

TOWN OF WELLESLEY



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72-68

BOARD OF APPEAL

DEC 11 11 43 AM '72

RICHARD O. ALDRICH
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Appeal of Town of Wellesley

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:50 p.m. on December 7, 1972, on the appeal of the Town of Wellesley, from the refusal of the Inspector of Buildings to issue a permit for the construction of a bus shelter on the southerly side of Central Street at the corner of Washington Street and Central Street.

The reason for such refusal was that said building would violate Section 311.6, Location of Buildings, of the BOCA Basic Building Code of Wellesley, which requires that all such buildings shall be placed at least thirty feet from the side line of any public or private street and all Type IV buildings shall be placed at least fifty feet from the center line of any public or private street and Section XIX of the Zoning By-law which requires that there shall be provided for all such buildings or structures a front yard not less than thirty feet in depth. Said appeal was made under the provisions of Section 127.2 of the BOCA Building Code of Wellesley and Chapter 40A, Section 13 and 15 of the General Laws.

On November 20, 1972, the Building Inspector notified the appellant in writing that a permit for the construction of a bus shelter could not be issued for the above-mentioned reasons. On November 21, 1972, the appellant took an appeal from such refusal and thereafter due notice of the hearing was given by mailing and publication.

Leo J. Hession, Counsel for the Town of Wellesley, represented the appellant at the hearing.

Statement of Facts

The property involved is located within a Single-residence District. It is owned by the Town of Wellesley and except for a flag pole, has no buildings or structures on it.

The appellant seeks permission to erect a small bus shelter, approximately 7'6" x 15'4", for the convenience of the public. The proposed shelter, if erected, will lie 40' from the center line of Central Street and partially on the street on the southerly side of Central Street. The location is for convenient access to the bus stop going in an easterly direction. A similar shelter is directly across Central Street on the northerly side which accommodates those traveling in a westerly direction.

A plot plan was submitted drawn by John E. Beanson, Land Surveyor, dated November 15, 1972, which showed the proposed shelter to be 40' from the center line of Central Street, with the street line bisecting the shelter, approximately in the center.

It was stated at the hearing that the Town Meeting voted to construct a bus shelter at the location involved for those easterly bound. Through a misunderstanding, work was started on it without a permit, but nothing has been done since the Building Inspector ordered work stopped. It was further stated that the proposed location appears to be the most practical place for it if it is to serve its purpose. Due to the location of the flag pole on the lot, it would be necessary to place the proposed shelter approximately seventy feet back from the street, and, therefore, it would have no practical value, as the people would be unable to see the approaching bus.

Decision

In the opinion of the Board the construction of the proposed shelter will not create any fire risk in the area and will not injure the community from the point of view of general appearance. It will, however, be of substantial benefit to the Town of Wellesley and its citizens in convenience.

The facts in this case satisfy the conditions set forth in Section XIX of the Zoning By-law on which the Board's authority depends to grant a special exception from the applicable front yard restriction. The property was held of record on April 1, 1940, under a separate and distinct ownership from adjacent lots, and because of its shape, compliance with the yard requirements is impracticable. Unless this Board grants the requested exception and variance, in its opinion, manifest injustice will result to the appellant, a finding it must make under the provisions of Section 127.1 of the BOCA Building Code of Wellesley.

by this Board

The appeal has also been considered/under the provisions of the General Laws, Chapter 40A, Section 15, and the Board feels that the requested variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-laws.

Accordingly, without condoning the manner in which the work was started without a permit, the requested exception and variance are granted and the Inspector of Buildings is authorized to issue a permit for the completion of the work involved in accordance with the plot plan submitted and on file with this Board, drawn by John E. Benanson, Land Surveyor, dated November 15, 1972.

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F. Lester Fraser
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Filed with Tom Clerk _____

WELLESLEY, MASS.
AT
CENTRAL STREET

PLAN of PROPOSED
BUS SHELTER
IN

Scale: 1" = 40'

November 15, 1972

John E. Bezanon Town Engineer

