

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02181-5992

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ZBA 98-11

Petition of George R. Levine
11 River Street (Riverview Cafe)

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 26, 1998 in the Great Hall 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 3, 1998, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Mr. Levine was not present at the hearing. The Board noted the presence of newspaper boxes on the sidewalk in front of the premises, and suggested that their removal be a condition in the decision.

No other person present 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 R. Levine is the trustee, is a legal nonconforming structure with a front setback of approximately 10 feet from the street line.

The principals of Riverview Cafe lease the first floor of the building, which has housed other restaurants in the past. The Cafe 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.

Mr. Levine does not know who owns the newspaper boxes. They appeared about a year ago, are located on town property, and chained to a town lamp post. He would like them removed.

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The Board of Selectmen is in the process of drawing up town-wide regulations regarding newspaper boxes, which are owned by individual distributors. The regulations will be enforced by the authority designated by the Board of Selectmen.

On February 10, 1998, the Planning Board reviewed the petition and recommended renewal on the same terms and conditions as are currently in effect.

Decision

This Authority has made a careful study of the material submitted, 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, as voted unanimously by this Authority at the Public Hearing, to continue the use of the canvas awning structure at 11 River Street, in a Business District, subject to the following conditions:

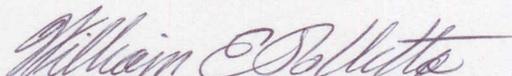
1. There shall be no outdoor storage of products or materials during the period when the outdoor dining is discontinued.
2. This variance shall expire two years from the date of this decision.

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.

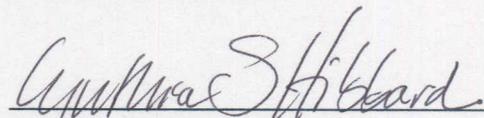
cc: Planning Board
Inspector of Buildings
edg



Kendall P. Bates, Acting Chairman



William E. Polletta



Cynthia S. Hibbard

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