



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 92-14
Petition of George M. Levine
11 River Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 20, 1992 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 GEORGE M. LEVINE requesting renewal of a variance pursuant to the provisions of Section XIX and 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, 1992, 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 Ted Poulas, owner of the Riverview Cafe, to which the awning is attached. Mr. Poulas requested that the variance be renewed as there have been no changes in the conditions under which it has been granted in the past.

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 George M. Levine, is a legal nonconforming structure with a front setback of approximately 10 feet from the street line.

Theodore Poulas, owner of the Riverview Cafe, leases the first floor of the building, which has housed the Wellesley Crossing Restaurant and Rudy's Cafe in the past. Mr. Poulas wishes to continue to have outdoor dining on the brick patio in front of the building, and requests to continue to have a canvas awning extending to the street line, leaving no front setback. The Board of Appeals has extended the variance for the awning annually or biennially since the original petition was granted in 1983 (ZBA 83-20).

On February 11, 1992, the Planning Board reviewed the petition and voted to offer not objection to the extension of the variance under the same conditions as previous variance extensions have been granted.

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Decision

This Authority has made a careful study of the evidence 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.

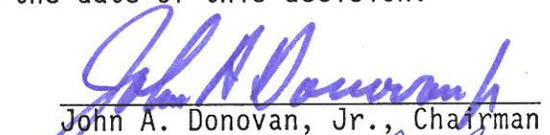
It is the opinion of this Authority that a literal enforcement of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner and that desirable relief can be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

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.

cc: Planning Board
Inspector of Buildings
edg


John A. Donovan, Jr., Chairman


Kendall P. Bates


Franklin P. Parker

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