



## ZONING BOARD OF APPEALS

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WALTER B. ADAMS  
DEREK B. REDGATE

January 9, 2020  
7:30 pm  
Juliani Meeting Room  
Town Hall

Zoning Board of Appeals Members Present:

- J. Randolph Becker
- Richard L. Seegel
- David G. Sheffield
- Robert W. Levy
- Walter B. Adams
- Derek B. Redgate

### ZBA 2019-61, SEB WELLESLEY LLC, 136-140 WORCESTER STREET

Present on behalf of the Town of Wellesley was Christopher Heep, Town Counsel.

Present on behalf of SEB Wellesley LLC were Geoff Engler, Scott Jordan, EcoTech and William Bergeron, Hayes Engineering.

Mr. Levy said that the Board would be discussing the local wetlands bylaw. He said that modifications were requested for the Order of Conditions (O of C) from the Wetlands Protection Committee (WPC) that required new plans. Mr. Engler said that interaction between the WPC and Mr. Lucas, Wetlands Consultant, have been rigorous. He said that SEB has agreed to take the identical footprint and shift it seven feet to the west, further away from the riverfront area. He said that the architecture and traffic are unchanged. He said that they will lose two parking spaces, from 63 to 61, but still in excess of the 1.5 ratio recommended by the town's traffic consultant. He said that there is a lot of mitigation and offsets for work in the riverfront area, which is what Mr. Lucas was asking for. He said that field work was completed at the end of last week and it should take Mr. Bergeron a week to produce fully updated civil engineer plans.

Mr. Sheffield asked about the location of the lost parking spaces. Mr. Engler said that they are on the right side of the building.

Mr. Levy asked how many more meetings Mr. Engler expected to have. Mr. Engler said that he expected to finish up with WPC at the end of January. Mr. Levy asked about closing or extending the hearing. Mr. Engler said that the hearing will not close tonight.

Mr. Engler said that they submitted a rendering showing the tree height, a cross section, a roof plan, a sample condenser, and an updated P & S. He said that Town Counsel had provided a draft Comprehensive Permit.

Mr. Levy discussed the requested waivers. He said that the Applicant has to submit a plan to show which trees are jurisdictional and health of trees, caliper, which are to be removed, replacement or payment in lieu of, in accordance with the Tree Protection Bylaw. He discussed requested waivers for the sign bylaw, and Inclusionary Zoning.

Mr. Heep said that the draft decision that was circulated in December was similar to all projects that were reviewed by the Board over the past year.

Mr. Levy said that the issue with the right of way has still not been resolved. He said the issues are site control and rights of abutters. Mr. Engler said that he conferred with his Counsel and they are comfortable with what they represented. He said that site control is under the subsidizing agency's jurisdiction. Mr. Levy said that it is a paper street with fee interest to the middle. Mr. Heep said that land abutting Alpine Street has the right to use the whole length of the street.

Mr. Levy discussed a site approval letter from MassHousing with a condition that the previous applicant whose application was denied for the same project no longer have any membership, financial interest or involvement in the project. He said that the Board should have some documentation to make part of the record that acknowledges that requirement.

The Board recessed the hearing for five minutes.

Mr. Levy discussed waivers in connection with the WPC bylaw. He said that the Board's jurisdiction is limited to the WPC Bylaw.

Mr. Jordan said that EcoTech is working through Mr. Lucas' review letter. He said that one of the bigger issues was the request to file in a slightly different manner with regard to the regulations. He said that they had filed as a redevelopment project. He said that they were asked to consider some of the work outside of the redevelopment as new work. He said that they are currently working on the Alternatives Analysis that is required under the Wetlands Protection Act. He said that shifting the building lessened some of the work in the riverfront area, which is the 200 foot area that extends outward from the perennial stream that is located just off of the site to the south. He displayed the riverfront area, bordering vegetated wetlands, buffer areas, and an isolated wetland. He said that the isolated wetland does not qualify under State Regulations. He said that the Applicant is seeking a waiver to fill 558 square feet in the northern portion that is required under State Regulations and will replicate in a different location. He said that he reviewed the boundaries and moved a couple of flags.

Mr. Jordan said that the project was filed under redevelopment of degraded areas in the riverfront such as impervious surfaces, graveled areas that lack topsoil and old junkyards that were in existence prior to enactment of the Rivers Act 1996. He said that there is an existing garage, a gravel driveway and paved parking, portions of which are in the riverfront area. He said that a professional scientist staked off areas that lack topsoil. He said that they will plug the new numbers into the documents.

Mr. Levy asked about the 25 foot no build zone under the town's wetlands regulations. Mr. Jordan said that the project will require a waiver for that. He said that there is another area that will require a waiver. He said that this is a highly altered area and the proposed work will provide a higher quality wetland. He said that the area may have been filled 100 years ago and scraped off.

