

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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

June 3, 2021

7:30 pm

Remote Public Hearing

Zoning Board of Appeals Members Present:

J. Randolph Becker
Richard L. Seegel
David G. Sheffield
Walter B. Adams

ZBA 2021-51, THOMAS PELUSO, 46 RIVER RIDGE

Present at the public hearing was Thomas Peluso, the Petitioner, who said that the request is for relief to reconstruct an existing nonconforming covered front porch, in conjunction with a renovation project that he is moving forward with. He said that the existing porch is in the setback and the plan is to reconstruct and expand it. He said that the intent is to not increase the coverage or space in the setback.

Mr. Seegel asked how the Petitioner proposes to put a driveway in. He said that the property drops off dramatically from the street. He asked about the degree of sharpness coming up the hill to River Ridge. Mr. Peluso displayed plans that show the existing and proposed driveways. He said that the plan is to relocate the driveway to the right side of the property and connect to the basement level garage. He said that the elevation at the garage is approximately 148 feet and the elevation at the street is approximately 149 feet.

Mr. Sheffield said that the 29.6 foot dimension to the property line is shown from the overhang and not from the face of the garage doors. He said that the dimension to the garage door should be shown on the plan to indicate that it conforms to the Zoning Bylaw. Mr. Peluso said that he will provide revised plot plan that shows a clear dimension of at least 30 feet from the garage door to the side property line.

Mr. Seegel asked what the drywell at the bottom of the driveway flows into. Mr. Peluso said that it is a site drain to diffuse the water away from the driveway into the grass on the property. Mr. Seegel said that the Planning Board recommended a condition that a stormwater detention with infiltration system and/or low impact development measures be included to offset any increase in runoff from the increase in impervious area. He said that the concern is about water flowing down the driveway a good distance. He said that there has to be some way to diffuse it by having a drywell or an underground structure. Mr. Sheffield said that a drywell accepts the water and allows it to flow out slowly underground so that it does not travel over the surface to the adjacent property. Mr. Becker said that the underground water will flow at a much lower rate. Mr. Peluso said that he looked at this with a Civil Engineer. He said that there is no direct neighbor. He said that the wooded on the side is owned by the Commonwealth of Massachusetts. Mr. Peluso confirmed that

the proposed condition relates only to that specific drain or inclusive of all downspouts on the property. Mr. Becker said that it relates to additional impervious surface. He said that the theory of the drywell is to capture water from new impervious surfaces.

Mr. Becker asked if any member of the public wished to speak to the petition.

Mr. Becker read the Planning Board recommendation.

Mr. Seegel moved, Mr. Becker seconded the motion, and the Board voted unanimously to grant a special permit, subject to conditions that a revised site plan that shows a dimension of no less than 30 feet from the right side lot line to the garage door be submitted, and installation of stormwater detention system(s) with infiltration and/or low impact development to offset any increase in runoff from any increase in impervious surface.

Mr. Seegel voted aye.

Mr. Sheffield voted aye.

Mr. Becker voted aye.

BUSINESS MEETING

ZBA 76-69, WELLESLEY GLEN ASSOCIATES, 50 GROVE STREET

Mr. Becker said that the request before the Board is whether deletion of the third condition of the 1977 Comprehensive Permit for Glen Grove at 50 Grove Street is a minor or a major modification.

Present on behalf of Wellesley Glen Associates was Julie Hancock Stande, Nixon Peabody, LLP.

Mr. Becker said that the Board has a copy of a letter that Town Counsel sent to the Board of Selectmen that talks about this issue and provide some guidance. He said that the Town views the change as a minor modification but thinks that there are two possibilities that could happen with the minor modification. He said that one is termination and the other is subordination.

Mr. Seegel suggested that the appropriate remedy is to subordinate to the new mortgage. He said that is the position that the town is currently in, as it subordinated to the last mortgage. He said that it would be appropriate to subordinate but not terminate the town's position.

