

TOWN OF WELLESLEY



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BOARD OF APPEAL

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Administrative Secretary
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Petition of Babson Recreation Center, Inc.

Pursuant to due notice the Board of Appeal held a public hearing April 8, 1975, on the petition of Babson Recreation Center, Inc., requesting approval of plans for the construction and installation of buildings, equipment and other facilities, including facilities for the parking of motor vehicles, for ice skating and tennis; and accessory uses, to be located on land now owned by Babson's Reports, Inc., and Babson College on Great Plain Avenue, on the northerly side of its intersection with the Wellesley-Needham town line.

In connection with this application, the petitioner further requested a special exception from the provisions of Section XXI, Part D., Subpart 3. Landscaping b. which will permit the substitution of an equivalent amount of landscaped space in various locations on the site for such areas required by the provisions of said section. Said request was made under the provisions of Section VIII A of the Zoning By-law.

Under date of March 4, 1975, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

John O. Rhome, attorney, represented the petitioner at the hearing.

Peter J. Briggeman, Sales Manager of Lamont Associates, Inc., Designers-Engineers, for the proposed complex, described the construction of the proposed buildings as well as the engineering of the site. He also showed elevations of the buildings and samples of the exterior colors that will be used.

Donald T. Goldberg of Goldberg-Zoino & Associates, Inc. of Newton testified concerning the runoff pond and the spillway. He stated that the normal depth of the pond would be four feet and that it would act as a siltation basin. He also stated that in the event of a "fifty-year storm" the spillway would slow the speed of the water passing down the spillway.

The following persons spoke in favor of the proposed Center:

- Richard R. Hartley of 69 Chesterton Road, Wellesley
- W. Peter Barnes of 73 Chesterton Road, Wellesley

Petition of Babson Recreation Center, Inc.

Edward J. Bleiler of 103 Great Plain Avenue, Wellesley
Herbert W. Mathews, Jr. of 16 Simpson Road, Wellesley
Edward J. Kingsbury of 29 Rutgers Road, Wellesley
Jean W. Kelly of 9 Bay State Road, Wellesley
Harold E. Hines of 39 Wingate Road, Wellesley
W. Michael Bodden of 23 Cornell Road, Wellesley
Barbara vonRosenvinge of 31 Barnstable Road, Wellesley
Harold E. Bolles of 3 Cedarbrook Road, Wellesley

Thomas W. Fennessey, Planning Director of the Town of Needham, stated that he had reviewed the petitioner's plans and that he questioned whether or not there should be a traffic signal at the entrance on Great Plain Avenue and whether or not there should be separate entrance and exit points. He also stated that there should be no parking allowed on Great Plain Avenue. He also questioned the effect of the Center on Baldwin Pond in the event of an unusual rainfall.

Elliot F. Childs, of 7 Harvard Street, Wellesley, an hydrologic consultant, stated that in a "fifty-year" storm there would be a slight increase in the flow from Baldwin Pond if the Center's holding pond had not been installed. However, he went on to state that if the Center's holding pond were installed the outflow from Baldwin Pond would be reduced in such a storm.

Mr. Rhome addressed the questions of the traffic signal and the entrance and exit points by stating that there would be a police officer assigned to direct traffic at times when spectators were leaving hockey games and that the entrance/exit arrangement had been designed by the Wellesley Town Engineers.

Ruth Shapiro of 21 Skyline Drive, Wellesley, spoke in opposition to the building of the Center and raised the following questions which were answered as indicated:

a. What was to be the length of the driveway: Mr. Rhome answered that it would be about 550 feet.

b. Who were the stockholders of the enterprise? Mr. Rhome answered that Babson College owned 25% of the stock, Babson Reports owned 25%, and the balance of 50% was held by nine private investors.

c. What were to be the hours of operation? Nathaniel S. Esten, President of Babson Recreational Center, answered that tennis would be offered from 7 a.m. to 11 p.m. and that skating would be underway from 6 a.m. to midnight.

d. Will the Center be open to commercial hockey teams? Mr. Rhome answered that, while the Center would be open to hockey activities that were willing to pay the required fee, professional hockey teams such as the Bruins and the Whalers would require a much larger seating capacity than that which would be available at the Center and that, therefore, such teams would not be playing at the Center.

e. When was the most recent Great Plain Avenue traffic count made? Mr. Rhome answered that it was in August, 1974.

Mr. Thayer of the Board asked how far the Center was from the Shapiros' house. After some discussion it was agreed that the distance was not less than 800 feet.

