



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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Petition of The Hanlan Group, Ltd., Tyrone T. Hanlan & Kevin J. Ahearn, and the Town of Wellesley by its Board of Selectmen

Pursuant to due notice, the Zoning Board of Appeals, acting as Special Permit Granting Authority held a Public Hearing in the Upper Town Hall Main Hearing Room at 8:00 p.m. on Thursday, June 28, 1984, on the petition of The Hanlan Group, Ltd., Tyrone T. Hanlan and Kevin J. Ahearn, and the Town of Wellesley by its Board of Selectmen, requesting site plan approval of a plan dated May 31, 1984, revised June 13, 1984, approved by the Planning Board on June 28, 1984, on the conversion of the property formerly known as the Seldon L. Brown School to thirteen condominium units and a resident superintendant unit at 63 Garden Road. Said premises are in a Single Residence District. Said request is pursuant to Section XVIA, Site Plan Approval, Section II(A)11, Single Residence Districts - Conversion, and Section XXV Special Permit Granting Authority.

This is not the first time that the proposed conversion has been before this authority. A prior site plan was presented to this Authority, which rendered a decision thereon, the same being filed with the Town Clerk on September 23, 1983. That decision, in case number 83-33, was subject to an appeal under Chapter 40A, §17, of the General Laws of the Commonwealth of Massachusetts, in a matter styled John A. Lawler, et al. vs. Stephen S. Porter, et al., as they are members of the Zoning Board of Appeals of the Town of Wellesley, Felix Juliani, et al., as they are members of the Board of Selectmen of the Town of Wellesley, and the Hanlan Group, Ltd., Tyrone T. Hanlan and Kevin J. Ahearn, Norfolk Superior Court Docket Number 14-1059. This authority is in receipt of an order by the Norfolk Superior Court dated June 1, 1984, by Judge John Paul Sullivan, which in relevant part provides as follows:

"That this action shall be remanded to the Zoning Board of Appeals of Wellesley for a consideration of a revised site plan, which has been agreed upon by the plaintiffs, and the defendant members of the Board of Selectmen of Wellesley, Hanlan Group Ltd., Tyrone T. Hanlan and Kevin J. Ahearn."

Accordingly, pursuant to the order of remand of the Norfolk Superior Court, this authority has duly considered the application for site plan approval on the revised plan and hereby makes the following findings of fact. It is to be noted that the facts as hereinafter set forth, as found by this authority, are substantially the same as the findings of facts made by this authority on petition number 83-33 except for those findings which were then relevant in connection with the applications for variances, action of this authority on which has become final and is not subject to the order of remand.

Presenting the case was Tyrone T. Hanlan. He presented the new site plan dated May 31, 1984 and revised June 13, 1984, and pointed out changes from the previous plans submitted at the June 30, 1983 and August 11, 1983 Board of Appeals Public Hearings.

The access road, which has been narrowed, is a 14' wide one-way road, entering at Garden Road and exiting at Colburn Road. There will be an easement from the Town of Wellesley to accommodate the road between the site and Colburn Road. There will be a speed hump and a stop sign at the exit to Colburn Road. Mr. Hanlan stated that there is a possibility that "one way" signs would be placed at the Colburn Road exit and near the rotary on the Colburn Road side of the building, but that they are not part of the plan presented to the ZBA and were not required by any town board, and would not be placed at the Garden Road entrance. A post and rail fence will be at the margin of the easement near the ball field. Mr. Hanlan stated that the Wetlands Order of Conditions still stands and that the site plan has been approved by the Planning Board. He stated that the footpath will be eliminated, there will be one less catch basin and three fewer parking spaces for total of 30 parking spaces.

Speaking in favor of the petition: Jean Kelly, 9 Bay State Road, Robert Mahoney, 53 Garden Road, H. S. Rowles, 35 Colburn Road.

John Lawler, 75 Garden Road, stated that he is not in favor of any signs.

STATEMENT OF FACTS

1. The property in question is the former Seldon L. Brown School at 63 Garden Road, which is in a single residence district. The main building was constructed in 1923, and the addition was constructed pursuant to a building permit issued June 3, 1968. The locus extends to Garden Road to the west and Colburn Road to the east.

