



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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SUMNER H. BABCOCK

ZBA 86-29

Petition of Peter A. & Francesca V. Wier
37-39 Oak Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, May 15, 1986 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, Ma. on the petition of PETER A. AND FRANCESCA V. WIER requesting a variance from the terms of Section XVII (Non-Conforming Uses and Structures) and Section IV of the Zoning Bylaw to allow the renovation of the former Goobie's Deli, Inc. to create a dwelling unit on the first floor at 37-39 OAK STREET in addition to the two dwelling units on the second floor. Said request is pursuant to Section XXIV-D of the Zoning Bylaw.

On April 22, 1986 the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Francesca and Peter Wier. Mrs. Wier stated that their business, particularly the catering part of it, had expanded to the point where it was too busy and disruptive to the neighborhood, so it was recently removed from 37-39 Oak Street to another location. They now propose to convert the space that was formerly Goobie's into a 1,600 square foot rental apartment. There would be no changes to the exterior walls. They have recently purchased 5,000 square feet of land creating a total square footage of more than 15,000. Mrs. Wier stated that the neighbors are in support of the petition because it will be a less intensive use of the property than the store was. She stated that petitions signed by many neighbors have been presented to the Zoning Board.

Present at the hearing in support of the request: Lee Desie, tenant at 37-39 Oak Street, Steve Liochi, 31 Oak Street. No one was present in opposition to the request.

Statement of Facts

The property in question is located at 37-39 Oak Street, containing 15,969 square feet of land, in a General Residence District. A pre-existing non-conforming structure exists on the lot which was built between 1915 and 1917 as a one-family dwelling. In 1919 the owners began to use a portion of the house for a retail business.

In 1981 (ZBA Case 81-47) a variance pursuant to Section XIX and Section XVII of the Zoning Bylaws was granted by the Board of Appeals allowing alterations to the structure at 37-39 Oak Street. In 1981 two apartments were created upstairs in the building with Goobie's Store continuing to occupy the downstairs area.

RECEIVED
 TOWN CLERK'S OFFICE
 WELLESLEY, MASS.
 JUN 10 9 40 AM '86

Petition of Peter A. & Francesca V. Wier
37-39 Oak Street

JUN 10 9 49 AM '86
TOWN ENGINEERING OFFICE
37-39 OAK STREET
WELLESLEY, MASS.

In February, 1986, the petitioners acquired 5,000 square feet of land from Esther Villa, owner of 39A Oak Street, to create the 15,969 square foot lot at 37-39 Oak Street.

The petitioners, Peter and Francesca Villa Wier, present owners of the property, have recently closed Goobie's Store and moved their business to a new location. They are requesting a variance pursuant to Section XVII to convert the space occupied by Goobie's Store to a two bedroom, 1,600 square foot rental apartment. There would be no external changes to the building.

A Plot Plan was submitted, entitled "Subdivision of Land...at 39A Oak Street", by Carmelo Frazetti, Registered Land Surveyor, dated January 31, 1986, signed by the Planning Board on April 15, 1986 as "approval not required under the Subdivision Control Law". Floor plans were submitted as were photographs.

The Planning Board, at its regular meeting of May 13, 1986 and stated in a letter of May 15, 1986, voted to "offer no objection to the proposed modification of the non-conforming use based on the fact that there is no enlargement of the building envelope and based on the fact that a three-family dwelling is a less intensive use of the property than a two-family dwelling with a store."

Letters in support of the petition were received from Jennie, Angelina and Arthur Maccini, 42 Oak Street, Vincent Montali, 50 Oak Street, Delia Gentile, 41 Oak Street, Louis D. Grignaffini, 148 Linden Street, Edith Vara, 46 Oak Street, Esther E. Villa, 39A Oak Street, Louise A. Slamin, 33 Oak Street, Cheryl A. Dosedall, 41A Oak Street.

Decision

This Authority has made a careful study of the evidence presented.

It is the opinion of this Authority that the non-conforming property at 37-39 Oak Street is unique. The structure was constructed and the business was in operation prior to the existence of the Zoning Bylaws in the Town of Wellesley. The business has continued to be operated by members of the same family since 1919.

The petitioners now propose to use the space formerly occupied by Goobie's Store as a two-bedroom apartment. There would be no external changes to the building.

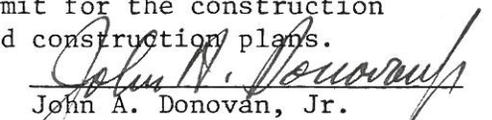
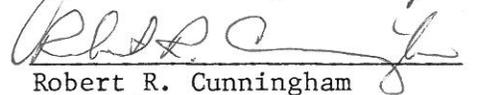
This Board finds that the proposed use of the pre-existing non-conforming structure will be less intensive than the use as a two-family dwelling and a store and will be less detrimental than the prior use to the neighborhood.

Therefore, a variance is granted to allow the conversion of the space on the first floor at 37-39 Oak Street, formerly occupied by Goobie's Store, to a two-bedroom apartment, pursuant to Section XVII and Section XXIV-D of the Zoning Bylaws, with the condition that the construction meets all of the requirements of the State Building Code and the Fire Department.

