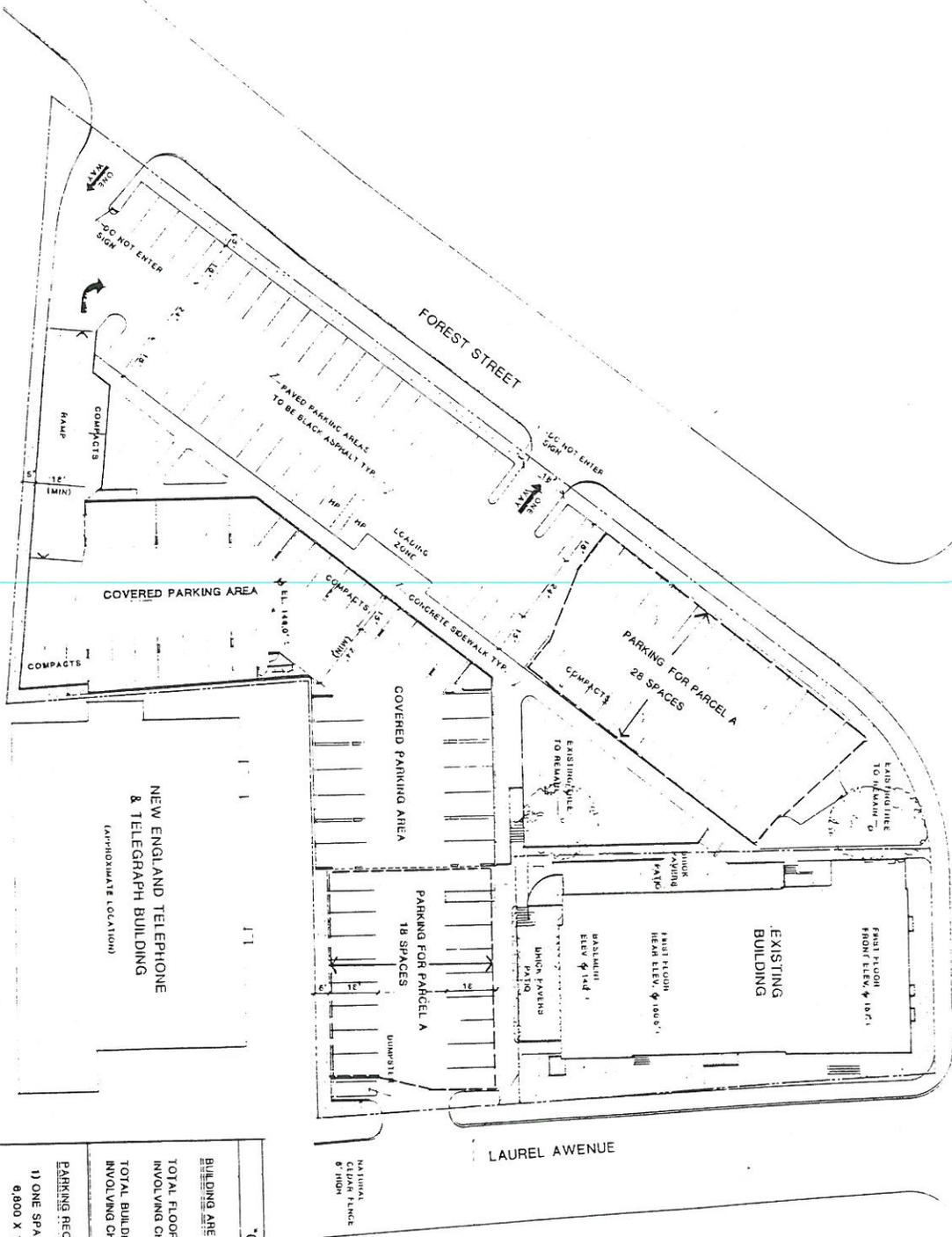
SOUTHEASTERLY: sixty-four and 36/100 (64.36) feet;

NORTHEASTERLY: one hundred eight and 97/100 (108.97) feet, by lot numbered 1, as indicated on plan herein-after referred to; and

SOUTHEASTERLY: by land now or formerly of The Commonwealth of Massachusetts Cochituate Aqueduct, two hundred twenty-one and 08/100 (221.08) feet.

Said parcel is shown as Lot 2 on a plan entitled "Subdivision Plan of Land in Wellesley", prepared by Gleason Engineering Company, dated July 24, 1964, filed with the Land Registration Office as No. 21347C.

PARKING SITE PLAN
SCALE 1" = 20'



CHANGE OF USE

BUILDING AREA INVOLVING CHANGE OF USE :	10,300 SQ.FT.
TOTAL FLOOR AREA INVOLVING CHANGE OF USE	10,300 SQ.FT.
TOTAL BUILDING COVERAGE INVOLVING CHANGE OF USE	6,800 SQ.FT.
PARKING REQUIRED:	
1) ONE SPACE PER 150 SQ.FT. OF BUILDING COVERAGE	46 SPACES
2) NOT LESS THAN 3.2 SPACES PER 1,000 SQ.FT. TOTAL FLOOR AREA	33 SPACES
THEREFORE, 46 PARKING SPACES ARE REQUIRED FOR THE PARCEL A BUILDING	

FIRST INVESTMENT COMPANIES, INC.

50 MILK STREET
BOSTON, MA 02109
TEL. (617) 423-2170

GAUCHIAT ARCHITECTS, INC.

1340 CAMBRIDGE STREET
CAMBRIDGE, MA 02139
TEL. (617) 491-4413

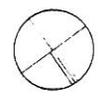
PLAYHOUSE SQUARE
AT WELLESLEY

WASHINGTON STREET
(ROUTE 1B)
WELLESLEY, MA

PARKING PLAN
FOR PARCEL A

SCALE 1" = 20' Date: 1/28/87

BY	DATE
7-73	1-28-87
7-73	1-28-87
7-73	1-28-87



3.5
A