

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

RICHARD O. ALDRICH  
DANA T. LOWELL  
F. LESTER FRASER

KATHARINE E. TOY, CLERK  
TELEPHONE 235-1664

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Petition of James H. McQuillan

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:25 p.m. on November 19, 1970, on the petition of James H. McQuillan, requesting an extension of a business use at the southeasterly side of the property at 12-14 Washington Court; said extension to continue southeasterly across the present established boundary line of the business district into a more restricted district a distance of fifty feet; starting at Washington Court and continuing easterly approximately one hundred and fifty feet. Said extension is requested for the purpose of converting the existing two-family dwelling into offices and to provide additional space for the parking of motor vehicles. Said request was made under the provisions of Section XXIV-E 2 of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On October 30, 1970, the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White, attorney for the petitioner outlined in detail the reasons for the request at the hearing.

Michael O'Connor, 17 Fairbanks Avenue, spoke in favor of the request. He felt that it was the only practical use of the property which is now surrounded by business.

A letter of opposition was received from Francis J. Timmons, 12 Crescent Street. He felt that the area is now crowded with trucks and cars and a further business use would add to this condition. He also felt that if this petition is granted, the same piecemeal extensions of a business use could be requested by the owners of the land abutting the rear of this property.

The Planning Board in its report of November 19, 1970, questioned the authority of the Board of Appeal to grant another extension of a business use into a more restricted district as two extensions have already been granted. In its opinion, the granting of the first extension of a business use across the boundary line exhausted the power of the Board of Appeal. On November 25, 1970, the Board supplemented its report by stating that, in its opinion, the earlier extension was not free of doubt concerning its legal sufficiency and that the instant petition for a further fifty-foot extension into a single residence district could not be granted. It further stated that to convert the petition into a petition for a variance would be a substantial derogation from the intent and purpose of the Zoning By-law as any assertion of hardship in this case could not satisfy the hardship standard set forth in Section 15 of Chapter 40A of the General Laws.

Statement of Facts

The property involved which contains 24,461 square feet, is located on a right-of-way off Washington Street. Part of the area involved is within a Business District and originally was so zoned 150' back from Washington Street. The balance is within a Single-residence District where two special permits have been granted previously by the Board of Appeal, allowing two fifty-foot extensions of a business use across the boundary line for the purpose of constructing an addition to the existing garage and for the parking of automobiles incidental to the petitioner's business.

On the property are the petitioner's garage and automobile repair shop, a small business building and a two-family dwelling. The petitioner now seeks an additional fifty-foot extension into the Single-residence District for the purpose of converting the two-family dwelling into offices and to provide additional parking for motor vehicles. The house has six rooms on the first floor and six rooms on the second floor. It was formerly occupied by the petitioner's mother and father and more recently by the petitioner and his family.

It was alleged by the petitioner's attorney that it is now almost impossible to use it as a dwelling because of its undesirable location adjacent to the garage and repair shop as well as being surrounded by cars and trucks parked incidental to the petitioner's business. The petitioner feels that the proposed use of the property seems more reasonable under these circumstances. It was further alleged that there is a need for offices in the area and that additional parking space can be provided to accommodate all additional cars which might be parked in the area incidental to the proposed use of the building. It would be a hardship, it was stated, to make the petitioner continue to use the house for dwelling purposes and the desired use of the property will not prove detrimental to surrounding properties.

A plot plan was submitted, drawn by Alexander Crucoli, Surveyor, dated November 12, 1970, which showed the existing buildings on the property as well as the existing and proposed zone lines.

Decision

The Board has taken a view of the locus and has carefully considered the evidence introduced.

In the Board's view, to grant the relief here requested under Section XXIV-E 2 of the Zoning By-law would be inappropriate under the circumstances in this case. Petitioner is seeking to establish a new business use, namely an office building in a single-residence zone. Moreover, no plans or other relevant evidence were submitted with respect to the nature and extent of the proposed new business use, likely number of people, cars, etc., so as to make it possible for the Board to determine whether the proposal would be injurious to the neighborhood.

The Board is also of the view that Petitioner has failed to adduce sufficient evidence of the sort of unique hardship required in order to warrant the granting of relief under Chapter 40A, Section 15, of the General Laws.

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Moreover, upon viewing the property, it is quite evident to this Board that the petitioner is presently parking trucks and automobiles incidental to this business on residential property beyond the extended zone line, and it is apparent that he needs all the property allowable for parking to carry on his present business. The introduction of an office building on the property, which necessarily would require an undetermined amount of additional parking space, in the opinion of this Board, could create congestion throughout the entire area. While the petitioner proposed to provide some additional parking, there was no showing that he could provide sufficient space to accommodate the overflow of cars and trucks he now has parked on his property as well as those which might be anticipated for the proposed new office use of the two-family dwelling.

Accordingly, the petition is dismissed.

*Richard O. Aldrich*  
Richard O. Aldrich

*F. Lester Fraser*  
F. Lester Fraser

*Edward T. Kilmain*  
Edward T. Kilmain

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# LAND IN WELLESLEY

OWNED BY **MARY PAULINE MCQUILLAN**

SCALE 40 FEET TO AN INCH

November 12, 1970.

SURVEYOR — Alexander Crucio!  
57 Winthrop Rd.  
Chelsea, Mass.



## Washington Street