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2. The Brown School was a "neighborhood school" until 1975, for grades K-6. In 1975 the use was changed by the School Committee and the school became restricted to fifth and sixth grades but with Town-wide enrollment. Thereupon, the bus and automobile traffic increased dramatically since the children no longer walked to school. The increased vehicular traffic at the school was both bus and automobile traffic. The school has not been used for classroom activity since June 1981 but has been used by the School Department for educational activities for storage of educational materials and equipment, which use ended with removal of same on July 22, 1983.
3. The Wellesley Town Meeting of April 4, 1983 voted under warrant article 35 to approve the proposal to convert the use of the building and a portion of the site from public school use to a use permitting multi-family housing and to sell approximately 2.5 acres to Tyrone T. Hanlan, Kevin J. Ahearn, Hanlan Group Ltd. and to retain for Town ownership approximately 3 acres. The application for site plan approval now pending before this authority has been joined in on behalf of the Town through the Board of Selectmen as the current owner of the locus. The locus is presently under the care, custody, management and control of said Board. A purchase and sale agreement has been signed by the Board of Selectmen, Town of Wellesley, and Tyrone T. Hanlan and Kevin J. Ahearn, the same having been executed April 11, 1983.
4. The site plan which is before this authority in this hearing is dated May 31, 1984, revised June 13, 1984, by Hammer, Kiefer & Todd, Inc. As appears on the plan, the site envisioned is to include a driveway beginning approximately where the present pathway is on Garden Road, fourteen feet wide, circling to the rear of the building at which point there is a traffic circle; the driveway then continues in approximately a straight line down to Colburn Road. The plan is endorsed as approved by the fire chief.
5. Copies of the application and site plan were distributed to the following as required by Section XVIA of the Zoning Bylaw: Planning Board, Design Review Board, Wetlands Protection Committee, Town Engineer, Board of Health and Fire Department. Written recommendations were received by this authority and were duly considered and are on file at the Board of Appeals. Among other things, the Planning Board and

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the Design Review Board have both approved the site plan, with the provision that the Planning Board required that any speed hump be located at the intersection of the driveway with Colburn Road. That change has been made on the site plan before this authority. The Planning Board also strongly recommended, but did not require, that a stop sign be added at the intersection of the driveway and Colburn Road. The relocation of the present speed hump is the reason for the plan's June 13, 1984 revision.

6. In addition to the site plan, there is on file with this authority a plan of land, PBC34-8, dated June 7, 1984, drawn by Norwood Engineering Co., Inc., Norwood, MA, signed by the Planning Board on June 12, 1984.

DISCUSSION AND DECISION

This authority has made a careful review of the application for a special permit for site plan approval, and decides as follows:

The permit is hereby granted and the site plan dated May 31, 1984, revised June 13, 1984 is hereby approved, on the following terms and conditions and based upon the following findings and reasons:

There are two procedures invoked in this development. The first is the site plan approval required under Zoning Bylaw II(A)(11) for conversion of a municipal building to a use permitted in residential districts.

There is no question but that the proposed multi-family use is a use so permitted and that the Town Meeting approved the project by more than the required two-thirds vote. The Town Meeting has imposed no conditions on the project.

This authority has referred the proposal to the Planning Board and its approval was received June 28, 1984. We hereby approve the plan approved by the Planning Board, the same having been modified to replace the proposed speed hump on the driveway at the intersection of Colburn Road.

There shall be a fourteen foot driveway from Garden Road, one way, entering at Garden Road, as shown on the site plan, with traffic exiting onto Colburn Road. The entrance at Garden Road is specifically approved since the traffic to the site on this access will now actually be less intensive than the former use of school access. The flow of traffic onto Colburn Road is also specifically

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approved since when the school building was entirely used for Town-wide enrollment of fifth and sixth grades, the busing of children from across town was involved at this specific location. The traffic was heavy both in buses and parents' automobiles on both sides of the building. The proposed site plan will appropriately equalize the traffic impact on both the Garden Road and the Colburn Road sides. The fourteen foot width is deemed appropriate and is specifically approved, since the traffic line will be one way from Garden Road exiting onto Colburn Road. This is an ample width to cover vehicular traffic even including emergency vehicles as has been approved by the Fire Chief. The driveway as shown on the plan will provide a safe, convenient and appropriate exit point for vehicles exiting onto Colburn Road.

The drainage shall include catch basins as shown on the plan, to drain the driveway. This will clear the driveway sufficiently of water and prevent icing of the surface. It is noted that the Wetlands Protection Committee has specifically voted that the revised site plan now being considered by this authority is not a substantial change from the site plan previously and specifically approved by said Committee.

The parking lot shall be constructed as shown on the plan, namely: sixteen interior parking spaces and fourteen exterior spaces, for a total of thirty spaces for thirteen units. This will adequately serve the number of units and any visitors. With the garage spaces inside and the additional outside parking, it will more than satisfy the ratio of one and one-half spaces for each dwelling unit, which we deem consistent with public safety and sufficient to provide offstreet parking.

