TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 87-60
Petition of the Board of Selectmen, Town of Wellesley
311 Walnut Street (Warren School)

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 27, 1987 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of the BOARD OF SELECTMEN, TOWN OF WELLESLEY requesting the issuance of a Special Permit un the terms of Section II A8 b of the Zoning Bylaw which would allow the premises located at 311 WALNUT STREET (WARREN SCHOOL) to be leased to ArtistSpace, Inc. to be used to provide 28 studios for artists, said location being in a Single Residence District. The hours of operation will be 8:00 a.m. to 10:30 p.m. seven days a week. Said request is pursuant to Section XXV of the Zoning Bylaw.

On August 3, 1987 the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Fran O'Leary, Chairman of the Board of Selectmen. Mrs. O'Leary presented a new site plan depicting a change in that the basketball court would be retained by the town, as well as a fenced path for school children. She explained that ArtistSpace, a non-profit organization, would lease the premises for a ten-year period and would fulfill all of the provisions of Article II A 8(b) of the Zoning Bylaws.

Jerro Nesson, Director of ArtistSpace stated that the premises would provide affordable space for serious visual artists with Wellesley artists given first priority. There would be a maximum of 28 artists. One-third of the group would use the space in the morning, one-third in the afternoon, and one-third in the evening so that the maximum number of people on the premises at one time would be eight or nine.

Mr. Nesson explained that each artist would pay a share of the operating costs of the building and that the major changes to bring the building into compliance with the building code dealing with wiring and fire safety would be done immediately, while minor changes would be accomplished over a three-year period.

John Keefe, an abutter and member of the Warren School Re-Use Committee, presented a three page document in support of the petition. He felt that the intended use was in keeping with the residential character of the neighborhood, was a low density use, and allowed full use of the park by the town.

Felix Julianni, former Selectman, also voiced full support, stating that in this way, the building would be occupied and maintained for a ten year period.

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Statement of Facts

The property involved is the Warren School, 311 Walnut Street, in a Single Residence District. The Warren School was built in 1935. Until January 10, 1987, it was used as a school with 231 students attending last year. On February 26, 1987, the School Committee placed the building in the jurisdiction of the Board of Selectmen. The Board of Selectmen prepared a Request for Proposals that was distributed during the summer with a deadline of November 3, 1987. The Town received three proposals, of which the only viable one was presented by ArtistSpace, Inc. Negotiations proceeded which culminated in the present request for a Special Permit.

ArtistSpace, Inc. is a non-profit organization as documented by submission of their Articles of Organization.

The petitioner seeks a Special Permit to lease the Warren School to ArtistSpace, Inc. which in turn will provide 28 studios for visual artists use with activities allowed between 8:00 a.m. and 10:30 p.m. seven days a week. There will be adequate parking on the building grounds and no "on street" parking will be required. There will be no signs placed on the site.

Dale C. Edmunds and Barbara A. Fay, 332 Walnut Street submitted a letter dated August 20, 1987, voicing approval of the request.

The Planning Board, at its Regular Meeting of August 25, 1987, in a letter dated August 26, 1987, voted to offer no objection to the request. The Board recommended that any artificial lighting used to illuminate the parking area should be arranged and shielded so as to prevent direct glare into the street or onto adjacent property.

Decision

This Authority has made a careful study of the evidence presented. The petitioner has requested a Special Permit to lease the property at 311 Walnut Street (Walnut School) to ArtistSpace, Inc., a non-profit organization, to be used to provide 28 studios for visual artists from 8:00 a.m. to 10:30 p.m. seven days a week. This property is located in a Single Residence District.

It is the opinion of this Authority that the proposed use of the Warren School at 311 Walnut Street would not be detrimental to the neighborhood. Therefore, a Special Permit is granted pursuant to Section XXV and Section II A 8(b) of the Zoning Bylaw subject to the following conditions:

1. That the hours of operation shall be seven days a week from 8 a.m. to 10:30 p.m.

2. That no more than 28 studios be provided.

3. That all State and local laws shall be complied with as well as the recommendations and requirements of the Fire Department, Board of Health and Building Inspector.

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4. That said Special Permit shall expire on September 14, 1989 as long as there are no changes in the use of the property. Any changes would warrant a new application to this Board.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

John A. Donovan, Jr., Temporary Chairman

Robert R. Cunningham

Franklin P. Parker

cc: Planning Board
Inspector of Buildings

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Addendum

In the decision dated September 11, 1987 the Special Permit Granting Authority granted a Special Permit to the Board of Selectmen under the terms of Section IIA 8 b and pursuant to Section XXV of the Zoning Bylaw to allow the premises at 311 Walnut Street (Warren School) to be leased to ArtistSpace, Inc., a non-profit organization, said premises to be used to provide 28 studios for artists in a Single Residence District. The fourth condition of granting said Special Permit stated:

> "4. That said Special Permit shall expire on September 14, 1989 as long as there are not changes in the use of the property. Any changes would warrant a new application to this Board."

The Special Permit was thus granted for a two year period, as it was the opinion of the Special Permit Granting Authority that the following statement found in Section II A 8 applied to Section II A 8 b (any non-profit purpose):

> "and provided, further, that no permit shall be issued for more than three years or renewed for periods of more than three years;"

and that the grant of a Special Permit for longer than a three-year period would be in violation of Section II A 8 of the Zoning Bylaw.

In a letter to the Zoning Board of Appeals, dated October 27, 1987, Town Counsel, Albert S. Robinson, states that when the three year limitation was voted into the Zoning Bylaw in 1978, it appeared in the official town record as follows:

> "(7). There shall be not more than the equivalent of two full-time non-resident employees and provided further that no permit shall be issued for more than three years or renewed for periods of more than three years."

Due to an inadvertent printing error in the Zoning Bylaw, the three year time limit appeared to apply to all of Section II 8 A and not specifically to Section II A 8 h alone.

The Board of Selectmen has agreed to lease the above-named premises to Artist Space Wellesley, Inc. for a period of ten (10) years and has requested that the Special Permit be issued for the same time period. The lease agreement would provide a mechanism for discontinuing the use upon proper notice, if the use of the

building by Artist-Space Wellesley, Inc. in any way becomes a detriment to the neighborhood.

Therefore, on further consideration, coupled with the foregoing clarification by Town Counsel, the Special Permit Granting Authority amends its conditions to the limited extent that Condition #4 shall now read:

> "4. That the terminations of the grant of the Special Permit shall be concurrent with the expiration of the lease between the Town of Wellesley and Artist-Space Wellesley, Inc."

Otherwise, the Decision, including Conditions #1-3, dated September 11, 1987, shall stand as previously written.

John A. Donovan, Jr., Chairman

Robert R. Cunningham

Franklin P. Parker

cc: Planning Board
Inspector of Buildings

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