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ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 88-94
One Market Street Realty Trust
10 Laurel Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 17, 1988 at 8 p.m. in the Great Hall of the Town Hall, 525 Washington Street, on the petition of ONE MARKET STREET REALTY TRUST, requesting a Special Permit for Site Plan Approval, pursuant to Section XVIIIA, Section XII and Section XXV of the Zoning Bylaw to allow the construction of a three-story office building, approximately 13,550 square feet, with associated parking and landscaping, at 10 LAUREL AVENUE, on a 27,233 square foot lot, in a Business A District.

On October 4, 1988, the petitioner requested a hearing before this board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case was Donald Babson, co-trustee of One Market Street Realty Trust, who introduced Al Brackett, Executive Vice-President of Babson Registered Investors; Bob Howser, partner in Goodman, Proctor and Morse, real estate specialists; Nick Soutter, attorney; Tom Peckham, co-trustee; and Victor Cromie, architect for the project. A court stenographer, furnished by Mr. Soutter, recorded the proceedings.

Victor Cromie made a presentation of the site and the proposed construction. No variances are being requested and all zoning requirements have been fulfilled. The footprint of the building will not touch the ground, as there will be parking at ground level. Forty-four parking spaces are required, but 45 spaces will be provided. Access will be from both Laurel Avenue and Prescott Street, both streets having a width of 20 feet, but the building is oriented toward Laurel Avenue.

The Board asked if the property involved in the current petition was also involved in the previous request for site plan approval (ZBA 88-42) which was denied. If this is the case, then in effect, there are two petitions involving the same property in existence at the same time; one petition before the court and one before the Board.

The Board stated that Section XXV of the Zoning Bylaw specifies that no application or petition which has been unfavorably and finally acted upon shall be acted upon within two years after the date of final unfavorable action. In the opinion of the Board, this section of the Zoning Bylaw might apply to the current petition.

Mr. Soutter responded that he did not feel Section XXV was applicable, as the previous petition was for an addition to an existing building, while this petition was for a new building. It had been the position of the Board that the parcel on which the proposed building is to be constructed could not be included as part of the property on which the addition would have been constructed. The petitioner is entitled to rely on the decision of the Board even while appealing said decision in Court.

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Mr. Soutter said that if the Board granted the Special Permit for Site Plan Approval currently being requested that the petitioner would withdraw the suit on the prior decision.

Tom Fischer, Spruce Park, requested that the Board defer its decision until a solution could be devised regarding increased traffic congestion due to the closing of Market Street and decreased availability of parking due to construction of the building on land now used for parking. He was also concerned about safeguards for neighboring properties during construction.

Ed Gotgart, 17 Laurel Avenue, expressed his dissatisfaction with the access from Laurel Avenue to Market Street, citing examples of property damage resulting from trucks attempting to negotiate the 90 degree turn.

Mary Gotgart, 17 Laurel Avenue, questioned the thoroughness of the traffic survey done by Mr. Soutter's office, as no count had been made of traffic entering Market Street from Forest Street.

Statement of Facts

The property in question is located at 10 Laurel Street, in a Business A District, on a 27,233 square foot lot. The property is bounded on the westerly side by the Town owned Aquaduct; on the southerly side by Laurel Avenue; on the northerly side by Prescott Street; and on the easterly side by Business and Business A Districts.

An Approval Not Required Plan (PBC-8816), dated September 20, 1988, approved by the Wellesley Planning Board, combines Lot 6 (23,380 square feet) and Lot 7 (3,853 square feet) into Lot 9 (27,233 square feet). The petitioner is currently awaiting approval of the perimeter plan by a Land Court Engineer, prior to filing the plan with the Norfolk Registry of Deeds.

The petitioner is requesting a Special Permit for Site Plan approval to allow the construction of a three-story office building with a total floor area of 13,550 square feet and a total footprint of 734 square feet and associated landscaping. At present, 12 parking spaces exist on the property. Thirty-three new parking spaces are proposed making a total of 45 spaces on the site.

The following plans and information were presented: Plan of Land dated August 23, 1988, revised September 7, 1988, drawn by Richard B. Betts, Registered Land Surveyor; Site Development/Landscaping Plan, Floor Plan for Ground Floor and Typical Upper Floors, Elevations, Sections dated September 30, 1988, drawn by Victor Cromie, Registered Architect; Preliminary Site Utilities Plan dated October 3, 1988, revised November 10, 1988, drawn by Neil N. Atkinson, Registered Mechanical Engineer and Curtis Almy Preece, Registered Professional Engineer. An Official Development Prospectus, dated September 30, 1988, and a Babson Traffic Study, dated November 9, 1988, commissioned by Nicholas Soutter, were also submitted.

