

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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Executive Secretary  
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235-1664

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83-50

Petition of George M. Levine

Pursuant to due notice, the Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Thursday, September 22, 1983, at 8 p.m. on the petition of GEORGE M. LEVINE, requesting a variance under Section XIX of the Zoning Bylaw which will allow the existing patio/awning structure at WELLESLEY CROSSING RESTAURANT, 11 RIVER STREET, to be enclosed by glass walls and a permanent roof for year round use and expanded in size to approximately 11.5 feet by 29 feet, with an entryway 5 feet by 5 feet, leaving less than the required front yard setback. Said property is located in a Business District and said request is made pursuant to Section XXIV-D of the Zoning Bylaw.

On September 2, 1983, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Stephen Yanoff, owner of Wellesley Crossing Restaurant, who stated that he wishes to change the temporary structure to a permanent one for year round use. The restaurant seats 65 to 75 persons, and the number of patrons would not increase if a permanent structure were allowed. Mr. Yanoff stated that parking is not a problem in the area, that employees of the restaurant park at Grossman's, and that several spaces are leased from the Sunoco station, but that the bulk of the patrons are walkers.

Other than the petitioner, no one was present favoring or opposing the petition.

Statement of Facts

The property in question is located at 11 River Street, in a Business District, containing 6,200 square feet of land. It is a legal non-conforming building, with a setback of approximately ten feet at one point from River Street.

Stephen Yanoff leases the first floor of the two-story building and operates the Wellesley Crossing Restaurant. George Levine, owner of the property, petitioned the Board of Appeals on October 29, 1982 for a variance to construct a 5 foot by 5 foot entryway, leaving less than the required front yard setback. The request was denied on December 14, 1982. On May 2, 1983, George Levine applied for a variance to allow a 24 foot by 10 foot awning structure to be erected for seasonal outdoor dining. A variance was granted on June 8, 1983 for a period of one year.

George Levine is now requesting that the awning structure be increased in size to approximately 11.5 feet by 29 feet and enclosed by glass walls and a permanent roof, leaving no front yard setback at one point, and that a 5 foot by 5 foot entryway be allowed.

A Plot Plan was submitted, drawn by James A. Reger, Registered Professional Engineer, dated 10/25/83. Construction sketches were also submitted.

The Planning Board, in a letter dated September 21, 1983, stated that it strongly objects to any favorable consideration of the request.

### Decision

This Authority has made a careful study of the evidence submitted. The applicant proposes a permanent structure approximately 11.5 feet by 29 feet and a permanent entryway 5 feet by 5 feet.

On October 29, 1982, the petitioner requested an entryway identical to the present entryway request. The petition was denied on December 14, 1982 (Case 82-49) on the basis that this Authority failed to find "substantial hardship" within the meaning of Section XXIV-D of the Zoning Bylaw. The same criteria applies to the request before this Board at the present time.

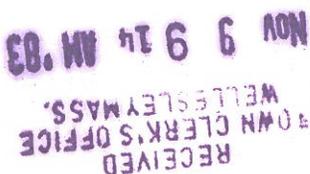
This Authority did grant a variance on June 8, 1982 for a period of one year for a temporary and seasonal awning structure, on a trial basis. The current request would create a permanent structure and would represent a substantial permanent encroachment to the street.

Variations may only be granted by the Permit Granting Authority once they have found any or all of the following (Section XXIV-D 1. as quoted from the Zoning Bylaw):

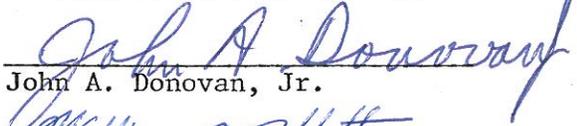
"1...

- a. Literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant owing to circumstances relating to: i) soil conditions, ii) shape, or iii) topography of such land or structures,  
.....AND
- b. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of this Zoning Bylaw."

This Authority fails to find "substantial hardship" within the meaning of Section XXIV-D. Therefore, it is the unanimous opinion of this Authority that this request for a variance be denied, and this petition is dismissed.