Mr. Levy questioned whether this is buildable under the Wetlands Bylaw. Mr. Heep discussed waiving the specified provisions of the Wetlands Bylaw to allow the project to proceed as show on the plans and vetted.

Mr. Engler said that he was comfortable with counsel's language and the need for a waiver from the local bylaw.

Joseph Orzel, said that he is a wetlands scientist from Lucas Environmental. He said that he went out to the field with Mr. Jordan and agreed on the revisions to the flagging. He said that given the size of the trees between the wetlands, if it is fill, it has been there for a long time. He said that the newer fill around the edge of the isolated wetland is clearly more recent. He recommended that it be clarified in the site plan which areas are to be considered degraded and which areas are not considered to be degraded. He said that degraded areas are considered as redevelopment and other areas are new development that require alternative analysis.

Mr. Levy asked about drainage or runoff concerns. Mr. Orzel said that he did not review stormwater.

Mr. Levy asked if there are any conditions that Mr. Orzel would recommend to be included. Mr. Orzel said that he would like to see a revised plan before commenting. Mr. Engler said that the Order of Conditions will be subject to a revised plan and the Board can reference it.

Mr. Bergeron said that the changes in the plan involve shifting the building over seven feet and shifting the driveway and loading dock. He said that the only physical effect is that they will lose two parking spaces.

Mr. Levy asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Engler said that it makes sense to extend the hearing beyond the WPC hearing on January 30, 2020. He asked about getting a draft decision. Mr. Heep said that the Board can deliberate at a meeting after the hearing is closed. He said that he can produce another draft without Board comments.

Mr. Engler said that he will submit a letter of extension.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the hearing to February 4, 2020.

#### ZBA 2019-98, MIKE TIROZZI & DENISE CAMERA, 22 CAVANAGH ROAD

Presenting the case at the hearing were David Himmelberger, Esq., Jacob Lilley, Architect, Mike Tirozzi and Denise Camera, the Petitioner.

Mr. Himmelberger said that the request is to raze and reconstruct an existing two story addition to a pre-existing nonconforming home on a nonconforming lot. He said that the existing home has insufficient left and right side yard setbacks and the lot has 8450 square feet in a 10,000 square foot district. He said that the Applicants were previously before the Board on December 5, 2019 and at that time, the Board raised several concerns regarding the proposed relief. He said that he was not present at the previous hearing but did watch a video of the meeting.

Mr. Himmelberger said that the request was for modification of a variance. He said that, in 1992, prior owners were granted a variance for what would be treated as a special permit request today. He said that the smaller addition that was built in accordance with the variance will be razed and a new addition will go in its place. He said that the Board has considered that when a variance has been granted but that which the variance was granted for disappears, so too does the variance, which is the case here. He said that it would be considered a request for a special permit today because the original rear addition will be removed. He said that the standard that the Board considers when reviewing a request for a special permit is whether the proposed construction will be substantially more detrimental to the neighborhood. He said that the house still is nonconforming due to setbacks and lot size.

Mr. Himmelberger said that the Board expressed concerns about the proposed circular driveway in the front yard, the location of two air conditioning (ac) condensers, the location of a patio, and the perceived volume of the addition.

Mr. Himmelberger said that the Applicants made revisions to the plans to eliminate the circular drive and replace it with a parking pad immediately adjacent to the existing driveway. He said that the two ac condensers were moved from their originally conforming location to the rear of the property next to the garage, in response to the neighbors at 20 Cavanagh Road's concerns. He said that the patio has been there since before the Applicant purchased the home and pre-dates the neighbors. He submitted an aerial photograph taken in 2010 from the Town's GIS system that clearly depicted the side yard patio at the same size and location as when the Hild's purchased their home in 2010. He said that it is believed that the patio was constructed shortly after the 1992 addition. He said that the photographs that were submitted show how well screened it is with a fence and a row of mature arbor vitae. He said that hardscape associated with the patio includes a gated entry from the front yard. He said that the patio will not change with or without reconstruction of the addition, other than being slightly more narrow. He said that there is an area shown on the proposed plan that will provide outdoor space at the rear that is further away from the abutters.

Mr. Himmelberger said that the neighbors at 20 Cavanagh Road expressed concerns about a proposed dormer on the left side of the house. He said that although the window will face the Hild's bedroom, the interior floor plans show that the dormer room is for a bathroom and the window is above the tub, which is a use that is typically not associated with open blinds. He said that under the Bjorklund decision, dormers do not intensify nonconformities. He said that the Applicants have elected to plant additional arbor vitae to further screen the Hild's property line.

