



ZONING BOARD OF APPEALS

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Petition of Wellesley Common Trust

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:25 p.m. on May 19, 1977, on the petition of Wellesley Common Trust, requesting a variance from the terms of Section XIX of the Zoning By-law, which will allow an alteration and addition, not to exceed two stories on the easterly end of the block of stores located at 539-559 and 567 Washington Street, with less than the required ten feet from public land in use for park purposes, and the installation of an electrical transformer within ten feet from such public land. Said request was made under the provisions of Section XXIV-D of the Zoning By-law.

On April 6, 1977, the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Richard W. Spaulding, Trustee of Wellesley Common Trust, explained in detail the proposal before the Board and spoke in support of the request.

Norman Meyer, 115 Dover Road and Eleanor Angelakos, Chairman of the Park and Tree Board, questioned the petitioner relative to the proposed construction and installation of the transformer and expressed their concern of building a foundation close to large Town trees and the probable necessity of removing branches from above the Drug Store which now screen the second floor from the Park. It was felt that in addition to losing the screening effect, some trees would be injured.

Samuel Balkan, 85 Grove Street, stated that more trees were shown on the plan than actually exist which may create a problem to the petitioner and in his opinion the probable three-inch conduit for the transformer would not cause too much disruption of the earth.

A letter was received from Mary H. Fyffe, Secretary of the Park and Tree Board, in which she stated that the Park and Tree Board would not oppose the request for that part of a variance from the required ten foot setback from Park land over the present Rexall building, but would be opposed to that part of the variance applying to placing the transformer on presently vacant land within the required ten foot setback.

Mary Ellen Fraser, Chairman of the Planning Board, stated that because the property was surrounded on two sides by Park land, it is not possible to provide satisfactory egress to the second floor even though the criteria is met.

A written report was also received from the Planning Board in which it called attention to the necessity of maintaining the required ten-foot setback from park land and stating its opposition to the granting of the variance.

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FEBRUARY 2 1977

The petitioner believes that literal enforcement of the provisions of Section XIX of the Zoning By-law would cause substantial hardship because of the limited accessibility to the building and lot that results from it being surrounded on two sides by park land and because of the shape of the building structure and lot, circumstances which do not generally affect other buildings in the Business District in which the property is located.

Decision

The Board has made a careful study of all the evidence submitted and has taken a view of the locus.

In its opinion the proposed addition, which consists of filling in the open space above the drug store and extending the existing wall upward one story, will not prove detrimental to the area and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning By-law.

In anticipation of the addition to be constructed at the rear of the building, the petitioner has modified its original plans so that it will be constructed no nearer than ten feet to the rear and side lot lines and no variance will be requested. It is the opinion of the Board, therefore, that in order to accommodate the economics of the overall construction, the petitioner should be allowed to utilize the remaining available space involved.

It is also the opinion of this Board that due to the shape of the lot remaining available for use and the topography of the building structure, a literal enforcement of Section XIX of the Zoning By-law would involve substantial hardship to the petitioner.

The Board has studied the plans and sketches of the transformer as detailed by the Wellesley Electric Division and shown on sketch "J", dated March 17, 1977, and in its opinion the proposal appears to be the most feasible solution to accommodate both the Town's problem as well as the petitioner's problems. If it were to be set back ten feet from the lot line, it would barricade the future passageway from the existing store into the addition as well as create other problems for the Town.

Accordingly, the requested variances are granted and the Inspector of Buildings is authorized to issue a permit for the proposed addition and the installation of the requested transformer in accordance with the plans submitted and on file with this Board as well as the sketches prepared and submitted by the Electric Division of the Board of Public Works, and subject further to the following conditions:

1. That all reasonable care shall be taken by the petitioner for the protection of the roots and branches of trees on park land, during construction and maintenance of the building.

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A letter in opposition to the granting of the variance was received from Archie T. Morrison, Jr., 86 Woodlawn Avenue.

Richard J. Birch, Chairman of the Board of Public Works, stated that his Board had not met with the Park and Tree Board as yet, but would send a report after going over the entire project.

A plot plan was submitted, drawn by Joseph L. Calabro, Jr., Land Surveyor, dated April 25, 1977, which showed the existing building block on the property as well as existing trees.

Sketches were also submitted which had been prepared by the Town Engineers on May 17, 1977, which showed the proposed location of the transformer as well as details of its installation, electrical cable and conduit leading from Washington Street to the transformer.

Statement of Facts

The property involved is located within a Business District. There is an existing block of stores on the property which has been there for approximately seventy-five years and is now being renovated by the petitioner.

The petitioner, who recently entered into an agreement to purchase the property is presently making major alterations and improvements to the property in order to restore its economical vitality.

The block abuts a four-story commercial building on the westerly side and Town of Wellesley Park land on the easterly and northerly sides. Legal access into the building and the vacant land, is presently confined to Washington Street.

In order to provide proper egress, including emergency requirements, and to utilize the rear and vacant store area, and the unimproved portion of the lot, it is proposed to convert a significant portion of the existing frontage and rentable store area to an enclosed pedestrian mall to be entered from Washington Street. All of the work which is being done now is within the confines of the existing block.

In connection with this major restoration, the petitioner seeks permission to extend the second floor over the drug store to the existing wall line. It is the belief of the petitioner that by filling in this corner, it will not only provide additional space, but will eliminate the fragmental line of the building's southerly and easterly elevations, and greatly enhance its appearance architecturally as well as the shopping area in general.

The petitioner further seeks permission to install a transformer as detailed by the Wellesley Electric Division at the rear corner of the building as shown on the sketch marked "J". It is the belief of the petitioner that there is no other feasible location for it which will meet the approval of the Electric Division of the Town and likewise will not barricade the future passageway from the existing store into the addition. Considerable consideration was given to installing the transformer within the building, it was stated, but it appeared that it would create many problems not only for the petitioner but for the Town as well.

It is the intent of the petitioner, it was stated, if permission is granted, to proceed with the work with concern for the branches overhanging the property and providing reasonable protection for the trees and parkland.

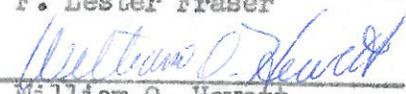
2. In the event that any disagreement arises between the petitioner and local officials as to compliance with specifications herein, the Board of Appeal shall decide the matter and its decision shall be final.
3. Notwithstanding the authorization of the issuance of a permit in accordance with plans on file and sketches and diagrams provided by the Electric Division of the Board of Public Works, said transformer and the platform on which it is to be located shall be no less than three (3) feet from the east lot line of the subject premises.



Francis L. Swift



F. Lester Fraser



William O. Hewett

Filed with Town Clerk _____

Copies of the decision and all plans referred to in the decision have been filed with the Planning Board and with the Town Clerk.

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