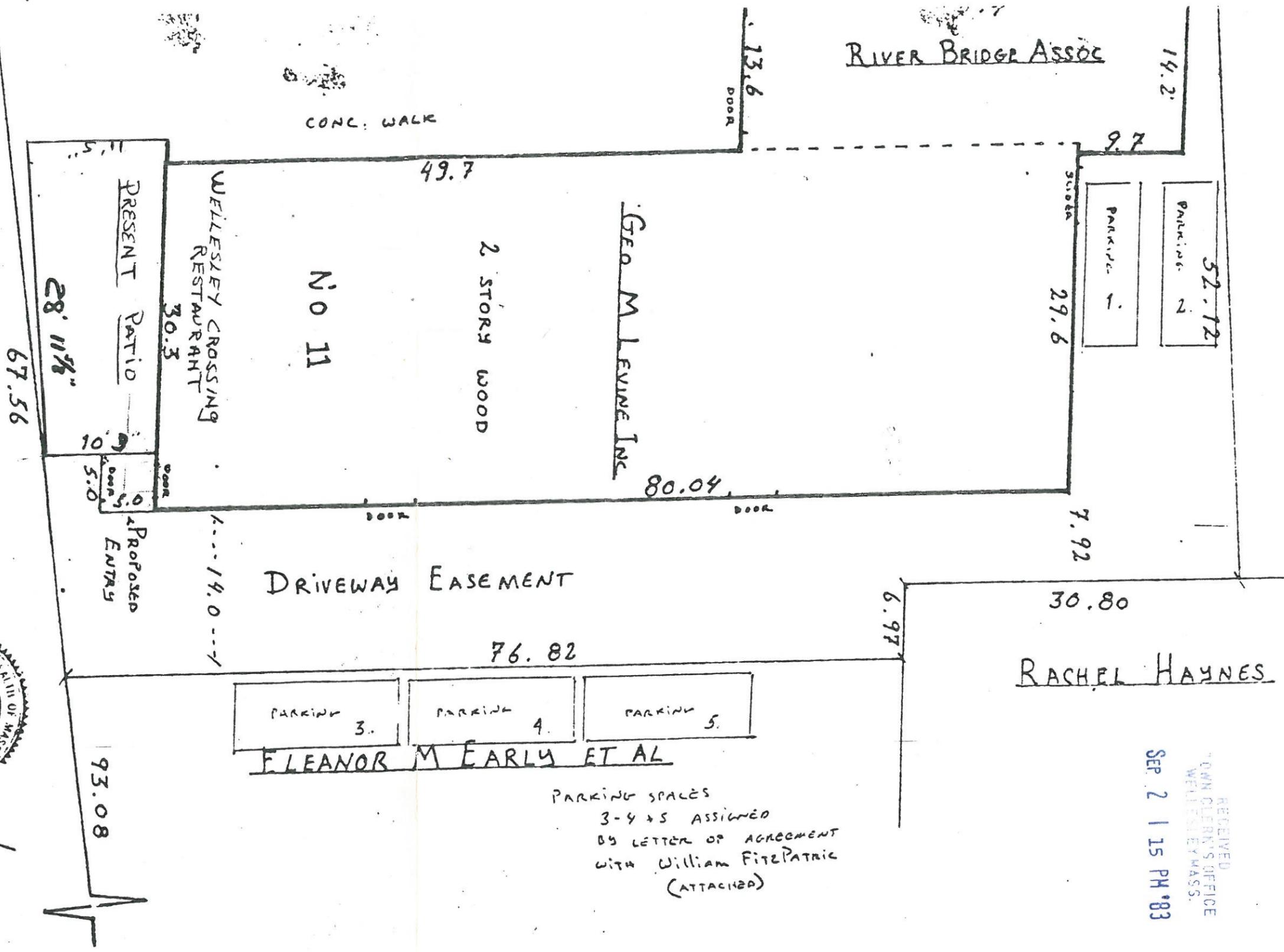


  
Stephen S. Porter, Chairman

  
John A. Donovan, Jr.

  
William E. Polletta

INNER ST.



RACHEL HAYNES

PARKING 3.      PARKING 4.      PARKING 5.

ELEANOR M EARLY ET AL

PARKING SPACES  
 3-4 + 5 ASSIGNED  
 BY LETTER OF AGREEMENT  
 WITH William FitzPATRICK  
 (ATTACHED)