Mr. Himmelberger said that the proposed removal and reconstruction of a two story addition will slightly expand the width of the 1992 addition for a total TLAG of 3,548 square feet with an increased footprint of 308 square feet.

Mr. Himmelberger said that the Applicants believe that the combination of all of the changes to the plans result in a proposal that will not be substantially more detrimental to the neighborhood. He said that additional letters from abutters were sent to the Board, including a letter from the neighbor directly across the street at 21 Cavanagh Road. He said that the neighbor wrote in support of the requested relief, in comparison to what they were granted in 2003 for a two story addition. He read the letter from the Althoffs, 21 Cavanagh Road. He said that the Althoffs commented that as a result of the Zoning relief that has been granted over the years, there have been no teardowns on Cavanagh Road and the streetscape remains intact. He said that most of the lots on Cavanagh Road are smaller. He said that, of the 24 homes on Cavanagh Road, 22 have less than required side yard setbacks. He said that six other homes have been granted Zoning relief to build two story additions less than required side yard setbacks. He said that four of the six homes have side yard setbacks that are less than what is proposed for 22 Cavanagh Road. He discussed the distances between the two story additions and the neighboring structures. He said that because the proposed construction is similar to what is already in place in the neighborhood and that there is strong support from almost all of the neighbors, except for the neighbor on the left side, he urged the Board to conclude that the proposed construction will not be substantially more detrimental to the neighborhood and grant the proposed relief.

Mr. Seegel said that all of his concerns from the previous hearing have been addressed.

Mr. Adams said that the lot coverage is increased on the revised plot plan from 22.3 to 23.1 percent. Mr. Himmelberger said that he did not know the basis of that change because there were no physical changes made to the proposed structure.

Mr. Adams asked about the patio space behind the house. Mr. Himmelberger said that a mahogany deck is shown on architectural plan, A1.1.

Mr. Adams said that relocation of the ac condensers was a nice thing to do. He asked about the width of the addition. Mr. Himmelberger said that it is 34 feet wide by 21 feet deep.

Mr. Adams asked if any consideration had been given to adjusting the patio. Mr. Himmelberger said that the patio is getting smaller because the house is pushing out. He said that it is well screened. Mr. Adams said that the issue goes to the use of the space. He said that plantings will not reduce the noise measurably.

Mr. Lilley said that the side that faces the neighbor is a series of windows and doors that allow for a stronger relationship between inside and outside. He said that the intent was to rediscover the yard. He said that a large array of sliders will open up to the rear yard. He said that in many ways they will be turning the use of the yard away from the patio.

Mr. Adams asked about existing or proposed lighting. Mr. Lilley said that there will be a light over the door that goes out to that side, per code to provide enough lumens on the landing. He said that the lighting can be dark sky friendly.

Mr. Seegel said that he could not dispute the homeowners' right to use the patio as it exists now. He said that the overall plan is to shift the activity to the rear of the house. He said that the side yard is approximately 17 feet and the size of the trees there is substantial. Mr. Adams said that the proposal is to add more trees.

Mr. Redgate said that the Petitioner made a good effort to address the Board's concerns. He questioned whether the one car Belgian block parking area will be usable. He said that it appears that it will be difficult to maneuver into that space. He said that he would like to see that it not be included. He said that it adds impervious area that is not needed and there is already plenty of parking. Mr. Himmelberger said that the goal was to avoid jockeying cars that will continue without the parking pad. He said that it is unusual to have a separate parking area in front of the house in Wellesley. Ms. Camera said that there are some double wide driveways and a circular driveway on the street. Mr. Tirozzi said that there are parking pads on the street. Mr. Seegel asked if the block is porous. Mr. Himmelberger said that it is not porous but the joints are. Mr. Seegel said that he would prefer to have porous block there.

Mr. Seegel asked if there was anyone present at the public hearing who wished to speak to the petition.

Ranjani Hild, 20 Cavanagh Road, said that she and her husband, Marc Hild, are not trying to veto the renovation, co-design the house or impose themselves on the process but are hoping to find the right balance between the interest of their neighbors and their own interests as abutters to the home. She said that they appreciated that the ac condensers were moved to next to the garage, away from the side yard setbacks. She said that they have a mutual understanding with the neighbors about the need for better shielding for privacy reasons. She asked that the shielding be the same height as on other side of the property that abuts 18 Cavanagh Road. She said that the evergreens on that side go up high enough to cover the second floor. She said that they are asking for that because of the addition of the dormer on the side facing 20 Cavanagh Road and looks directly onto their window. Mr. Seegel said that the existing trees and shrubs do a good job blocking views. He said that the Petitioner suggested that the windows would not look directly at the Hild's property. Mr. Adams said that the Petitioner could use frosted glass in the bathroom windows. Mr. Lilley said that they will review that option.