Ms. Hancock Stande said that she will send a draft Subordination Agreement to Town Counsel.

Mr. Becker said that the action that the Board has to take tonight is to make a determination that the proposed change is a minor modification that does not require opening a public hearing or that it is a major modification that would require it.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to find that the proposed new mortgage is not a major modification and that the town will continue to remain in a subordinated position to the mortgage and that it is consistent with the current arrangement.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

Mr. Seegel said that Wellesley's oldest resident Herlda Senhouse, who is 110 years old, resides at 50 Grove Street.

PUBLIC HEARING

ZBA 2021-24, TIMOTHY EATON & CATHERINE DYER, 58 UPSON ROAD

Present at the public hearing were David Himmelberger, Esq., Timothy Eaton and Catherine Dyer, the Petitioner. Mr. Himmelberger said that the request is for a variance to permit the demolition of an existing nonconforming garage and replacement with a new garage. He said that this matter was previously before the Board and the Applicants appeared pro se seeking a special permit. He said that the Board advised that it did not believe that the statute or the bylaw permitted them to grant a special permit to raze and rebuild the garage. He said that the Board also questioned whether the existing garage was built pursuant to a building permit.

Mr. Himmelberger said that the Petitioner re-submitted the plans seeking a variance. He said that the Petitioner provided a copy of the building permit for the garage. He said that at the time that the building permit was issued, there were side yard setback requirements that would have otherwise precluded the construction of the garage in its location. He said that it was constructed with a building permit in 1979, so it is well into the safe harbor for structures that were permitted to be built pursuant to a building permit but which are otherwise in violation of Zoning. He said that the Applicants now seek a variance, based on the shape of the lot. He said that his clients acquired the property in 2011, 34 years after the ANR Plan that created this unusually shaped lot. He said that the request is for a variance to raze and rebuild the garage. He said that when the Board first reviewed this project, it thought that the proposed structure was attractive but did not feel that it had the authority or jurisdiction to grant a special permit.

Mr. Sheffield said that he lives in the neighborhood and has observed the upgrading of Upson Road over the past 50 years. He said that this will be an additional improvement.

Mr. Adams said that the existing single family home looks different from 1978. Mr. Himmelberger said that a new home was built since his clients purchased the property. Ms. Dyer said that they tore down the original house in 2018.

Mr. Becker asked if any member of the public wished to speak to the petition.

Mr. Becker read the Planning Board recommendation.

Mr. Sheffield moved, Mr. Adams seconded the motion, and the Board voted unanimously to grant a variance.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-30, BUILDRITE, LLC, 9 WILDE ROAD

Present at the public hearing was David Himmelberger, Esq., representing the prior owner and Applicant for the special permit request. He said that there was a fair amount of neighborhood concern about the proposed structure. He said that, after taking that into consideration, his client has since sold the property. He requested that the Board allow the petition to be withdrawn without prejudice.

Mr. Sheffield moved, Mr. Adams seconded the motion, and the Board voted unanimously to allow the petition to be withdrawn without prejudice.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-40, YVONNE & MARK PYTLIK, 192 WASHINGTON STREET

Present at the public hearing were Yvonne and Mark Pytlik, the Petitioner, and Peter Lewandowski, LR Designs, Inc. He said that at the last hearing, Gina and Adam Cohen voiced concerns that they had not seen the plans. He said that the Applicant has since met with them and discussed the project. He said that they discussed it at length today, making compromises based on their concerns about losing their views. He said that he explained the scale of the project and explained that the addition will be added to space that is already in the setback area, mostly just a roof line and not a full second story. He said that he discussed difficulties associated with setback requirements for this corner lot. He said that did not come to a complete resolution today.

