

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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84-74

Petition of Theodore Spielberg and Charles Smith
619 Washington Street

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, January 17, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, on the petition of THEODORE E. SPIELBERG and CHARLES SMITH requesting a Special Permit for Site Plan Approval under Section XVIA and Section IIIA of the Zoning Bylaw for the construction of four town house units at 619 WASHINGTON STREET within a Town House District, said lot containing 20,545 square feet of land. Said construction will include renovation of the existing main house into two condominium units and the construction of two new town house units and related parking and landscaping. Variances are requested from Section IIIA-A-2(i) (Frontage) and Section IIIA-A-2(f) (Yards). Said request is pursuant to Sections XXIV-D and XXV of the Zoning Bylaw.

On December 20, 1984, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Eileen Dietrich, partner in the law firm of Choate Hall and Stewart, Boston, representing Charles Smith, the petitioner. Also speaking to the petition was Charles Smith, prospective purchaser of the property owned by Theodore E. Spielberg, and Ron Margolis, architect, of Margolis and Fishman, Inc. It was stated that the proposed construction conforms to the requirements of the Zoning Bylaw except for the frontage, which is 98.85 feet, the requirement being 100 feet, and the existing dwelling setback from the street and the right side line. Discussion centered around drainage on the property, parking arrangements, exterior design and landscaping, and elevations.

Present in favor of the request were Sandra B. Carter, 14 Waban Street, Nancy Erne, 599 Washington Street. No one was present expressing opposition to the proposal.

Statement of Facts

The property in question is located at 619 Washington Street, containing 20,545 square feet of land. The property is presently owned by Dr. Theodore F. Spielberg, containing a house and detached garage. Dr. Spielberg does not reside on the premises, but has an office on the first floor and leases the second floor as a dwelling unit. He wishes to sell the property to Charles Smith, who proposes a four unit condominium project. The property is located in a district which was rezoned by the Town of 1976 to Town House District. The frontage of the property is 98.85 feet, the requirement for town houses being 100 feet.

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A previous petition concerning 619 Washington Street before this Authority was denied on January 30, 1984 (ZBA Case 83-66). A Special Permit had been requested for Site Plan Approval, a Density Bonus was requested to construct five town house units, variances were requested for side yards and rear yards of the proposed structures, for off-street parking, and for existing frontage and side yards.

A new petition by Charles Smith includes a proposal to renovate and expand the existing dwelling to create two condominium town house units and to construct two additional condominium town house units with a contiguous foundation and shared party walls adjoining and to the rear of the existing structure. A two-car parking garage would be provided for each dwelling unit.

A Special Permit is requested for Site Plan Approval (Section XVIA) for the proposed project. Variances are requested under Section IIIA 2 (i) and 2 (f) for the following:

- 1) the frontage, 100 feet required in a Town House District, 98.85 feet existing;
- 2) conditions of the existing structure, specifically the front yard setback (30 feet required, 22.3 feet existing) and the right side yards (30 feet required, 20.2 feet existing porch, 26.3 feet existing bay window).

A study model, photographs, and the following plans were submitted, dated 12/10/84, drawn by Margolis & Fishman, Inc., 23 Arrow Street, Cambridge, Ma.:

- 1) Site plans showing existing and proposed site plans, 2) & 3), Floor plans, 4), 5), 5a), Existing and proposed elevations. A Plot Plan was submitted, drawn by Theodore Dwyer, Registered Land Surveyor of Otte and Dwyer, Inc., Saugus, Ma., dated 12/17/84. A topographic plan, drawn by Otte & Dwyer, Inc., Saugus, dated 12/16/84 was submitted.

Regarding the frontage variance requested, the petitioner claims that the circumstances are special and unusual and unique to the land and building and that a literal application of the Bylaw would prevent the restoration of the building to townhouse use and deprive the petitioner of the lawful and reasonable use of the land for townhouse purposes for which is its zoned, thereby creating a substantial hardship for the petitioner.

The Design Review Board held preliminary and final design reviews on the project and, in a letter of January 16, 1985, stated it had no objections to the final plans submitted.

The Planning Board, in a letter of January 9, 1985, recommended approval of the site plans and stated it has no objection to the requested variances which essentially only validate pre-existing building and site plans.

