

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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Petition of Joseph T. Murphy and Albert Auburn

Pursuant to due notice the Zoning Board of Appeals held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on August 11, 1977, on the application of Joseph T. Murphy and Albert Auburn, requesting a Comprehensive Permit to construct a building which will provide forty-eight (48) subsidized low and moderate income housing units, on land owned by them, located between the Cochituate Aqueduct and No. 10 Cedar Street. Said request was made under the provisions of Massachusetts General Laws, Chapter 40B, Section 20-23. The occupants of the proposed building will be subject to the income limitations of the State and Federal programs under which their dwelling units are subsidized and to the additional regulations of the financing agency.

On July 11, 1977, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Board members present were: Francis L. Swift, Chairman, William O. Hewett, Henry H. Thayer, William F. Cullinane and Associate members Franklin L. Parker and William E. Polletta.

At the hearing Robert L. Devin, Esquire, represented the petitioners and outlined the applicants' proposal. He stated that Joseph T. Murphy and Albert Auburn, both of Wellesley, are the general Partners of Cedar Street Associates, a Massachusetts Limited Partnership organized and existing under Chapter 109 of the General Laws of Massachusetts, applied for a Comprehensive Permit under the provisions of Chapter 40B, Section 20-23 of the Massachusetts General Laws. He stated that it is proposed to construct forty-eight apartment

units on land owned by the petitioners on Cedar Street. The building is designed to provide 41 one-bedroom apartments and seven two-bedroom apartments, with three of the one-bedroom apartments to be contained in the proposed building specially equipped for occupancy by handicapped persons. It is the intention of the applicants to restrict the occupancy of all units to be constructed to elderly and handicapped persons.

Attorney Devin pointed out that Chapter 40B gives this Board the power to vary the local by-laws which are not consistent with local needs and which hamper Low and Moderate Income housing developments. He then requested that this Board grant the necessary variances to allow the proposed development to be constructed. The plans submitted, he stated, are sufficient to describe the scope of this activity and the criteria is met, as set forth in the Statute, to allow this Board to approve a Comprehensive Permit due to the need for Low and Moderate Income Housing within the Town.

He pointed out that the number of low and moderate income housing units occupied or available for occupancy in Wellesley does not exceed 10% of the latest number of housing units reported in the latest decennial census. Low and moderate income housing units would have to comprise 764 units of the 7,644 units in Wellesley for this statutory criterion of local need to be met, he stated, and he referred to the Wellesley Glen Associates' decision in which the Board of Appeal found that as of that date 235 units of subsidized housing for low and moderate income elderly persons existed in the Town, and that the Town fell short of this Statutory requirement by over 500 units. He did, however, point out that if the 125 units are built by the Wellesley Glen Associates, the Town would still be short 375 units.

He referred to the land area occupied by low and moderate income housing units in Wellesley which, he stated, does not comprise one and one-half percent or more of the total land area within the Town zoned for residential, commercial or industrial use. The town contains approximately 6,432

acres, of which 1,505.8 acres are owned or used by a public agency for roads, town purposes and State purposes. The net land area currently devoted to low and moderate income elderly subsidized housing within the Town is approximately twenty acres. The parcel of land for which the Wellesley Glen Comprehensive Permit was granted consists of 3.64 acres, leaving a statutory deficit of approximately fifty acres. The parcel for which the application involves is slightly more than one acre.

Reference was made to the findings of the Supreme Judicial Court in the case of the Board of Appeals of Hanover, in which it found that if a town has not achieved its fair share, there is no question that there is a need for further housing in the municipality. The petitioners maintain that there is a local need for more housing of this type in order to balance the needs of the residents of the Town, and they feel that the proposed development will help to meet this need.

The site involved, it was stated, provides a convenient location for a low and moderate income housing complex as it is only 3/10ths of a mile from the Lower Falls shopping Center, a church, post office and approximately 1/4th of a mile to public transportation. It was also stated that traffic studies have been made which show that 8,000 cars come through Cedar Street a day and it is felt that the proposed project will not add appreciable to the traffic in the area.