Mr. Adams asked about the decision to place the addition so that it remains 3.3 feet from the property line. Mr. Lewandowski said that the original addition built in the 1920's had a setback of 7.7 feet and that is the edge that they want to maintain. He said that the 3.3 foot dimension is for the existing garage at the back of the house and will be removed. He said that the intention is to pull the addition back to the setbacks for the 1920's addition. Mr. Adams said that the plans show an increase in setback from 3.3 feet to 6.8 feet.

Mr. Adams asked about the goal of the addition. Mr. Lewandowski said that the Applicant wants to build an addition for an in-law suite for Ms. Pytlik's mother to live with them. He said that the first and second floors will be accessed through the house. He said that there is a separate access as well.

Mr. Adams asked if a new porch is being added to the first floor. Mr. Lewandowski said that there is a small mudroom entry. He said that the plans show the outlines but not all of the details. He said that the plan is to build a roofline on top of the existing one story structure that built in the 1920's so that they can maintain the existing ceiling heights. He said that they will tie the roofs in and build rafters on top of the existing structure, as shown on Plan A2.0.

Mr. Becker confirmed that the Applicant's assertion to the Cohens is that the top is lower than the existing roof and that is what gives them access to sunlight. Mr. Lewandowski said that the house is lower than the tree line. He said that the neighbors will look at a roofline going away from them rather than a blank wall. He said that they discussed making the dormer smaller on that side with the Cohens.

Mr. Becker said that the existing nonconformity is the left side yard setback.

Mr. Lewandowski said that they spoke with the Building Inspector and went before the Historical Commission and got approval for the garage.

Mr. Becker asked if any member of the public wished to speak to the petition.

Gina Cohen, 190 Washington Street, said that she had a lengthy conversation today with Mr. Lewandowski. She said that one of her biggest concerns is adding a second floor and loss of her sight line from the first and second floor on the west side of her house, which is the sunny side. She said that she currently has a vista that allows her to see sky and trees and four of the neighboring properties on Woodlawn Avenue. She said that, with the addition, she will lose that sight line and sunlight. She said that now there will be a structure there. She said that she has lived there for 18 years. She said that she moved to part of Wellesley that did not have big houses that stood right next to each other, which is part of the charm of this neighborhood. She said that her neighbors on the other side also built a structure with a second floor, so she lost her sight line to the east. She said that she feels that they are getting boxed in. She said that they spent a lot of time with Mr. Lewandowski today trying to find a way to preserve an integral part of their house.

Adam Cohen, 190 Washington Street, said that the Pytliks house is next door and close to the property line. He said that they are now proposing to build up and the loss of sight line will be significant for the Cohens. He said that even with modifications discussed with Mr. Lewandowski today, it will be approximately 12 to 18 feet higher and 60 to 80 feet wider, which is a significant sight line issue. He said that they have had a cordial relationship with the Pytliks through the 18 years that they have lived there.

Ms. Cohen said that they spent a considerable amount of time today with Mr. Lewandowski trying to envision what the proposed addition will look like and to see if there was any way to get the addition for the Pytliks without the Cohens losing their sight line.

Mr. Adams said that this is a difficult situation. He said that property owners should have a right to change their property to provide space for an in-law addition. He said that the distance to the property line is tight and the Cohens will be impacted by the work that is proposed to be done. He said that the neighbors do not think that pulling back 3 feet from the garage compensates for the increase in height.

Mr. Becker said that the proposed project is within the bylaw. He said that one of the goals of the bylaw is to provide adequate light and air but there is nothing in the bylaw that gives any resident a right to a vista for a property that does not belong to them.

Mr. Sheffield said that having an eyebrow over the garage doors will help with scale and downlighting to prevent glare on neighboring properties.

Mr. Adams asked if there is a way to put the addition further away from the property line. Mr. Lewandowski said that the existing garage is dilapidated. He said that the thought was to leave the driveway and maintain as much yard as possible. He said that the first floor that was built in the 1920's as a doctor or dentist's office is already there. He said that they would like to build on top of what they already have, remove the garage that does not have a foundation, and extend the edge line. He said that they tried to keep the addition smaller by frame out on top of what is already there rather than build a two story addition. He said that the existing garage has a hip roof on four sides and there is a flat roof on the existing one story structure.

