



BOARD OF APPEAL

GARRETT S. HOAG
JOHN L. HAYDEN
DANA T. LOWELL

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TELEPHONE
CE. 5-1664

Appeal of Wellesley Inn, Inc.

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 8:25 p.m. on April 15, 1964, on the appeal of Wellesley Inn, Inc. from the refusal of the Inspector of Buildings to issue a permit to it for the construction of an addition to the Wellesley Inn, at 576 Washington Street. The reason for such refusal was that the Inspector of Buildings contended that said addition would violate Section XVIII, paragraph (C) 2. of the Zoning By-law which requires that there shall be provided for each such building or addition a lot containing not less than 2,500 square feet for each family for whose habitation such building is designed or adapted, and Section XX of the Zoning By-law which requires that no building shall be constructed, enlarged or altered so as to exceed a height of forty-five feet or three stories measured from the top of the foundation wall. Said appeal is made under the provisions of Section XVIII, C-2 and Section XX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

William W. White, Assistant Treasurer, of the Wellesley Inn, Inc. spoke in support of the appeal.

Irving P. Gramkow, attorney, represented the appellant at the hearing.

Clarence Holman, Tr., Estate of Charles Holman, 579 Washington Street and Charles J. McCullough, 59 Leighton Road spoke in favor of granting the appeal.

The Planning Board offered no objections in its report.

On March 27, 1964, the Inspector of Buildings notified the appellant in writing that a permit for the proposed addition could not be issued for the above-mentioned reasons and on March 30, 1964, the appellant took an appeal therefrom. Thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The property involved containing approximately 35,476 square feet is located within a Business District and the Wellesley Inn and Annex are now located on it.

The appellant seeks permission to construct an addition approximately 52' x 75' on the southerly side of the Inn which will provide fifty-six single rooms. If permission is granted, it is proposed to raze the existing Annex building and locate the proposed addition approximately in its present location. If built, the addition will be of Type I, Fire-proof construction. An underground garage to accommodate 167 cars will be provided with additional parking space on ground level. There will be 10,500 square feet of unoccupied land remaining.

The appellant contends that the proposed building will not violate either Section XX (Heights of Buildings or Structures) or Section XVIII C-2 (Ratio of Families to Lot Area) of the Zoning By-law. We shall consider the two sections and the appellant's position with respect to each separately.

Section XX provides:

"No building or structure, except one for religious, educational or non-residential municipal purposes, shall be constructed, enlarged or altered so as to exceed a height of forty-five (45) feet or three (3) stories, measured from the top of the foundation wall, exclusive to parapets, chimneys, flag and radio poles or necessary projections..."

These simple provisions are not always easy to apply to a specific situation. Unfortunately the Zoning By-law neither provides nor directs us to definition of the terms employed. We therefore must look where we may for such definitions. We think it not illogical to turn to the Wellesley Building Code for definitions of such terms used in the Zoning By-law as are there defined. The Building Code defines "story.":

Story: "The portion of a building between the top of the floor beams and the top of the floor, ceiling or roof beams next above. The first story shall be that which one enters at the principal point of entrance to the building. The upper stories shall be those stories above the first and shall be numbered in regular succession, counting upwards."

The plans of the proposed building show that it will be on five levels: a garage completely underground, a basement containing nine single bedrooms and baths, a linen room and mechanical room, two stories each containing seventeen single bedrooms and baths and a linen room and one story containing thirteen single bedrooms and bath and a linen room. The northeastern end of the proposed building will abut against the southern side of the existing Inn and will be connected by a stairwell. At the basement level there will be an underpass which permits cars to drive under the northern end of the three upper floors which gives access to the hallway leading to the rooms on that floor and to the elevator to upper floors. If that door is "the principal point of entrance to the building" referred to in the definition of "story" the building will have four stories. If as the appellant claims the main entrance to the existing Inn is "the principal point of entrance" to the proposed building, that building will be more than three stories high in violation of Section XX, for the floor to which the main entrance of the existing Inn gives access is five steps lower than the floor of the lowest of the three upper floors of the proposed building. The same conclusion must be reached if the "three (3) stories" limitation of Section XX is to be "measured from the top of the foundation wall."

But this Board has authority to grant an exception from the height restriction under certain prescribed instances which we find to be present in this case.

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The plans for underground and surface parking are, we find, more than sufficient to prevent the proposed building from causing undue congestion of traffic. In fact we think the proposed parking facilities would ease the present traffic congestion. Nor do we believe the proposed building would cause undue congestion of population or interruption of light and air or result in a detriment to the owners or occupants of nearby land. The accommodations when combined with those of the existing Inn are ample. The building will be well set back from the street and from the side and rear lot lines. Moreover, this proposed building will be substantially lower than the alternate maximum height restriction of forty-five feet measured from the top of the foundation wall.

Because of the practical limitation of the width of the building to the depth of two bedrooms and baths plus a hall, it would be impractical to provide the number of accommodations required by the community and to make the project feasible with less floors and therefore without violating the height restriction.

We turn now to a consideration of Section XVIII C-2 of the Zoning By-law which provides in pertinent part:

"In...Business...Districts...there shall be provided for each apartment house, apartment hotel, hotel, inn or group or row house, ... hereafter constructed or placed therein a lot containing not less than 2,500 square feet for each family for whose habitation such building is designed or adapted...." (Emphasis supplied)

If this means that 2,500 square feet of land must be provided for each single bedroom in the proposed addition, the appellant could not build unless the circumstances are such that we are authorized to grant a variance under Section 15 of General Laws Chapter 40A and believe it to be in the public interest to exercise that authority. As we read the section, however, it does not apply to these facts and no variance is required. Although the proposed building is undoubtedly a "hotel" or "inn" it is clearly neither designed nor adapted for family habitation. It is, of course, true that it might from time to time temporarily harbor one or more families, but we find that it is not designed or adapted for that purpose. Nor do we believe that a temporary stop at an inn is "habitation" within the meaning of the section. If the Town wishes to require hotels, motels and inns to provide 2,500 square feet of land for each bedroom which they contain, it must make that purpose clear and unequivocal.

Accordingly, an exception from Section XX of the Zoning By-law is granted and the appeal is granted.


Garrett S. Hoag


John L. Hayden


Dana T. Lowell

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