



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

MAR 21 8 37 AM '96

JOHN A. DONOVAN, JR., Chairman  
ROBERT R. CUNNINGHAM  
KENDALL P. BATES

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WILLIAM E. POLLETTA  
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ZBA 96-6  
Petition of George Levine  
11 River Street (Riverview Cafe)

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 14, 1996 at 8 p.m. in the Selectmen's Meeting Room, (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of GEORGE R. LEVINE requesting renewal of a variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to continue to allow the existing awning structure at 11 RIVER STREET (RIVERVIEW CAFE), in a Business District, to have less than the required front setback.

On February 12, 1996, 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 Joan Birnbaum, owner of the Riverview Cafe. Ms. Birnbaum said that the awning structure has existed for more than 10 years, is an important part of the business during warm weather, and she would like to continue to use it. There have been no changes.

No other person had any comment on the petition.

#### Statement of Facts

The subject property is located at 11 River Street, in a Business District, on a 6,200 square foot lot. The building, which is owned by the River Street Realty Trust, of which George Levine is the trustee, is a legal nonconforming structure with a front setback of approximately 10 feet from the street line.

Joan Birnbaum, owner of the Riverview Cafe, leases the first floor of the building, which has housed other restaurants in the past. Ms. Birnbaum wishes to continue to have outdoor dining on the brick patio in front of the building, and requests to continue to have the canvas awning, extending to the street line, leaving no front setback. Since 1983, the Board of Appeals has renewed this variance request on an annual or biennial basis.

On February 20, 1996, the Planning Board reviewed the petition and voted to recommend renewal under the same conditions as are currently in effect.

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Decision

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This Authority has made a careful study of the material submitted and the information presented at the hearing, and is of the opinion that, although the canvas awning constitutes a structure, the design is less substantial than a permanent wooden structure. The use of the awning is temporary and seasonal.

It is the opinion of this Authority that a literal enforcement of the provisions of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, a variance is hereby granted for the canvas awning structure at 11 River Street, as shown on the plot plan submitted by James A. Regard, dated October 25, 1985, subject to the following conditions:

1. There shall be no outdoor storage of products or materials during the period when the outdoor dining is discontinued.
2. This variance shall expire two years from the date of this decision.

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.



Kendall P. Bates, Acting Chairman



Sumner H. Babcock



William E. Polletta

cc: Planning Board  
Inspector of Buildings  
edg