Mr. Adams asked if it is a financial decision to move the garage over to the left. Mr. Lewandowski said that they would like to maintain the existing edge of the garage and the yard in the corner. He said that the new garage will be 20 feet deep. Mr. Adams said that it is a one story existing structure that will change to a two story structure. He said that there is a front yard and a large side yard off of Woodlawn Avenue. He discussed concerns that this is being built up right against the neighbor. He said that he understands the

desire to be economical but it is at the expense of the neighbors. He said that 7.5 feet is not much of a side yard. Mr. Lewandowski said that the neighbors have approximately 20 feet on that side with a 6 foot fence, solid on the bottom with a lattice top.

Mr. Sheffield said that superimposing the existing right elevation on Plan A2.0 would be helpful. Mr. Lewandowski said that there is a dashed outline of the existing one story structure and a dashed outline of the roof. He said that the existing garage peak is 16 feet and the proposal is to go to 26.25 feet to the ridge. He said that he spoke with the Cohens today about possibly lowering the floor and tucking more under the existing hip of the main house, bringing it down around 30 inches and only having a dormer for the middle bedroom. Mr. Adams asked about dog house dormers instead of shed dormers. Mr. Lewandowski said that they are looking to get a double window for egress out of the middle bedroom. He said that they could possibly put a skylight in the study and the other room has a back facing gable with a triple window. He said that it will be a sloped roof with a 5 foot knee wall on the east side.

Mr. Becker asked when the potential changes would be made. Mr. Lewandowski said that they received an email from the Cohens today regarding the project. He said that he had a conversation with them and sent some sketches but there was not a lot of time to make changes to the plans. Mr. Becker said that the Board has to approve a set of plans.

Mr. Sheffield said that reducing the size of the dormer, changing from a shed to a dog house dormer for the middle bedroom, and adding a skylight instead of dormer on a sloping roof would require continuing the hearing.

Mr. Adams said that everyone has been trying to come up with a solution that will work for the property owners and the neighbors. He said that trying to make changes on the day of the hearing does not work. He said that urged the Applicant to take what the Board discusses and see if they can come up with a solution that minimizes the shed dormer on the side of the proposed addition. He said that by making the suggested changes, the Applicant will be reducing the amount of usable space on the second floor, so they will be giving something up as well.

Mr. Becker discussed the options for moving forward.

Mr. Sheffield discussed height, dog house dormer and roof line slope.

Ms. Pytlik said that they need to take care of her mother. She said that she appreciated the Board's input throughout the process. She said that they spoke with Michael Grant, who guided them through the process. She said that they have been residents for 27 years. She said that she hopes that the Cohens understand they situation that the Pytlis are in. She said that they are trying to resolve it. She said that they found out today at 1 pm that there was problem with the Cohens.

Mr. Adams said that if the Applicant comes up with a solution that dramatically reduces the size of the shed dormer and replaces it with another dormer concept and skylights, the Board may be able to approve the project.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the petition to July 1, 2021.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-44, ANNIE OTT, 3 STEVENS STREET

Present at the public hearing were Annie and Roger Ott, the Petitioner. Ms. Ott said that the request is for relief for alteration to an existing nonconforming structure to repair and rebuild the front one story appendage with a new roof and windows within the confines of the existing foundation. She said that the project includes rebuilding the existing front porch and increasing its size by 20 square feet.

Mr. Sheffield said that he liked the improvement.

Mr. Becker said that the nonconformities are lot size at 8,997 square feet, and front yard setback at 13.5 feet, neither of which will be changed by the addition.

Mr. Becker asked if any member of the public wished to speak to the petition.

Mr. Becker read the Planning Board recommendation.

