TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY MA 02181

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Petition of Elgin Associates

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall on Tuesday, January 6, 1981 at 8:00 PM on the request of Elgin Associates who are seeking the approval of Site Plans as required under the provisions of Section V A and Section III A 2 (k) of the Zoning Bylaw, for the conversion of the former Kingsbury School site located at Seaver Street and Park Avenue, to a multi-family usage. Said request was made pursuant to Section XXV of the Zoning Bylaw.

On November 19, 1980, the Petitioner filed the request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Present at the hearing and speaking on behalf of the request was Wendell Phillips the architect and John Gallagher, partners of Elgin Associates.

Also present at the Public Hearing speaking as concerned abutters were: Tom Kunz, 14 Park Avenue; Mrs. Fitzpatrick, 30 Seaver Street; Mr. and Mrs. Louis Metzger, 26 Park AVenue; Marty Gavin, 17 Framar Road; Ellen McConroy of Park Avenue; Jack Kelford of Park Avenue and Edward Scullane of 18 Park Avenue. Mr. Scullane summarized the position of the abutters stating that he and the neighbors feel the following are radical changes and possible violations of the Deed Restrictions: 1) the increase in cars from 16 to 22 (2 per unit) on the Park Avenue side, this would give each unit the required parking spaces to accomodate three bedrooms; 2) entry from Seaver Street reduced from 2 driveways to 1 driveway. The original plans had 2 driveways from Seaver Street; 3) Mr. Scullane feels that they are not dealing with an underground garage but an embankment garage, which violates the Deed Restrictions; 4) Mr. Scullane questions the authority of the Zoning Board of Appeals to grant permission for the proposed plans because of the above mentioned changes over what was proposed at Town Meeting. In addition, there was discussion as to the lighting and shielding of Mrs. Fitzpatrick's house from automobile lights and traffic.

A copy of the application and the accompanying plans were mailed to the following departments: Planning Board, Design Review Board, the Board of Public Works, the Fire Department, the Board of Health, the Natural Resources Commission, the Wetlands Protection Committee and the Board of Selectmen. This material was sent with the request that the application and accompanying plans be reviewed and a

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report on same be forwarded to this Authority. All requested reports have been received. A letter dated January 12, 1981 from the Board of Selectmen approves the plans, subject to the review of the Building Inspector. A letter dated January 7, 1981 from the Fire Department, submitted by Acting Captain David F. Timmons, Fire Prevention Officer, suggests the installation of a standpipe for Fire Department hose connections in stairwells Number 1 and 2, and states that he would prefer the 2 driveway entrances from Seaver Street. The Petitioner agreed with a suggestion in a letter dated January 5, 1981 from the Planning Board that the driveway to Seaver Street be engineered to reduce the grade as the driveway intersects Seaver Street. The letter also stated that one member of the Planning Board noted that the patio over the garage was a potential area for settlement and frost heaves causing an uneven surface in the patio. A letter dated December 12, 1980 from the Design Review Board suggested a redesign of the rectangular window in the front center gable to be an arched window as it would be in better keeping with the style of the building. The architect, Wendell Phillips, at this point submitted a redesign of this window incorporating the ideas of the Design Review Board's letter. A letter dated November 24, 1980 was received from the Board of Public Works, submitted by John E. Bezanson, Town Engineer. Mr. Bezanson's comments were that the developers should meet with the Water and Sewer Division superintendent and with the Electric Division superintendent to discuss and work out details of connections. He also pointed out that a new driveway entrance would require the approval of the Board of Selectmen and a permit from the Board of Public Works, a new catch basin, as well as an existing drain would require permits from the Board of Public Works.

Statement of Facts

The property involved, formerly the Kingsbury Elementary School, containes 3.97 acres of land and is a Multi-Family Residence District located between Seaver Street and Park Avenue. This property was established as a Multi-Family Residence District by action of the May 12, 1980 Town Meeting (refer to Article 67). The Town Meeting of May 12, 1980 (refer to Article 68) pursuant to Section V A of the Zoning Bylaw, approved the proposal of Elgin Associates dated November 30, 1979 for the conversion of the Kingsbury School site from a Public School use to a multi-family housing and authorized the Board of Selectmen to sell the property on behalf of the Town of Wellesley in accordance with the terms and conditions set forth in the Purchase and Sale Agreement dated May 5, 1980, between the Town of Wellesley and Elgin Associates, and enter into the said Purchase and Sale Agreement and any other agreements to modify and amend same as said Board of Selectmen shall deem to be in the Towns best interest and take any other action necessary to carry out the vote.

The property is currently owned by the Town of Wellesley. The Petitioner, Elgin Associates, has agreed to purchase the property in accordance with the aforementioned Purchase and Sale Agreement which includes a provision in Paragraph 6 that the closing date may be the date on which the Special Permit becomes final.

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Section V A of the Zoning Bylaw covers Multi-Family Residence Districts and includes a requirement that the proposal be subject to the provisions of Section III A 2 (k) PROCEDURE:

(1) Plans showing the locations and elevations of buildings and their exterior materials and indicating provisions for off-street parking facilities, interior roads and driveways, drainage and landscaping, and such other information as the Special Permit Granting Authority may reasonably require, shall be filed with the Special Permit Granting Authority and its written approval obtained to the same. A copy of said complete plans as filed with the Special Permit Granting Authority shall also be filed with the Planning Board for its recommendations to the Special Permit Granting Authority as hereinafter provided. The Special Permit Granting Authority shall not approve such plans unless it shall find that the plans make adequate provisions for:

(i) Insuring compliance with the Zoning Bylaw of the Town of Wellesley;

(ii) Protecting the safety, convenience and welfare of the public;

(iii) Minimizing additional congestion in public and private ways;

(iv) Insuring adequate provisions for the parking of motor vehicles;

(v) Insuring adequate provisions for water, sewerage and drainage;

(vi) Insuring that the premises will not be unsightly; and

(vii) Insuring compliance with the provisions of Section XVI.