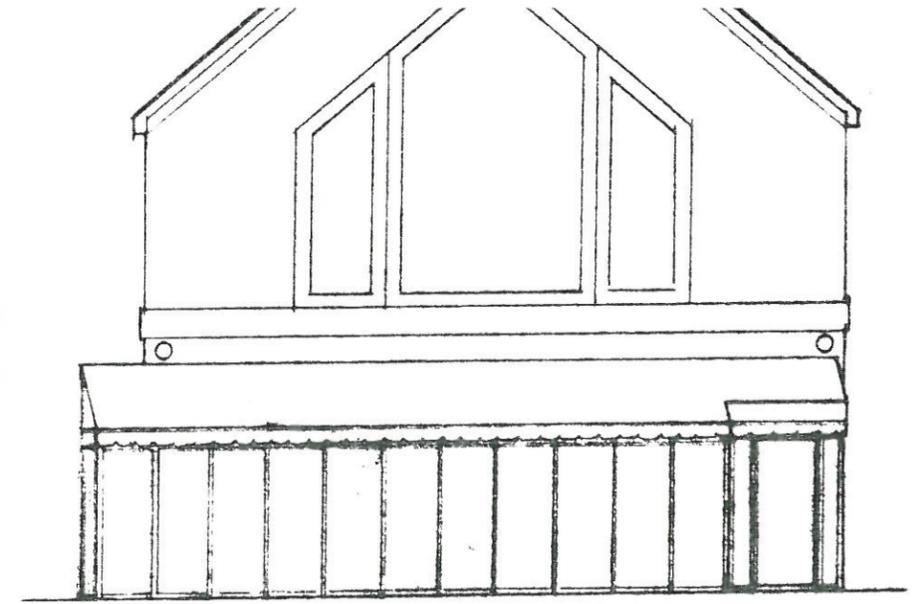
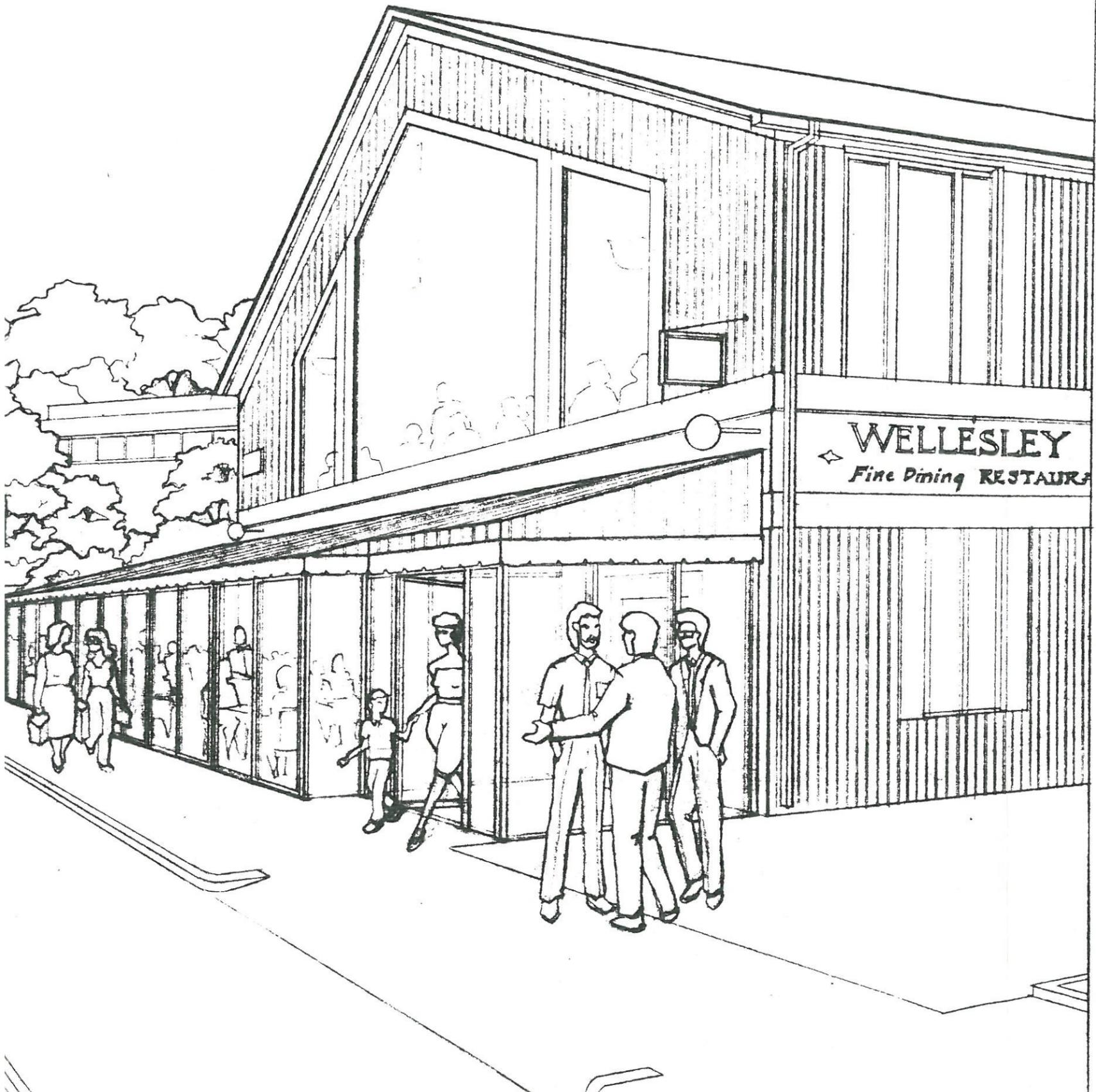