Joseph T. Murphy, partner of Cedar Street Associates, stated that he now resides at 47 Crown Ridge Road, Wellesley, and prior to that, he lived on Appleby Road in Wellesley; his partner Albert Auburn also resides in the Town and is a practicing attorney in Wellesley and has served on a number of Town Committees for many years.

Mr. Murphy stated that he is an engineer and has been involved with construction work for a number of years; he is thoroughly familiar with the requirements of the Housing Statute for the Elderly as he has been

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personally involved with a similar project in Framingham and another in Taunton.

He stated that he and his partner have owned the site involved since 1964. At present there are two brick two-family dwellings located on the property which are approximately eighty years old. They are designed, he stated, as houses were eighty years ago and are not designed for today's living. They have been maintained reasonably well and are currently used as rental properties.

It is proposed to remove these two buildings and in their place to erect a modern building to provide housing for the elderly which will serve the Town of Wellesley.

The proposed development will consist of forty-eight apartments. It will be a four-story building with an elevator located in the central entrance lobby with stairways and ramps as well. Due to the topography of the site, there will be three stories at the main entrance of the building on Cedar Street and four stories at the center level. The building will be 36' 1/4" in height and will be no higher than the roof of the existing buildings on the lot. It will be constructed of brick and will have concrete floors and concrete block walls, aluminium windows, forced hot water, fired by oil, heating system and modern kitchens with special equipment for the handicapped. It is proposed to locate the building 25' back from Cedar Street, 16' from the Aqueduct on the northerly side at the nearest point and 48' from the southerly side at the nearest point.

A parking area will be provided for fifty-three cars, it was stated, which will be located along the southerly side of the property and the rear lot line. This will provide 1.1 space for each dwelling unit in the building. If it is felt, however, that fewer parking spaces would be adequate, the petitioners would be agreeable to revise the plan and provide more grass area.

John Stanionas, 103 Walnut Street, submitted a petition signed by twenty-two neighbors, requesting the Board to deny the granting of a Comprehensive Permit as requested. He called attention to the reasons for the objections, which he stated were: Health and Safety Hazards- too many people in a small area, ten times the recommended density; 51 cars added to an already dangerous intersection will increase the present traffic problem, 800 to 900 cars passing at peak hours. Destroy Residential Character of the Neighborhood - A four-story building with a parking lot for 51 cars and no buffer zone or open yard space, in his opinion, would not be in keeping with single-family homes. Not Appropriate Location in the Town of Wellesley - The existing area contains over half of all public housing in Wellesley and Housing for Elderly as well as Town Houses and Apartments. These were the basic reasons for his objections and he urged the Board to deny the permit.

Donna Stone, 39 River Ridge, stated that in her opinion, the proposed development will destroy the residential character of the neighborhood. She is opposed, she stated, and would prefer to have the site developed with single-family homes, but in the event that a permit is granted, she offered suggestions which she felt would improve the proposed development. She suggested that there be less parking and more space provided for outside picnic tables and outside screening; first-floor terraces to be provided and provision for a community room. She also suggested shutters and balconies be added to take away the institutional appearance of the proposed building, and she felt that there should be an emergency system installed to call the fire department or for other emergency needs. She referred to the number of cars passing the site daily and suggested that a pedestrian light be installed at the corner of Cedar Street and Walnut Street.

The following neighbors also spoke in opposition to the request or presented questions to the Board relative to the matter: Leon H. Golay, 15 Cedar Street, Suzanne Rich, 45 River Ridge, John L. Donahue, Administrator,

for the Estate of Mrs. Donahue, Mary Donahue, 42 River Ridge, Alice J. Donohy, 62 River Street, George W. Timmons, 24 Cedar Street and Robert Sheehan, 11 Runnwell Street. All stressed the traffic hazards at the corner of Cedar Street and Walnut Street and urged the Board to deny the request so that the neighborhood will not be changed in character but will remain as a single-family area.

