



BOARD OF APPEAL AUG 15 PM 4:32

 RICHARD O. ALDRICH
 DANA T. LOWELL
 F. LESTER FRASER

 KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Petition of Chrysler Motors Corporation

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:40 p.m. on May 25, 1967, on the petition of Chrysler Motors Corporation, requesting a special permit or exception and the approval of plans for the construction of a building, to be used for an automobile sales and service establishment at 96 Worcester Street on property now owned by Thomas G. DiMaura, Louise E. DiMaura, and Paul W. DiMaura, Trustees. Said petition was requested under the provisions of Section X of the Zoning By-law.

William A. Cross, attorney, represented the petitioner at the hearing.

Thomas J. Eggleston, attorney for Chrysler Motors Corporation, Detroit, Mich., also spoke in favor of the petition.

The following spoke in opposition to the granting of the request: Jacob Bryer, 19 Beacon Street, Boston, attorney for Rose Cioppa, 114 Worcester Street, Paul Flanagan, 8 Dearborn Street, Thomas Wildman, 3 Park Place, Joseph M. Webster, 13 Dearborn Street, Carl Siegel, 6 Dearborn Street, and James and Rita Doherty, 21 Dearborn Street.

The Planning Board opposed the granting of the request and suggested that such a request should more appropriately be brought before Town Meeting.

On May 5, 1967, the petitioner filed its request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The parcel of land involved is located within a Limited Business District and contains approximately 110,000 square feet. It is located on the southerly side of Route 9, Worcester Street, near the intersection of Route 128 and directly opposite the Commonwealth of Massachusetts, Department of Public Works Maintenance Depot.

The petitioner is apparently a lessee of the premises, holding a lease for a term of twenty-five years with an option to renew for an additional twenty-five years and an option to terminate if it fails to obtain the permission here sought. It seeks permission to build and operate an automobile sales and service establishment which will be conducted under a Class 1 Dealership license. In connection with this, petitioner proposes to construct a one-story building having an area of approximately 25,000 square feet with provision for parking cars on the roof. It would consist of a show room, general offices, service department, parts department and storage space.

It was contended at the hearing that there is a need for the proposed establishment and that such use of the area would not result in any detriment to the public good and would not derogate from the intent or purpose of the Zoning By-law any more than some of the specifically authorized uses.

Activities and uses such as a hotel, motel or inn were said to generate peak traffic periods. An automobile sales and service establishment, in the opinion of the petitioner, would not only tend to generate less traffic but the additional traffic actually generated would flow in a more normal pattern. It was further argued that while some cars would be repaired, it would be only those serviced by the company.

A brief was submitted which outlined in detail the petitioner's belief that an automobile retail sales and service establishment is similar to, "one or more of the uses specifically authorized," and facts which, in the opinion of the petitioner, would warrant the Board's granting the request. It was stressed that the proposed use of the property is similar in nature to the actual uses along Route 9 in the area, and that the proposed use would not prove detrimental to the area.

Plans were submitted, drawn by Cheney Engineering Co., Inc., dated March 16, 1967, which showed the proposed location of the building on the lot, elevations and exterior materials and floor layouts. Said plans also indicated utilities, landscape data as well as provisions for off-street parking facilities, service roads, curb cuts and drainage.

Decision

The Board has made a careful study of all the facts in this case and has viewed and is thoroughly familiar with the locus.

Section X 3. of the Zoning By-law specifies the uses authorized within a Limited Business District, namely, "hotel, motel, inn and a restaurant operated in conjunction with such hotel, motel, or inn, and any additional use for which the Board of Appeal may grant permission in a specific case, as hereinafter provided in Section XXIV, after the determination by it that the proposed use is similar to one or more of the uses specifically authorized by this section...."

