



The Commonwealth of Massachusetts

ARCHITECTURAL ACCESS BOARD

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DECISION

RE: Intersection of Neponset Street with Walpole Street at the Railroad Viaduct, Canton

1. The hearing was held upon an application for variance filed by Ernest T. Williams for modification of or substitution of the following section(s) of the Rules and Regulations of the Architectural Access Board:

Section 21.1 – Curb cuts
Section 22.1 – Walkways

2. The hearing was held on: Monday, May 8, 2000

3. The following persons appeared:
Ernest T. Williams, Department of Public Works, Canton and Vedat M. Alsan, Bruce Campbell & Associates, Inc.

4. FINDINGS AND DECISION:

The Board having considered the evidence hereby decides and finds as follows:

The Chairman, Gary Rhodes called upon the petitioner to present the case for the variance request. Mr. Rhodes reminded the petitioner that the Board could only grant variances if compliance with the regulations is proven to be technologically unfeasible or if the cost for compliance is excessive and unreasonable without providing a substantial benefit for persons with disabilities.

The petitioner referred to photographs and a plan (Exhibit A) showing the location during the testimony.

Ernest T. Williams stated the subject site is a railroad structure built of stone masonry, in the late 1800's or early 1900's. It is part of the railroad system between Boston and New York and it also goes between Boston and Providence. Mr. Williams stated that until the 1950's, it only had one opening (hole) for the roadway, and in the 1950's a second smaller one was added (north side of the roadway) to provide right and left hand traffic. The petitioner stated the Town has the largest refrigerated building on the East Coast in said location therefore, there is a large amount of truck traffic going through the structure.



It was noted that in an attempt by one of the trucks to go through the openings in the structure, it ended up driving up on the sidewalk. The trucks also go up against the walls, etc., in driving through the structure. The petitioner stated he has a video showing the truck. Mr. Rhodes stated the testimony is accepted as being a true representation of the facts, and it is not necessary to show the video. The petitioner stated the structure is owned by the MBTA and is on the historical record. It was stated that there was some work performed by the MBTA on the tracks at the top of the structure to allow the high speed trains to go through the area. This was done because the MBTA found out the trains were passing too closely at high speed and this caused a vacuum between them that was pulling the trains into each other, as they passed. At that time, the Town of Canton approached the MBTA, to do something about the subject location, i.e., to make the openings larger. The MBTA responded that nothing could be done because of historic and structural reasons. It was stated that it is not feasible given the ownership and for historic and structural reasons for the Town of Canton to make the openings larger. The Town of Canton cannot perform work on a structure it does not own.

The petitioner fully explained the extent of the project to be performed by the Town of Canton. The petitioner stated and submitted information that the project is the reconstruction of the roadway, sidewalks, drainage improvements, signals and flashers, channelization, pavement markings and signing. The petitioner stated the variances are requested not to provide a curb cut because they believe it would encourage people to cross at what is a very dangerous location. Also proposed is removing an existing paved walkway and placing crushed stone to discourage people from using the area. The petitioner stated that the cost for compliance is not the issue in context of the total cost of the project, but is one of serious safety concerns and technological unfeasibility based on existing conditions.

It is the petitioner's opinion that by providing a wheelchair ramp (pedestrian crossing) at Location 1 (Exhibit A) will encourage people to cross the road at a very dangerous location. At this location, the viaduct structure restricts the sight distance of a driver on all approaches to the intersection as shown in the photographs and Exhibit A. The petitioner states that there are many vehicle/pedestrian conflict points making this area very unsafe as shown on Exhibit A. The petitioner referred to photographs showing the viaduct area at the morning rush hour and the heavy concentration of traffic and sight restrictions. Therefore, based on safety issues, it is the petitioner's opinion that pedestrians should not be encouraged to cross in this area.

The petitioner also presented information that since the crossing at this location is dangerous, the existing paved walkway is being removed and crushed stone placed to discourage people from using the area. It was stated that there are no sidewalks under the viaduct except for a three foot wide "safety shelf" on the south side that is not intended to be used as a pedestrian path of travel for safety reasons. The petitioner stated that the variance is based on what is considered an unsafe and dangerous condition, not monetary considerations. The petitioner reiterated that construction cost for compliance is not an issue, given that the total cost for the project is \$1.6 million and the cost for providing a paved walkway and curb cut is estimated at \$2,000.

The Board asked what is the pedestrian traffic in the area. The petitioner stated that, in his experience, that the pedestrian traffic is very limited in what is a somewhat isolated area. The Board also inquired as to the surrounding area, is it close to a shopping area, etc. The petitioner stated that the area is residential in nature, and to visit the Town Center, etc., it would be by vehicle. The Board also inquired if it is feasible to provide a third opening. The request was submitted to the MBTA and it was turned down. It was reiterated that it is a historical structure, and the Town does not own it.

BOARD DECISION

The Board finds it was proven impractical to comply with Section 21.1. and Section 22.1 at the subject location. The Board finds, that based on the layout of this location, the sight limitations, and the fact that it is a heavily trafficked area presents a serious safety condition for all the general public and everyone is being discouraged from using the area. The Board finds there is no location to provide a safe path of travel from one side of the viaduct to the other side. The Board's finds it is technologically unfeasible to create a safe path of travel, i.e., provide a curb cut and walkway in compliance with 521 CMR, for all persons at the subject location, based on the existing conditions. Therefore, the Board voted to GRANT variances to Section 21.1 and Section 22.1 to the requirement that a curb cut and walkway be provided at the subject location.

The Board also ordered, and the Town agreed to post appropriate signage on both sides of the viaduct indicating that the area is dangerous to all pedestrians.

This constitutes a final order of the Architectural Access Board entered pursuant to G.L. c. 30A. Any aggrieved person may appeal this decision to the Superior Court of the Commonwealth of Massachusetts pursuant to Section 14 of G.L. c.30A. Any appeal must be filed in court no later than thirty (30) days of receipt of this decision.

DATE: May 15, 2000

ARCHITECTURAL ACCESS BOARD



Garry Rhodes
Chairman

cc: Local Building Inspector
Local Disability Commission
Independent Living Center