TOWN OF WELLESLEY MASSACHUSETTS

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2002 MAY 16 A 8:22

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

KENDALL P. BATES, CHAIRMAN
RICHARD L. SEEGEL, VICE CHAIRMAN
CYNTHIA S. HIBBARD

ELLEN D. GORDON
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 208

ROBERT A BASTILLE
J. RANDOLPH BECKER
ROBERT W. LEVY

ZBA 2002-38
Petition of River Street Realty LLC
George Levine, Trustee
11 River Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, April 25, 2002 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of RIVER STREET REALTY, LLC, GEORGE LEVINE, TRUSTEE requesting renewal of a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to continue to allow the existing awning structure at 11 RIVER STREET (THE RIVERVIEW CAFÉ), in a Business District, to have less than the required front setback.

On April 4, 2002, the petitioner filed a request for 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 George Levine, Trustee of River Street Realty, LLC, who said the awning has been in place since 1983 and has changed. He requested renewal of the variance.

The Board asked if the awning was in place year round, or only during certain months of the year. Mr. Levine said that in the past, it was taken down during the winter months because of potential damage. However, in the past few years, it has remained in place to provide shelter for customers entering the café.

The Board said that the sidewalk passage in front of the café is somewhat constrained due to the presence of the newspaper box. Although Mr. Levine has no control over the box, the Board decided to add a condition that the sidewalk be passable at all times.

No other person present had any comment on the petition.

Statement of Facts

The subject property is located at 11 River Street, in a Business District, on a 6,200 square foot lot. The building, which is owned by River Street Realty, LLC, of which George Levine is the trustee, is a legal nonconforming structure with a front setback of approximately 10 feet from the street line.

The principal of the Riverview Café leases the first floor of the building, which has housed other restaurants in the past. As the principal of the café wishes to continue to have outdoor dining on the brick patio in front of the restaurant, Mr. Levine is requesting renewal of a variance to continue to allow the awning, extending to the street line, leaving no front setback. Since 1983, the Board of Appeals has renewed this variance request on an annual or biennial basis.

ZBA 2002-38
Petition of River Street Realty LLC
George Levine, Trustee
11 River Street

On April 23, 2002, the Planning Board reviewed the petition and recommended renewal of the variance under the same terms and conditions as are currently in effect.

Decision

This Authority has made a careful study of the application and the information presented at the hearing, and is of the opinion that although the awing constitutes a structure, the design is less substantial than a permanent wooden structure.

It is the opinion of this Authority that a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve substantial hardship to the petitioner, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, a variance is granted, as voted unanimously by this Authority at the Public Hearing, to continue the use of the awning structure at 11 River Street, in a Business District, subject to the following conditions:

1. There shall be no outdoor storage of products or materials during the period when the outdoor dining has been discontinued.

2. The sidewalk area in front of 11 River Street shall be maintained in a passable condition at all times.

3. This variance shall expire two years from the date 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.

Richard L. Seegel, Acting Chairman

Cynthia S. Hibbard

Robert W. Levy

Cc: Planning Board
Inspector of Buildings
edg

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2002 MAY 16 A 8:22