Dr. Joseph B. Nadol, Jr. of 39 Skyline Drive, Wellesley, questioned whether or not the proposed uses would comply with the Zoning By-Law. He particularly questioned the use of part of the premises as a snack bar. Mr. Rhome suggested that this would be a permitted accessory use under the By-Law.

Dr. Nadol also asked to what extent the Center would be available to Wellesley residents. Mr. Esten replied that Babson College would use the rink no more than about 10% of the available time and the remaining time would be offered to Wellesley residents, and, if there is any remaining time, then to Needham residents and then other interests.

Stanton H. Davis of 54 Mackintosh Avenue, Needham, questioned whether or not there would be a hearing concerning the Center before the Needham Conservation Commission. Mr. Rhome replied that there would not be. He stated that the law now in force does not require a hearing before the conservation commission of any town other than that in which the project is to be located.

Irene Cotell of 11 Skyline Drive, Wellesley, stated that she was worried about the egress at peak hours and inquired whether or not access were possible through the remainder of the Babson property. Mr. Rhome stated the access through other portions of the Babson property was not practical.

Frank H. Boring of 18 Skyline Drive, Wellesley, asked whether or not a fence was to be erected along the boundary nearest Skyline Drive. Mr. Rhome replied that a six foot fence was to be erected along the northerly property line.

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Prior to the hearing the Board had received letters in opposition to the Center from:

- a. Mr. and Mrs. William R. Powers, II, of 2 Fuller Brook, Wellesley, and
- b. Mr. and Mrs. Harold E. Shapiro, of 21 Skyline Drive, Wellesley.

At the time of the hearing the Petitioners filed with the Board the following reports:

- a. test boring results report dated February 28, 1974, from Carr-Dee Test Boring and Construction Corp., 37 Linden Street, Medford, Mass., 02144
- b. hydrologic study dated February 1, 1974, by Elliott F. Childs
- c. draft of traffic impact study dated October 1, 1973, by Alan M. Voorhees and Associates, Inc., 210 South Street, Boston, Mass., 02111, and
- d. an accident analysis dated September 13, 1973, by John V. Fitzmaurice, Traffic Engineer.

STATEMENT OF FACTS

The premises are located in an Educational District B in which (see Zoning By-Law Section VIII A) the uses contemplated by the petitioners are allowed.

Within Subsection 2 of Section VIII A there are certain minimum requirements which, according to the plans and specifications submitted by the petitioner, have been satisfied as follows (lower case letters refer to subparagraphs within Subsection 2):

	<u>By-Law</u>	<u>Petitioners' plans</u>
(a)	minimum lot area	80,000 sq. ft. 1,129,716 sq. ft.
(b)	minimum usable open space	60% of lot area 75.31% of lot area
(c)	maximum building/structure coverage of lot	20% 8.27%

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| (d) | no building to be within 100 feet of property lines | 100 feet | various distances all in excess of 100 feet. |
| (e) | no parking within 100 feet of any lot line of land used for residential purposes | 100 feet | various distances all in excess of 100 feet. |
| (h) | maximum number of permanent spectator seats | 1600 | 1500 |

An additional restriction found in Section XX of the Zoning By-Law allows a maximum height for structures of 45 feet. The elevations in the petitioners' plans as measured by scale rule show a maximum height of about 38 feet.

Plan Compliance

By-Law Section VIII A, 2, (f) (PROCEDURE) requires compliance with Section III A, 2 (K). This latter section requires that plans be filed with this Board, which must be plans showing the locations and elevations of buildings and their exterior materials and indicating provisions for off-street parking facilities, interior roads and driveways, drainage and landscaping, and such other information as the Board may reasonably require.

Such plans have been filed with the Board and the features required by the By-Law are on the plans.

The Off-Street Parking plans must comply with the requirements of Section XXI, Part D, Subpart 1 of the Zoning By-Law which requires that the plans show:

- a. the quantity, location, and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, storage areas, and drainage facilities;
- b. the location, size and type of materials for surface paving, curbing or wheel stops, trees, screening and lighting; and
- c. the location of all buildings and lot lines from which the parking lot must be set back.

All of the information required by subparagraphs a, b, and c above have been furnished by the petitioners either on their plans or within a set of supplementary specifications filed with the Board.

Required Parking

The parking required must be on the same lot as the building being served (Section XXI, Part D, Subpart 2) and the Board finds from the plans submitted that it will be.

In an Educational District B there must be one parking space for every 3 permanent spectator seats (said Subpart 2) which would require 500 spaces for the petitioners' 1500 spectator seats. The Board counts 519 on the parking plan.