Mr. Sheffield moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve a special permit and make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-45, DANIEL & LIVIA MADDEN, 24 DURANT ROAD

Present on behalf of the Petitioner was David Himmelberger, Esq., and Bob Williamson, Architect. Mr. Himmelberger said that the request is for a special permit for an addition to an existing nonconforming home on a nonconforming lot with less than required area in a Water Supply Protection District.

Mr. Himmelberger said that the project is an envelopment of a pre-existing nonconforming structure. He said that the existing nonconformity on the right side of 14.9 feet will be maintained. He said that a two story addition with space on the third floor will be built at the front left three-quarters of the house, inset from the existing nonconforming house and will have a setback of 18 feet, while all other dimensions will conform. He said that the existing ridge height is 27.2 feet and the proposed height will be 34.5. He said that proposed TLAG is 4,217 square feet. He said that Plan A0.01 shows the Cultec underground recharge system, which is designed to connect to all of the downspouts. He said that the house is a pre-1949 structure, so the project was reviewed by the Historical Commission and was deemed to be preferably preserved. He said that the Applicants went back and received a waiver for the proposed design.

Mr. Himmelberger discussed a slight modification to the windows at the front. He said that what had been proposed as double wide windows with shutters was changed to separate the windows to individuals without shutters and two small windows were added on the right side, as requested by the Historical Commission. He said that the Historical Commission approved the plans today.

Mr. Himmelberger said that the proposed changes are not substantially more detrimental to the neighborhood than the existing nonconforming structure and requested approval of a special permit.

Mr. Adams said that the recommended changes to the windows and elimination of the shutters is an improvement to the design. Mr. Sheffield said that he agreed.

Mr. Becker said that this will be the largest house on Durant Road.

Mr. Becker read the Planning Board recommendation.

Mr. Becker asked if any member of the public wished to speak to the petition.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit in a Water Supply Protection District, subject to conditions that the water retention provisions shown on the plans and the additional screening recommended by Planning Board are incorporated in the project.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-46, JOHN & LORAIN O'HANLON, 44 CYPRESS ROAD

Present on behalf of the Petitioner and record owner of 38 and 44 Cypress Road, was David Himmelberger, Esq. Mr. Himmelberger said that the request is to reconfigure a property line between the two properties. He said that the petition was previously before the Board as a request for a special permit to modify a pre-existing nonconforming lot, in that 44 Cypress Road has a pre-existing nonconforming built factor of 20.80 where 20 is allowed. He said that the Board concluded that it did not have the authority under the bylaw as there was no change being sought to a nonconforming structure. He said that the petition was withdrawn without prejudice.

Mr. Himmelberger said that the petition was re-submitted as a request for a variance from the provision that would require that any post 1986 lot to have a build factor not greater than 20. He said that it is an oddly shaped lot. He said that the build factor is a metric that is designed to limit oddly shaped lots. He said that being in excess of a build factor of 20, it is an unusually shaped lot.

Mr. Himmelberger said that this is a logical reconfiguration that grants more frontage to what currently appears to belong to 44 Cypress Road. He said that currently the driveway to 44 Cypress Road is owned by 38 Cypress Road. He said that it will bring 192 feet of rear lot over to 38 Cypress Road, which makes sense in terms of lot configuration and how the structures sit on the lots. He requested the Board's approval of a variance due to the shape of the lot.

Mr. Becker read the Planning Board recommendation.

Mr. Becker said that Mr. Himmelberger's argument about the shape of the lot is appropriate but the last clause of Section 24D of the Zoning Bylaw says that the hardship shall not have been self-created. He said that, by changing in the lot lines, they are creating the problem that they are asking relief for. Mr. Himmelberger said that would apply if they had previously created a situation from which they are now seeking relief. He said that the hardship here, namely the unusually shaped lot, was not created by the

Applicant. He said that this is a ANR going back to the 1950's. He said that the shape of the lot that is before the Board is something that was not created by the Petitioner. He said that there is no way to bring about the change of getting the driveway over to 44 Cypress Road that does not increase the build factor.