Mr. Hild discussed the slope of the trees. He said that some of them are dwarfed. He asked that the tree be raised one level to provide privacy for both parties. He said that they met with the neighbors yesterday and understand that this is something that they both want. Mr. Seegel confirmed that the trees are located on the 22 Cavanagh Road property. He discussed allowing the trees to grow taller. Ms. Camera said that there are

three trees toward the back were dwarfed by a large maple that had a low canopy when they bought the house. She said that the canopy has since been raised, so the other trees now get more sun. She said that they discussed filling in the ones that were dwarfed.

Ms. Hild said that their third concern is that the revised plan does not relocate the patio. She said that with the walls moving closer to them, there will be an increase in noise. Mr. Seegel confirmed that the patio was there when the Hilds bought their house. Ms. Hild said that the walls of the addition will be closer to them by 5.5 feet. Mr. Seegel said that he did not think that the Board has jurisdiction to make the patio smaller.

Jay Althoff, 21 Cavanagh Road, said that he sent a letter to the Board. He said that he has lived on Cavanagh Road for 22 years and plan to stay there. He said that he does not want to have McMansions built on the street. He said that he appreciates that the owners of 22 Cavanagh Road will not demolish the existing house and he is supportive of their building an addition. He said that the proposed dormer will improve the shape of the house.

Mr. Adams asked if the Petitioner would be willing to agree to put frosted glass on the bathroom windows. Mr. Tirozzi said that they were planning to put some sort of window treatment. Ms. Camera said that she is open to looking at solutions that will still bring light in. She said that it will be their daughter's bathroom and privacy is a concern. She said that they will look at the options. Mr. Seegel said that the plans that go to the Building Inspector should show the possibility of frosted glass.

Mr. Adams moved, Mr. Redgate seconded the motion and the Board voted unanimously to grant amendment of a variance, as shown on the proposed plans, and make a determination that, at the time the variance was granted, a prior Board determined that the standards for granting a variance were met. Amendment of the variance shall be subject to the condition that there be no additional parking area as shown on the plan as part of this project.

#### ZBA 2019-88, BRIAN & CAROLYN O'BOYLE, 36 PINE STREET

Presenting the case at the hearing were David Himmelberger, Esq., Keri Murray, Architect, Brian and Carolyn O'Boyle, the Petitioner.

Mr. Himmelberger said that the Petitioner was previously before the Board on November 7, 2019, at which time the Board raised several concerns regarding relief and design. He said that the Applicants are seeking to slightly expand and reconstruct the 1.5 story garage addition to the pre-existing nonconforming home. He said that the Board was concerned about the request to further intrude into the left side setback and the fact that the design seemed to overshadow the main house which is a 1.5 story cape. He said that there have been a number of revisions made to the plans in response to the Board's concerns. He said that the width of the addition was reduced by two feet, thereby increasing the left side setback to 16 feet 8 inches. He said that the front façade was redesigned to reduce the perception of verticality by eliminating the eyebrow roof over the garage doors, reducing the width of the garage doors from nine to eight feet, and revising the windows in the gable above by elimination a window over three wide windows, and reducing the three wide to double window flanked by smaller windows. He said that the overall perception is of significantly reduced height on the addition. He said that the existing driveway curb cut will be retained. He said that a portico would not work at the front door, so they put in side lights to call out the appearance and function. He said that recessing the dormers was unworkable. He said that because it is a half story, pulling the windows back would put them too high in the room and head height would not align with the other windows and the pitch of the roof would require that the dormers sit as they have been designed. He said that the proposed construction will be a full story lower than any neighboring houses. He said that the neighbor on the left has considerable plantings and sits higher. He said that there has been significant abutter support. He said that the proposed construction is not substantially more detrimental to the neighborhood.

Mr. Levy said that the nonconformity is the left side yard setback. He said that the existing setback of 19.3 feet will be reduced to 16.8. Mr. Becker said that the setback is less than last time but not as much as the Board had hoped.

Mr. Becker said that the Board's other concerns were responded to.

Mr. Sheffield said that in the scale of the neighborhood, he is not so concerned about the setback. He said that this house, even with the addition, will be considerably smaller than adjacent houses.

Mr. Becker read the Planning Board recommendation.

Mr. Levy discussed recent case law that allows construction in the setback. He said that the analysis is whether it will be substantially more detrimental.

Mr. Becker discussed taking a small nonconforming and exacerbating it. He said that the reduction in size moves the numbers a little bit. He said that he looked more strongly at the context of the neighborhood. He said that this is among the smaller houses in the neighborhood, even with a 70 percent increase in area. He said that because of the distances between the homes and the difference in elevation, it does not appear to be substantially more detrimental to the neighborhood.