Compliance with Parking Development Standards. Section XXI, Part D, Subpart 3, sets forth detailed and numerous standards with which parking areas of fifteen or more spaces must comply. They are set forth (paraphrased) below (lower case letters refer to subparagraphs within the "DESIGN" section of Subpart 3) and the petitioners' compliance as determined by the Board is indicated therein.

a. When the angle of parking is 61° - 90° , the required width is 8 feet, 6 inches per parking space, the space must be 18 feet deep, and the width of the maneuvering aisle must be 24 feet. The plans show a space width of 9 feet. The plans show a parking space depth of 20 feet which complies and a maneuvering aisle width of 20 feet which does not comply. However, the specifications accompanying the plans call for parking space depths of 18 feet on either side of a 24 foot wide maneuvering aisle. These latter measurements are those that will be required by the Board.

b. Driveways to and from a parking lot are limited to two per street line. The petitioners' plans indicate one driveway. The Subpart also requires that driveways are to be so located as to minimize traffic conflict and to provide good visibility of approaching traffic. In the opinion of this Board a police officer to control traffic will be necessary at peak traffic egress times (which can be expected to occur only after certain hockey games). A condition to this effect will be found at the end of this decision. The Voorhees draft traffic impact study suggested that visibility for cars approaching Needham can be maintained only if no trees and high brush are permitted to grow on the north side of Great Plain Avenue in Needham within 300 feet of the Needham-Wellesley town line. A condition to this effect will also be found at the end of this decision.

c. Driveway widths meet the minimum standards as shown on the petitioners' plans.

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d. The only means of access/egress shall be driveways meeting the requirements of the Zoning By-Law. The Board is satisfied from an examination of the plans and specifications that such is the case.

e. Driveways must permit the free flow of vehicles and permit exit and entrance from and to the public street by vehicles being driven forward. In the Board's judgement these requirements are met particularly in view of the fact that the driveway between the public way and the parking areas is at least 500 feet long.

f. Paved portions of parking areas shall be set back at least five feet from any building wall, way or residential land lot line. The Board in its review of the plans finds no violations of these set-back provisions.

g. The use of any parking space shall not require the moving of another vehicle or the passing over of any other parking space. In its review of the plans the Board finds no "landlocked" parking spaces that would require such inconvenient maneuvering.

Construction specifications required by Subpart 3 are (and are satisfied in the judgement of the Board) as follows:

a. All parking areas and driveways must have a durable, dustless, all-weather surface, such as bituminous or cement concrete. The petitioners' specifications indicate that these surfaces are to be of bituminous concrete.

b. All parking areas shall be provided with curbing, wheel stops or other devices to prevent vehicles from being driven into required set-back areas or required landscaped open space. The petitioners' plans and specifications indicate curbing in areas where there are required set backs from building walls. The remaining areas around the parking spaces so far exceed the required five feet (Section XXI, Part D, Subpart 3, DESIGN, f.) that this Board (under Section XXI, Part E, Subpart 2 EXCEPTIONS) finds that less stringent requirements as to those remaining areas will carry out the other purposes of Section XXI.

c. Parking area surfaces shall be marked so that each parking space is apparent. The petitioners' plan supplemented by the specifications, indicate that the

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individual parking spaces are to be marked so as to be apparent. The markings are to be of white paint, 4 inches in width, applied to the surface of the pavement.

In Section XXI, Part D, Subpart 3, that paragraph captioned "LANDSCAPING" sets forth certain planting requirements. However within this paragraph it is stated that in cases in which site plan approval by this Board is required, this Board may approve the substitution of an amount of landscaped open space equal in area to that otherwise required by the paragraph, provided that the Board finds that the substituted open space complies with the provisions of Part A - PURPOSE - of Section XXI. It is this Board's opinion that the petitioners have open landscaped space in the present unspoiled woods and trees surrounding the parking areas which is far in excess of that required by the landscaping paragraph of Subpart 3.

Furthermore, the Board is of the opinion that this large amount of open space complies with Part A-PURPOSE of Section XXI. Part A requires that any use of land for arrival, departure and parking of motor vehicles be so designed and operated that the use will assure that all structures and land uses have sufficient off-street automobile parking to meet the needs of persons employed at, or making use of, such structures or land uses.

Subparagraph c of the landscaping paragraph requires the planting of trees of a certain caliper which shall be rapid growing and suitable and hardy enough for location in a parking lot. The subparagraph further states that to the extent practicable existing trees shall be retained and used to satisfy the provisions of Section XXI.