Mr. Becker questioned why, with the two lots side by side, they could not come up with division into two lots with a build factor of 20 or less. Mr. Himmelberger said that they could do it but would not be compliant with setbacks, for which the houses are currently compliant. He said that they do not believe that there is a way to bring the driveway over and get under a build factor of 20. He said that he did not see the harm to the Zoning Bylaw in that they are making 44 Cypress Road, while they are increasing its build factor, they are making it a more rational lot by bringing the driveway over to it.

Mr. Becker said that the Board usually acts on a plan. He said that what is before the Board is not a lot yet. Mr. Himmelberger said that the Applicant cannot go to ANR until they get zoning relief. He said that the variance cannot be recorded until the Applicant receives an ANR from the Planning Board.

Mr. Adams asked if Lot B-2 will remain under ownership with 38 Cypress Road. Mr. Himmelberger said that will go to 44 but 38 will retain the right to drive on it and park service vehicles at the end of it, off the driveway. He said that Lot B2 is owned by 38 Cypress Road and 44 currently has an easement over it to access its garage. He said that when lawn care vehicles service 38 Cypress, they park in the area at the end. He said that in order to continue to do that, the proposal is that the easement, instead of being in favor of 44 will now be in favor of 38 Cypress Road. He said that the driveway will now be part of 44 Cypress Road, where it looks like it should belong. He said that the driveway used to service the existing house at 38 for which 44 was the carriage house, back in the 1920's to 1930's. He said that when 38 was built, it took a new driveway. He said that the idea is to move the driveway to 44 and move the rear of 44, Lot A2, over to 38.

Mr. Becker questioned the hardship, if the plan simply involves flipping the easement from 38 to 44. Mr. Himmelberger said that cannot flip it unless the land is deeded over to 44 Cypress Road. Mr. Becker said that there is an existing driveway that has an easement for it. Mr. Himmelberger said that the hardship is remove 44 from being an easement to get into its property and give the driveway that looks like it belongs to 44, and remove Lot A-2, which is not very functional in use for 44 and give it to 38, where it can be used. He said that it is being done so that 38 can enjoy a larger rear yard and the driveway that looks like it belongs to 44 can be given to 44. He said that the proposal is unusual but he did not believe that reconfiguring the lot lines offends the Zoning Bylaws. He said that they will still have fully conforming lots in excess of the requirements for the Zoning district and will make 44 a more rational appearing and functional lot. Mr. Becker said that the only reason that the build factor goes up is because of the changes in the proposed lot lines. Mr. Himmelberger said that it is an unusually shaped lot. He said if the lots were rectangular and side by side, they could do what they wanted through ANR. He said that because of the unusual shape, they need a variance. He said that they are seeking to modify a nonconformity, slightly increasing it in a way that is negligible in appearance.

Mr. Becker said that things that the Board typically deals with arise out of Chapter 40A and this arises out of the Subdivision Control Law. Mr. Himmelberger said that build factor is within Section 19 Yard Regulations. He said that the purpose of build factor is to avoid creating unusually shaped lots that look odd as you drive down the street. He said that this will the increase build factor but not the odd factor.

Mr. Becker discussed the language in the bylaw for variances. He said that the proposed changes increase the build factor.

Mr. Himmelberger said that they could possibly have designed 44 Cypress Road to have a build factor of 20.1, which would be less than the existing build factor, and they still would not be able to do what they are seeking to do because it is in excess of 20. He said that the focus on the build factor change being the product of the Applicant is misplaced. He said that there is an existing condition that has a build factor that is greater than permitted but not as result of something that the Applicant did but by a subdivision that was done in the 1950's. He said that they are proposing to change the lot lines to something that makes more sense from a land use perspective and will continue to be in excess of 20. He questioned the harm in granting the relief. He said that it makes a more rational use of the land without derogating from the Zoning Bylaw.