Daniel J. Reagan, 28 Cedar Street, supported the proposal and felt that the neighbors should work for a designed structure which would be acceptable to the neighborhood since the project could be forced on the Town by the State.

Nerilyn Fraser, Chairman of the Planning Board, outlined the opposition of the Planning Board which she stated was a preliminary report and its final report would be made to the Board of Appeals after a further study had been made of the plans. She was particularly concerned about the high density of the project, and while she felt that there is a need for more elderly and low-income housing, the proposed development, she felt, would be an intrusion on the single-family neighborhood and there should be a buffer zone between the residential and business districts.

A written report was received from the Planning Board which in part stated, "We consider that the proposal, as a whole, is potentially detrimental to the safety and health of the occupants of the housing and their neighbors, that it represents poor site (and building) design in relation to the surroundings, and that it is decidedly deficient in meeting the requirements and regulations of the Town (via its Zoning By-law, its Comprehensive Plan, and its Low and Moderate Income Housing Report), as these standards have been applied to both unsubsidized housing and (with some quantitative deviation from requirements of the Zoning By-law for the Wellesley Glen proposal)

all other subsidized housing built or authorized in this Town to date....

"We, therefore, recommend that your Board deny this application for a comprehensive permit for low and moderate income housing."

A report was received from the Board of Public Works which indicated that additional site data as well as additional plumbing and electric detail would have to be provided and submitted to the Public Works for review before approval was given.

A report was received from the Council on Aging in which it stated that at the public hearing the Council members felt that they did not have enough material to make a statement at that time.

The Board of Selectmen reported that it believes the Town of Wellesley has demonstrated its willingness to meet the goal of providing low and moderate income units in Town but should not have to accept projects that are contrary to the overall planning and development goals of the community that have been laid out in a Comprehensive Plan since 1965.

It further stated that there are some valid reasons for the standpoint of land use and traffic why this particular area is not suited to the development of apartment units, and it referred to a letter written by the Planning Board on August 22, 1977, which it felt raised valid questions and requested to be recorded in support of the recommendations contained in that letter.

Preliminary plans of the building were submitted as well as a site development plan. The site plan, drawn by Joseph T. Murphy, Professional Engineer, showed the location of the building on the lot, the parking spaces to be provided, the entrance onto Cedar Street as well as preliminary

locations of water, sewer and drain pipes.

A set of architectural plans were submitted, drawn by William & Paige Associates, Dedham, Mass., which showed the elevations of the building, the floor layouts and the exterior materials of the building.

Statement of Facts

The property involved contains 52,476 square feet, and is located within a Single Residence District, abutting the Aqueduct on the northerly side and residential property on the southerly side.

The petitioners seek a Comprehensive Permit to construct low and moderate income housing, under the provisions of Chapter 77B, Acts of 1969, Mass. General Laws, Chapter 40B, Sections 20-23, for 48 units, 41 one-bedroom apartments and 7 two-bedroom apartments, with 3 one-bedroom apartments equipped for handicapped occupants, within one four-story building.

A set of plans submitted were given to the Planning Board, the Board of Selectmen and the Board of Public Works, with the request that they review the plans and send this Board their written reports. Reports from all those requested have been received.

The petitioners outlined in detail the reasons for their request, as stated in this report, and submitted material and data to this Board relative to specific details of the proposed development. They also explained in detail the reasons for the request and cited criteria upon which, in their opinion, this Board should grant the requested Comprehensive Permit. They stressed the need for additional low and moderate income housing in the Town and pointed out the existing deficiency of the Town in meeting the statutory requirements as set forth in Chapter 40B of the General Laws.

Decision

The Cedar Street Associates, a Massachusetts Limited partnership, the general partners of which are Joseph T. Murphy and Albert Auburn, both of Wellesley, Massachusetts, seek to obtain a comprehensive permit under the authority of Massachusetts General Laws, Chapter 40B, Sections 20-23.