Mr. Levy asked if 23 feet wide is typical for a two car garage. Mr. Sheffield said that the typical width is 24 feet.

Mr. Becker asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Levy confirmed that the Board received comments from the abutter to the left.

Mr. Levy moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, and to allow a special permit in accordance with the revised plan.

#### ZBA 2020-01, JOELLE & BRENDAN REIDY, 60 PROSPECT STREET

Present at the public hearing were David Himmelberger, Esq., Bram Young, Architect, Joelle and Brendan Reidy, the Petitioner.

Mr. Himmelberger said that the request is for a special permit to construct a 1.5 story fully conforming addition to the rear of the existing home, which is a pre-existing nonconforming home due to insufficient lot area of 8,707 square feet in a 10,000 square foot district, a front setback of 13.9 feet, a left side yard setback of less than 12.1 feet, and an existing garage with 1.8 foot left side yard setback.

Mr. Himmelberger said that the proposed new addition will be 24.6 feet tall, which is less than the current and remaining peak of the main house which is 34 feet tall. He said that the proposed addition will be fully compliant with left side yard setbacks of 20.1 feet and right side yard setbacks of 23 feet. He said that the proposed project will remove two rear porches and a one story addition. He said that existing lot coverage of 1,897 square feet will increase to 2,094 square feet which is below the limit. He said that existing TLAG is 3,063 square feet and with the new addition will be 3,555 square feet. He said that the addition will be fully compliant with all Zoning dimensions and will go out the back. He requested that the Board make a finding that the proposed addition will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure.

Mr. Levy said that the ac condensers appear to be right at the 20 foot side yard setback. He said that the Petitioner will need to be mindful that they are so close.

Mr. Becker asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Becker read the Planning Staff recommendation.

Mr. Himmelberger said that the plot plan was stamped by a professional engineer, not a registered land surveyor, as required in the bylaw. He said that they will submit a plot plan that complies with the bylaw and will accept that as a condition of approval.

Mr. Levy moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that proposed additional shall not be substantially more detrimental to the neighborhood than the existing nonconformities and allow a special permit, subject to the condition that a revised plot plan that is stamped by a registered land surveyor be submitted.

### ZBA 2020-02, HIGH END HOMES LLC, 11 DUNEDIN ROAD

Present at the public hearing was Dan Brown, representing High End Homes, the Petitioner. He said that it is a nonconforming lot. He said that the request is to raze an existing structure and construct a new two story single family home with an attached two car garage. He said that the proposed construction will meet all Zoning and TLAG requirements except for being a 10,000 square foot lot in 15,000 square foot Single Residence District.

Mr. Levy asked if the plans were reviewed with any of the neighbors. Mr. Brown said that they had not done that yet.

Mr. Levy said that an existing conditions plan was not submitted. He said that it appears that the existing house is nonconforming as to setbacks and land area. He said that the proposal is to make the house more compliant. Mr. Brown said that the left side yard setback will increase from 11 feet to 22 feet.

Mr. Becker asked if there was anyone present at the public hearing who wished to speak to the petition.

Alex Kreopolides, 27 Dunedin Road, said that he lives one house down and he grew up in the neighborhood. He said that he would like to see the house rebuilt. He said that it has been an eyesore for quite a while and he would like to see the neighborhood get fixed up.

Mr. Sheffield asked about the retaining wall between the entrance walk and the driveway. He said that it appears to be approximately seven feet high. Mr. Brown said that it will be less than that because the lot slopes. Mr. Sheffield asked if there will be a railing at the top of the wall. Mr. Brown said that there will be anything that is required.

Mr. Levy asked if this will be a spec house. Mr. Brown said that it is being built for market, not a custom house.

Mr. Becker read the Planning Board recommendation. He said that the lighting bylaw does not apply to one and two family homes. He said that the drainage review in the bylaw does not apply to single family homes unless they are bigger than an acre. Mr. Sheffield said that the Board sometimes discusses lighting and drainage in the context of being a good neighbor.

Mr. Sheffield said that the proposed home will join the scale of a number of adjacent houses and many that are in the neighborhood.

Mr. Becker said that TLAG is 3,242 square feet.

Mr. Sheffield said that there is a substantial tree at the front. Mr. Levy said that the Board received a letter from Kray Small regarding the trees. He said that the Tree Bylaw is not under ZBA jurisdiction and the Board will not be granting any relief from it.

Mr. Becker said that the Retaining Wall bylaw does apply to this project.

Mr. Levy moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and approve a special permit subject to the condition that the Board's decision does not address the Retaining Wall or Tree Preservation bylaws.