Mr. Adams said that the subdivision will make the build factor less conforming. He questioned how that makes it better. He said that the build factor is to prevent odd shaped lots. He said that the Board cannot make a finding that will satisfy the variance requirements except, perhaps, uniqueness of the lot. Mr. Himmelberger said that the basis for the variance request is shape of the lot. Mr. Becker said that they will be making it worse. Mr. Himmelberger said that is often the case with a variance. He said that the vast majority of variances cause a greater deviance from the Zoning Bylaw. Mr. Becker said that typically involves structures where they cannot meet a provision of the bylaw because of the shape, topography or soil condition, which is not the case here. He said that this proposal is to make the build factor more nonconforming. Mr. Himmelberger said that the tables, when they were created, were designed to address new building lots. He said that these are not new but fully built upon lots. Mr. Becker said that questioned the hardship since the buildings are already on the lots.

Mr. Himmelberger said that they do satisfy the criteria for shape of lot. Mr. Adams asked if the hardship is because the lawn care people cannot park their vehicles properly.

Mr. Sheffield questioned why the lot line of 89.49 feet was chosen at that angle. He asked if any other lot lines could be changed to lessen the build factor. Mr. Himmelberger said that he did not believe so. He said that he spent considerable time trying to find a way to give the driveway to 44 Cypress Road and land to 38 Cypress Road, while lessening the build factor on 44. He said that he was not able to do it.

Mr. Becker said that the Board has not seen the alternative subdivision plans. Mr. Himmelberger ask for a continuance so that he could show his work. Mr. Adams said that the Applicant should figure out a hardship that is more compelling. Mr. Himmelberger said that the lawn care was only an explanation as to why that area was marked on the plans. He said that the goal is to get the driveway over to 44 and the rear lot to 38.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the petition to August 5, 2021.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-47, JAMES & ORIANA MONTANI, 28 WALL STREET

Present at the public hearing was Robert Williamson, Architect, representing James and Oriana Montani, the Petitioner. Mr. Williamson said that the request is for relief for a second story addition over an existing two car garage. He said that the existing nonconformity is the side yard setback for the garage doors with less than 30 feet to the side yard property line. He said that all other Zoning dimensions will comply. He said

that the project will not increase the footprint. He said that it will be a bedroom suite addition over the existing structure.

Mr. Sheffield said that the house was built before the bylaw change for side facing garages was adopted.

Mr. Adams asked about moving the garage to meet the 30 foot side yard setback requirement. Mr. Williamson said that would disrupt the yard in terms of ripping out the existing foundation and lower walls. He said that the intention is to keep the foundation and the lower walls. He said that the home was built in the 1940's but the two car garage addition was built in the late 1990's. He said that it would be a substantial financial burden to make that change and would reduce the small rear yard in that corner where the garage and the kitchen frame the lawn. He said that the location of the door in the back corner works well for parking. He said that if the whole addition moves over, the steps are more likely to be in conflict with a parked car in the first bay.

Mr. Adams said that Plan A1.1 is only a partial plan and he could not see how it would be integrated. Mr. Williamson said that Plan A1.0 shows the full floor plan.

Mr. Becker read the Planning Board recommendation.

Mr. Adams asked if the shed is new or existing. Mr. Williamson said that the shed is existing, close to the house but not attached to it.

Mr. Becker asked if any member of the public wished to speak to the petition.

Mr. Sheffield said that he agreed with the Planning Board recommendation regarding the addition of windows on the rear wall.

Mr. Sheffield moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve a special permit and make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-48, 22 WILSON STREET LLC, 22 WILSON STREET

Present at the public hearing were Stanley Brooks, Esq. Paul Worthington, Architect, and Marc Charney, representing 22 Wilson Street LLC, the Petitioner.

Mr. Brooks said that two of the Board members previously reviewed the project in April. He said that the Petitioner has now come back with something that addresses the Board's concerns.

