

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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Petition of Wellesley Office Park Associates Two

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 8:40 p.m. on November 29, 1973, on the petition of Wellesley Office Park Associates Two, requesting approval of plans for the construction of a building within an Administrative and Professional District on the south side of William Street No. 20, in accordance with the requirements of Section IX of the Zoning By-law with the following exceptions:

The petitioner requests a special exception under the provisions of Section XX (1) and (2) to permit the building to be erected to a height in excess of that permitted by Section XX. The petitioner further requested an exception under the provisions of Section XXI, Part E. subpart 2, to permit the provision of fewer parking spaces than that required by Section XXI, Part D. subpart 2; and a further exception to permit the substitution of an equivalent amount of landscaped space in various locations on the site for such areas required by the provisions of Section XXI. Part D. subpart 3. Landscaping b., and a further exception from the provisions of Section IX (2) (b) so that the building may cover more than twenty percent of the lot.

On October 18, 1973, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Speaking in support of the petition at the hearing were Vern Ludwig, Project Director for the building involved, Robert C. Brammen, Architect associated with the firm Pietro Belluschi and Jung/Brammen, architects who drew the plans for the building involved, and Thomas J. Carens, Attorney for the petitioner.

A letter was received from Norman B. Leventhal, member of Wellesley Office Park Associates Two, explaining that he was out of the country and sorry he could not be at the meeting to present the request personally.

A list of twenty-eight persons was signed and submitted at the hearing, all in opposition to the request.

A letter was also received from Everett B. Horn, Jr., Senior Vice President and General Counsel for Massachusetts Indemnity and Life Insurance Company, 100 William Street, favoring the request.

The Planning Board in its report offered no objection to the granting of the request, after having considered each exception separately and submitting its report as required in a letter to this Board dated November 27, 1973.

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Robert J. Muldoon, Jr., 73 Tremont Street, Boston, attorney representing a number of people on Quinobequin Road, Newton, opposed the granting of the exception which would allow the proposed building to exceed the allowable height. He further referred to the permit issued by the Department of Natural Resources, to the petitioner, and called attention to a condition which imposed a restriction

that all construction relative to Building No. VI shall be confined to an area which is not more than 20 feet beyond the limit of the building line, and another condition which stated that no other alteration shall take place on the flood plain with particular emphasis that no alteration of the proposed parking area is allowed.

Mrs. Helen A. Heyn, Secretary for the Newton Conservation Commission, read a report from that Board in which it stated that the Commission unanimously opposed the granting of the petitioner's request.

Franklin Flashner, 564 Quinobequin Road, questioned which of the existing trees would be retained in the parking lot and further questioned why the existing trees were not shown on the plan.

Mary Fyffe, Pond Road, Wellesley, member of the Board of Water Shed Association, questioned whether there were to be any trees planted at the rear of the building along the Charles River. In her opinion, some screening should be provided for those living across the river.

A number of other people from the City of Newton spoke in opposition to the request. They all felt that another building would prove detrimental to their properties; the present lights are disturbing to them and they felt that another building in the area would aggravate the present environmental problem.

Statement of Facts

The lot involved is part of a parcel of land located within an Administrative and Professional District and contains 218,698 square feet. It is proposed to construct a building to be used for purposes allowed within the District. There are six existing buildings within the area, five of which are owned by the petitioner, and the proposed building is to be similar to those already erected. Plans for each of the buildings have been approved by the Board of Appeal over the past ten years. The building, if built, will cover 24.6% of the lot with facilities for parking 473 motor vehicles in an area of 150,000 square feet.

Plans showing the location and elevations of the proposed building, the exterior materials, provisions for off-street parking facilities, interior roads and driveways, water, sewage disposal, drainage and landscaping were submitted.

In addition to the submittal of plans for approval, the petitioner seeks an exception from the terms of Section XX, Heights of Buildings or Structures, of the Zoning By-law which will permit the erection of a building which exceeds the limitation of forty-five feet or three stories not including parapets or other accessory projections. It is proposed to construct a building, on stilts or columns, which will be 48' from the entrance floor to the roof line. The 48-foot height includes ceiling heights higher than the customary eight feet, which the petitioner feels provides a more attractive interior treatment within the building without increasing density of occupancy. A similar design has been used by the petitioner in other buildings in the park. The mechanical penthouse and core of the building, which contains elevator equipment and mechanical equipment only, rises an additional twenty-two feet above the roof line at the center of the building only. ^{NOTE} It was pointed out that the height of the proposed building is substantially in conformity with other buildings in the park.

The plans of the proposed building show that there is to be an atrium and the lowest level of the building is to be on stilts or columns, which provides a grade level parking area beneath the building. It was pointed out that the entire building has been designed on columns in order to meet site conditions and

to conform with the requirements of the Department of Natural Resources and the Wellesley Conservation Commission, which have determined that portions of the lot are within the Charles River Flood Plain. It was further pointed out, however, that only one corner of the building will rest on the flood plain.