A Statement of the Laurel Avenue Neighborhood Association regarding the Babson Proposal to Build a Free-Standing Structure at Market Street, dated November 17, 1988, is on file in the office of the Board of Appeals.

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The Design Review Board held preliminary site plan reviews on September 8 and September 22, 1988, at which the Board expressed its discomfort with design of the building and requested a complete landscaping plan. At the final review on October 25, 1988, the Design Review Board remained unconvinced that the proposed building, as designed, belongs on this site. The Board noted that the landscaping plan provides the legal minimum required, and recommended that the screening required around the perimeter of the parking areas be composed either of heavy five cane privet or an evergreen hedge. Although landscaping is not required outside of the parking lot, the Board strongly recommended planting of additional trees to relieve the starkness of the building. The Board also recommended that the mechanical equipment on the roof be screened from view.

Site plans and other submission materials were also sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and Fire Chief, as required by Section XVIA of the Zoning Bylaw. Written responses from each of the above were received and are on file at the ZBA office. The Planning Board, on November 1, 1988, voted to offer no objection to the site plan approval, and strongly supported the recommendations of the Design Review Board.

Decision

This Authority has made a careful study of the evidence presented. The petitioner's proposed 13,550 square foot, three-story office building at 10 Laurel Avenue constitutes a major construction project under Section XVIA of the Zoning Bylaw because it includes the construction of 2,500 or more square feet of gross floor area.

It is the opinion of this Authority that the proposed plans for the office building at 10 Laurel Avenue as shown on the plans listed in the foregoing Statement of Facts comply with the Zoning Bylaws of the Town, protect the safety, convenience and welfare of the public, minimize additional congestion in public and private ways, insure adequate protection for water, sewerage and drainage. Furthermore, they insure compliance with Section XVI and Section XXI of the Zoning Bylaw. Compliance with Section XXII of the Zoning Bylaw will be insured by meeting certain conditions enumerated in Addendum A.

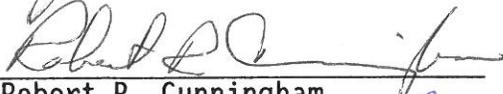
A Special Permit is hereby granted and Site Plan Approval is given by this Authority pursuant to Section XVIA, Section XII and Section XXV of the Zoning Bylaw, subject to the conditions attached hereto as Addendum A.

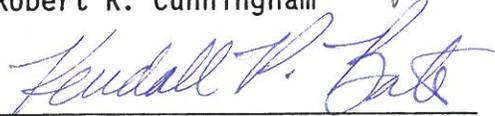
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board
Design Review Board
Inspector of Buildings
Wetlands Protection Committee

edg


John A. Donovan, Jr., Chairman


Robert R. Cunningham


Kendall P. Bates

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ADDENDUM A

1. That prior to issuance of any permits by the Inspector of Buildings, documentation of approval of PBC-8861 by a Land Court Engineer and certification that said perimeter plan has been filed with the Norfolk Registry of Deeds be submitted to the office of the Board of Appeals.
2. That all work shall be performed in accordance with plans submitted and on file with this Authority.
3. That all design and construction must comply with all applicable state and local codes.
4. That all requirements of the Town of Wellesley Fire Department shall be complied with.
5. That all requirements of the Department of Public Works shall be met, including but not limited to the requirement that water, sewer and electric connections together with drainage connections be made in accordance with DPW standards and installed and maintained at no cost to the Town of Wellesley.
6. That upon completion of the project, site utility plans shall be submitted to the Department of Public Works.
7. That a copy of the Occupancy Permit issued by the Inspector of Buildings shall be submitted to this Authority at the time of issuance.
8. That the catchbasin preceding the aquaduct connection be equipped with an oil trap and that a written report should be submitted annually to the Wetlands Protection Committee by July 1st to verify that maintenance has been performed.
9. That all mechanical equipment located on the roof of the building be screened from public view.
10. That the perimeter parking lot landscaping be composed either of heavy five cane privet or evergreen, no less than three and one-half feet tall which will attain a height of 5 feet within 3 years.
11. That at least two river birches be planted on the easterly side of the building; said trees to be at least 2 inches in diameter and at least 5 feet tall at the time of planting.