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Petition of Charles H. Spaulding, George E. Slye and Richard W. Spaulding

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The Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on April 1, 1971 on the petition of Charles H. Spaulding, George E. Slye and Richard W. Spaulding requesting the approval of plans for the construction of a multi-unit residential housing project to be located at Eastman Circle on Grove Street on property now owned by Fuller Brook Corp. and situated within a Limited Apartment District, in accordance with the requirements of Section VI.A and Section VI.2(1) of the Zoning By-law.

Petitioners further requested exceptions from the terms of: Section VI.A.3.(d)(1) of the Zoning By-law which limits the exterior wall height of any building to a maximum of 45 feet; Section VI.A.3.(d)(iv) of the Zoning By-law which limits buildings to not more than four stories which are designed or used for human occupancy; Section VI.A.3.(e) of the Zoning By-law which prohibits buildings or structures from being erected or placed nearer than 60 feet to any street line and Section VI.A.3.(g) of the Zoning By-law which limits driveways to not more than 24 feet in width.

On March 15, 1971, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

At the hearing Richard W. Spaulding explained in detail the petitioners' plan to construct three multi-unit buildings on the site involved which will provide 150 condominium apartment units plus a manager's apartment, a gate house and a swimming pool. He stated that a great deal of study and consideration had been given to the plans originally submitted to this Board in November, 1970, which were not finally acted upon by the Board and that the proposed new layout has been designed to better meet the needs of the prospective buyers, improve the parking facilities, and provide a layout more desirable to the abutters as well as the community generally.

Antonio P. deCastro, Architect, explained the placement of the buildings, the design of the buildings and the room layout of the individual units.

The landscape architect stated that all possible existing trees would be preserved and that additional trees and shrubs were to be added in order to provide screening and to beautify the development.

William W. White, 53 Grove Street, inquired as to how delivery, disposal and other services would be handled.

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Julio DiGiando, 141 Denton Road, opposed the granting of the requested exceptions on the ground that there was not adequate reason for the granting of the requested variance.

The Planning Board in its report stated that while it had no objection to the plans as presented, it should be noted that the requests of the petitioners continue to represent deviations from the requirements of the Zoning By-law.

Reports were received from the Public Works and Fire Departments approving the plans as to those matters within their jurisdiction and cognizance subject to the fulfillment of specified conditions.

Statement of Facts

The property under consideration contains 7.058 acres and was rezoned from the Educational District to a new Limited Apartment District by a Town Meeting held in March, 1969.

The submitted plans divide the project into two phases. The first phase consists of one multi-unit building and accessory facilities, such as parking constructed on the portion of the property allocated to this phase. The second phase consists of two multi-unit buildings and accessory facilities such as parking constructed on the portion of the project allocated to that phase. There is also a gate house and swimming pool located on the Phase I portion of the property. All of the above buildings total 76,248 square feet of the site.

Plans showing the location and elevations of the proposed buildings, the proposed exterior materials, provision for off-street parking facilities, interior driveways, as well as for water, sewage disposal, drainage and landscaping were submitted. "Outline Specifications" were also submitted.

It is proposed to provide 150 condominium apartments (141 two-bedroom and 9 one-bedroom) and one apartment for the resident superintendent within the three buildings. Underground garages are to be constructed beneath each of the buildings to accommodate a total of 202 automobiles with provision on grade for transient parking for 26 vehicles.

Air conditioning is to be furnished by two central, recirculating water units in each building (one in each module). Cooling towers will be approximately 17 feet long by 7 feet, 6 inches wide by 6 feet in height. Exterior walls will be of dark, hard-burned red brick, and charcoal metal panels at the mansards and at some window mullions. Provision will be made by installation of flues for optional fireplaces in all apartments. Heat will be by electricity. There will be standpipes with hose connections in each stairwell and the garage is to be ventilated and sprinkled in accordance with the requirements of applicable State law.

In addition to the requested approval of plans, the petitioners seek an exception from the terms of Section VI.A 3 (g) which would allow them to have a divided access driveway with 13 foot paved surfaces for entrance and exit respectively on each side of a gate house which will be situated on a 12 foot median strip rather than one driveway not over 24 feet in width. They further request exceptions from the terms of Section VI. A. 3 (e) to permit the corner of the southeast wing of the proposed Adams House and the gate house

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to be located 50 feet and 40 feet respectively from Grove Street rather than the 60 feet required by the Zoning By-law. Exceptions are also requested from the terms of Sections VI.A.3(d)(i) and VI.3(d)(iv) which respectively limit the exterior wall height to a maximum of 45 feet measured from the finished grade elevation of the land adjoining the wall exclusive of parapets and the number of stories which are designed or used for human habitation to not more than four. Access to the underground garage will be provided by driveways at basement level in Lincoln and Adams Houses. The height of each of said buildings from the bottom of the garage door opening in the driveways to the top of the building will be 49 feet, 8 inches exclusive of parapets. The two southerly wings of Lincoln House and the two easterly wings of Adams House are designed to have embankment levels below normal entrance grade which will contain in Lincoln House four dwelling units, and in Adams House two dwelling units and a janitor's apartment in violation of Sections VI.A.3(d)(iv) and (i). The exterior heights of these walls (except for the southeasterly wall of Lincoln between the two wings) will be 48 feet, 8 inches from the grade of the land, exclusive of parapets and there will be five stories designed and used for human occupancy at these areas.

