



BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK
TELEPHONE
CE 5-1664

Petition of Seabrooke Estates, 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 8:15 p.m. on October 28, 1964, on the petition of Seabrooke Estates, Inc., requesting a modification of a decision rendered to them by the Board of Appeal on May 8, 1964. Said decision granted them permission to use as a parking area land owned by them on the easterly side of Cedar Street next to the Cochituate Aqueduct, subject to the condition that work be completed within six months. The petitioner now requests an extension of the time limitation imposed in that decision.

Irving P. Gramkow represented the petitioner at the hearing.

Edward H. Gleason, 80 Walnut Street and William Donahue, 10 Cedar Street, opposed the granting of the request. Both opposed the original request and still feel that the proposed use of the property would be detrimental and would aggravate the present traffic problem.

On October 7, 1964, the petitioner filed its application for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The original petition dated March 4, 1964, sought a variance under General Laws (Ter. Ed.) Chapter 40A, Section 15 (3) or a temporary permit under Section XXIV E 1 of the Zoning By-law permitting the use of land in a single-residence district for parking to fill the need therefor in connection with the use of three nearby office buildings belonging to the petitioner which are in a Business "A" District.

On May 8, 1964, this Board filed its decision on that petition holding that the facts did not warrant a variance under the statute but granting a special permit under the by-law subject to the condition that the work be completed by November 8, 1964. The present petition seeks extension of completion date for six months.

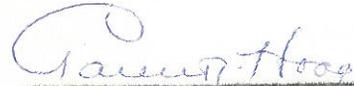
Decision

The requested extension is denied for the reason that this Board is now convinced that it did not have authority to grant the special permit under Section XXIV E 1 of the by-law. That paragraph authorizes us to grant "temporary" permits for non-conforming uses for not more than one year at a time. We have repeatedly held that we are not authorized by this paragraph to grant variances which we know the petitioner and we expect to be permanent in spite of express limitation to one year. There must be a foreseeable end to the need before Section XXIV may be invoked. There is none here. In fact it is clear from the May 8 decision that the area is to be graded, surfaced and lined, and a fence erected. This does not sound temporary nor was there any evidence submitted tending to show that

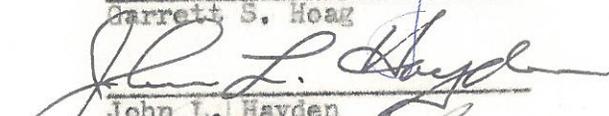
the petitioner intended the parking use to be other than permanent. The Board feels that the proposed use of the property would prove detrimental to the neighborhood as it would be less attractive for the nearby residences and school property across the street.

Section 15 of the Statute is the exclusive source of authority to grant permanent variances and this Board has already found that the facts did not satisfy its terms.

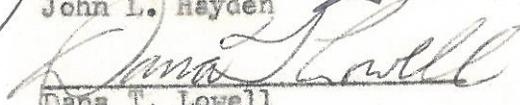
The petition, therefore, is denied.



Garrett S. Hoag



John L. Hayden



Dana T. Lowell

Filed with Town Clerk _____