

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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WALTER B. ADAMS
DEREK B. REDGATE
RICHARD L. SEEDEL

March 17, 2022

7:30 pm

Remote Public Hearing

Zoning Board of Appeals Members Present: J. Randolph Becker
Robert W. Levy
Walter B. Adams
Richard L. Seegel

PUBLIC HEARING**ZBA 2021-56, EDWARD & MICHELLE JACOBS, 97 RUSSELL ROAD**

Mr. Becker said that the Board received an ANR plan for approval by the Planning Board as an adequate way on Russell Road. He said that the Wetlands Protection Committee (WPC) notified this Board in February that the information that they had at the time was insufficient for their purposes in reviewing the Wetlands Protection Act. He said that he spoke with Julie Meyer at the WPC today and she indicated that WPC will be meeting on March 31, 2022 to finish their review and take action on this case.

Present on behalf of the Petitioner was James Goodhue, Esq., who said that at the last meeting on January 6, 2022, the Board said that it wanted feedback from the Design Review Board (DRB) regarding the retaining walls. He said that DRB approval with recommendations for evergreen vegetation plantings to conceal the height and other design approaches to be considered to minimize the height of Walls A and D was submitted.

Mr. Goodhue said that the Planning Board no longer had any opposition to the structure being within 10 feet of town land. He said that this is a difficult lot. He said that they have articulated why they need to be within 10 feet of town land due to the topography and shape of the lot.

Mr. Goodhue said that the Board wanted to have more information on the Construction Management Plan (CMP) and impact on Morses Pond. He said that they met with the Department of Public Works (DPW) again.

Mr. Goodhue said that the Board wanted to have the plans signed and that has been done.

Ms. Jacobs discussed a Summary of Updates that was submitted after their surveyor completed the Adequacy of the Way Plan. She said that the Planning Board is scheduled to review the application for Adequacy of the Way on May 2, 2022. She said that the 14 inch water main has been located with metal detectors and staked. She said that they will have DPW approval of the spacing before any shovel hits the ground.

Ms. Jacobs said that DPW had concerns regarding neighbors parking and coming and going on Russell Road during construction. She said that they spoke with their neighbors, who are in support of the project and are familiar with construction projects on Russell Road, given that there have been four new houses built in a row on this side of the road.

Ms. Jacobs said that DPW requested restoration of the parking area. She said that they will restore, replace or resurface the parking area at the end of Russell Road after completion of construction.

Ms. Jacobs said that DPW requested that 18 inch concrete raised bounds be put in the ground at the property corners to ensure that there are clear markers of the property lines between 97 Russell Road and the town property to ensure against encroachment again.

Ms. Jacobs said that one large retaining wall at the front of the patio where the driveway goes down to the patio and spans the entire width of the property will be within 10 feet of the property line on the north and south. She said that two other retaining walls are not within 10 feet of the property line. She said that all of the walls were approved by DRB.

Ms. Jacobs said that they will be meeting with the WPC at the end of March. She said that there is no definition of hardship in the Wetlands Bylaws and there was some disagreement among WPC members whether the Applicant has to have a hardship in order to move the footprint of the house. She said that WPC told the Applicant to go through the ZBA process first for a definition of hardship in the Zoning Bylaws (ZBL) and then go back to WPC. Mr. Adams said that the ZBA definition of hardship only applies to the variance and not to work in the buffer zone. Mr. Levy said that if the Board finds a hardship under the ZBL, it is not transferrable or applicable under the Wetlands Protection Act, as they are subject to different standards. Mr. Adams said that the ZBA has always been the last board to visit and everything else has to line up before that. He said that to ask the ZBA to approve something subject to another board's decision does not work. Mr. Goodhue said that the hardship is related to topography and shape of the lot. Mr. Levy said that the WPC can call Town Counsel for his opinion. Mr. Becker offered to speak with the WPC about the issue.

Mr. Becker asked the Board members about continuing the petition. Mr. Levy said that he would be more comfortable having conditions of approval subject to receipt of approval of the Adequacy of the Way and an Order of Conditions from WPC.

Mr. Adams said that this property has a unique relationship to the way as opposed to other properties on Russell Road. He said that there are still some issues that have to be resolved.

Mr. Adams moved, Mr. Levy seconded the motion, and the Board voted unanimously to continue the petition to May 5, 2022.

Mr. Adams voted aye.

Mr. Levy voted aye.

Mr. Becker voted aye.

BUSINESS MEETING

ZBA 2020-64, WELLESLEY PARK LLC, 140-148 WESTON ROAD

Mr. Becker said that the request is for a determination that proposed changes are minor modifications that do not require a public hearing.

Present at the business meeting were Matt Zuker, Ken Chase, and Ben Wilson, representing New Meadow Development Company.

Mr. Adams said that he visited the site. He said that the Building Department must have issued a foundation permit. He said that his understanding is that changes have been made in the layout of the building. He said that changes that involve extending some decks and minor façade changes seem to be insignificant. He said that the most substantial change is the elimination of what was going to be a dwelling unit in the basement parking area and turning that into common space to be used by the residents. He said that may serve better the residents rather than an apartment that seemed to be off in a corner.

Mr. Seegel said that the Board's examination of the changes is limited. He said that a special permit for the project was issued by the Planning Board. He said that the Zoning Board dealt with Site Plan Approval. Mr. Becker said that the Board dealt with a couple of other actions regarding retaining walls and other things. Mr. Seegel said that he did not see any changes to the retaining walls or the overall height of the building. He said that the items that relate to Site Plan Approval are minor.

Mr. Adams said that the request for a determination by the Board may have been in response to a request from Michael Grant, Building Inspector. He said that the decision to provide head houses for each of the individual decks was a significant change because there are higher elements on the building that were not there before. He said there may have been a way to hide two remotely located exits from the entire roof that could be available to residents unless Mr. Grant felt that they had to be unique to each of the decks. Mr. Zuker said that the head houses were added to comply with Building Code requirements for a certain type of access for those units.

Mr. Becker said that because this is in a Residential Incentive Overlay District, there are very few dimensional requirements. He said that this is a minor modification.

Mr. Seegel moved, Mr. Adams seconded the motion, and the Board voted unanimously to find that the proposed changes are insignificant and do not require a public hearing.

Mr. Adams voted aye.
Mr. Seegel voted aye.
Mr. Becker voted aye.

PUBLIC HEARING

ZBA 2022-11, TOWN OF WELLESLEY SCHOOL DEPARTMENT/FACILITIES MAINTENANCE DEPARTMENT, 50 KINGSBURY STREET (WELLESLEY MIDDLE SCHOOL)

Mr. Becker said that the Board is waiting for a response from Town Counsel. He said that the submittal from DPW treated this as a major project. He said that none of the seven items that the Board has to consider for a major project are within the scope of this project. He said that he suggested to Town Counsel that this is a minor project and should be reviewed by the Design Review Board and then go directly to the Building Department for a building permit. He said that the Board does not know yet whether the matter should be before it.

Mr. Becker said that the project involves replacement of pavement and restriping but no changes to driveways or making anything wider or narrower. He said that it is fundamentally a maintenance project.

Mr. Adams moved, Mr. Levy seconded the motion, and the Board voted unanimously to continue the petition to May 19, 2022.

Mr. Levy voted aye.
Mr. Adams voted aye.
Mr. Becker voted aye.

As there was no further business to come before the Board, the hearing was adjourned at 8:09 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary

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