It is the contention of the petitioners that a literal enforcement of the Zoning By-law would cause a substantial hardship in respect of the development and use of this property and the literal compliance is impractical because of the size, depth, shape and grade of the lot and the use to which it is put and because of factors peculiar to the lot and proposed buildings not generally affecting the zoning district in which they are located. They state that the combination of the limited area, the ground coverage, height, parking and other requirements of the by-law and cost factors impose severe demands and limitations on design, particularly if adequate consideration is to be given to the esthetic effect of the development. The slope of the lot, the proximity of the homes of certain abutters to property lines and the importance attached to preservation of existing mature trees are other factors peculiar to the location. They maintain that the exceptions requested are relatively insignificant and in fact are beneficial to the abutters and enhance the quality and attractiveness of the project as a whole and, therefore, of the area as well.

Decision

The Board has examined the plans and specifications submitted, including the revisions submitted at the request of the Board, has taken several views of the locus and has made a careful study of the architect's renderings and models. In its opinion, the plans and specifications and the condominium form of ownership are in harmony with the purpose and intent of the pertinent provisions of the Zoning By-law.

The Board has also studied public safety measures, especially relative to fire protection, traffic safety and protection of adjacent properties. The Board is of the opinion that the plans submitted with the conditions herein imposed meet these requirements.

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The Board finds that the plans submitted, with the conditions herein imposed, make adequate provision for:

- (a) Insuring compliance with the Zoning By-law of the Town of Wellesley;
- (b) Protecting the safety, convenience and welfare of the public;
- (c) Minimizing additional congestion in public and private ways;
- (d) Insuring adequate provision for water, sewerage and drainage;
- (e) Insuring that the premises will not be unsightly;
- (f) Insuring adequate provision for the parking of motor vehicles;
- (g) Insuring that the use of the premises will not be injurious, dangerous, obnoxious or offensive to the neighborhood by reason of noise, vibration, smoke, cinders, odor, gas fumes, dust, chemicals, fire, explosion or other objectionable features or cause.

The Board finds that the requested exceptions from the terms of the Zoning By-law can appropriately be granted. The set-back and height exceptions are well justified by the various considerations cited by petitioners, particularly the size, depth, shape and grade of the lot and cost factors implicit in the restrictive provisions of the Zoning By-law applicable to construction of this type. Moreover, the practical effects are beneficial to abutters and enhance the overall appearance of the development. The proposed entrance driveway exceptions represent an improvement both as regards safety and general utility. Therefore, the Board finds that literal enforcement of all provisions of Section VI.A. would cause a substantial hardship and that literal compliance is impractical because of the size, depth, shape and grade of the lot, and the use to which it is to be put and because of factors peculiar to the lot and proposed buildings not generally affecting the zoning district in which they are located.

Accordingly, the plans and specifications submitted by the petitioners and on file with this Board are approved and the requested exceptions are hereby granted and the Inspector of Buildings is authorized to issue a permit for the proposed construction subject to compliance with the applicable provisions of the Building Code, the requirements of the Town of Wellesley (including the Department of Public Works and the Fire Department), the rules and regulations of the Massachusetts Department of Public Safety, any other applicable provisions of law and the following conditions imposed by this Board which shall be binding upon Petitioners, their successors and assigns:

1. All work shall be performed in accordance with the plans and specifications submitted and hereby approved; the exceptions herein authorized and the Zoning By-law.

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2. Petitioners shall provide such additional screening, not presently shown on the plans, as the Board in its discretion may require for parking, service or other areas during and between construction of successive phases of the project.
3. The landscaping and other screening, if any provided for the premises shall be maintained to the satisfaction of the Board for the life of the buildings.
4. That existing trees shall be retained as indicated in the landscape plan and remain while healthy and shall be replaced by young healthy trees if and when they have to be removed.
5. Upon completion of the buildings, complete sets of architectural plans, including complete sets of mechanical plans, for the buildings as constructed shall be submitted to this Board at least ten business days prior to occupancy of the buildings. Within eight months following completion of all buildings in the project a revised landscape plan shall be so submitted.
6. Copies of any occupancy permits issued by the Building Inspector shall be submitted to this Board.
7. The sub-basement area shall be used solely for mechanical equipment and storage.
8. Approval shall be obtained from the Metropolitan District Commission, authorizing the project area to drain surface drainage, if any, into the Charles River. Petitioners by proceeding with construction of the proposed buildings and improvements shall be deemed to have agreed to provide, at no cost to the Town, for any different or supplemental facilities for surface drainage from the premises as may hereafter be required by applicable provisions of law.
9. That a surety performance bond or letter of credit issued by New England Merchants National Bank running to the Town shall be provided in the amount of \$50,000. in form satisfactory to Town Counsel and the Board of Appeal which shall be posted with the Treasurer of the Town of Wellesley before commencement of work. Said bond or letter of credit shall be conditioned on the completion of the work in accordance herewith and the performance of all conditions hereof shall be signed by party or parties satisfactory to Town Counsel, and shall be released after completion of the project provided that provision satisfactory to the Board of Appeal has been made for performance of those conditions which are of a continuing nature.

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9. Cont. Such bond or letter of credit shall also be released upon the foregoing conditions after completion of a particular phase of the project provided landscaping and screening satisfactory to the Board of Appeal has been provided with respect to the completed phase or phases and further provided no work shall commence on a subsequent phase until a new bond or letter of credit in such amount and in such form is posted with the Treasurer.

Richard O. Aldrich
Richard O. Aldrich

Dana T. Lowell
Dana T. Lowell

Robert T. Colburn
Robert T. Colburn

Filed with Town Clerk 6/9/71

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