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## ZONING BOARD OF APPEALS

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 Administrative Secretary  
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Petition of Webb Town Houses Condominium Trust

Pursuant to due notice the Special Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:25 p.m. on January 18, 1979, on the petition of Webb Town Houses Condominium Trust, requesting a modification of the special permit granted by the Special Permit Granting Authority on July 28, 1977, approving plans for thirteen Town Houses to be constructed at 609, 611, and 617 Washington Street.

The petitioners sought a modification of Condition #1 in said decision which will allow the substitution of concrete sidewalks in place of brick sidewalks as shown on the plan approved by the Authority. Said petition was made under the provisions of Section XXV of the Zoning By-law.

On December 28, 1978, the petitioners filed their request for a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Joseph L. Serafini, Attorney, 28 State Street, Boston, represented the petitioners at the hearing.

Edward S. Hand, Jr., 26 Weston Road, stated that he had favored the rezoning of the property involved to a Town House District, and felt that it had been developed in an attractive manner.

Statement of Facts

The property involved is located within a Town House District and consists of a parcel of land containing 50,547 square feet with three buildings, which have been constructed recently, containing a total of thirteen Town Houses.

On July 28, 1977, this Authority approved plans for the construction of the buildings involved, subject to seven conditions. Condition #1, stated, "That all work shall be performed in accordance with the plans heretofore and hereafter filed and approved by this Authority and in compliance with all other requirements of local and State laws." The plans submitted and approved at that time showed the sidewalks to be brick.

On June 8, 1978, this Authority heard a similar petition to the one now presented. At that time Edward M. Levitt was the owner of the property, as the complex had not been completed, and he requested the substitution of concrete sidewalks in place of brick sidewalks which had been approved by the Authority. That request was denied in a decision filed with Town Clerk on July 3, 1978.

The petition involved was filed by Edward M. Levitt, Trustee,

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Webb Town Houses Condominium Trust, seeking the same modification of the Authority's decision of July 28, 1977, as requested previously, for the substitution of concrete sidewalks in place of brick sidewalks.

It was stated at the hearing that it would be most expensive to replace the concrete sidewalks with brick and that a majority of the new owners of the condominiums do not want brick sidewalks. A petition was circulated among the new owners, it was stated, and 75% of them were not in favor of the brick sidewalks, as they felt that it would be more expensive to maintain a brick sidewalk as opposed to the present concrete, and would eliminate the possibility of heaving during the winter.

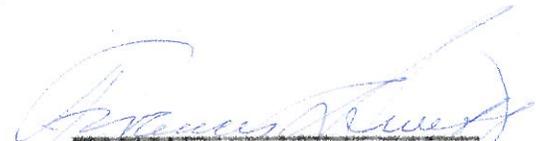
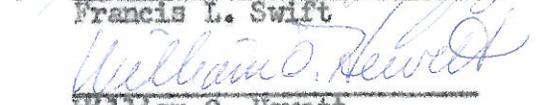
Decision

The Authority has reviewed the new evidence submitted and it is of the same opinion as it was when it made a finding on July 3, 1978, that.. "It appears to this Board that the possible hazardous condition which the petitioner explained would result if the brick sidewalks were constructed, no longer exists, as the concrete sidewalks have already been installed, and the bricks can now be laid on the concrete base rather than on a sand bed." It is the further opinion of this Authority that any hardship which may result from compliance with Condition #1 of this Authority's decision of July 3, 1978, was self-created, and not within the meaning of Hardship within the Zoning By-law.

Accordingly, there is to be no modification of Condition No. 1. in the decision of the Zoning Board of Appeals' decision recorded with the Town Clerk on July 28, 1977, and the petition, therefore, is dismissed.

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Filed with Town Clerk \_\_\_\_\_

  
Francis L. Swift  
  
William O. Hewett  
  
Franklin P. Parker