

**ZONING BOARD OF APPEALS**

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

September 2, 2021

7:30 pm

Juliani Meeting Room, Town Hall

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

**BUSINESS MEETING****ZBA 2018-25, WELLESLEY RESIDENTIAL, 135 GREAT PLAIN AVENUE (FIELDSTONE WAY)**

Mr. Becker said that the request from the sponsor is to reduce the bond amount in proportion to the amount of progress that has been made on the project. He said that the Board received an estimate from the Department of Public Works for the amount that the bond should be reduced to and an agreement from the Proponent for that amount. He discussed having the Board verify the amount and voting to allow the bond to be reduced from \$466,941 to \$149,609.

Mr. Adams said that the matter concerns the Fieldstone Project for 44 units of mixed income housing, about half of which has been constructed and the rest will be constructed in the next year or so.

Mr. Becker said that this is not the first time that the Board has gone through this process. He said that there has already been significant progress. He said that this is the second time that the Board has been asked to approve reduction of the bond. He said that there is approximately eight to nine percent of the project left to do.

Mr. Levy moved, Mr. Adams seconded the motion, and the Board voted unanimously to reduce the bond to \$149,609.

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

Present in behalf of the petition was David Himmelberger, Esq., representing Daniel and Livia Madden, the Petitioner. Mr. Himmelberger said that the request is for a minor modification of a previously granted special permit, ZBA 2021-45. He said that this was a proposal to add on significantly to an existing structure at 24 Durant Road. He said that the proposal was to keep the right side of the structure but enveloping and adding onto the front, the left and the rear. He said that the plan was to add a 1.5 bay garage at the rear of the property. He said that the proposed project received a waiver from the Historical Commission to envelop and add onto the existing structure. He said that subsequent to that, the Petitioner found significant issues

with the foundation and the base of the chimney. He said that the Petitioner decided that it made more sense to raze and rebuild the identical structure to the one that was previously approved by a special permit due to insufficient area and right side setback.

Mr. Himmelberger said that the request for modification is to allow, instead of adding on and retaining the right side, to rebuild in place a project previously approved with a new foundation, with a two bay garage at the rear instead of 1.5 bay garage.

Mr. Himmelberger said that the request before the Board is that the Board consider the razing and reconstruction of the existing home to be rebuilt as previously approved, with the one exception of expanding the 1.5 bay garage to a 2 bay garage, be deemed a minor modification that does not require a new public hearing.

Mr. Becker said that the question before the Board is whether this is a minor modification or not.

Mr. Levy asked if there is a revised plot plan. Mr. Himmelberger said that a proposed site plan and existing conditions plan were submitted.

Mr. Adams said that notwithstanding the reasonable effort to rebuild the structure exactly as it was plus the two bay garage, he did not think that this would be a minor modification. He discussed the precedent that the Board's allowing it could set.

Mr. Levy moved, Mr. Adams seconded the motion, and the Board voted unanimously to find that the proposed changes are not a minor modification and require that a new application be filed for a public hearing.

### PUBLIC HEARING

#### ZBA 2021-65, NICOLAS ESCALLON, 12 BRYN MAWR ROAD

Present in behalf of the petition was Nicolas Escallon, the Petitioner, who said that he came before the Board on August 5, 2021 to request approval of installation of an external ac /heat pump unit to an existing nonconforming detached garage. He said that the Board found that the proposed location for the unit would have required a variance and there were no grounds to grant the variance. He said that the Board requested that Mr. Escallon put together a plan that shows the unit in a location that would not require changing the existing setbacks.

Mr. Levy said that one nonconformity with the side setback was eliminated but it is still an issue on the rear setback. Mr. Becker said that is what both the Zoning Board and the Planning Board asked for.

The Board discussed special permit versus variance. Mr. Becker said that the existing rear face of the garage is nonconforming.

Mr. Levy asked about sound mitigation. Mr. Becker said that the decibel level is approximately 58, which is considered to be moderate. Mr. Levy said that there is a fence behind it.

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

Mr. Seegel moved, Mr. Levy seconded the motion, and the Board voted unanimously to grant a special permit for placement of the ac unit next to the garage as shown on a plan dated June 30, 2021, revised on August 19, 2021.

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

Mr. Becker said that the request is to continue the hearing to the October 7, 2021.

Mr. Levy moved, Mr. Adams seconded the motion, and the Board voted unanimously to continue the petition to October 7, 2021.

