



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JUN 7 8 59 AM '90

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ZBA 90-41
Petition of Danny's Subs & Pizza
394 Washington Street

Pursuant to due notice, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing on Thursday, May 24, 1990 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 DANNY'S SUBS & PIZZA requesting a variance from the terms of Section XXIIA and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow the continued existence of two internally illuminated unpermitted window signs, which exceed the maximum number of signs allowed for a business establishment; and a Special Permit pursuant to the provisions of Section XXIIA and Section XXV of the Zoning Bylaw to allow the continued internal illumination of said window signs at its business premises at 394 WASHINGTON STREET, in a Business District.

On May 7, 1990, the petitioner requested 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 Thomas Caprarella, owner of the pizza shop, who said that the illumination at night was critical as his is the only shop in his block facing Route 16 that is open at night. He stated that the signs have been present and illuminated since the shop opened in 1973. In the last four weeks, since the signs have not been lit, business has declined.

No other person present had any comment on the petition.

Statement of Facts

The property in question is located at 394 Washington Street, in a Business District. The property is owned by Thomas J. Cummings, Sr. and is leased by the petitioner.

The petitioner is requesting a variance to allow the two unpermitted internally illuminated window signs, each 46 inches by 35 inches with rose letters within a blue frame, to remain. These two signs are in addition to a permitted internally illuminated perpendicular wall sign and are in excess of the one sign per business establishment allowed under Section XXIIA of the Zoning Bylaw. A Special Permit is also requested to continue to internally illuminate the two window signs.

The two signs have been in existence prior to 1978 and neither has a sign permit. On March 22, 1990, the Inspector of Buildings notified the petitioner that the unauthorized signs must be removed immediately, and that an application for a variance and a Special Permit must be made to the Board of Appeals which, if granted, would allow the signs to be erected legally.

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Drawings of the signs, a letter of support from Thomas J. Cummings dated April 24, 1990, and photographs were submitted.

The Planning Board, on May 15, 1990, voted to recommend that the petition be denied unless proof of the existence of the signs prior to 1963 could be submitted.

Decision

This Authority has made a careful study of the evidence presented. The petitioner is requesting a variance to allow the continued existence of two unpermitted window signs and a Special Permit to internally illuminate said signs.

It is the opinion of this Authority that due to the nature of the business, the special hours of operation of said business, and the fact that the signs do not name the business, but the products sold therein, that identification in addition to the one authorized wall sign is necessary. However, it is the further opinion of this Authority that one additional internally illuminated window sign will accomplish the intended purpose of identification of product and hours of operation.

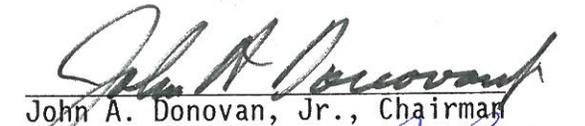
Therefore, a variance from Section XXIIA is hereby granted for one additional window sign, approximately 46 inches by 35 inches with rose letters within a blue frame; and a Special Permit pursuant to Section XXIIA is hereby granted to internally illuminate said sign subject to the following conditions:

1. That the second internally illuminated window sign be totally removed from the premises and that proof of said removal shall be submitted to the office of the Board of Appeals prior to the issuance of a Sign Permit.
2. That no second window sign, internally or externally illuminated, ever be erected on the premises.
3. That the allowed window sign be internally illuminated only during the hours in which the business is open to the public.

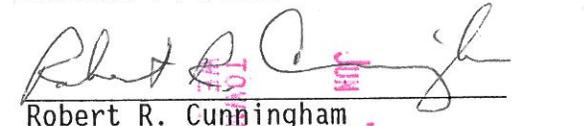
The Inspector of Buildings is hereby authorized to issue a permit for one internally illuminated window sign upon his receipt and approval of an application.

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


Robert R. Cunningham

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