

60-24

TOWN OF WELLESLEY



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JOHN L. HAYDEN  
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BOARD OF APPEAL

1960 JUL 28 11:10  
KATHARINE E. TOY, CLERK  
TELEPHONE : 16  
CE. 5-1664

Petition of Thelma S. Matthews  
(Luigi and Theresa Nizzari)

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the first floor of the Intermediate Building at 324 Washington Street at 8:35 p.m. on June 2, 1960 on the petition of Thelma S. Matthews requesting permission to erect an office building on a parcel of land, now owned by Luigi and Theresa Nizzari, and located in an Administrative and Professional District on Worcester Street at the intersection of Route 9 and Route 128.

The petitioner was represented at the hearing by Irving P. Gramkow.

The Planning Board submitted a report indicating its recommendations.

Statement of Facts

On May 17, 1960 the petitioner filed its petition and thereafter due notice of the hearing was given by mailing and publication.

This is a request for special exceptions from the provisions of subparagraph (c) and (e) of paragraph 2 of Section 6b of the Zoning By-law. The land involved is on Glenwood Avenue, a dead-end private way, northeast of the intersection of Routes 9 and 128, and is in an Administrative and Professional District. It is owned by Luigi and Theresa Nizzari and the petitioner, a straw for Beacon Construction Company, Inc. holds an option to purchase the land.

The parcel involved contains 66,342 square feet and the proposed building would occupy 10,800 square feet. The size of the lot, the purpose for which the proposed building is intended, the proportion of the lot to be covered by the building and the relation of the area to be devoted to facilities for parking motor vehicles to the area to be covered by the proposed building, are all in compliance with the requirements of section 6b. A special exception would, however, be required to permit either the construction of a building on the lot as planned, or locating all the proposed parking facilities between the proposed building and Glenwood Avenue as planned.

Paragraph (c) provides,

"No building or structure other than accessory buildings shall be located within fifty (50) feet of any property boundary line abutting a public or private way or within fifty (50) feet of any other property boundary line. No accessory buildings may be erected within thirty (30) feet of any such property boundary lines."

But the revised plan submitted at the hearing shows that the proposed building

is to be from forty-two to fifty-six feet from the westerly lot line, from twenty-five to forty feet from the northerly lot line and from thirty to forty-five feet from the easterly lot line and one hundred and three feet from Glenwood Avenue. The lot involved abuts to the east and west land also in the Administrative and Professional District which is owned by others and on the north by land of The Commonwealth of Massachusetts and beyond that the Charles River. Another plan submitted shows all the area to be devoted to parking, 33,000 square feet is to be between the proposed building and Glenwood Avenue contrary to the provisions of paragraph (e) which provides:

"No parking facilities other than those for transient motor vehicles shall be located between the principal building and the principal street line."

It was alleged at the hearing that the proposed building is to be the first in a proposed Office Park. In fact a brochure was presented which contained a plan showing several projected buildings in the district.

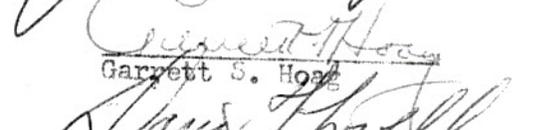
#### Decision

Whether or not the proposed building is the first of many or the only office building to be built in the district we do not know. Nor is it material to the issues here raised. So far as appeared neither the petitioner nor her principal owns any other land in the district therefore they were said to be cooperating in the development of the proposed Office Park with Real Estate Investment Trust of America which owns the parcel which abuts the subject parcel on the west. This petition must stand on its own merits. We cannot rely on expectations, however, confidently advanced. To put it simply but accurately the petitioner asks us to approve a plan which all but ignores the setback limitations imposed by the Town on Administrative and Professional Districts and does ignore the limitation imposed on the location of parking facilities. This is a case of first impression and we do not intend to use it to nullify the expressed will of the Town. We are prepared to grant special exceptions where circumstances warrant but we do not think it was intended that we should do so wholesale to permit a development planned as if the limitations of 6b had never been enacted.

It was said that the prospective tenant of the proposed building wanted the parking between the building and the street so that their view of the river might be unmarred by the parking facilities, but it may be that the Town is more interested in the view from without than from within the building. It was further testified that the building as planned cannot be placed on the lot so as to comply in all respects with the setback provisions. The cure is not to ignore the provisions but to change the design to meet them or acquire more land.

In view of the foregoing, it is not necessary to consider here the inadequacies of the plans submitted as a basis for a decision under paragraph (f).