In viewing the premises the Board has found a natural, mixed and healthy deciduous growth around the areas that are to be parking lots. The planting has already taken place by natural processes. The dimensions of the mature trees exceed those required by the subparagraph. The existing species are fast growing in some cases (maples) and hardy in others (oaks). The retention of the existing trees to the extent practicable shall be a condition hereinafter stated in the Board's decision.

In Section XXI, Part D, Subpart 3, that paragraph captioned "SCREENING" sets forth requirements for screening parking areas which abut residential districts or uses. The paragraph also requires screening from ways. In the Board's opinion the natural growth surrounding the proposed parking areas provides ample screening.

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DECISION

The Board has examined the plans and specifications submitted to it and has taken a view of the locus. In its opinion, the plans and specifications are in harmony with the purpose and intent of the pertinent provisions of the Zoning By-Law and they show compliance with the provisions of subparagraphs (a) (b) (c) (d) (e) (f) and (h), of Section VIII A 2 of the Zoning By-Law, and adequate provision has been made by the petitioners for matters of public interest referred to in Section III A, Paragraph 2., Subparagraph (k).

While many of the Board's findings may be inferred from the foregoing Statement of Facts, the findings as they relate to each requirement of Subparagraph (k) are set forth as follows:

(i) Insuring compliance with the Zoning By-Law of the Town of Wellesley. The Board finds that the plans and specifications contain dimensions and other particulars which comply with various dimensional requirements of the Zoning By-Law applicable to all districts and with the more stringent requirements of Section VIII A governing Educational Districts B. The Board finds that the uses proposed by the petitioners are allowed in an Educational District B.

(ii) Protecting the safety, convenience and welfare of the public. The Board finds that the data set forth in the plans, specifications, and reports filed by the petitioners, as modified by the conditions hereinafter set forth, are adequate assurance that the safety, convenience and welfare of the public will be protected.

(iii) Minimizing additional congestion in public and private ways. The Board finds that the location and design of the entrance onto Great Plain Avenue, of the driveway, and of the parking areas, as modified by the conditions hereinafter set forth, minimize to the extent reasonably possible for this particular project any additional traffic congestion.

(iv) Insuring adequate provision for the parking of motor vehicles. The Board finds that the parking provisions planned for the Center comply with the Zoning By-Law requirement stated in the table of off-street parking requirements in Section XXI, Part D, Subpart 2.

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(v) Insuring adequate provision for water sewerage and drainage. The Board has reviewed the plans which show the sewers, the drains in the parking areas, the conduits, the holding pond and the spillway. As to the drainage aspects it has heard the testimony of Hydrologic Consultant Childs. From the evidence the Board finds that the plans make adequate provision for water, sewerage, and drainage.

(vi) Insuring that the premises will not be unsightly. Evidence was presented at the hearing that the exterior materials to be used in the buildings to house the tennis courts as well as the building to house the skating rink, will have side walls of surf green metal panels, fascia panels of cypress olive, aggregate panels of monterey sand and split block of imperial ramblesstone. The roofs are to be tar and gravel of tahitian brown.. While opinions of sightliness are subjective, the Board in its opinion does not find the proposed Center to be unsightly. No evidence was offered or objections made at the hearing that the Center would be unsightly.

(vii) Insuring compliance with the provisions of SECTION XVI. Section XVI of the Zoning By-Law sets forth restrictions affecting all districts. From its examination of the plans and specifications and from the evidence offered at the hearing the Board finds no proposed uses (as they are set forth in Section XVI):

A. For any purpose which by the emission or discharge of fumes, vapor, smoke, gas, dust, cinders, offensive odors, chemicals, poisonous fluids or substances, refuse, organic matter, or excrement, the causing of noise or vibrations, or by unduly increasing the risk from fire or explosion, or otherwise, would be obnoxious, offensive, dangerous, or injurious to the public health or safety.

B. For the storage or parking of motor vehicles which are, and for the immediately preceding thirty day period have been disabled, dismantled or inoperative.

C. For any purpose which would be for any reason

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injurious to the health, safety, morals or welfare of the community or harmful to property therein.

D. For the parking, keeping or storing of a mobile home or house trailer.

E. For the parking, keeping or storage of a recreational trailer or vehicle.

Accordingly the Board finds that the plans and other evidence make adequate provisions for insuring compliance with the provisions of SECTION XVI.

The Board hereby grants an exception to the requirements of Section XXI, Part D, Subpart 3. Landscaping, which will permit the substitution of an amount of landscaped open space equal in area to that required by the by-law. The Board finds that the purpose is substantially complied with in that the design and use more than amply meet the requirements of landscaping, and that adequate screening has been provided.