Site plans and other submission materials were sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and Fire Chief, as required by Section XVIA, and written responses are on file in the Board of Appeals office.

A letter in support of the petition was received signed by Eric Walker and Mary K. Stahl, Trustees of Webb Townhouse Condominiums, 609, 611 and 617 Washington Street, abutters to the property.

Petition of Theodore E. Spielberg and Charles Smith
619 Washington Street

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Decision

This Authority has made a careful study of the evidence presented. The property at 619 Washington Street was rezoned in 1976 by the Town Meeting to Town House District. It was purchased in 1980 by Dr. Theodore Spielberg, who now proposes to sell it to Charles Smith for development into four town house units.

This Board considered an application by Dr. Spielberg and Jonathan Davis a year ago for a five unit development at 619 Washington Street, which application was denied on January 30, 1984 (see ZBA Case 83-66).

This Authority considers the present application to be a new application. The petition presently before this Board is for four town house units, and no additional variances are requested except for existing conditions of the property. All new construction would be in compliance with the requirements of the Zoning Bylaws.

This Board is of the opinion that 619 Washington Street is a unique property in the Town House District, that it is the only remaining property in the district that meets the area requirements for town house development. The proposal before us conforms with the requirements of Section IIIA for minimum lot area, minimum usable open space, minimum lot area per dwelling unit, maximum lot coverage, height of building, yards (for all new construction), separation between buildings, length of row, and off street parking. The only variances requested are for the existing frontage of 98.85 ft. and the front and side yards of the existing structure.

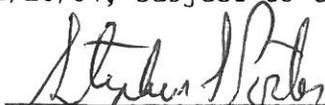
Regarding the variances requested, it is the unanimous opinion of this Authority that literal enforcement of the provisions of Section IIIA of the Zoning Bylaw would involve substantial hardship to the petitioner owing to circumstances relating to the shape of the lot especially affecting such land but not generally affecting the zoning district in which it is located and that the hardship shall not have been self-created, and that substantial relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

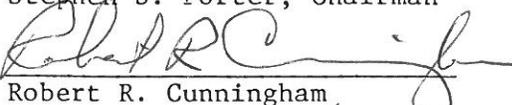
Therefore, all variances requested pursuant to Section XXIV-D are granted, including the variance for frontage (Section IIIA-A-2(i) and variances for yards (Section IIIA-A-2(f), as shown on the Plot Plan drawn by Theodore Dwyer, Registered Land Surveyor of Otte and Dwyer, Inc., Saugus, Ma., dated 12/17/84.

A Special Permit is hereby granted and Site Plan Approval is given by this Authority pursuant to Section XVII and Section XXV according to Site Plans dated 12/10/84 drawn by Margolis & Fishman Inc., Plot Plan drawn by Theodore Dwyer dated 12/17/84, and the topographic plan, drawn by Otte & Dwyer, Inc., dated 12/16/84, subject to the conditions noted in Addendum A. of this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

