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Petition of Hastings Realty Corporation

Pursuant to due notice, the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall on February 19, 1976, on the petition of Hastings Realty Corporation requesting an extension of a business use a distance of fifty (50) feet in a southerly direction on the rear part of its property at 234-238 Worcester Street, as shown on a plan filed with the Board of Appeal. The purpose of the request is to provide parking space in connection with the proposed new building and stores to be erected at that location. The request was made under the provisions of Section XXIV-E-2 of the Zoning By-law. Said hearing, scheduled by notice to begin at 8:45 p.m. commenced at 8:20 p.m. and continued to 10:15 p.m.

On February 4, 1976, the petitioner filed its request for a hearing before this Board, and thereafter, due notice of the hearing was given by mailing and publication.

Henry D. White, Esquire, represented the petitioner, presented the petition and spoke in support of the petition.

Robert D. Vanasse, Traffic Engineer, associated with Alan M. Voorhees Associates, presented a visual concept of proposed changes relating to the East bound ramp from Worcester Street to Cedar Street, and studies which have led to the estimate of daily automobile traffic in the area on the East bound ramp, Hastings Street and Cedar Street of 1,000 vehicles.

The Planning Board recommended approval of the requested extension of use provided that the area presently in business district "A", together with the anticipated extension, be subject to the site plan review requirements outlined in Town House Zone. By separate communication, the secretary to the Planning Board recommended approval of the request.

The Wellesley Conservation Council Inc. strongly suggested rejection of the petition. Other opposition to the petition was voiced orally and in writing by the following: Stephen E. Ellenwood, 15 Madison Road, H. Alan Siegel, 37 McLean Street, Robert D. Sheehan, 11 Hunnewell Street, Pamela Botts, 3 Madison Road, Robert P. Owen, 8 Madison Road, Robert W. Donahye, 29 McLean Street, Michael Riley, 32 Willow Street, Clifton N. Smith, 7 Fife Road, Edward Frederick, 28 Willow Street, Sandra Cooney, 76 Sheridan Road, John B. Bishop, 50 Hastings Street, Anthony Gika, 2 Madison Road, Sidney Farnsworth, 19 Jackson Road, Irving Slotnick, 40 Willow Street, Joan Regan, 309 Oakland Street, Arthur L. Priver, 11 Ashmont Road, Seymour Friedman, 186 Cedar Street, Clifton N. Smith, Jr., 72 Fife Road, Wanda Fredrickson, 37 Jackson Road, Sidney L. Wolper, 3 Willow Park, James Tucceri, 4 Willow Street, Carol W. Fyler, Town Forest Committee member, and Herbert H. Gross, president of the Conservation Committee.

Letters opposing the request were received from Herbert H. Gross, president of the Wellesley Conservation Committee and John B. Bishop, 50 Hastings Street.

Opposition to the petition, as voiced at the hearing and in writing related to anticipated environmental violations, increase of traffic and thus decrease of safety to the public and particularly elementary school children and encroachment by a commercial enterprise on a residential zone.

Statement of Facts

The parcel of land involved is located in the Easterly part of the Town, and is bounded on the North by Worcester Street (Route 9) on the West by land of the Town of Wellesley, on the South by other land of the petitioner, and on the East by Hastings Street.

For many years, ownership of this tract has been in the Corcoran family, or in the name of the petitioner, a corporation wholly owned or controlled by the Corcoran family.

In 1953, the Corcoran family operated an automobile business on a portion of the involved land, on the corner lot at Hastings Street and Worcester Street. This area was zoned as a business district. This district extended on Hastings Street a distance of 150 feet, and on Worcester Street approximately half the distance from Hastings Street to the land of the Town. Lines parallel to Worcester Street and Hastings Street enclosed this lot and district. To the West of this district along Worcester Street to the Town land, the land was zoned business district "A". To the South of the corner lot along Hastings Street for a distance of 115 feet and extending between Hastings Street and Town land, the area was zoned single residence "A". The remainder of the land involved, as well as other land of the petitioner or the Corcoran family, was zoned for single residence use. In 1953, a petition was filed with this Board seeking to extend the business use to the South of the then existing business district, a distance of fifty feet. This petition was granted.

