



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 94-9
Petition of George M. Levine
11 River Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, February 24, 1994 at 8:00 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of GEORGE M. 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 7, 1994, 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. Mr. Poulas said that there have been no changes in the past two years, and requested that the variance be renewed.

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 M. Levine is the trustee, 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 other restaurants 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. Since 1983, the Board of Appeals has renewed this variance request on an annual or biennial basis.

On February 15, 1994, the Planning Board reviewed the petition and voted to recommend renewal of the variance based on the terms and conditions currently in effect.

Decision

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.

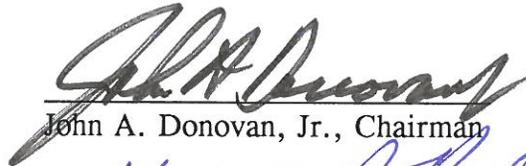
It is the opinion of this Authority that a literal enforcement of Section XIX of the Zoning Bylaw would involve a substantial hardship to the petitioner, and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

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.

cc: Planning Board
Inspector of Buildings
edg



John A. Donovan, Jr., Chairman



Kendall P. Bates



William E. Polletta

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