ZBA 2021-72, BLAR VIK, LLC, 34 BAY VIEW ROAD

Present in behalf of the petition were David Himmelberger, Esq., and Frank Lutano, representing Blar Vik LLC. Mr. Himmelberger said that the request is for a special permit to raze and reconstruct a pre-existing nonconforming dwelling that was built in 1941. He said that the house is in significant disrepair. He said that the existing house, like many houses on the street, was built with a right side setback of 10.3 feet. He said that the proposed home will have a right side setback of 10.5 feet and will be conforming in all other aspects. He said that the property drops off to the rear. He said that the house will have a building height of 31.9 feet and TLAG just under the trigger for Large House Review, which is 3,600 square feet. He said that the house is located in a Water Supply Protection District, so two underground infiltration systems are proposed to take all of the roof runoff. He said that existing lot coverage of 1,257 square feet or 11 percent, will increase to 2,032 square feet or 17.8 percent. He said that they believe that the requested relief will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. He said that his client spoke with the neighbors and they were supportive of this project. He said that the request is for favorable approval of the project.

Mr. Adams said that the lot size and width is compliant. He said that although the lot does drop off towards the pond, he questioned why no effort was made to provide a compliant solution. Mr. Himmelberger said that it is one of the more narrow lots at 70 feet. He said that plan will allow for a front facing garage because the lot cannot accommodate the setbacks for a side facing garage. He said that all of the homes in the neighborhood surrounding the property are at 34 feet. He said that 28, 30, 36 and 38 Bay View Road have 10 foot side yard setbacks off their garages. He said that, based on that, they felt that it was not an extraordinary request to seek a special permit to raze and rebuild in place. Mr. Adams said that the Zoning Bylaw was established to try to make it possible for people to comply. He said that there is room at the back of the house to add on, possibly with another story.

Mr. Himmelberger said that a conforming structure would only have a 30 foot exposure across the front, which is quite narrow. He said that this lot drops off significantly. He said that the Applicant made adjustments with retaining walls at the rear. He said that the Applicant is not seeking to make a new nonconformity but to rebuild and not make it worse, which has been approved by the Board with some regularity.

Mr. Levy said that the TLAG threshold for the district is 3,600 square feet and the proposed TLAG is 3,599.1 square feet. He asked about the TLAG of the existing structure. Mr. Becker said that the TLA is 1,554 square feet plus the garage.

Mr. Becker read the Planning Board recommendation.

Mr. Himmelberger said that there is a pre-existing nonconforming structure with an attached garage in the right side yard setback. He said that they are seeking to demolish and rebuild the structure pursuant to a special permit. He said that the Board has granted similar relief in past situations. He said that it is 10.5 to the property line, 10 feet to the neighbor's garage and another 10 feet to the neighbor's house. He said that the setback that they are seeking to retain is mirrored by the setback next door at 36 Bay View Road. He said that most of the homes with 10 foot setbacks are garage to garage.

Mr. Levy said that the owner at 36 Bay View Road submitted a letter of opposition.

Mr. Adams said that his experience has been that is a long standing tradition of the Board to allow complete demolition of a nonconforming structure and allow it to be rebuilt without requiring it to be fully compliant. He said that when it is possible to do so, it is desirable to try to do that. He said that it seems to him that it would be possible to do that, notwithstanding the proposal for a front facing garage.

Mr. Himmelberger said that the issue concerns having a two car garage that presents better. He said that it is more balanced 20/20. He said that they do not want the garage to dominate the house. He said that Case Law allows you to worsen a nonconformity but they are seeking to maintain it.

Mr. Adams asked if the house is unoccupied. Mr. Himmelberger said that it was occupied up until a year ago.

Mr. Becker further read the Planning Board recommendation.

Mr. Levy said that with teardowns, the Board has required that a substantial majority of the new structure comply with setbacks when it can be done. He said that it is a tough lot.

Mr. Himmelberger asked if the Board would consider rebuilding as proposed on the footprint, and allow the petition to be continued to give the Applicant time to revise the plans to bring it into conformity with the Planning Board's suggestion of a more cottagey feel.

Mr. Becker discussed a previous case where the request was to increase an existing nonconforming side yard setback. Mr. Himmelberger said that they were seeking to expand the two car garage into the left side yard setback. He said that although there was some adjustment, the Board allowed the worsening of the left side yard setback. He said that the Petitioner came back with a setback that was not as bad as had been initially proposed.

