72-17

TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

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235-1664

Petition of Toyota of Wellesley, Inc.

The Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall, beginning at 9:00 o'clock p.m., on March 23, 1972, on a petition of Toyota of Wellesley, Inc., requesting a special permit under the provisions of Section XXIIA, Part E of the Zoning By-law of the Town of Wellesley, which petition would allow the petitioner to erect a sign on the front wall of the building at 216 Worcester Street, which sign would not comply with the requirements of Section XXIIA, Part C, Subpart 3.a.3(a) of the Zoning By-law, prohibiting the erection of more than one sign for each business establishment consisting of a single building, unless such building has more than one public entrance.

On February 23, 1972 the petitioner filed a request for hearing before this Board in connection with the above-described petition and thereafter due notice of the hearing was given by mailing and publication.

Richard L. Wilder, Attorney, represented the petitioner at the hearing.

Lawrence Provost, General Manager of the company, spoke in support of the request. No one appeared at the public hearing to object to or raise any question concerning the petitioner's proposed sign, nor did any persons other than the petitioner's attorney and its general manager appear at the hearing. However, a letter was received from the Board of Selectmen in which it was stated that the Selectmen's issuance of a Class I auto dealer's license to the petitioner was subject to the condition that all signs, lights and advertising devices erected or maintained on the premises would be subject to the approval of the Selectmen and that subsequently, the Selectmen approved signs to be placed at the petitioner's location with the following limitations:

(1) In the aggregate all proposed and existing signs to be placed on the building shall not exceed 250 square feet in size.

(2) The standing signs shall not exceed an overall height of 20 feet from ground level at the base of the sign and the area of the standing sign in the aggregate shall not exceed 150 square feet.

(3) Except for the dimensional limitations as above described, the words, colors, and locations of the signs shall be substantially in accord with the plan presented.

The Selectmen's letter did not indicate whether the plans which had been presented were the same as those filed with this Board. We assume, however, for purposes of this decision, that they are.

Statement of Facts

The property involved is located within a Business District, on a ramp running in an easterly direction off the southerly side of Worcester Street (Route 9) and connecting the same with Cedar Street.

The petitioner, who operates a Toyota dealership and service garage, has operated such a business at another location in the Town of Wellesley since 1969, and recently removed its business to the location previously described.

The petitioner seeks permission to erect a wall sign 4 feet high by 36 feet wide on the front or northerly wall of the building, with the word "WELLESLEY" in red letters on a white background.

It was represented on behalf of the petitioner that a "WELLESLEY" sign on the front wall was essential to identify the new location of the Toyota dealership. The premises are located not far from the Wellesley-Newton line, and persons approaching from out of town looking for "Toyota of Wellesley" might be in doubt as to whether the petitioner's building was located in Wellesley. It was also represented that if permitted the proposed sign would in no way impair the vision of motorists on Route 9 or in any way prove detrimental to the area.

As previously indicated, the Board of Appeal was notified by the Board of Selectmen that they had imposed as a condition of the petitioner's automobile dealer's license that the signs on the building not exceed 250 square feet in aggregate area. It appears to the Board of Appeal, however, that the by-laws for the regulation and restriction of billboards, signs and other advertising devices within the town, were enacted as a part of the Zoning By-law, and that the granting of special permission and the attachment of conditions thereto is a function expressly delegated to the Board of Appeal by the provisions of Part E of Section XXIIA of the Zoning By-law.

Nevertheless, we have inspected the site and the neighborhood in the light of the communication received from the Selectmen. As previously stated, the petitioner's premises adjoin those of another foreign car dealer and are only a few hundred feet easterly of those of a third automobile dealer on Route 9. The latter was granted special permission for a 30-foot standing sign several years ago and in addition to that has other signs identifying the dealership on the front wall and the westerly wall of the building. There is a further sign on the westerly wall and three more signs on the easterly wall of the building. The foreign car dealer whose premises adjoin the petitioner's has a roof sign, a standing sign, a sign projecting from the front of the building, large signs on the building walls and 4 or 5 miscellaneous signs on the building or on fences.

This short stretch along the southerly side of Route 9 west of Cedar Street and including the ramp connecting the eastbound lane of Route 9 with Cedar Street, has been occupied by several automobile dealerships over a period of many years, and in the light of the use to be made of the premises and the location of the building with reference to Worcester Street at its ramp connection with Cedar Street, it appears appropriate for the Board to take into consideration that competition for the attention and business of potential customers doubtless exists between the three neighboring dealerships.

Decision

The Board, taking into account the considerations hereinbefore referred to, is of the opinion that a permit for erection of the front wall sign requested by the petitioner, but limited by the conditions hereinafter imposed, will not be contrary to the public interest or in conflict with the objectives of the By-law.

Concerning the 250 square foot limitation on wall signs referred to in the Selectmen's letter, while the aggregate area of the proposed sign plus another which the petitioner is requesting permission to affix to the side wall of the building does exceed the area of 250 square feet referred to by the Selectmen, it is by only 6 square feet, which, under the circumstances, may be regarded as de minimis. If the conditions referred to by the Selectmen were intended to include the square footage of the used car sign already painted on the westerly wall of petitioner's building, the dimensions of that sign are not referred to in the letter, nor in the petition, nor were measurements made by the Board of Appeal, but in light of the profusion of signs painted or otherwise affixed to the side walls of the two neighboring automobile dealerships, it is difficult to regard the Selectmen's letter as having reference to more than the two signs proposed by the petitioner and covered by the instant petition, especially since their letter refers only to "signs in accordance with the plans presented."

The Board therefore finds that the proposed front wall sign, subject to the conditions imposed herein, will be in harmony with the general purpose and intent of Section XXIIA of the Zoning By-law and will not be injurious to the neighborhood nor to traffic and safety conditions, nor otherwise detrimental to the public safety and welfare.

1. That said sign shall not exceed the 4 foot by 36 foot dimensions referred to in the petition and shown on petitioner's plan.

2. That said sign shall comply with the provisions of Subpart 3.a.4 (Illumination) of Section XXIIC of the Zoning By-law.

3. That no colors other than, as represented at the hearing, viz., red and white, shall be used.

4. That any existing signs be removed from the front wall of petitioner's premises.

Philip H. R. Cahill

Dana T. Lowell

F. Lester Fraser

Filed with Town Clerk_____