



TOWN of BROOKLINE

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 1636

54-1536

C-W Associates applied for a variance from Section 5.20 excessive floor area ratio and special permits under Sections 5.21 (a) exceptions to maximum floor area ratio, 5.21 (c) open space located on roof, 5.31 (b), exceptions to maximum height regulations, and 6.11 (b) (h), off-street parking regulations, of the Zoning By-Law, to construct a 214 unit apartment house for the elderly at 100 Centre Street, said premises being located in an R-2.0 (Apartment House) district.

On May 7, 1970, the Board met and determined that the properties affected were those shown on the 1969 Town Atlas as:

- All Lots in Block 79 - Plate 15,
- Lots 10 to 19 inclusive in Block 78 - Plate 15,
- Lots 1 to 2 inclusive in Block 80 - Plate 16,
- Lots 10 to 16 inclusive in Block 80 - Plate 16,
- Lots 6 to 10 inclusive in Block 81 - Plate 16,

and fixed Thursday, May 28, 1970, at 9:00 a.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place for a public hearing on the appeal. Notice of hearing was mailed to the appellant, their attorney, to the owners of properties deemed by the Board to be affected as they appeared on the most recent local tax

list and to the Planning Board. Notice of the hearing was published May 14, 1970, and May 21, 1970, in the Brookline Chronicle-Citizen, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS

Board of Appeals
Notice of Hearing

Petitioner: C-W Associates
Location of Premises: 100 Centre Street
Date and Place of Hearing: May 28, 1970, at 9:00 a.m., in the Selectmen's Hearing Room on the sixth floor of the Town Hall, 333 Washington Street, Brookline.

A public hearing will be held for avariance from Section 5.20 - excessive floor area ratio and Special Permits under Sections 5.21 (a), exceptions to maximum floor area ratio, 5.21 (c), open space located on roof, 5.31 (b), exceptions to maximum height regulations, and 6.11 (b) (4), off street parking regulations of the Zoning By-Law, to construct a 21 1/4 unit apartment house for the elderly at 100 Centre Street, said premises being located in an M-2.0 (Apartment House) district.

Arthur J. Hanflig
Maurice I. Miller
Russell W. Ambach
Board of Appeals

At the time and place specified in the notice a public hearing was held. All members of the Board were present. The petitioner was represented by Thomas G. Taylor, Esq., 225 Franklin St. He said that after our decision in #1626, the land on the northwest side of the site involved in that case became available to the petitioner. Consequently the petitioner now seeks to build a larger project, using for its site all of the land shown as lots 1-3 in Block 79, said larger site now being under option. The owners approve of the application now being presented.

Mr. Roger Stern, an officer of the petitioner, said that the proposed project would consist of Building A on Williams St. with a maximum height of 102 ft. (if allowed) and Building B on Centre St., with a height of only 76.5 feet which is less than the maximum permitted in this M-2 zone. The project would have 63 efficiency apartments, 115 one-bedroom units, and 31 two-bedroom units, making a total of 214 units. It is proposed to have 43 on-grade parking stalls which is understood to be 20% of the number required for ordinary private multiple dwellings. He reminded us of his research referred to at the hearing in #1626, and said he was convinced by the results and by telephone inquiries of those seeking to be admitted, that 20% would be adequate for the elderly tenants.

Although numbered on Centre Street, the petitioners have elected to call the Williams Street side the front, as they may do under Sec. 5.46.

The architect filed revised plans on eleven sheets, including a landscape site plan, a site plan with table of open spaces, and eight progress prints bearing the name Stull Associates Inc., but not dated. A set of these plans was given to the Commissioner to examine, and he will report to the Board by June 4. Another set is on file with the Clerk.

The second sheet of those plans shows a set-back of 25 feet from the side line of Williams St. or 45 feet from the center line of that street. The Planning Director pointed out that this being the front of the project, the set back from the center of the street should be 45.3 feet. (See computation item 6B on file.) The architect agreed to make an adjustment for the 3/10 of a foot, since no variance for set backs was applied for. All other set backs comply with the requirements for a M-2 zone, according to the Director's computation. We accept his figures.

In order to carry out the plans, Mr. Taylor said that a F.A.R. of 2.78 would be necessary and the Planning Director agreed. Mr. Taylor submitted that the bonus for wide street plus the bonus for a large lot would enable the plans to be carried out with a F.A.R. of 2.47, but the Director claimed that with the increase by bonus, only 2.25 could be reached. In any event, everyone concerned agreed that a variance would be necessary if a F.A.R. of 2.78 is to be allowed.

The Planning Board report indicates (1) that the petitioner is entitled to a bonus under 5.21 (a) (3) and 5.21 (a) (5), but not under 5.21 (a) (7); (2) that the earned bonuses amount to a total of 6,723 sq. ft. which added to the lot size of 52,477 sq. ft. makes 59,200 sq. ft. to be used in calculating the maximum floor area, but on that basis, only 118,400 sq. ft. could be authorized, while the proposal calls for 147,675 sq. ft.; and (3) that under Sec. 5.21 (c) 25% of the usable open space could be allowed on the roof. The report also shows that the height of 102 ft. for Building A, and the reduction in parking spaces because the project is exclusively for elderly persons could be authorized by special permit.