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

Erin Reilly, 28 Bay View Road, said that there is a big difference between a one story garage that is 20 feet long going up to the side yard setback and a two story building that comes all the way up to the corner. She submitted sketches of the proposed structure overlaid on photographs of the existing house at 10 and 20 foot setbacks from her house. She said that there are compromises that could be made to the design that would still allow for garages for two cars.

Sharon Beckman, 30 Bay View Road, said that she is an abutter and never spoke with anyone about the plan. She said that the abutters on the other side are not happy with the plan. She asked which neighbors had been spoken to.

Mr. Levy discussed allowing the petition to be withdrawn without prejudice. He discussed waiving the application fee but not the publication fee.

Mr. Himmelberger requested that the petition be allowed to be withdraw without prejudice.

Mr. Levy encouraged the Petitioner to speak with the neighbors.

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

ZBA 2021-62, WILLIAM SHRIBMAN, 53 MARTIN ROAD

Present in behalf of the petition was William Shribman, the Petitioner. He said that the houses on Martin Road are similar. He said that he has a small house that gets very hot and very cold in the winter. He said that the proposal is to put in HVAC. He said that he began the process in January with a fully renewed plot plan. He said that the main challenge is that it is both tight to the neighbors and there are wetlands in the backyard. He said that the project was reviewed by the Wetlands Protection Committee (WPC). He said that they explored a number of places where they could put the units but they had to be far enough back from the river and the neighbors. He said that the closest that they could come is the proposal before the Board tonight. He said that the neighbor has an air handler on the other side of the fence. He said that the side of this house is the back of his neighbor's house. He said that in working with the WPC, this was the suggested location of the units.

Mr. Adams confirmed that the WPC said that the units could not be installed by the stream. Mr. Shribman said that the property is located in a Flood Zone and is subject to Wetlands setbacks. He said that he carries full FEMA flood insurance and has two sumps and a French drain. He said that he discussed putting the units near the stream on risers but the WPC did not want that. Mr. Levy confirmed that, even with an Order of Conditions, the WPC would not allow installation of the units in the no disturb zone. He said that the WPC's Negative Determination of Applicability was for the location of the units where Wetlands rules are not applicable.

Mr. Becker discussed the constraints of the 25 foot no disturb zone. Mr. Levy said that there are soil conditions due to the wetlands.

Mr. Adams asked if the Petitioner discussed his plans with the neighbor on the side where the units are proposed to go. Mr. Shribman said that the neighbor's wife recently passed away and the neighbor has been away.

Mr. Levy discussed concerns about manufacturer's specifications for a minimum of 70 decibels for the proposed units. Mr. Adams said that with two units at 70 decibels, the sound mingles. Mr. Becker said that the product data was for a range of models, so he could not tell where the proposed units fell. He said that the product data said that the sound level says as low as 70 decibels, which is in the loud band. He said that most of the units that the Board sees are in the next class down.

Mr. Becker said that the supplemental documentation lists the footprint as 28 square inches. Mr. Shribman said that the units will be 28 by 28. He said that the contractor suggested a range of units because the supply chain in the construction industry has been choppy. He said that even though he began the process last January, he probably will not be able to start the work until next year. He said that if the Board wants to select the units, he can work to that.

Mr. Levy said that the purpose of the bylaw is noise mitigation. He said that the Board has seen stand up heat pump units that are more narrow and tall. Mr. Shribman said that heat pumps were considered but the contractor said that they would not work for the house.

Mr. Becker said that if the relief that the Petitioner is seeking is for noisy equipment, it is easier for the Board if it sees that the noisy equipment has some feature of it that makes it as little noisy as is reasonably feasible. He said that the proposed units have a decibel level as low as 70.

Mr. Shribman said that there is a high fence and high shrubbery between the proposed location of the units on his property and the neighbor.

Mr. Adams discussed inserting a condition for sound attenuation. Mr. Levy said that the Board could insert a condition with specifications for decibel levels.

Mr. Shribman said that the units will also provide heat. He said that the combined HVAC will replace the existing heating system and provide a new cooling system.

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

Mr. Becker read the Planning Board recommendation.

Mr. Adams suggested that the Board insert a condition that for installation of the two units, the decibel level of the units and sound attenuation devices be at or below 65.

Mr. Adams moved, Mr. Levy seconded the motion, and the Board voted unanimously to grant a variance and make a finding that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the soil condition of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw, subject to the condition that noise propagation beyond the air handling units and/or the sound attenuation screening around said units will be limited to no more than 65 decibels.