If in the opinion of the Special Permit Granting Authority the plans fail to meet the above requirements, it may modify such plans to meet the requirements and as modified approve the same, or may dissapprove the plans.

(2) Application to the Special Permit Granting Authority for approval of plans in accordance with this Section and the procedure of the Special Permit Granting Authority with respect to such application shall be provided in SECTION XXV and no building permit

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shall be issued by the Building Inspector without such approval. All such applications for approval of plans shall be referred to the Planning Board by the Special Permit Granting Authority prior to its Public Hearing thereon for such recommendations as the Planning Board may make for the best interests of the Town, and no decision shall be made by the Special Permit Granting Authority in connection with any such application until the Planning Board shall have made such recommendations, or ten days shall have elapsed after the Public Hearing without any such recommendations being made.

SECTION XXV of the Zoning Bylaw states:

The approval of plans by the Special Permit Granting Authority in accordance with SECTION III A, Paragraph 2, Subparagraph (k) PROCEDURE shall constitute the granting of a Special Permit.

Decision

By its petition, Elgin Associates requests approval of plans, which approval constitutes a Special Permit for the conversion of the former Kingsbury School site to eleven (11) condominium units and an underground parking garage for twenty-two (22) vehicles on land now zoned Multi-Family Residence District.

At the May 12, 1980 Town Meeting, the Selectmen were authorized to sell the property in accordance with the terms and conditions set forth in the Purchase and Sale Agreement dated May 5, 1980. In The Addendum to this Agreement are listed "Deed Restrictions", which expressly permit eleven (11) condominium units and also stipulate that there be "at least two (2) underground parking spaces per condominium unit . . ." Therefore, twenty-two (22) parking spaces are in accordance with the Purchase and Sale Agreement and the vote of the Town Meeting.

It is the unanimous opinion of this Authority that, subject to the modifications hereinafter imposed, the proposed plans to convert the former Kingsbury School site to eleven (11) condominium units are approved and they are conceptually and substantially the same as previously presented and that they meet the requirements of SECTION III A 2 (k), 1 (i) thru (vii), and that the proposal will not be detrimental to the neighborhood and will be in harmony with the general purpose and intent of the Zoning Bylaw.

The aforesaid modifications and conditions are as follows:

1. That the Petitioner comply with all provisions of the Purchase and Sale Agreement, and The Addendum thereto, dated May 5, 1980 betwen the Town of Wellesley and the Petitioner.

2. That the Site Plan #Li, dated November 10, 1980 and signed by John P. Hurney, Registered Land Surveyor, and all associated plans be modified to show a second entrance from Seaver Street connecting to the first entrance in a semicircular fashion

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similar to the previously presented conceptual plan entitled First Presentation 11-79 and Section Presentation 2-80. Both entrances must be designed so as to eliminate any potentially unsafe conditions at the driveways intersection with Seaver Street. A copy of the Site Plan as modified must be filed with this Authority prior to the issuance of a Building Permit.

3. That the Site Plan also be modified so that the finished grade of the patio and surrounding area above the garage on the Park Avenue side will be no higher than the lowest portion of Park Avenue along the property line. The patio should be designed to minimize the possibility of frost heaves caused by part of the patio being over the garage roof and part over the earth grade.

4. All Plans involved with this project must be properly signed and sealed by the appropriate Registered Architect, Engineer or Land Surveyor.

5. At the expense of the Petitioner, all water, sewer and electrical connections shall be made subject to the approval of the Department of Public Works and all driveway entrances, drains and catch basins shall be installed subject to the approval of the Department of Public Works and where necessary, the Board of Selectmen. All utilitiy lines shall be underground. Detailed plans and Specifications for the above shall be approved by the Department of Public Works and the Building Inspector prior to the start of construction and any site development work, and written evidence of said approvals submitted to the Special Permit Granting Authority.

6. If grading and excavation is to be done in the West corner of the property, haybales will be placed around the Seaver STreet catch basins during construction to prevent siltation of wetlands downstream.

7. Standpipes for Fire Department hose connections shall be installed on stairwells Number 1 and 2, and the appropriate plans shall be modified to show the standpipe installation. Said installation shall be approved by the Wellesley Fire Department and written evidence of said approval shall be submitted to this Authority.

8. Maintenance of interior ways, for pedestrian and vehicular travel, shall be at the expense of the Petitioner and/or the Condominium Association. Said maintenance shall include snow and ice removal. Garbage, trash and rubbish disposal shall be the responsibility of the owner. External trash and garbage dumpsters or trash refuse bins are not permitted.

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9. Landscaping shall be designed so as to minimize to the maximum extent possible driveway lights and vehicle lights entering/exiting the property from casting glare onto the abutting properties.

10. Upon completion of construction, a complete set of "As Built" architectural and structural plans, including a complete set of mechanical plans for the structure shall be provided to the Building Inspector prior to the issuance of an Occupancy Permit.

11. That a Surety Performance Bond running to the Town shall be provided in the amount of One Hundred-Fifty Thousand ($150,000.00) Dollars in a form satisfactory to Town Counsel and the Special Permit Granting Authority, which Bond shall be posted with the Treasurer of the Town of Wellesley before commencement of work.

12. All design and construction must comply with all applicable State and Local codes.

William F. Cullinane

William F. Cullinane, Chairman

Sumner H. Babcock

Sumner H. Babcock

Stephen S. Porter

Stephen S. Porter