



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-52
Petition of Paul J. O'Rourke
200 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 28, 1989 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 PAUL J. O'ROURKE requesting a Special Permit pursuant to the provisions of Section XXIIA and Section XXV of the Zoning Bylaw to allow him to retain a standing A-frame sign approximately 30 square feet to identify his business premises at 200 WORCESTER STREET AND CEDAR STREET, in a Business District. Said sign was erected without a sign permit and has less than the required setback from CEDAR STREET.

On September 8, 1989, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Paul O'Rourke, who said he was not in the country when the Building Department discovered that the sign was in violation as no permit had been issued. Mr. O'Rourke said that he thought that the permit for the architectural changes to the building included a permit for the sign, as the sign drawings were included in the architectural plans.

Mr. O'Rourke stated that his customers would be unable to locate his premises without the sign due to the multiple names of Route 9. He said that if the sign had to comply with the setback requirements, it would be on or above the house.

Gordon Miller, 150 Cedar Street, voiced no objection to the sign, but questioned why the sign was located on Cedar Street, if the address of the business is 200 Worcester Street.

Statement of Facts

The property in question is located at 200 Worcester Street, on the corner of Cedar Street, in a Business District. The property is owned by Thor Realty Trust of which Mr. O'Rourke is a trustee. The property is used by Paul O'Rourke as office space for his business as a manufacturer's representative and an importer.

Mr. O'Rourke is requesting a Special Permit to retain an illegal A-frame sign, approximately 30 square feet at a height of 3 feet one inch and a setback of 59 feet from Worcester Street and 12 feet from Cedar Street, the minimum setback required being 15 feet. The sign was erected without a sign permit.

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Reconstruction and remodeling of the premises at 200 Worcester Street constituted a Minor Construction Project, which required review by the Design Review Board. On August 11, 1988, the Design Review Board held its second review of the project, and at that time, informed the applicant verbally and in writing that a sign permit would be required for his proposed sign.

On August 4, 1989, in a letter to the petitioner, the Inspector of Buildings stated that an illegal sign had been erected at 200 Worcester Street, as the sign had been erected without applying for a Sign Permit, obtaining Design Review Board approval, or having been issued the required Sign Permit. The Inspector of Buildings ordered the petitioner to remove the illegal sign. The petitioner contacted the Inspector of Buildings on August 8, 1989 and agreed to shroud the sign and submit an application for a Special Permit for the sign. This agreement was confirmed in a letter from the petitioner dated August 9, 1989. The sign, in fact, was shrouded in clear plastic. On September 28, 1989, a member of the Board of Appeals noted that the illegal sign was uncovered.

Drawings of the sign done by Heron Company; a site plan showing the sign location; and photographs were submitted.

On August 24, 1989, the Design Review Board held a preliminary review of the sign and voted to accept the sign, waiving final review. The Design Review Board stated that it did not condone the erection of any sign prior to receiving a sign permit.

On September 12, 1989, the Planning Board voted to recommend denial of the Special Permit request, and that the sign be required to conform to the setback requirements.

Decision

This Authority has made a careful study of the evidence presented. The petitioner is requesting a Special Permit pursuant to Section XXIIA of the Zoning Bylaw to allow an illegally erected sign at 200 Worcester Street to have less than the required setback from Cedar Street.

The Board is of the opinion that this request should not be allowed. The location of the sign at present is 59 feet from Worcester Street and 12 feet from Cedar Street. The purpose of the sign is identification of the business premises to vehicular traffic on Worcester Street and can be located to conform to the setback requirement of 15 feet from the property lines on both Worcester and Cedar Streets.

The Board does not look with favor on intentional violation of any requirement of the Zoning Bylaw of the Town, and is of the opinion that the petitioner, being informed in August, 1988, that a sign permit would be required, could have erected the sign in a legal and conforming manner.

Therefore, the Special Permit to retain the illegal sign in its present location with less than the required setback from Cedar Street is denied. The petitioner is hereby ordered to apply for a Sign Permit from the Inspector of Buildings and to

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submit to the Inspector of Buildings a revised plot plan showing the location of the sign conforming to all the setback requirements of Section XXIIA of the Zoning Bylaws. A copy of the revised plot plan is to be submitted to the Office of the Board of Appeals. If these conditions are not completed within 30 days of the date of this decision, the Board of Appeals hereby orders permanent removal of the sign.

This petition is hereby dismissed.

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.

cc: Planning Board
Inspector of Buildings
edg


John A. Donovan, Jr., Chairman


Kendall P. Bates


Franklin P. Parker

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