James A  
 10/25/83

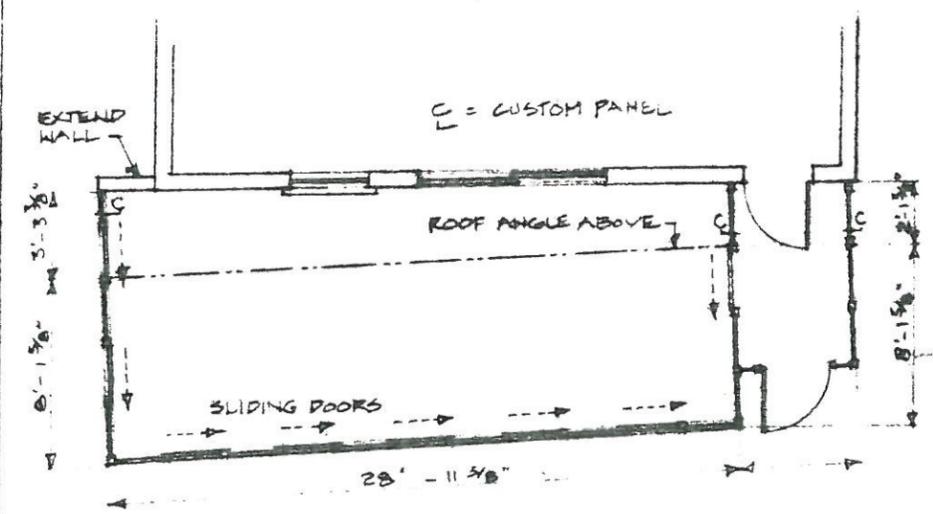
LOCATION WELLESLEY

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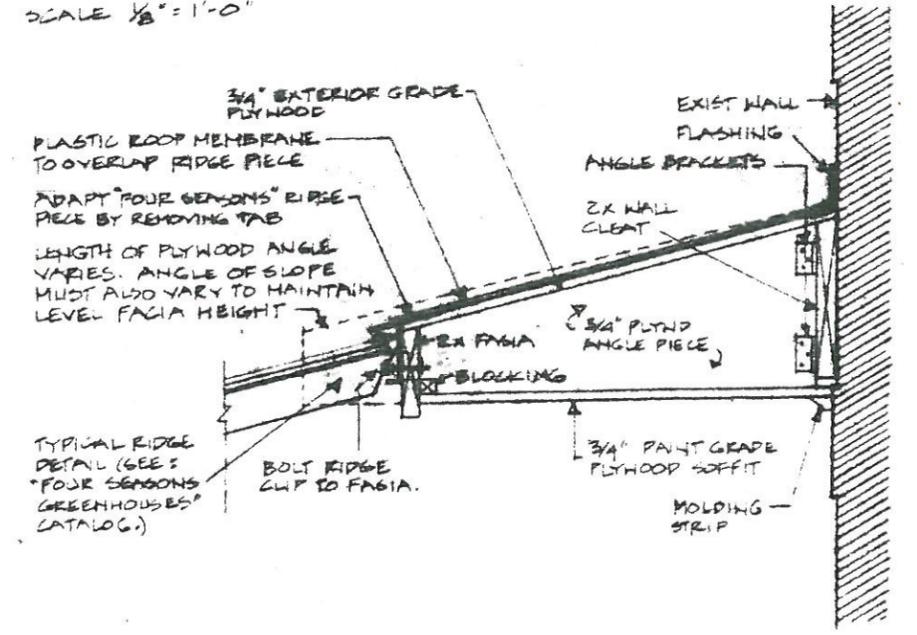
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ELEVATION  
 SCALE 1/8" = 1'-0"



GREENHOUSE PLAN  
 SCALE 1/8" = 1'-0"



ROOF ANGLE DETAIL  
 SCALE 3/4" = 1'-0"