The petitioner further seeks an exception which will permit the provision of twenty-six fewer parking spaces than that required by Section XXI, Off-Street Parking, Part D., subpart 2. The plans submitted indicated spaces for 473 cars rather than 499 as required under the by-law. It was pointed out that there are car pools within the organization; that different tenants have different parking needs and because of the availability of the existing parking areas in the Park, the parking spaces to be provided will accommodate the needs of the new building, even though there are to be twenty-six fewer than required. It was also felt that because of the unique location within an integral office park separate and apart from any other portion of the Town of Wellesley, to allow a slightly fewer number of parking spaces than required, would not derogate from the intent and purpose of the by-law.

The petitioner further seeks an exception from the terms of Section XXI, Part D. subpart 3. Landscaping b., which will permit the substitution of an equivalent amount of landscaped space in various locations on the site for such areas required by the provisions of the by-law. It was stated that it is proposed to provide cluster landscaping which it is felt will be better from an aesthetic as well as a utilitarian point of view. Clustered plantings better suit the shape and grade of the site and it is believed to improve the land's water-handling capability and improve the site while still providing sufficient parking spaces. Under the proposed landscaping arrangement, approximately 60,800 square feet or almost 28% of the entire site will be devoted to landscaping and plantings. It was also pointed out that with the proposed cluster landscaping, the snow removal may be accomplished in a more efficient and satisfactory manner.

The petitioner further seeks an exception from the terms of Section IX (2) (b) which would permit the proposed building to cover 24.6% of the lot rather than 20%. It was pointed out that in the case of the proposed building, a large interior volume will be unoccupied, the atrium which runs up through the center of the structure, is a purely aesthetic design feature and houses mechanical equipment. Although it results in greater land coverage, it does not violate the purpose and intent of the by-law. The proposed three-story building on columns permits parking under the building and thereby releases greater areas outside of the building perimeter for landscaping and open space. However, it is felt, that to comply with the by-law creates an economic hardship. In order to obtain comparable rentable space with the other buildings in the park, the small expansion of square footage is required. Because of the requirement of constructing the building on columns by the Department of Natural Resources and the Conservation Commission, factors beyond the control of the petitioner, a literal compliance with the by-law, it is felt, would result in substantial hardship.

Decision

The Board has considered all matters before it, visited the site on several occasions, examined the various plans submitted and finds that they show compliance with the provisions of Section IX 2, subparagraphs (a) (c) and (e) of the Zoning By-Law, and that adequate provision has been made by the petitioners for matters of public interest referred to in Section IIIA. Paragraph 2., Subparagraph (k).

Heights of Buildings The Board finds that an exception can properly be granted from the terms of Section XX, Heights of Buildings, satisfying the requirements of sub-paragraph (1) and (2), as in the unanimous opinion of the

Board, the proposed enclosure will house mechanical equipment only which will, "not cause undue congestion of traffic or population, or interruption of light and air, or result in a detriment to the owners or occupants of nearby land, and (2) literal enforcement would cause a substantial hardship and is impractical considering the use to which the building is to be put and the need to develop an economic plan while complying substantially with restrictions of the by-law, lot coverage, parking and other requirements therein. The bulk of the building as designed is within the 45 foot limitation above stilts which necessitates further height. In addition, were the mechanical equipment housed within a 45 foot height limitation, the ground coverage of the building would be substantially increased resulting in an increase in parking areas and a loss of landscaping area. The Board is also mindful of the fact that due to the topography of the land, the proposed building will be approximately the same height as the other buildings in the area. The Board, therefore, believes that the additional height required is for architectural and aesthetic purposes consistent with that given to other buildings previously constructed in the area. The Board further believes that for reasons cited by the petitioners, as well, particularly the size, shape, depth and grade of the lot and cost factors involved, render compliance with the restrictive provisions of the Zoning By-law impractical.

Landscaping

The Board further finds that an exception can be granted to the requirements of Section XXI, Part D, Subpart 3. a. Landscaping, which will permit the substitution of an amount of landscaped open space equal in area to that required by the by-law. The Board specifically finds that the purpose is substantially complied with in that the design and use contemplated more than amply meet the requirements of landscaping. In fact, the petitioner's plans on file with the Board far exceed the minimum amount of plantings required. In addition, the Board has provided for additional screening to the rear of the parking area by the planting of minimum five-foot evergreens for screening purposes. The Board finds that it would be impractical to literally comply with the landscaping provision of the Zoning By-law especially in view of the use to be put of the property and the shape, design, and grade. The clustered type plantings sought by the petitioner in the parking area are designed with the grade of the lot in mind so as to improve the area and improve the water retention capability of the land. Twenty-eight percent of the site will be devoted to landscaping and the Board believes that this plan is in harmony with the purpose of the section. The landscape plan will also result in more efficient snow removal and the arrival and departure of motor vehicles. The Board believes that with the landscaping as proposed and the mandate to retain as many of the existing trees surrounding the lot as practicable, the aesthetic effect will be maintained as in the previous construction in the area.