#### ZBA 2020-03, 32 CRANMORE ROAD LLC, 32 CRANMORE ROAD

Present at the public hearing were David Himmelberger, Esq., representing 32 Cranmore Road LLC, the Petitioner, and Paul Beaulieu, Field Resources.

Mr. Himmelberger said that the request is for a special permit for a retaining wall. He said that the Applicant is building a single family home at 32 Cranmore Road. He said that the house went for Large House Review and was exempt due to its size. He said that it then went to the Building Department, received permits and construction began. He said that there was a determination that a portion of the right side neighbor's fence was on the property. He said that his client agreed to move the fence at his cost for the benefit of the neighbor. He said that during construction of the wall that had been designed to be less than four feet tall, it was determined that a portion of it will need to be built to five feet. He said that the wall is on the property line. He read an excerpt from Section C3 of the Zoning Bylaw. He said that they stopped work on the wall and applied for a special permit. He said that the right side abutter sent an email in support.

Mr. Himmelberger said that an issue arose about the bylaw requirement for Design Review Board (DRB) review. He said that the Applicant had spoken with the building inspectors, and based on Section D of the ZBL regarding the determination of the building inspector and walls retaining seven or more feet of unbalanced fill, the building inspector said that the wall did not need DRB review. Mr. Himmelberger said that his understanding that the building inspector's interpretation of that is retaining walls that require a permit but are less than seven feet tall do not require DRB review. He said that the issue was raised recently and efforts were made to get the building inspector or Town Counsel put something in writing, but that has not happened yet.

Mr. Levy read Section 22D, E.2, Required Findings. Mr. Himmelberger said that the interpretation is that the report of the DRB, if required, has been received. He said that this wall will not retain more than seven feet of fill. Mr. Becker discussed Section 22D.B. He said that anything over four feet needs a permit. He said that under Section 22D.D, you need a permit, as determined by the building inspector, and retaining seven feet, then you go to DRB. He said that walls between four and seven feet do not require DRB review. He said that Section 22D.C has an implied parenthetical clause at the beginning that says that if you need a report from the DRB, that report has been received and the retaining wall is consistent with that report. The Board and Mr. Himmelberger further discussed the language in Section 22D.

Mr. Becker said that the plans were stamped by a registered landscape surveyor, not an engineer. He said that there is nothing that indicates that a structural engineer has looked at it. Mr. Beaulieu said that an engineer has been supervising construction of the wall. Mr. Becker said that there is nothing in the data that indicates that a structural engineer looks at the plans for the wall that is greater than four feet in height. Mr.

Himmelberger said that the Applicant would accept that as a condition. He said that a structural engineer has been monitoring throughout.

Mr. Himmelberger said that photographs of what is behind the wall show that it may not be considered to be unbalanced fill as much as ledge. Mr. Beaulieu said that the wall almost serves as a veneer rather than a retaining wall.

Mr. Becker said that the Planning Board recommendation raises two issues about tree protection and lighting. Mr. Himmelberger said that, because this is an as of right construction, it has already been reviewed for Tree Bylaw compliance and a building permit was issued. Mr. Beaulieu said that no additional trees were impacted by the wall. Mr. Becker said that lighting does not apply because it is a single family dwelling.

Mr. Beaulieu said that making the wall level is more for the neighbor's benefit.

Mr. Sheffield said that it is not really a retaining wall, so there is no hydrology or weep holes. Mr. Beaulieu said that he believes that there are weep holes.

Mr. Becker said that the fact that there is a fence there is not relevant to the retaining wall. He said that he did not see anything that said that somebody had looked at making sure that the wall does not tip over. Mr. Himmelberger said that the project is being overseen by a structural engineer and will accept that as a condition. Mr. Becker said that his issue is the design of the wall, not the construction. Mr. Himmelberger said that the wall is facing ledge. Mr. Sheffield said that it is possible for water to get behind the wall and push it out.

Mr. Levy asked who owns the fence. Mr. Himmelberger said that it belongs to the neighbors.

Mr. Sheffield discussed the possibility of tie the wall to the ledge. Mr. Beaulieu said that the engineer has been guiding the design and construction of the wall all along.

Mr. Becker further discussed the Planning Board recommendation. Mr. Himmelberger said that he took issue with the implication that it is unreasonable to have a side facing garage if it requires seeking a special permit. Mr. Beaulieu said that he puts together the grading on the plan. He discussed the slope of the lot. He said that the thought process was to try to get a yard. He said that they knew it was ledge and thought that they may not need a wall. He said that they found that it was ledge with till on top. He said that even with a front facing garage, the top of concrete would have still have warranted cutting the side yard so that you can pass and repass without having water coming towards the house. He said that with their projects, they try to make sure that the water is captured, collected and not run to the house or the neighbors' houses. Mr. Becker said that the property owner has a right to have a side entrance garage, should it meet the requirements.