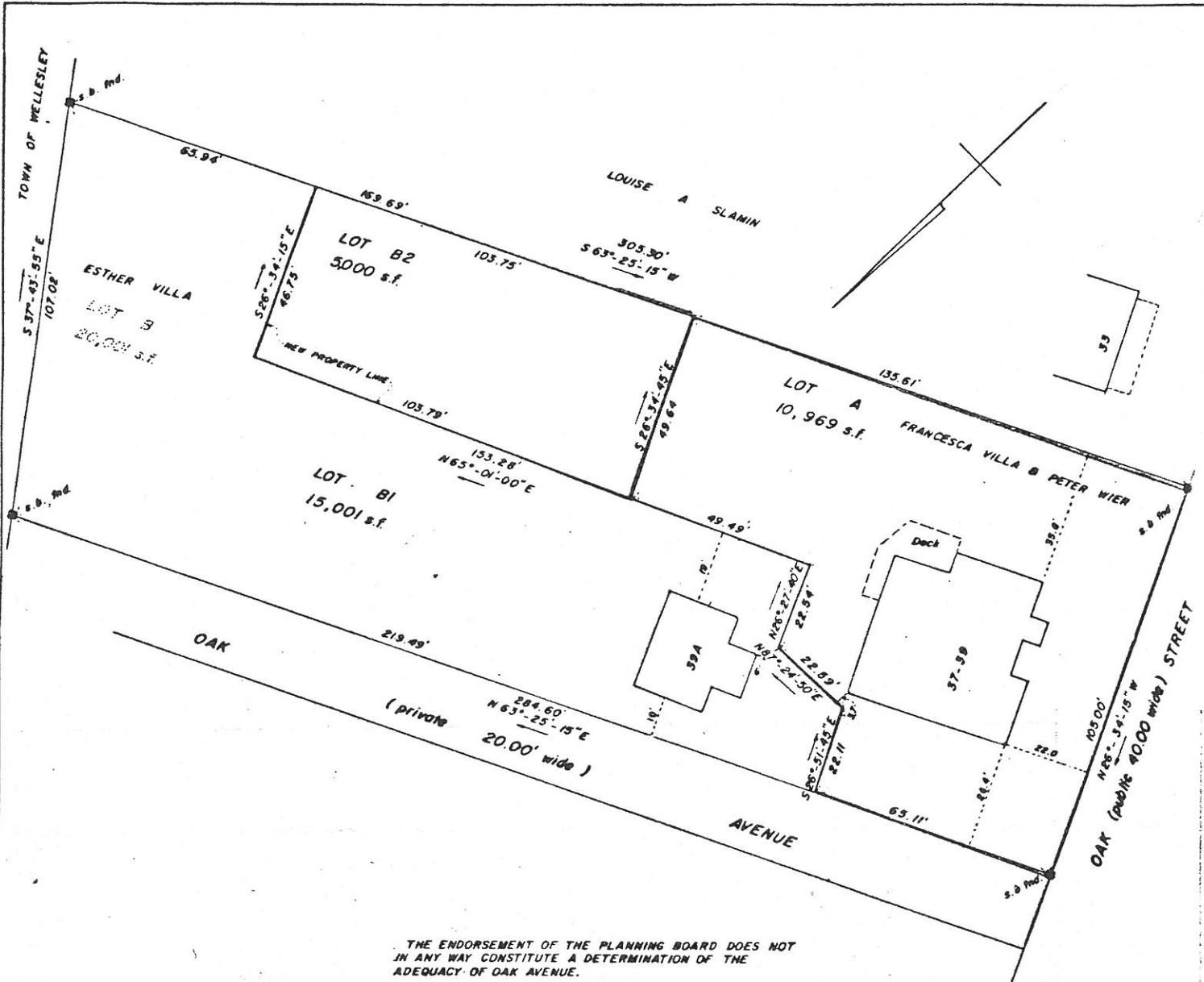
The Building Inspector is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

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 Bd., Building Inspector


John A. Donovan, Jr.

Robert R. Cunningham

William E. Polletta



THE ENDORSEMENT OF THE PLANNING BOARD DOES NOT IN ANY WAY CONSTITUTE A DETERMINATION OF THE ADEQUACY OF OAK AVENUE.

Note:
 Lot B containing 20,001 s.f. is to be subdivided into Lot B2 containing 5,000 s.f. & Lot B1 containing 15,001 s.f.
 Lot B2 containing 5,000 s.f. is to be transferred and added to Lot A containing 10,969 s.f. together containing 15,969 s.f.

To obtain meters multiply feet by 0.3048

Note:
 PLANNING BOARD APPROVAL NOT REQUIRED UNDER THE SUBDIVISION CONTROL LAW.

[Signature]
 D.A. Hunt
 J. Albanese
 PBC-86-6

DATE April 15, 1986
 WELLESLEY PLANNING BOARD

Note:
 I certify that this plan has been prepared in conformity with the rules and regulations of the Registers of Deeds of the Commonwealth of Massachusetts.

[Signature]
 Carmelo Frazzetti

Date FEB 3rd 1986

SUBDIVISION OF LAND
 in
 WELLESLEY, MASS.
 at
 No. 39A OAK ST.

SCALE: 1" = 20' JAN 31, 1986
 CARMELO FRAZZETTI LAND SURVEYOR
 45 HOWLAND ST. NEEDHAM, MASS.