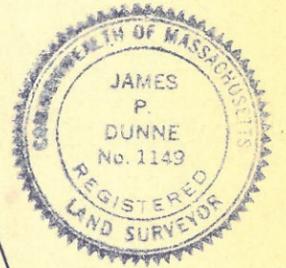
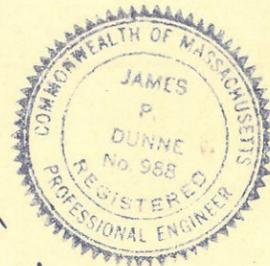
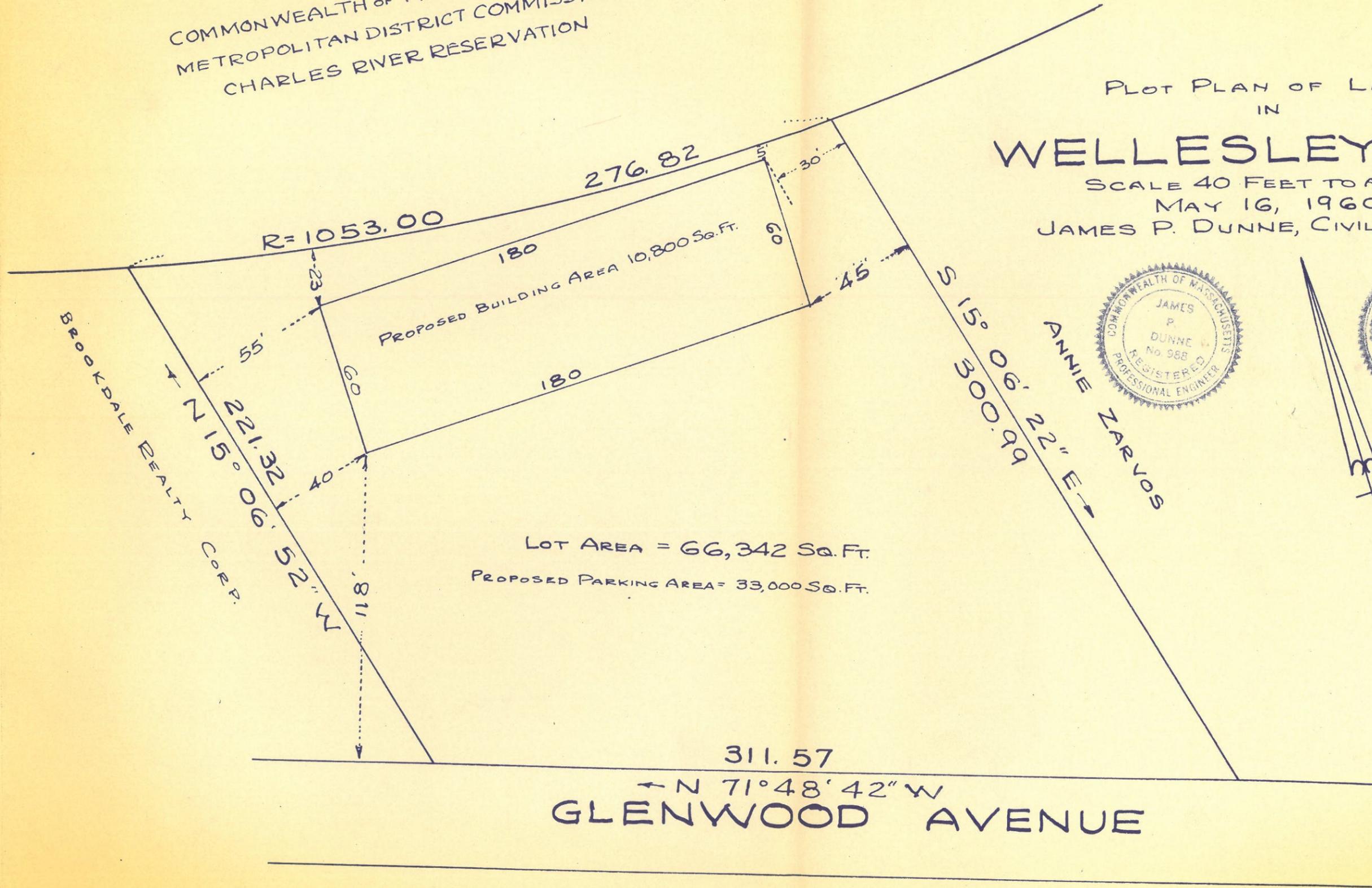
Accordingly, the petition is denied.

  
John D. Hayden  
  
Garrett S. Hoag

COMMONWEALTH OF MASSACHUSETTS  
METROPOLITAN DISTRICT COMMISSION  
CHARLES RIVER RESERVATION

PLOT PLAN OF LAND  
IN  
**WELLESLEY, MASS.**

SCALE 40 FEET TO AN INCH  
MAY 16, 1960  
JAMES P. DUNNE, CIVIL ENGINEER



ANNIE ZARVOS

311.57  
← N 71° 48' 42" W  
**GLENWOOD AVENUE**

CHARLES RIVER

CHARLES RIVER DESERVA