At the Annual Town Meeting in 1960, the Town voted to rezone a part of the parcel involved from Single residence district to Single residence District "A" and another part of the parcel involved from a Single residence district to a Business District "A". Both parcels were located on the west side of the petitioner's original parcel.

In 1969, the Corcoran Norfolk Sales Co., Inc. presented to the Town Meeting, an article under which the tract here involved would be re-zoned to Business district "A" and single residence. This article was adopted. In conjunction with this proposed zone change, a plan was filed and is on file with the Town Clerk showing the proposed changes.

The area affected by the vote of the Town meeting on the above article contained 162,717 square feet, and is bounded on the North by Worcester Street 342.60 feet, on the East, by Hastings Street 409.60 feet, on the South by other land of the petitioner 313.52 feet, and on the West side by two lines on the Town of Wellesley land, 225.58 feet and 228.60 feet.

At the time of the change of the district in which the land herein involved is located, there was to the easterly side of Hastings Street, an existing business district "A". The southerly line of the newly changed district is a continuation, in a westerly direction, of the south boundary of the business district "A" then, and presently, existing on the East side of Hastings Street.

The Southerly and Southwesterly bounds of the land involved as shown on the plan filed by the petitioner with this Board on its petition seeking extension of fifty feet for business district "A" uses, does not conform to the plan on file with the office of the Town Clerk dated January 9, 1969, and revised March 19, 1969. It was on the area and boundaries shown on said plan that the area was redistricted by the Town meeting in 1969.

The petitioner proposes to remove the existing building and structures

on the land involved, and to erect thereon two new structures. These structures would be located entirely on the land in Business District "A". One new building is to house a supermarket covering 28,500 square feet and a combination of smaller stores covering, in the aggregate, 14,120 square feet. The second building measures 36 feet by 55.6 feet, or a total of 2,001.6 square feet. The total building area is to cover 44,621.6 square feet. There remains 118,095.4 square feet on which no structure is to be placed.

The Zoning By-law Section XII and Section XXI, requires that in business district "A" any building used for any business, industrial, educational or commercial purposes, there shall be one off-street parking space for each 150 square feet occupied by the building.

The above sections require that, based on the plan as submitted to the Board, 298 parking spaces must be provided.

Decision

The Board has examined the locus and the plan submitted, and has carefully considered the evidence introduced by the petitioner's presentation. Further, consideration has been given to the position taken by the Planning Board and its members. The Board has also carefully considered the statements made, orally and in writing, in opposition to this petition.

During the course of the hearing there appeared to be not only a lack of, but a failure by the petitioner, or expected occupants of the petitioner's land, to set forth with any degree of clarity, the reasonable necessity for encroachment into the more restricted single residence district by this requested extension.

There is no doubt but what the use as a small shopping center as proposed for petitioner's land can physically be accomplished within its present bounds. The difficulty arises in the fact that to accommodate the size of the use, there would have to be a greater area of adjacent land devoted to business district "A" uses.

It is to be noted, that although the Planning Board endorses the extension as requested, it does so with some reservation in that it suggests that requirements ordinarily not imposed on Business district "A" should be applied to the entire plot involved and not solely to the fifty-foot extension.

For many years there has been in existence in the Town, a comprehensive plan, for land uses and other concerns of the Town government. From time to time this plan has been modified and updated. There has been no proposal to change or modify the business district "A" on the East and West of Hastings Street.

The land in question was redistricted seven years ago at which time the district boundary was brought into alignment with the land located to the East of the locus. This was accomplished through the Will of the citizenry in Town meeting.

This Board has been offered no evidence of substance nor by its own investigation and examination of the proposal as submitted has it found such evidence, to enable it to grant the requested extension.

It is the unanimous opinion of this Board, that because of the lack of evidence for extending the use of petitioner's land fifty feet across the business district "A" boundary line has not been shown;

Therefore, the petition and requested extension is denied.

F. Lester Fraser William O. Hewett Francis L. Swift
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