The Board of Appeal has carefully considered the application for the comprehensive permit, with the supporting data and plans, together with information, statements and presentations at the public hearing, and our own investigation.

The area proposed to be developed for low and moderate income, elderly housing, contains 52,476 square feet of land, located on Cedar Street, and is in a single residence district according to the zoning map of the Town. Access to the parcel is gained solely from Cedar Street, a public way. Presently on the parcel are two residential structures, each of which is described as about eighty years old, and each of which is currently rental property, used as two-family dwellings.

Massachusetts General Laws, Chapter 40B, Sections 20-23 is otherwise designated as Chapter 774 of the Acts of 1969. This legislation has been passed upon by the Supreme Judicial Court on many occasions, and in passing upon the constitutionality of the amendments, as enacted in 1969, the Court said: "Our construction of Chapter 774 does not mean that the board must automatically grant comprehensive permits in all cases, where the Community has not met its minimum housing obligation as it is specifically defined in Section 20. The statute merely prevents the Board from relying on local requirements or regulations, including applicable zoning by-law and ordinances which prevent the use of the site for low and moderate income housing, as the reason for the Board's denial of the permit or its grant with uneconomic conditions. In cases where the locality has not met its minimum housing obligations, the Board must rest its decision on whether the

required need for low and moderate income housing outweighs the valid planning objections to the details of the proposal such as health, site design, and open spaces. If the regional need for such housing outweighs these objections, the board must over-ride any restrictive local requirements and regulations which prevent the construction of the housing and grant the comprehensive permit. However, the municipality's failure to meet its minimum housing obligations, as defined in Section 20, will provide compelling evidence that the regional need for housing does, in fact, outweigh the objections of the proposal."

The Court further stated that the standards to be applied by a Board of Appeal in passing on the question of issuance of such a permit (as herein applied for) are whether the grant of a permit is reasonable and consistent with local needs, and whether any conditions imposed on the permit are uneconomic. A Board of Appeal need not over-ride local requirements where low and moderate income housing is in excess of ten percent of the housing units reported in the last decennial census, or, such housing exists on sites comprising 1 1/2% or more of the total land area zoned for residence, commercial or industry (exclusive of public land) or the application would result in the commencement of construction of such housing on sites comprising 3/10 of 1% of such land or ten acres, whichever is larger, in any one calendar year.

It is a fact that the Town of Wellesley, in applying the standards of Chapter 774, as construed by the Supreme Judicial Court, has not met the minimum low and moderate income elderly housing requirements. As of the last decennial census, it is estimated that there were 7,844 housing units in Wellesley, and presently there are in existence 235 subsidized housing units constructed for and utilized for low and moderate income elderly housing. These have been erected under the auspices of public authority. There has been granted, by this Board, to a non-public authority, a comprehensive

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permit authorizing the construction of an additional 125 units for low and moderate income elderly housing, thus bringing the total number of units available or to be constructed, for this purpose to 360 units. By the unit standard, the Town falls short of its statutory requirement by over four hundred units. The Town covers a land area of 6,432 acres. Of this total, 1,505 acres are devoted to, owned by, or used for roads, municipal purposes, and state agencies. The net land area, for purposes of Chapter 774 application, is 4,927 acres. The area consumed for low and moderate income elderly subsidized housing is approximately twenty-four acres; thus, by the land use stand, the Town falls short by about fifty acres.

There presently exists in Wellesley a need for additional housing units for low and moderate income elderly families. The question does arise, are there any areas or lots in the Town that could be used to satisfy this need in whole or in part? There are over 125 acres of land potentially available for such housing, many sites, however, being less than two acres in size, of which, the parcel proposed for development is one. The willingness, or lack of it, of owners of such presently undeveloped land to use such land for low and moderate income housing purposes and for subsidized housing, can be a limiting consideration.