cc: Planning Board


Stephen S. Porter, Chairman


Robert R. Cunningham


William E. Polletta

Petition of Theodore E. Spielberg and Charles Smith
619 Washington Street

ADDENDUM A

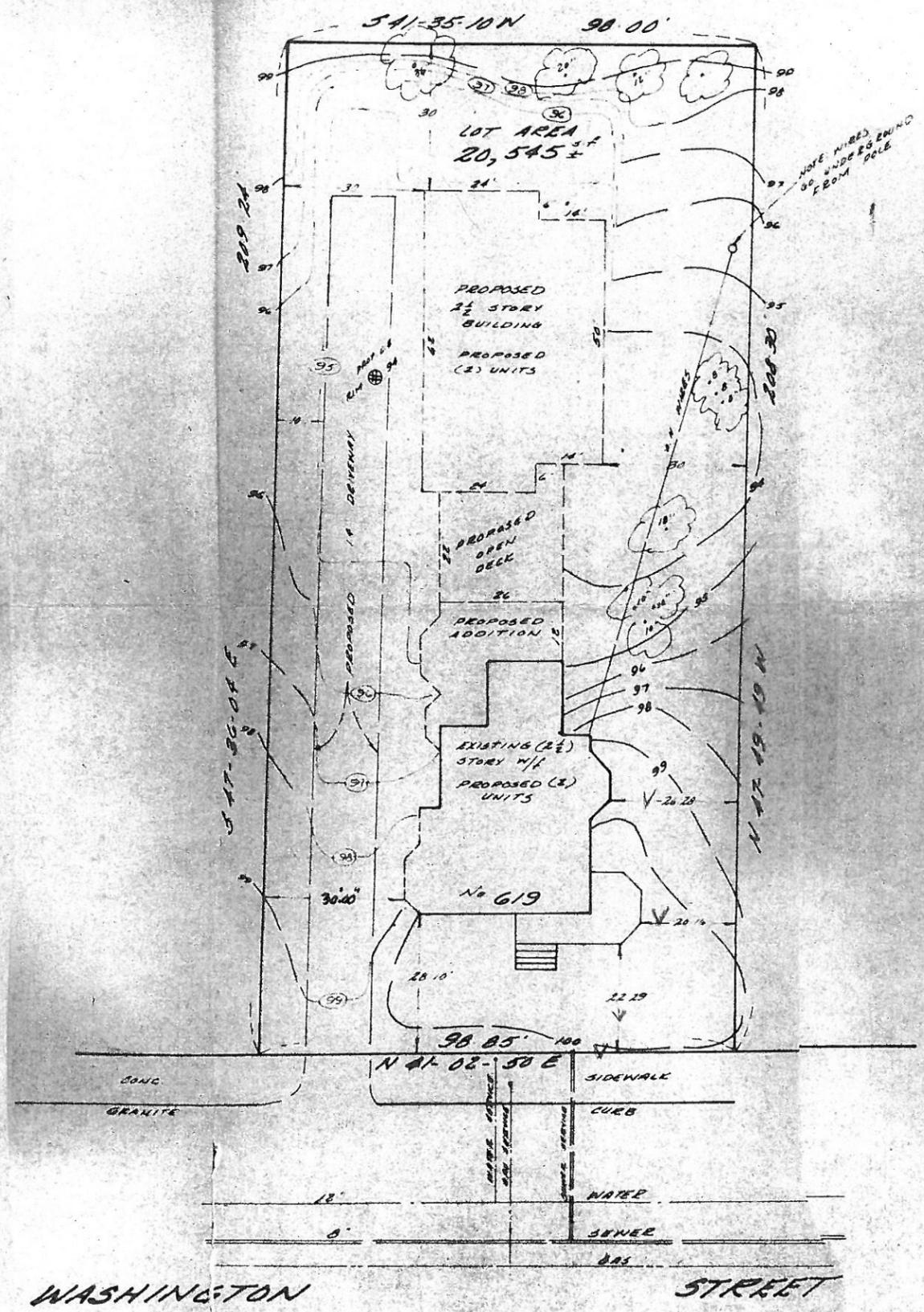
1. That all work shall be performed in accordance with plans submitted and on file with this Authority.
2. That all design and construction shall comply with all applicable state and local codes.
3. That all requirements of the Wellesley Fire Department shall be complied with.
4. That all requirements of the Department of Public Works shall be met. Site utility and drainage plans shall be submitted to the DPW for their review and approval prior to the issuance of a building permit by the Inspector of Buildings. "As Built" site utility and drainage plans shall be submitted to the Town Engineer upon completion of utility construction.
5. That apron reconstruction shall be done in accordance with Selectmens Policy - Driveway Aprons and Curb Cuts, dated May 1, 1973, together with current DPW Rules and Regulations.
6. 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.
7. That a copy of the Occupancy Permit issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.

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WEBB TOWN HOUSE CONDO PLAN

NOTES

99 — EXISTING CONTOUR
 TOTAL BUILDING AREA 4,360 SF (21%)
 PARKING - (4) SPACES PROPOSED UNDER
 NEW BUILDING



PROPOSED SITE PLAN
 619 WASHINGTON STREET
 IN
 WELLESLEY, MASS.

SCALE 1"=20' DEC 17, 1984

OTTE & DWYER, INC. SURVEYORS
 6 WEBB PLACE SAUGUS, MASS.