Mr. Brooks said that it is a nonconforming lot and structure. He said that the proposal is for a second floor only addition on the north and south sides of the house, for an additional total of 331 square feet, where previously the requested amount had been 420 square feet. He said that the changes make the property more consistent with the neighborhood. He said that the closest house to this is 120 feet diagonally distant.

Mr. Sheffield said that the proposed plans are an improvement from the last time. He discussed a projection that shows a sink on the first floor plans in comparison to the elevation drawing. He said that the space will be too small. He said that one of the recesses will only be 1.6 feet. He questioned how a construction worker will access that space. Mr. Brooks said that is a construction detail that will have to be worked out.

Mr. Becker asked if any member of the public wished to speak to the petition.

Christie Kovacs, 20 Clifford Street, said that the proposed structure will be an improvement to the neighborhood.

Archana O'Neill, 12 Wilson Street, said that she supports the project. She said that the plan will substantially improve the neighborhood and will not be detrimental in any way.

Kathleen Koval, 20 Wilson Street, said that this will be a significant improvement and update and is something that she is looking forward to.

Mr. Becker read the Planning Board recommendation.

Mr. Becker said that this is a significant improvement over the previous proposal.

Mr. Adams said that the proposed south elevation is awkward and appears to be top heavy.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2021-49, CE HOLMAN LP, 577 WASHINGTON STREET

Present on behalf of Nature Works was Jeff Newman, Signarama. He said that the property at 577 Washington Street was previously occupied by Roger Pelissier Photography. He said that they installed a projecting sign in 2014 that was approved by the Zoning Board. He said that they removed the project a year ago when the business moved. He said that Nature Works wants to install the same type of sign in the same location. He said that they are able to put the same projecting sign structure back up with a new sign in the frame, identical in size and in the exact same location.

Mr. Sheffield said that he likes the sign. Mr. Adams said that the sign is fine.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit and make findings in accordance with Section 22A, H.3., A-F of the Zoning Bylaw.

Mr. Adams voted aye.

Mr. Sheffield voted aye.

Mr. Becker voted aye.

ZBA 2021-50, MARK & ELIZABETH REALE, 52 WOODCLIFF ROAD

Present at the public hearing was Mike Tartamella, Architect, representing Mark & Elizabeth Reale, the Petitioner. Mr. Tartamella said that the lot is 22,372 square feet in a 20,000 square foot Single Residence District. He said that the side yard setback is nonconforming at 17.9 feet. He said that the proposal is to add a three car garage, a single story connector, as well as to expand the house to the rear yard and a covered patio on the north side. He said that total lot coverage at 17 percent, or 3,983 square feet, is under the allowable amount of 4,027 square feet. He said that proposed TLAG is 6,892 square feet, with 1,000 square feet of it being attic space under the TLAG Guidelines for calculations. He said that the existing house is a one and a half story structure in a neighborhood of many two story colonials. He said that the proposed additions draw on the one and a half story mass and scale of the existing structure. He said that they spread them out along the property so that the house maintains its mass and scale. He said that the property line has a significant amount of screening already in place, which they will continue and enhance, as needed.

Mr. Tartamella said that they submitted two letters of support from direct abutters on the north and south sides. He said that the Applicant shared the plans with many of the neighbors and did not get any negative feedback.

Mr. Tartamella said that the request is that the Board determine that the propose structure shall not be substantially more detrimental will not increase or intensify the nonconformity.

Mr. Tartamella said that they submitted a letter from an arborist for taking down one tree on the property.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit and make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Becker said that the nonconformity is the right yard setback at 17.9 feet and all of the proposed changes do not impact that setback. He congratulated Mr. Tartamella for the quality of the graphics submitted.

Mr. Adams voted aye.

Mr. Sheffield voted aye.

Mr. Becker voted aye.

As there was further business to come before the Board, the hearing was adjourned at 10:09 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary