



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

WILLIAM F. CULLINANE, CHAIRMAN
STEPHEN S. PORTER
JOHN A. DONOVAN, JR.

STEPHANIE J. GOSSELIN
Executive Secretary
Telephone
235-1664

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

RECEIVED OFFICE
TOWN CLERK'S OFFICE
JUN 11 11 53 AM '81

Petition of David C. Wiswall et al

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Wednesday, April 29, 1981 at 8:00 PM on the Petition of David C. Wiswall et al, who is seeking the approval of Site Plan as required under the provisions of Section IIIA and Section IIIA 2(k) of the Zoning Bylaw, for the construction of nine new townhouse units, remodelling of two existing buildings into two units each, and the relocation of one house retaining it as a single unit, thereby creating a total of fourteen (14) living units, at the premises of 599 Washington Street and Wiswall Circle, located within a Townhouse District. This request was submitted under the provisions of Section XXV of the Zoning Bylaw.

On April 6, 1981 the petitioner filed for a hearing before this Board and thereafter notice of the hearing was given by mailing and publication.

Present at the hearing and speaking on behalf of this request was David C. Wiswall. Mr. Wiswall pointed out that Wiswall Circle has been used in the past for a Red Cross Chapter House, college dorms and multi-family residence. Mr. Wiswall stated that #11 Wiswall Circle, a single family dwelling, will be relocated to the front of the lot abutting Washington Street, and a two car garage will be added under the house. Mr. Wiswall states that a variance will be needed from the rounding taken by eminent domain in 1962 which anticipated making Wiswall Circle a public way, and a variance is required in order to locate the dwelling 26' from the right side line rather than the required 30'. Mr. Wiswall continued stating that #7 Wiswall Circle, presently a single family dwelling, would be remodeled into two separate townhouse units with two garages under to the end farthest from Washington Street. A new building containing five townhouse units with two car garages under shall be constructed at the site where #11 Wiswall Circle presently exists. A variance is being sought to allow the proposed driveway to extend to within 8' of the back property line rather than the required 10'. The dwelling presently at 599 Washington Street is intended to be rehabilitated into two units. The house itself being of historical value, shall have few exterior changes to it. The petitioner intends to being Town sewer to all units at his own expense, the driveways and walks shall be maintained by the owners, thus eliminating the need for any Town involvement or expense.

Also present at the Public Hearing and speaking in favor of this request were: Barbara Whitcomb, Mary Wagstaff of 10 Abbott Street, Dr. Owen Kite, Dorothy Weatherby of 8 Abbott Street and Linda Sanderson. Mrs. Sanderson resides at #6 Wiswall Circle and stated that the proposed driveway will run over her septic system overflow tank.



Mrs. Sanderson stated that she is not opposed to the proposed project but that she feels the cost she will have to incur to bring the sewer into her house will be prohibitive and that she should not have to pay for it. Concern by Mrs. Sanderson, Dr. Kite and an owner living at the Webb Townhouses was raised over the issue of flooding and constant dampness at the rear of all these lots.

A copy of the application and the accompanying plans were mailed to the following departments: Planning Board, Design Review Board, the Board of Public Works, the Fire Department, the Board of Health, the Natural Resources Commission, the Wetlands Protection Committee and the Board of Selectmen.

Statement of Facts

The property involved contains 56,697 square feet of land and is in a Townhouse District located at Wiswall Circle off Washington Street. The total area covered by the buildings will be approximately 11,522 square feet and that of parking areas, 2,000 square feet, the remaining parking being in garages, totalling 13,522 square feet, or 24% of the total area, leaving 76% of the area as open land.

Fourteen living units are being proposed. These units are comprised of #11 Wiswall Circle, a single family dwelling to be moved to the corner of Wiswall Circle and Washington Street, the building at #7 Wiswall Circle, presently a single family dwelling, partitioned down the middle to become two separate townhouse units built into this will be a five unit townhouse with garages located under. The driveway to these rear units requires a variance which will allow the driveway to be 8' from the back property line rather than the required 10' in order to allow for adequate turning for entering and exiting vehicles from these garages. A full 4 unit townhouse will be constructed which will also have garages under. It is proposed to convert the dwelling located at 599 Washington Street, presently a single family dwelling, into two units, each having separate entrances. The exterior of this building shall be retained as the building is of historical value to the Town.

The petitioner proposed to supply Town sewer to each of these units at his own expense. Water, gas, electricity and telephone are already available, not requiring any expansion of the services. The driveways and walks will be installed and maintained by the owners, thus eliminating the need of Town involvement.

In a letter dated April 6, 1981, received from the Planning Board, and on file with this Authority, the Planning Board stated that they support and approve the overall development concept of the property. In a letter dated March 27, 1981 and received

RECEIVED OFFICE OF THE TOWN ENGINEER
JUN 19 1981
TOWN ENGINEER
M. J. HASS

from the Design Review Board and on file with this Authority, the DRB stated they they approve of the concept of relocating #11 Wiswall Circle. They further suggested that parking spaces be provided behind #7 be arranged to improve vehicular access; screening should be provided for parking spaces by Washington Street. In another letter of the DRB dated April 30, 1981, the DRB suggested that the proposed kitchen window of the Washington Street facade of the relocated single family house, should incorporate additional design elements to enhance the compatibility of scale; the letter recommended further that the project with 14 dwelling units along with the DRB/s suggested modifications be approved. A letter dated April 24, 1981 received from the Department of Public Works, stated: the basic design of the sewer system is acceptable; no design details have as yet been provided for the electric service; no drainage is proposed to discharge to the town drain in Washington Street and on site leaching basins are proposed to provide for surface runoff; this Department suggests that the driveway from Washington Street to the inner drives of the development be a minimum width of 20', preferably 24', to adequately provide room for an entering vehicle to simultaneously pass an exiting vehicle; and that the radii of curves connecting the driveway to the Washington Street curb line be a minimum of 15 feet. In a letter of April 23, 1981 from Len Philips, it was suggested that all trees proposed for landscaping be at least 2½ inches in diameter, breast height and located 12' from the street curb and 40' apart. Captain David Timmons of the Wellesley Fire Department in a letter of April 1, 1981 suggests that the existing hydrant to the East (Washington Street) side of the island be relocated to within the circle. A letter of April 27, 1981 received from Alison T. Field, Conservation Administrator for the Wetlands Protection Committee, stated that upon inspection she found no wetlands as defined in M.G.L. c 131s 40. or surface water on site; for these reasons it was concluded that this project was not under the jurisdiction of the Wetlands Protection Committee. The Board of Health in their letter of April 29, 1981 advised that there shall be no encroachment or interference of the existing cesspool at #8 Wiswall Circle without the express written approval of the Board of Health. This comment was made in reference to the proposed future parking indicated on the plans which will extend over the existing cesspool to this dwelling. The Board of Selectmen in their letter of April 8, 1981 stated that they are in the process of requesting from the Norfolk County Commissioner that the public way portion over the rounding at Wiswall Circle and Washington Street be discontinued.

Decision

The petitioner seeks approval of plans, a Special Permit, as well as three variances for the construction of a fourteen unit "Townhouse" project at Wiswall Circle located in a Townhouse District.

This Authority has made a careful study of the evidence submitted and at least one member has taken a view of the locus.

One of the three variances is considered "temporary" by the petitioner. The petitioner requests permission to relocate one single family dwelling so it is within 10' of the existing lot line. However, it seems the existing lot line was so estab-

RECEIVED
 PLANNING OFFICE
 WILMINGTON, MASS.
 APR 17 11 53 AM '81

lished in 1963 when the County re-constructed Washington Street and laid out Wiswall Circle as a proposed public way. We understand that plans for Wiswall Circle to become a public way have been abandoned and that the Board of Selectmen of the Town of Wellesley have petitioned the Norfolk County Commissioners advising them that there is no longer any need to maintain the public way over the portion (rounding) of the lot in question. Regarding this particular variance, it is the unanimous opinion of this Authority that due to the overall shape of the lot, a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and that the requested temporary variance may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw and without substantial detriment to the public good. Said temporary variance shall become void when the ownership of the "rounding" reverts to the petitioner.

Another of the three variances involves a request to allow the relocated single family house to be twenty-six (26) feet from the adjacent north lot line rather than the required thirty (30) feet. It is the opinion of this Authority that it was the petitioner himself who has created any hardship claimed in this petition by proceeding with the installation of sewerage while this Authority was deliberating this matter. The third of the three variances is a request to allow a driveway to be located eight (8) feet from the west (rear) boundary line rather than the required ten (10) feet. In these situations, this Authority has failed to find that "hardship", as defined in Section XXIV-D 1.a., would result if these variances were not granted. Also, this Authority is of the opinion that the ten (10) foot requirement, as well as the thirty (30) foot requirement, were intended as minimum distances between lots to provide assurance of environmental protection (visual, accustical, etc.) for the adjacent neighborhoods. Therefore, the requests for these variances is hereby denied.

The request for a Special Permit actually began as a request for a variance. This is a request to convert a single family house to a two family house on the basis that it is no longer economical to continue single family use. This Authority notes this single family house is located within a Townhouse District between a Business District and other single family houses and located directly across the street from an Educational District currently used for multi-family residential purposes. This Authority also notes the conditions per Section IIA 8(a) of the Zoning Bylaw, which this Authority must find, are difficult to establish and opines the difficulty is with good purpose and properly reflects the intent of Town Meeting regarding the conversion of single family houses to two family use. The house does not meet the criteria for definition as a "Townhouse" within the meaning of the Zoning Bylaws of the Town of Wellesley. However, the house in question is located within a Townhouse District and is to be a part of an overall "Townhouse" complex. It is the unanimous opinion of this Authority that the granting of a Special Permit to allow the single family house at 599 Washington Street to be used as a two family house within the proposed "townhouse" project will not be injurious to the neighborhood nor to the public good and will be in general harmony with the intent and purpose of the Zoning Bylaw. Therefore, a Special Permit is granted for a TWO (2) YEAR period from the date of filing of this Special Permit, for the conversion of a single family house at 599 Washington Street to a two family use within the proposed "Townhouse" project.

Finally, we come to the overall plan. This Authority notes the reports of the various Town agencies, departments, boards, etc., and subject to the Conditions hereinafter listed, approves the plans prepared by Registered Land Surveyor Joseph R. Sullivan of

MacCarthy & Sullivan Engineering, dated March 27, 1981 and the plans prepared by George Roman Associates, dated March 25, 1981 and filed with this Authority. Therefore, the Building Inspector is authorized to issue the necessary Building Permits for the construction of the new units, conversion of #7 Wiswall Circle to two town-house units, and the conversion of #599 Washington Street to a two family use, and the relocation of #11 Wiswall Circle, all as shown on the Plans filed with this Authority and subject to the following Conditions:

1. That all work shall be performed in accordance with the plans submitted and on file with this Authority or as modified by this Special Permit.
2. That upon completion of the entire project, a complete set of "As Built" plans, including a complete set of mechanical plans shall be submitted to the Inspector of Buildings.
3. That a copy of the Occupancy Permit issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.
4. At the expense of the Petitioner, all water, sewer and electrical connections shall be made subject to the approval of the Department of Public Works and all driveway entrances off Washington Street, drains and catch basins shall be installed subject to the approval of the Department of Public Works. All utility lines shall be underground. Detailed plans and specifications for the above shall be approved by the Department of Public Works and the Building Inspector prior to the start of construction and any site development work, and written evidence of said approvals submitted to the Special Permit Granting Authority. Definitive plans for the driveway apron complying with the requirements of the Town of Wellesley shall also be supplied noting the driveways to be a minimum of 20' to allow for simultaneous passing of motor vehicles, and that the radii of curves connecting the driveway to Washington Street curb lines shall be a minimum of 15'.
5. That the landscaping plans be approved by the Town Aborist and written evidence of said approval be submitted to this Authority.

RECEIVED OFFICE
TOWN CLERK'S OFFICE
JUN 19 11 53 AM '81

6. That there be provided adequate screening for all parking spaces and driveways from Washington Street and all abutting property.
7. That all requirements of the Town of Wellesley Fire Department be satisfied, including the relocation of the existing hydrant to the east (Washington Street) side of the island within the circle.
8. That all requirements of the Town of Wellesley Board of Health be satisfied. There shall be no encroachment or interference with the existing cesspool without first seeking the written authorization of the Wellesley Board of Health and a copy of same being filed with this Authority.
9. That at the expense of the Petitioner, detailed design plans for surface drainage within the development to prevent runoff into abutting properties shall be approved by the Department of Public Works and written evidence of said approval be submitted to this Authority.
- 9(a) A new site plan, showing the location of the buildings and off street parking in conformance with this decision shall be submitted to this Authority prior to obtaining a Building Permit.

RECEIVED OFFICE
OF THE TOWN ENGINEER
WELLESLEY, MASS.
JUN 19 11 53 AM '01

10. That curbing along the driveways, circle and the parking areas be provided, along with catch basins at any necessary points be installed to prevent any potential runoff of water, etc., onto any abutting properties, with plans for same being first approved by the Department of Public Works and written evidence of said approval submitted to this Authority.
11. That the developer provide this Authority with a copy of the proposed grading plan as approved by the Department of Public Works prior to the beginning of construction.
12. That all design and construction must comply with all applicable state and local codes.
13. That a Surety Performance Bond shall be provided to the Town in the amount of \$ 50,000 in a form satisfactory to Town Counsel and the Special Permit Granting Authority which shall be posed with the Treasurer of the Town of Wellesley before the commencement of work. Said Bond shall be conditioned upon the completion of work in accordance herewith and be released after completion of the Townhouses provided that provisions satisfactory to the Special Permit Granting Authority have been made for performance of these Conditions as imposed herein.

William F. Cullinane
William F. Cullinane, Chairman

John A. Donovan, Jr.
John A. Donovan, Jr.

Stephen S. Porter
Stephen S. Porter

JUN 11 11 53 AM '81
RECEIVED OFFICE
TOWN ENGINEER MASS.