Although the Board is impressed with the thorough and well documented case presented by petitioner, it disagrees with its conclusions for the following reasons, basing its denial of petitioner's request on each such reason independent of the others:

1. The proposed use is not similar to one of the uses specifically authorized within the meaning of the pertinent provisions of the Zoning By-law. Petitioner cites Black's Law Dictionary for its definition of "similar" as "nearly corresponding; resembling in many respects; somewhat like, having a general likeness." The only point of similarity, if any, between the proposed use and those specifically mentioned in Section X, 3, lies in the retail aspect of the activity. It is noteworthy in this connection that the only commodity permitted to be sold by Section X, 3, is food and then only in connection with the hotel, motel or inn operation. The product sales contemplated by the proposed use here is not incidental. It seems self-evident that the Town Meeting, had it wished, could have expressly authorized the retail sale of all goods and services in Limited Business Districts.

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We agree with petitioner that "the meaning to be given to specific words and phrases must conform and yield to a harmonious general purpose. So viewed, and whether the words "uses specifically authorized by this section" be regarded as referring only to hotel, motel and inn uses (with incidental restaurant use) or more broadly to all those uses authorized in Single Residence and Administrative and Professional Districts as well, the Board reaches the same conclusion, that the proposed use is not similar to one or more of the uses specifically authorized. By the same token the Board would not feel that the authorization in Section IX. 2, of incidental light manufacturing would authorize all types of manufacturing in a Limited Business District.

2. The Board also disagrees with petitioner's contention that its case is not governed by the lot coverage limitation contained in Section X. 3 (b); we find no basis for such conclusion and find petitioner's plans deficient in this respect.

3. The Board is not of the opinion that petitioner's plans make adequate provision for insuring that the premises will not be unsightly and for insuring compliance with the provisions of Section XVI prohibiting uses which are injurious to the welfare of the community or harmful to property therein. An establishment for the sale of new and/or used motor vehicles and for the servicing and repair of same is not generally regarded as a particularly attractive addition to a local community such as the one in question. A plan which contemplates the parking of motor vehicles on the roof of the principal building is even less desirable.

Petitioner has frankly recognized the interest of the Town and other owners of property in the area in the proper development of this parcel both from the standpoint of its economic effect on the tax base and its economic effect and aesthetic impact on other properties in the community. We disagree with petitioner that the proposed use will be good for the community in these respects. The Town Meeting has expressed its judgment on this aspect of the case in establishing the Zoning By-law in its present form. It is perhaps significant that the Wellesley Comprehensive Plan has subscribed to the same point of view with respect to development of this area. Moreover, it is noteworthy that the Comprehensive Plan categorizes auto body repair as an "Industrial-type Service." We find that there is no substantial hardship.

Accordingly, the requested permission is denied and the petition is dismissed.