Low and moderate income elderly housing should be so located that the occupants can walk to or use public transportation to reach employment, to shop for necessities and other goods, to utilize cultural and recreational facilities, and have access to services such as medical, financial, religious and personal.

The parcel for proposed development is situated approximately one-half mile from Washington Street, the main local east-west artery in the Town. At the nearest area, on Washington Street, from the site, are located what are called convenience food shops, a post office, and public transportation way-stops.

The Wellesley Council on Aging does provide, for a nominal fee, transportation within the Town limits, on an arranged basis. Social, cultural, religious and recreational facilities and amenities are located at a greater distance from the site.

The Wellesley Zoning By-law was first adopted in 1925. For purposes of the by-law, the Town is divided into classes of districts as shown on the Zoning Map of the Town of Wellesley. From time to time that by-law and map have been amended. There are fifteen districts, designating residential, educational, business, industrial, transportation and conservation classifications. This zoning by-law was adopted, and from time to time amended, for the purpose of promoting the health, safety, convenience, morals and welfare of the people and to encourage housing for persons of all income levels, and has regulated and restricted, to those ends, the height, number of stories, size of buildings, size and width of lots, the percentage of lots that may be occupied, the size of yards and other open spaces, the density of the population and the location and use of buildings and land for trade, industry, agriculture, residence and education. This zoning by-law was not and is not aimed at transients and involves no procedural disparity inflicted on some, but not on others, nor does it deprive any fundamental right, but rather is addressed to family needs. The values it represents are spiritual as well as physical, aesthetic as well as monetary. Its evolution has been a guideline to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.

The parcel on which the proposed housing is sought to be constructed is located near the intersection of Cedar Street, River Street and Walnut Street, less than 200 yards, having a frontage on Cedar Street of some 170 feet in length. Cedar Street and Walnut Street are heavily traveled Town

designated roadways. The parcel is, except for the two structures situated on the edge of Cedar Street, substantially open space, but the topography of the parcel is saucer-like, in that it slopes downward from Cedar Street from an elevation of 103 toward the center of the parcel to an elevation 93.5, at which area it levels out, then rises to the rear of the parcel in a sharp incline to an elevation of 115. The northeast corner of said lot inclines more sharply to an elevation of 130. To the north of the site and adjacent to it is Town owned land, formerly an aqueduct. To the south of the site, and contiguous to it is a single residence lot with a dwelling thereon. This single residence lot and dwelling face on River Ridge, a public way, which is approximately 100 feet to the south of the site. To the east of the site is open space land.

In making its decision, this Board has considered the need to protect the health and safety of the occupants of the proposed housing, as well as the residents of the Town, promotion of building design in relation to the surroundings, and preservation of open spaces.

It is the opinion of the Board that a modification of the proposed project, taking into consideration the health, safety and welfare of Wellesley residents, and those who would become Wellesley residents, is consistent with the needs of the Town. On the human level, as well as the humane level, the need for additional low and moderate income elderly housing in Wellesley is required.

Therefore, this Board grants a comprehensive permit pursuant to Massachusetts General Laws, Chapter 40B, Sections 20 - 23, to the applicant, Cedar Street Associates, Joseph T. Murphy and Albert Auburn, general partners, to construct one residential structure on the subject location, to be of no greater height than forty-five feet, above ground level, containing thirty-six dwelling units, no part of which structure shall be nearer to Cedar Street

than forty feet subject to the following terms, conditions and safeguards:

1. The project occupancy is to be limited solely to families of low and moderate income as that term is defined in applicable laws and regulations, but in no event shall elderly occupancy of the units (age 62 and above) be less than 30% of the total number of units.

2. Selection of qualified tenants for the units shall be subject to the supervision and final determination of the organization in Wellesley, presently called the Council on Aging, which is responsible for the care and needs of senior citizens of Wellesley, in accordance with Condition 1. That organization shall be provided with all applications for occupancy in a timely manner to ensure proper evaluation and shall communicate its selection to the applicant or its successor. To the extent permissible under applicable law, preferences shall be given to residents of Wellesley, parents of residents of Wellesley, and former residents of Wellesley in that order of preference.