An "alternate parking plan" was submitted by the architect, Mr. Tice, showing how 33 cars could be parked on grade, 53 on the first underground level, 60 on the second underground level, and 67 on the third underground level. It appeared that the total was only 213, whereas 214 would be necessary if the project should ever cease to be restricted to the elderly. These plans were also referred to the Commissioner for study and report.

These plans were offered to demonstrate that a Special Permit under Sec. 6.11 (b) (4) would be proper, although for the present only 43 parking spaces are planned.

Opposition was expressed by Mr. James Jameson of 103 Center St., who said the project would cast a shadow on his house for a long time each morning. He was told that the air-conditioning will be in room units. He still thought the project would have an adverse effect on his property.

The Commissioner recorded himself in favor. Also Mrs. Harriett Bremner, Chairman of the Housing Authority, favored the plan. She told the Board that the experience at Sussman House shows only 12 of their 16 parking stalls are being used. She thinks a reduction in the required parking is entirely reasonable, where only the elderly are going to live.

Mr. Ambach thinks that a proper computation for the parking requirement is 60 rather than 43; that the petitioner ought to provide an elevator in the building where none is now planned; and that a basement garage ought to be built now, to be enlarged if the project ceases to be one for the elderly. He does not insist on these changes, but urges the petitioner to adopt them. He reserves the right to insist on his position in any future case.

All members agreed that if the parking and landscape plans could be made satisfactory, the relief ought to be granted. The need for such housing is conceded by nearly everyone.

On June 4, 1970, the Commissioner reported to the Board that the architect's construction plans showed the type of construction and the means of egress are in conformity with the Building Code. He further reported that the parking plan submitted to the Board on May 28, 1970, had been superseded by a plan marked X-2 dated Rev. June 4, 1970, drawn by Stull Associates, Inc., and examined by the Board on June 4.

The Planning Director pointed out several advantages in the parking layout shown on the plan revised June 4. First, it meets the requirements of landscaping found in Sec. 6.13 (m). Second, it shows a better way for elderly people to park their cars without too much trouble. Third, it meets the requirement of Sec. 6.11 (b) (4), since 39 spaces are equal to one-fifth of .9 of 214. He offered to have the Sheet X-2 made to conform to our rule by having the 39 stalls clearly marked, with dimensions, and forwarded to the chairman when completed. Finally, he stated that if at any future time experience should show 39 car stalls to be insufficient, it would be possible to increase the number by sacrificing some of the open space intended for the pleasure of the elderly tenants.

We find that enforcement of the by-law would impose a hardship for the reason stated in case no. 1626; that there will be no detriment to the public good and no derogation from the purpose of zoning for the reasons stated in said previous decision; and that the proposed construction will not cause any more shadow on the property of Mr. Jameson as a result of our decision than would be caused by the construction of Building B without a variance. Our remarks in case No. 1626 about the "special condition" applies equally to the present proposal.

We grant a variance from Sec. 5.20 and Sec. 5.21 (c) to allow the project to have a F.A.R. of 2.78 and to allow 3,691 sq. ft. of the required usable open space to be located on the roof. We grant a special permit under Sec. 5.31 (b) to allow the Building B to have a maximum height of 102 feet, and under Sec. 6.11 (b) (4) to allow the number of parking stalls to be reduced to 39. We consider these special permits to be warranted because we think all of the conditions of Sec. 9.5 (a) are being met, and that 39 car stalls should be sufficient, at least for now.

The variances and special permits now granted are subject to the following conditions:

1. The Buildings in this project shall for at least 40 years be used only by elderly persons of low or moderate income, but this requirement shall not be enforced if found to be in conflict with any regulation of the Mass Housing Finance Agency. If the nature of the occupancy is changed, the number of off-street parking stalls shall be made to conform to the requirement then in force for the new type of occupancy.

2. The buildings shall be heated with electric heat unless a different kind of heat is permitted on petition for modification.

3. All set back requirements shall be strictly complied with.

4. The parking design shall be substantially as shown on the architect's sheet dated "Rev. 4/June/70" exhibited to the Board on June 4, 1970, and filed with the Clerk on June 5, 1970, bearing the name Stull Associates, Inc., and being titled "Landscape Site Plan". The total number of parking spaces is to be 39, fourteen of which may be under Building B.

5. No substantial alteration of or departure from the plans filed with the Board excepting the parking plan that has been superseded by Sheet dated "Rev. 4/June/70", and excepting also the change necessary to make the set-back from the center line of Williams Street 45.3 feet instead of 45 feet. Revision of plans that are clearly not substantial may be made with the written approval of the Commissioner; and landscape changes that are not substantial may be made with the written approval of the Planning Director.

6. If the Commissioner later concludes that the limited amount of parking provided has created a parking or traffic problem on the site or its vicinity, he may request the Board of Appeals to hold a rehearing on the question of requiring additional parking spaces on the site in lieu of a portion of the area presently designated as open space.

7. Notice of this decision shall be recorded within 90 days on the form available in the Clerk's office; otherwise the variances and special permits shall terminate and be void.

Date filed June 11, 1970

Kenneth B. Bond (s)
Kenneth B. Bond

A TRUE COPY

A T T E S T:

Thomas F. Larkin
Thomas F. Larkin, Town Clerk and
Clerk Board of Appeals

Maurice I. Miller (s)
Maurice I. Miller

Russell W. Ambach (s)
Russell W. Ambach