ZBA 2021-66, PETER & PAIGE FISHER, 29 AVON ROAD

Present in behalf of the petition were Peter and Paige Fisher, the Petitioner, Richard Curl, Architect, and Mike Lynch, Builder.

Mr. Curl said that the request is for a special permit/finding for a pre-existing nonconforming house with less than required front and side yard setbacks. He said that the proposal is for alteration of the second floor toward the rear that will not increase the footprint but will raise the ridge line slightly higher. He said that they attempted to keep the character of the house. He said that the goal was to keep the roof line low while increasing livable space and head height in the upstairs rooms.

Mr. Becker said that lot size and frontage are also nonconforming.

Mr. Curl said that they will reduce the footprint by taking out a side staircase. Mr. Levy asked about the setback for the stairs that will be removed. He said that a previous plot plan from 2003 shows a setback of 13.1 feet to the stairs. He said that the setback to the new stairs is 12.5 feet. Mr. Curl said that is an at grade stone step.

Mr. Becker asked about the height from average grade.

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

Mr. Becker read the Planning Board recommendation.

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

ZBA 2021-67, SERENA & JOSEPH CROWLEY, 4 LAFAYETTE CIRCLE



Present in behalf of the petition was Joseph Crowley, the Petitioner, who said that the request is for a special permit for an office addition that will replace an existing three season screened in porch. He said that the porch is existing nonconforming with less than required side yard setbacks. He said that the proposal is to extend it within the side yard setback. He said that it will not be more detrimental to the overall property. He said that they spoke with all of the neighbors and they are supportive of the project. He said that the main reason for the project is to provide office space for two full time parents need extra space to work at home.

Mr. Levy asked when the porch was built. Mr. Crowley said that the house was built in 1938 but he was not sure when the porch was built. He said that it was there when they bought the house. He said that it sits on a slab that is cracking and tilting. He said that the new construction will have a crawl space.

Mr. Adams said that although the proposal is to extend the nonconformity, it will be reduced slightly because the wall is not parallel with the lot line.

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

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

ZBA 2021-68, OAK STREET HOLDINGS LLC, 25 OAK STREET

Present in behalf of the petition was Victor Corda, the Petitioner, who said that the request is for a special permit/finding for a pork chop lot that does not have adequate frontage. He said that he previously withdrew plans for construction of a duplex. He said that the current proposal is to replace a single family home with a single family home that will be compliant with Zoning regulations except for frontage.

Mr. Adams asked about TLAG calculations. Mr. Corda said that the house will conform to the 3,600 square foot threshold. Mr. Becker said that TLAG is shown for first and second but nothing addresses the basement and the attic. Mr. Adams discussed inserting a condition a TLAG Affidavit be submitted that shows that the house will be compliant for the General Residence District.

Mr. Corda discussed installation of water infiltrators and downspouts.

Mr. Corda said that he spoke with some of the neighbors, who seemed to be much happier with the single family home. Mr. Becker said that the letter that was submitted to the Board was consistent with that.

Mr. Levy asked about the setback to the north. Mr. Corda said that Mr. Grant, Building Inspector, said that the structure has side yard setbacks of 20 feet all around.

Mr. Becker read the Planning Board recommendation.

Mr. Becker said that, as a special permit, this is exempt from TLAG. Mr. Levy said that the Board can insert a condition that TLAG will be at 3,600 square feet or less.

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

Mr. Levy moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve a special permit, finding that the proposed construction will not be substantially more detrimental to the neighborhood than the existing nonconformity, subject to a condition that a completed TLAG Affidavit be submitted that shows TLAG at 3,600 square feet or less.

ZBA 2021-69, KANE BUILT, INC., 57 SHERIDAN ROAD

Present in behalf of the petition were Laurence Shind, Esq., and Heather Dorey, Construction Manager.

Mr. Shind said that the request is for a special permit/finding for demolition of the existing nonconforming structure and construction of a new residence that will comply with all dimensional requirements and will not be substantially more detrimental to the neighborhood.

Mr. Shind said that the lot is undersized lot at just under 11,000 square feet in a 15,000 square foot district. He said that according to the Assessor's records, the house was built in 1940 and is a relatively small outdated cape with less than 1,900 square feet of living area. He said that lot coverage is approximately 13 percent.

Mr. Shind said that the proposed new residence will have a TLAG of 3,677 square feet, which is within the 4,300 square foot threshold for the district. He said that lot coverage will increase to 19 percent, still within the 20 percent allowed.