The plans submitted and on file with this Board, identified as follows: Site Plans: X-1, X-2, and X-3; Tennis Facilities Plans: A-1, A-2, A-3, A-4, A-5, A-6, S-1, S-2, and S-3; and Ice Facilities Plans: A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, S-1, S-2, and S-3, all drawn by Lamont Associates, Inc. and dated October 3, 1974, and the specifications filed therewith, are APPROVED as submitted and the requested exception is hereby granted and the Inspector of Buildings is authorized to issue a permit for the proposed recreational complex subject to compliance with the State Building Code, the Zoning By-Law, except for the exception herein granted, the requirements of the Town of Wellesley, the rules and regulations of the Massachusetts Department of Public Safety, the Massachusetts Department of Natural Resources and the Office of Environmental Affairs, the Town By-Laws, and any other applicable provisions of law and the following conditions imposed by this Board which shall be binding upon the petitioner, its successors and assigns:

1. That all work shall be performed in accordance with the plans hereby approved and presently on file with this Board.

2. That the landscaping shall be maintained to the satisfaction of this Board for the life of the building.

3. That the lift station to be provided (as shown on the plans) shall be installed and maintained by the petitioner and at no expense to the Town of Wellesley.

4. That a copy of the occupancy permit required shall be submitted to this Board prior to occupancy.

5. That all existing healthy trees shall be retained as indicated in the landscape plans and as are presently growing around the perimeter of the Center and shall be replaced by new trees if and when they need to be replaced owing to disease, age, injury, or destruction.

6. That petitioner shall comply with the requirements of the Town of Wellesley Conservation Commission, and the Town of Wellesley Department of Public Works and Fire Department.

7. That upon completion of the buildings, a complete set of architectural plans, including a complete set of mechanical plans, shall be submitted to this Board showing exactly how the buildings were constructed. Said plans together with satisfactory evidence of compliance with conditions herein mentioned, shall be submitted to this Board showing exactly how the buildings were constructed. Said plans together with satisfactory evidence of compliance with conditions herein mentioned, shall be submitted to this Board at least ten business days prior to occupancy of the building.

8. That the maneuvering aisles in the parking areas shall be 24 feet in width as set forth in the petitioners' specifications, rather than 20 feet as shown on the plans, and the depth of the parking spaces shall be 18 feet.

9. That petitioner detail a police officer, who is authorized to direct traffic, during periods in which large numbers of vehicles can reasonably be expected to leave the Center at such times as (but not necessarily limited to) the conclusion of hockey games, such officer to be stationed at the egress point on Great Plain Avenue.

10. That no trees or high brush shall be permitted to grow along the north side of Great Plain Avenue in Needham within 300 feet of the Needham-Wellesley town line in such a manner as to obstruct the line of vision between vehicles moving towards Wellesley and vehicles at the egress point, and, if such trees or brush now exist, they shall be removed.

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11. The driveway entrance and exit shall be so constructed that the surface water from driveway will not discharge onto the Great Plain Avenue roadway;

12. The existing catch basin at lower drive shall be relocated to the curb line at the driveway's southeasterly intersection with the gutter line of Great Plain Avenue;

13. The driveway channelization islands which are to be constructed within the layout of Great Plain Avenue shall be approved by the Town of Wellesley Board of Selectmen.

14. All curbing to be installed within the public way shall be 6" x 18" vertical granite curbing.

15. When the existing street bound at the upper driveway opening is removed and reset due to proposed construction, the bound point shall be tied in with offset reference points and reset at an elevation just below the proposed roadway surface with a brass pin to be set in the roadway surface identifying the bound location. This work shall be supervised by a Registered Land Surveyor who shall provide a Certification of Location to the Town Engineer that the bound has been properly reset.

16. The sewer extension in Great Plain Avenue shall be relocated so as to lie between the existing water main and the street line in order to reduce the excavation of the Great Plain Avenue roadway.

17. That a surety performance bond or letter of credit running to the Town of Wellesley shall be provided in the amount of \$50,000 which shall be in all respects satisfactory to Town Counsel and the Board of Appeal and shall be posted with the Treasurer of the Town of Wellesley before the commencement of work. Said bond or letter of credit shall be conditioned on the completion of all conditions hereof, shall be signed by a party or parties satisfactory to the Board of Appeal and the 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 any conditions which are of continuing nature.

Filed with Town Clerk

1975


F. Lester Fraser


William O. Hewett


Henry M. Thayer