Parking

The Board further finds that an exception can be granted to the requirements of Section XXI, Part D, Subpart 2. which will permit fewer parking spaces than that required. The Board believes that the reduction of 26 spaces in the total number of parking spaces required in the Zoning By-law does not derogate from the purpose set forth which is to meet the needs of persons employed or making use of the property. Statistics presented to the Board by the petitioner and personal observations at the locus by members of the Board indicate that adequate parking will be provided; also, other parking areas are provided nearby which are available for use as the proposed building is the last in an integral Park, all owned and controlled by the petitioner. The Board, in addition, believes that with car pools being encouraged on the premises by the petitioner and a mini-bus service to and from public transportation nearby, substantial compliance is met by the petitioner to come within the exception.

Building Coverage on Lot

The Board further finds that an exception from the terms of

Section IX (2) (b) permitting the structure to cover 24.6% of the lot rather than 20%, can be granted.

The Board finds that the deviation from the by-law is necessitated by the design of the building which is basically consistent with the previous five buildings approved by this Board. It is believed that a literal enforcement of this provision would cause a substantial hardship if it were not granted. The Board finds that to obtain comparable rentable space with other buildings in the complex owned by petitioner, the requested expansion of square footage is required. Through factors beyond the control of the petitioner, the proposed building must be constructed on columns. The Board finds that because of these requirements, a literal enforcement would cause a substantial hardship on the petitioner and that literal compliance is impractical because of the use to which the building is to be put.

Accordingly, the plans submitted and on file with this Board, identified as follows: Plan L-2, L-3, and L-7, dated 10/18/73, all drawn by Homer K. Dodge, Professional Engineer; Plan A, dated 10/18/73, drawn by Robert C. Brannen, Registered Architect and Plan L-7A, dated 2/7/74, drawn by Homer K. Dodge, Professional Landscape Architect, respectively are approved as submitted and the requested exceptions are hereby granted and the Inspector of Buildings is authorized to issue a permit for the proposed office building subject to compliance with the Building Code, the Zoning By-law, except for the exceptions herein granted, the requirements of the Town of Wellesley (including the Department of Public Works and Fire Department), the rules and regulations of the Massachusetts Department of Public Safety, the Massachusetts Department of Natural Resources and the Office of Environmental Affairs, the Town of Wellesley Conservation Commission and any other applicable provisions of law and the following conditions imposed by this Board which shall be binding upon the Petitioner, his successors and assigns:

1. That all work shall be performed in accordance with the plans hereby approved and presently on file with this Board, the exceptions herein authorized and Zoning By-law.
2. That the landscaping shall be maintained to the satisfaction of this Board for the life of the building.
3. That evergreen trees shall be planted at the rear of the parking area for its complete distance around the property, to be at least five feet tall so as to provide a permanent screening all year round and that all existing trees on the property be preserved to the extent practicable.
4. That a copy of the occupancy permit required be submitted to this Board prior to occupancy.
5. That upon completion of the building, a complete set of architectural plans, including a complete set of mechanical plans, shall be submitted to this Board showing exactly how the building was constructed. Said plans together with satisfactory evidence of compliance with conditions herein mentioned, shall be submitted to this Board at least ten business days prior to occupancy of the building.
6. That petitioner shall comply with all other applicable Federal and State statutes, ordinances and or regulations.
7. A surety performance bond or letter of credit running to

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7. Cont....the Town of Wellesley shall be provided in the amount of \$50,000. which shall be in all respects satisfactory to Town Counsel and the Board of Appeal and shall be posted with the Treasurer of the Town of Wellesley before commencement of work. Said bond or letter of credit shall be conditioned on the completion of all conditions hereof, shall be signed by a party or parties satisfactory to Town Counsel, and shall be released after completion of the project, provided that provision satisfactory to the Board of Appeal has been made for performance of any conditions which are of continuing nature.

8. Approval shall be obtained from the Metropolitan District Commission, authorizing the proposed project area to drain surface drainage, if any, into the Charles River. Petitioner by proceeding with construction of the proposed building and improvements shall be deemed to have agreed to provide at no cost to the Town of Wellesley, for any different or supplemental facilities for surface drainage from the premises as may at any time be required by applicable provisions of law.

Theodore C. Merlo

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F. Lester Fraser

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William O. Hewett

William O. Hewett

Filed with Town Clerk _____

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