3. No voluntary transfer of ownership of the premises during the first twenty years following approved completion of construction shall be permitted without prior approval of the Board of Appeal (except to an entity owned and/or controlled by the Applicant), approval not to be unreasonably withheld. In the event that ownership of the premises is to be transferred or contemplated to be transferred, the Wellesley Housing Authority and the Town of Wellesley shall be given the right of first refusal. In the event that the general partners of the Cedar Street Associates shall separate or not continue for any reason in said partnership, any transfer shall be made only with the approval of the Wellesley Board of Appeal, said approval not to be withheld unreasonably.

4. Within nine (9) months of the date of the filing of this decision with the Wellesley Town Clerk:

a. All necessary public financing for the project and

evidence submitted to the Board of Appeal, shall be obtained;

b. Evidence satisfactory to the Board of Appeal that the applicant is a limited dividend entity empowered to act and qualified to undertake a project pursuant to the provisions of Chapter 121A of the Massachusetts General Laws shall be submitted to the Board of Appeal; and

c. In the event that the applicant (or at any time any successor) shall qualify under Chapter 121A of the Massachusetts General Laws or any other similar legislation which provides that the applicant (or any successor) be exempt from paying real estate taxes on the development or any part thereof, the Applicant shall, enter into a contract or agreement with the Town of Wellesley, acting through the Board of Selectmen or other appropriate and authorized Board, to pay to the Town of Wellesley such annual amounts, as provided in Sec.Six A (S.6A) of said Chapter.

In the event the applicant reasonably determines that such financing and evidence will not be obtained within said time period and has exercised good faith efforts to obtain same, the Applicant may apply to the Board of Appeal for an extension of time of up to three (3) months; however, in no event shall the time period for obtaining financing be longer than twelve (12) months from the date of the filing of this decision with the Town Clerk. In the event said financing and evidence thereof are not obtained within the aforementioned time period the comprehensive permit shall automatically terminate and be of no further legal effect whatsoever.

5. Construction of the project shall be commenced within six (6) months from the date of the obtaining of all necessary financing but in no event later than eighteen (18) months from the date of the filing of this decision with the Wellesley Town Clerk. In no event shall construction commence until all necessary financing has been obtained. Construction

of the project shall be completed within eighteen (18) months from the date of the commencement of said construction. In the event construction is not commenced and/or completed within the time frames set forth above unless extension for good cause has been granted by the Board of Appeal, the said comprehensive permit shall automatically terminate and be of no further legal effect whatsoever.

6. No construction, including site development, drainage, or foundations shall begin until detailed construction plans and specifications shall have been approved by the State or Federal agency providing construction funds for the project and by the Wellesley Town Engineer, Building Inspector, Wiring Inspector, Plumbing and Gas Inspector, and the Board of Health, and written evidence of said approvals received and acknowledged by the Wellesley Board of Appeal.

7. Prior to Construction, a detailed site plan, showing proposed landscaping, parking, and exterior facade construction of the structure shall be submitted to the Design Review Board and approval of said plan, as submitted or modified, must be obtained from the Board of Appeal.

8. All material used for backfill shall be approved in advance by the Building Inspector.

9. No blasting shall be allowed during construction except with the prior approval of the Board of Appeal, based on plans submitted showing the results of test boring studies.

10. All utility lines including the fire alarm systems shall be placed underground. The applicant-owner shall assume all costs of installation of all utilities into and on the site, including tie-in with all municipal lines, water, sewer and electrical.

11. Parking on the interior access driveway shall be prohibited and signs to that effect shall be installed. Maintenance of interior ways,

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for pedestrian and vehicular travel, shall be at the expense of the applicant; said maintenance shall include snow and ice removal; garbage, trash, and rubbish disposal shall be the responsibility of the applicant - owner.