Mr. Beaulieu said that when they submit for a building permit, they are required to submit a land survey and a professional engineer's design for a wall.

Mr. Himmelberger said that they submitted cut sheets for the landscape lighting. Mr. Becker said that the issue is light spillage on neighbors' land. Mr. Sheffield said that if the lighting is in the wall, spillage will not be an issue.

Mr. Levy asked if the Applicant spoke with the abutter. Mr. Himmelberger said that they have been in constant discussion and his last communication was on January 4, 2020 in which he stated that he supports the construction of a wall that is no higher than five foot, has a cap on top and no plantings.

Mr. Levy moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit and make findings in accordance with Section 22D of the Zoning Bylaw, also finding that a report from DRB is not necessary, subject to the conditions that there shall be no planting at the top of the wall, a plan that is stamped by a registered engineer be submitted, that the Board makes no findings regarding the Tree Preservation or Lighting bylaws. The Board found that the proposed retaining meets the standards of Section 14E of the Zoning Bylaw for construction in a Water Supply Protection District.

ZBA 2020-04, UNITARIAN UNIVERSALIST SOCIETY OF WELLESLEY HILLS, 309 WASHINGTON STREET

Present at the public hearing was Lise Olney, representing Unitarian Universalist Society of Wellesley Hills, the Petitioner. She said that the Church already has two signs, a small hanging sign that is perpendicular to the street, and a sign that parallel to the street and held up by two granite posts. She said that their new minister was interested in having a banner that could be change out to reflect a change of time for services in the summer and to increase the street presence of the church. She said that the minister had seen banner signs at the Village Church. She said that the minister would like to put a banner by the parking lot so that it is not blocking the building in any way but would be highly visible to people passing by. She said that it would have a banner for the Church year from September to June and another for the summer. She said that the signs will be essentially the same but will reflect the different time for services.

Ms. Olney said that they went before the Design Review Board (DRB) and were asked to have a black frame instead of aluminum and a piece running underneath to keep the sign from flapping. She said that they discovered that it is extremely expensive to do that because it would be custom frame. She said that they can it make out of colored PVC but that may not satisfy the DRB. She said that another option is to use something similar to what is at the Village Church and anchor it at bottom with a stake. She said that there is also a similar at Ten Acre School that inspired the DRB to ask for the bottom piece. She said that, being a church, they were hoping to be able to go with a less expensive option.

Mr. Sheffield said that it is possible to paint aluminum. Ms. Olney said that would be expensive.

Mr. Becker confirmed that the sign will be three feet by twelve feet. Ms. Olney said that the reason that the sign is so high is that there are lilac bushes along the front.

Mr. Levy asked about the material of the signs. Ms. Olney said that they will be vinyl banners. Mr. Becker said that under the bylaw they are not banners.

Mr. Levy said that the sign seems to be for periodically updating changes. He questioned whether it is more of a temporary sign. He asked if the request is to grant two permanent signs. Mr. Becker said that the two signs that are proposed are in addition to two existing signs. He asked if the Church considered removing one or more of the existing signs. Ms. Olney said that the hope is to revamp the front eventually by re-landscape and replacing the existing signs. She said when they discovered how expensive that will be, they thought about what would serve the purpose of increasing the presence on the street and would allow them to make the change from the Church year to the summer with the hours. She said that the proposed signs would be permanent for the next few years, long enough for the Church to build the funds to revamp all of the signage, at which time the proposed signage would come down and be replaced by permanent signage.

Mr. Becker questioned how this would not be a temporary with the interchanging through the year.

Mr. Levy said that there seems to be a lot of information in the text of the sign. He said that it is a beautiful building and the existing signs are understated. Ms. Olney said that it will be in front of a parking lot. Mr. Becker said that the colors catch attention from the street. Ms. Olney said that they are asking for the change in signs because of the change in hours of services.

Mr. Becker said that if this is treated as a temporary sign, there are time limitations for how long it can be up in a year.

Mr. Levy read the bylaw definition of a banner.

Mr. Becker questioned whether this would be a ground or a standing sign.

Mr. Levy read the bylaw definition of changeable copy.

The Board confirmed that it will be a one sided sign.

Mr. Becker said that this is a General Residence District but as you go up and down the street, it is principally commercial. He said that it is stuck in the middle.

Catherine Johnson, Planning Board, said that side of Washington Street between Cliff Road and the intersection of Wellesley Hills Square is either General Residence or Conservation. She said that there is no business until you get to the other side of Cliff Road where the Post Office is. She said that across the street from 309 Washington Street is business zoned. She said that 323 Washington Street, which is next to the Church parking lot, will be re-zoned as a single building Historic District.