The fourteen foot driveway now going from the building down to Colburn Road will directly satisfy the concerns for fire safety and for immediate access to the rear of the building. This driveway and access to the rear of the building is particularly appropriate because the vehicle garage is in the rear of the building. This will expedite personnel evacuation should a disaster ever occur at the site. By the same token, the U-shaped driveway on the Garden Road side will provide appropriate fire access to the front of the building.

We now turn to the second applicable site plan review procedure under Section XVIA.

We have comprehensively reviewed the project.

1. The project will comply with zoning. There are no violations of zoning as discussed above in this decision. The building inspector has certified that the proposed site plan will be in compliance with zoning.

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2. The site will protect the safety, convenience and welfare of the public. The access is safe, as is the exiting, from Garden Road and onto Colburn Road, respectively, and in fact will cause less intensive traffic than the site's prior use. The driveways as shown on the plan will serve fire protection needs on both sides of the building. There is no doubt that the Town Meeting has approved the proposed use and view the overwhelming Town support for it as clear evidence that the project and site are in the public welfare and we so find.

3. We find that the proposed site plan will minimize congestion on the public and private ways. There are only thirteen residential units to be created and the traffic thereby generated is almost insignificant. The driveway will intersect Garden Road at a point where the view in both directions along Garden and onto Lanark Road is more than adequate and safe. The same holds true on Colburn Road. The fourteen foot driveway will protect occupants, visitors and the neighborhood with a well designed entrance, exit and driveway.

4. There is adequate provision for water, sewerage and drainage as certified by the Town Engineer, whose findings we accept since he is charged by the Town in those areas of responsibility. We also make our own determination of approval on these matters. The drainage required has been incorporated onto the plan and it is appropriate. The Town's existing sewerage line will be protected by the Town reserving an easement for access to it. It is again noted that the Wetlands Protection Committee has voted that the site plan now pending before this authority is not a substantial change from the site plan previously approved.

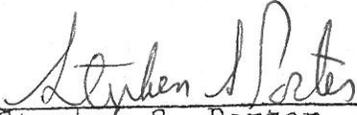
5. We have reviewed Sections XVI, XXI and XXII and the project fully complies in all respects. Section XVI is basically a catch-all provision and the plan fully meets its requirements. Section XXI governs the offstreet parking and the ratio of spaces to units is well within the requirements as discussed above. The developer has been before the Design Review Board as required by Section XXII and said Board has approved this project and site plan unanimously preferring it to the site plan approved by this authority in 1983.

Accordingly, for the foregoing reasons, and since the use of Brown School structure is in harmony of the general purposes of the

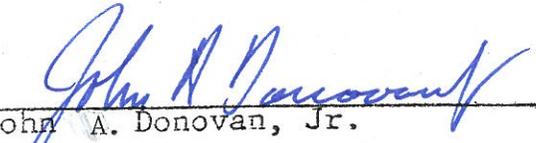
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Wellesley Bylaws, and the terms and conditions herein stated, this Board does hereby grant a special permit approving the site plan dated May 31, 1984, revised June 13, 1984, subject to the conditions attached as Addendum A.

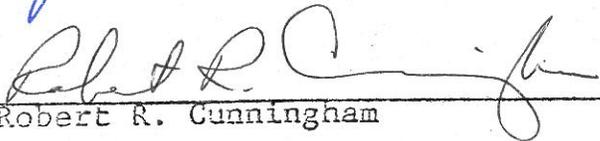
Zoning Board of Appeals of the
Town of Wellesley



Stephen S. Porter, Chairman



John A. Donovan, Jr.



Robert R. Cunningham

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DECISION - ADDENDUM A

1. That a copy of the Selectmen's deed to the developer as recorded be filed with the Board of Appeals at the time of recording.
2. That all work shall be performed in accordance with plans submitted and on file with this Authority or as modified by this Special Permit.
3. That all design and construction must comply with all applicable state and local codes.
4. 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 and site utility plans shall be submitted to the Department of Public Works.
5. That a copy of the Occupancy Permit issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.
6. That all requirements of the Town of Wellesley Fire Department be complied with.
7. A surety performance bond or letter of credit running to the Town of Wellesley shall be provided in the amount of \$50,000.00 which shall be in all respects satisfactory to Town Counsel and the Board of Appeal and shall be posted with the Treasurer of the Town of Wellesley before commencement of work. Said bond or letter of credit shall be conditioned on completion of the work in accordance herewith and the performance of all conditions hereof, shall be signed by a party or parties satisfactory to Town Counsel, and shall be released after completion of the project, provided that provision satisfactory to the Board of Appeal has been made for performance of any conditions which are of continuing nature.

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