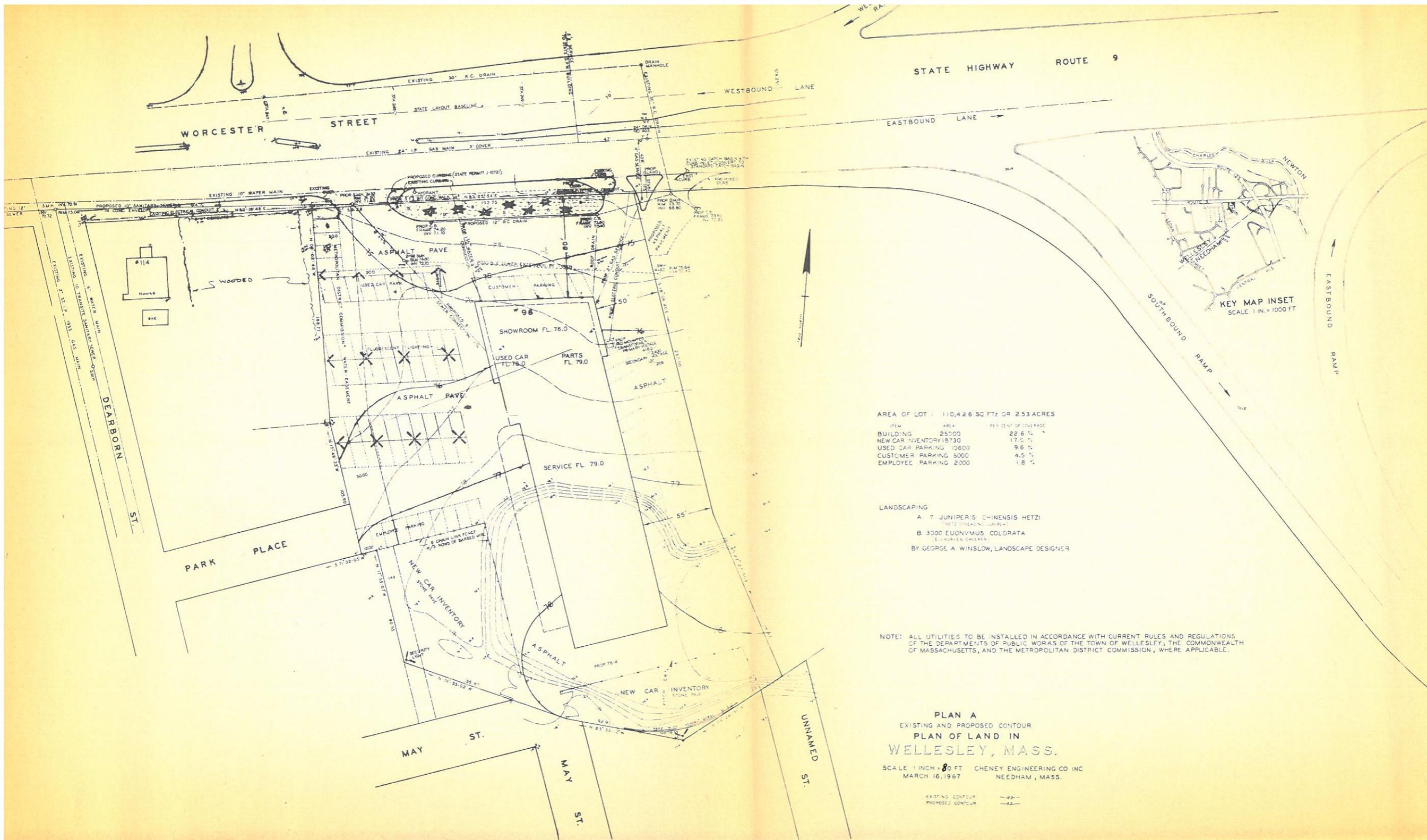
Richard C. Aldrich
Richard C. Aldrich

Dana T. Lowell
Dana T. Lowell

F. Lester Fraser
F. Lester Fraser

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WELLESLEY, MASS.
AUG 13 PM 3:31 1967

Filed with Town Clerk _____



AREA OF LOT : 110,426 SQ. FT. OR 2.53 ACRES

ITEM	AREA	PER CENT OF COVERAGE
BUILDING	25'000	22.6 %
NEW CAR INVENTORY (18730)		17.0 %
USED CAR PARKING (10600)		9.6 %
CUSTOMER PARKING (5000)		4.5 %
EMPLOYEE PARKING (2000)		1.8 %

LANDSCAPING
 A. 7 JUNIPER'S CHINENSIS HETZL
 (1072) (PREADING) (JAN 67)
 B. 3000 EUONYMUS COLORATA
 (ELI) (GREEN) (MAY 67)
 BY GEORGE A. WINSLOW, LANDSCAPE DESIGNER

NOTE: ALL UTILITIES TO BE INSTALLED IN ACCORDANCE WITH CURRENT RULES AND REGULATIONS OF THE DEPARTMENTS OF PUBLIC WORKS OF THE TOWN OF WELLESLEY, THE COMMONWEALTH OF MASSACHUSETTS, AND THE METROPOLITAN DISTRICT COMMISSION, WHERE APPLICABLE.

PLAN A
 EXISTING AND PROPOSED CONTOUR
PLAN OF LAND IN
WELLESLEY, MASS.

SCALE 1 INCH = 80 FT CHENEY ENGINEERING CO INC
 MARCH 16, 1967 NEEDHAM, MASS.

EXISTING CONTOUR ———
 PROPOSED CONTOUR - - -