Mr. Levy said that there was no plot plan submitted that shows the setback.

Ms. Johnson said that the Planning Board had some concerns about blocking the sight lines from the driveway. Mr. Sheffield said that the sign will be parallel to Washington Street.

Mr. Becker said that the Board will need to see a plan to show where the sign will go and that it meets the requirements of the bylaw. He said that it could be something from the Town's GIS system with the sign superimposed with the dimensions. He said that the plan should show the property features and where the sign will go. Ms. Johnson said that the Engineering Division can provide a map of the block that has street dimensions and property boundaries.

Mr. Levy said that he might be more inclined to grant this on a temporary basis. He said that the Sign Bylaw will be re-codified next year. He questioned the durability of the fabric sign. Mr. Becker said that similar signs have cutouts for the wind to blow through. He said that there are no requirements for a temporary sign in a General Residence District. He said that permanent signs are only one square foot. He said that the proposed signage does not fit neatly into the Sign Bylaw.

Ms. Olney said that there are similar signs around town. Mr. Becker said that the Zoning District could be different. He said that Zoning is on a case by case basis.

Mr. Levy said that other than announcing the times of the services, the sign is just advertising. He said that the existing sign could have something that hangs off of the bottom for the hours of service and that can be changed twice a year. Ms. Olney said that the intention of the sign is not just about hours but also to raise visibility. She said that the minister felt that the Church was not sufficiently visible and its mission of inclusivity was not obvious enough.

Mr. Levy said that it is a beautiful Gothic building and the proposed sign is contemporary.

Mr. Becker read the Planning Board recommendation.

The Board discussed the limitations of having a temporary sign. Mr. Becker said that the supporting structure is light and insubstantial and the sign itself is not designed to last through ten winters. Ms. Olney said that the hope was to come up with an inexpensive solution while they raise funds to redo the permanent signs. She said that it will take them years to raise the money for that. She said that the proposed signage is not meant to be a long term solution but more than a temporary one.

Ms. Johnson discussed changes to the Sign Bylaw. She said that the sign at the Village Church is located in the Wellesley Square Commercial District, which has difference dimensional requirements and the sign at Ten Acre School is located in an Educational District. She said that the proposed sign is bigger than the Village Church sign. Ms. Olney said that the Village Church signs hangs off a much larger frame. She said that there are two signs there.

Mr. Levy discussed the possibility of granting this through the Dover Amendment. He said that he was concerned about granting a permit for a temporary solution. The Board discussed setting a time limit via an expiration date.

Mr. Levy asked if the Board would be approving two signs or one sign with interchangeable copy.

Mr. Sheffield asked Ms. Olney if there had been any discussion about changing the time without changing the whole sign. Ms. Olney said that the whole format of the service changes and the minister goes on leave for the summer. She said that the minister wanted to communicate that it is a different program during the summer. She said that they wanted a Church year look and a summer look.

Mr. Becker discussed the required findings in Section 22A of the Zoning Bylaw. He discussed inserting a condition about the overall duration of installation of the sign and/or the changeable copy from season to season and how many would be permitted. Mr. Levy said that only two signs were submitted. He said that the Board could not allow a permit for something that it or DRB has not seen. Mr. Becker said that approval would be for the two signs that were submitted and cannot be substituted without coming back before the Board.

Mr. Sheffield said that the DRB made recommendations about the frame, which could be painted. Ms. Olney said that a problem was the expense of the metal piece at the bottom. Mr. Sheffield said that there are ways to anchor the sign at the bottom without having a continuous bar.

Mr. Levy said that the Sign Bylaw prohibits signs that are not in good repair.

Mr. Sheffield asked about the fourth anchor point referred to in the DRB recommendation.

Ms. Olney said that the plan is to anchor the sign in concrete.

Mr. Sheffield asked about wind relief panels. Ms. Olney said that they can add them.

Mr. Levy discussed permitting the two panels that were submitted, subject to the condition that they be maintained in good order and repair and subject to an expiration date. He said that the panels would be used interchangeably. He said that it is not intended to be a long term solution.

Mr. Becker moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit for the requested sign with two changeable panels as submitted, making the findings in accordance with Section 22A of the Zoning Bylaw, a through f, subject to the conditions that the sign and sign frame be maintained in good working order, the sign frame is black, good working order and structural integrity, that the loose foot of the panel should be sufficiently anchored, the permit for the sign with two panels shall

expire in two years, the sign shall not be illuminated, and a site plan showing the location of the sign that conforms to the 15 foot setback requirements shall be submitted.

As there was no further business to come before the Board, the hearing was adjourned at 10:16 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary

DRAFT