12. All sanitary disposal facilities to be installed in said building on the site shall be connected to the Town of Wellesley sanitary sewer system in accordance with the requirements of all Town and State codes and regulations; plans therefor shall be approved by the appropriate division of the Wellesley Public Works Department. The elevation of the first floor slab shall be at that elevation which will permit the sanitary sewer piping, when installed in strict compliance with applicable codes, to discharge sewage by gravity to the existing Town sewer.

13. Final construction plans shall provide space for no less than one and one-half parking spaces per residential unit; each space shall contain no less than 250 square feet; at final construction, there shall be no more than one parking space per residential unit; construction of the remaining planned spaces are to be held in abeyance pending determination of need.

14. All drainage from the site shall be so designed and constructed as to meet the following requirements:

a. A detailed plan for handling drainage on the site throughout the entire construction period, and for handling drainage following construction, shall be submitted to and approved by the Town Engineer and the Wellesley Conservation Commission.

b. All roof drainage shall be piped into the on-site storm drain system.

c. All paved areas including the parking area, access driveway and interior roadways shall be graded and provided with catch basins and drains to prevent runoff from the paved areas onto the grass areas and adjacent properties.

d. Sloped paving, Cape Cod berms or other similar treatment shall be installed around the paved parking and road areas.

e. No silt from soil erosion during the construction period and after completion of the construction phase shall be permitted to enter on abutting properties.

15. Fire safety devices and equipment shall be installed as follows:

a. A master box on a pedestal on the access driveway; the location of same to be established by the Fire Department.

b. Interior fire alarm system in the building to be connected to the master box by underground ducts;

c. Audible alarms in the building; a flashing red light on top of the building tied to the audible alarm and an annunciator panel in the building to show origin of alarm by floor and apartment location;

d. The number of hydrants and locations thereof to be designated by the Wellesley Fire Department.

16. Prior to construction, the applicant - owner shall:

a. Obtain adequate insurance (including comprehensive general liability coverage) to insure against claims resulting from damages to properties abutting or near the development. The amount of said insurance shall be determined by the Board of Appeal prior to construction.

b. Secure all required approvals under Massachusetts General Laws, Chapter 131, Section 40 and 40A and the Wellesley Conservation Commission.

c. Provide the Board of Appeal with satisfactory evidence that the proposed drainage and sewerage disposal system, utility lines and conduits, access road and walks including location, grade and width of any entrance from the project on to Cedar Street and location of the building has

been approved by the Town Engineer, and each appropriate local department, Board or Commission.

17. The following procedures and requirements shall be adhered to:

- a. A building permit application on the Town of Wellesley's form shall be submitted for said building.
- b. Plot plans as required by the Building Code shall be submitted with the application, as modified by this decision.
- c. Complete and final architectural and engineering plans, and specifications for said building showing that the proposed structure complies with all requirements of the Massachusetts State Building Code, now the Wellesley Building Code, as well as any Town requirements, shall be submitted.
- d. All necessary plumbing, gas and electrical permits shall be applied for and obtained.
- e. All permit fees as per the Town Permit Fee Schedule shall be paid.
- f. Periodic notification of the progress of the work shall be given to the Inspector of Buildings, Inspector of Plumbing and Gas and Inspector of Wires, so that inspection of the construction can be made to determine compliance with the appropriate codes involved.

18. In the event that any disagreement arises between the Applicant and local Officials as to approvals required as set forth herein, and as to compliance with specifications herein, the Board of Appeal shall decide the matter and its decision shall be final.

19. The applicant shall provide a copy of as-built plans, as certified, to the Building Inspector and this Board prior to the issuance of final occupancy permit.

Filed with Town Clerk \_\_\_\_\_

*Francis L. Swift*

Francis L. Swift

*William O. Hewett*

William O. Hewett

*William F. Cullinane*

William F. Cullinane

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