Mr. Shind said that the neighborhood over past several years has been transitioning from a post World War 2 neighborhood of smaller capes and colonials to a number of replacement homes. He said that they believe that the size and style of the proposed home will fit into the neighborhood.

Mr. Levy asked about the 500 Foot Rule. Mr. Adams said that the proposed front setback will exceed 33.5 feet at 35 feet.

Mr. Becker said that the only nonconformity is lot size.

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

Mr. Becker read the Planning Board recommendation.

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

ZBA 2021-70, ANTHONY & JUDITH SALERNO, 56 DAMIEN ROAD

Present in behalf of the petition was Anthony Salerno, the Petitioner, who said that he has lived at 56 Damien Road for approximately 33 years. He said that the house was built in 1934. He said that a 2.5 square foot section on the left hand side of the house is nonconforming. He said that he and his wife have decided that they would like to stay in the house and looked at ways that would allow them to age in place. He said that would include having a first floor bedroom and master suite. He said that the proposal is for a compliant one story addition that extends to the back yard. He said that the lot is approximately half an acre. He said that the house will be well within the TLAG threshold. He said that all of the proposed construction will be conforming. He said that an existing wedge of the garage is nonconforming.

Mr. Becker said that the property is locate in a Water Supply Protection District. He said that there was no topography shown, so it was hard to see where runoff would go. He said that the proposal is to add just under 800 square feet, which puts more impervious cover on the lot. He asked about runoff from the addition. Mr. Salerno said that they have sufficient lot size and any remediation will be through gutters and downspouts.



Mr. Adams said that he knew Mr. Salerno because their sons were on an athletic team together and Mr. Salerno was the coach. He said that he did not believe that his past association with Mr. Salerno would influence his decision and that he could fairly and impartially make a decision on this.

Mr. Becker read the Planning Board recommendation.

Mr. Salerno said that his wife spoke with most of the neighbors, who were enthusiastic about the Salernos' staying in the neighborhood and supported their project.

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

ZBA 2021-71, BEN SMITH, 23 WELLESLEY AVENUE

Present in behalf of the petition were Ben Smith, the Petitioner, and Michael Hally, Architect.

Mr. Smith said that he has lived in Wellesley for four years with his wife and two children. He said that they love their old home and are looking to expand the outside living space by replacing two existing small decks with a mudroom and one larger deck.

Mr. Hally said that it is a small lot in a General Residence District. He said that the front and the right side are nonconforming. He said that house was built in the 1920's. He said that there is a bump out on the first floor that goes toward the right hand lot line where the nonconformity is. He said that it is a single story addition that was probably a screened porch that was enclosed. He said that there is an existing deck off of the addition. He said on the other side there is another deck with stairs that go down to the back yard, the driveway and the detached garage. He said that the proposal is to remove both decks and the stairs and in place build a mudroom, connected to a deck that extends to the other side of the house. He said that this will give the homeowner outdoor living space that is just one step down from the living space. He said that the stairs will lead to the back yard and the driveway. He said that the new deck will be flush to the far left of the one story bump out, 6.7 feet away from the lot line and a little further away than the existing front corner.

Mr. Becker read the Planning Board recommendation.

Mr. Becker said that increased impervious area will be 324 square feet, which is the difference between the existing and proposed lot coverage. Mr. Adams said that the proposed addition is the only new impervious surface. Mr. Hally said that the mudroom will be 160 square feet and will be the only new roof added, assuming that water will fall through the decking. Mr. Adams said that he did not see it as a significant issue.

Mr. Adams said that there seems to be significant screening on the side where deck will be exposed and the mudroom addition will somewhat screen from the neighbor on the other side.

Mr. Hally said that the Smiths spoke with the neighbors. He submitted a letter of support that was signed by six neighbors.

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

ZBA 2021-73, JESSE & JULIE BOEHM, 15 WELLESLEY AVENUE

Present in behalf of the petition was Jesse Boehm, the Petitioner, who said that he lives at 15 Wellesley Avenue with his wife and two sons. He said that the project is related to a garage roof renovation. He said that they have an existing nonconforming structure due to side and rear yard setbacks. He said that the roof needs replacement. He said that they are a four person family with a one car garage. He said that opening car doors inside the garage runs up against bikes and other sports equipment. He said that they have three square feet on either side. He said that the proposal is to replace the roof and add some additional storage by raising the height with a gable roof with some dormers to match the carriage style of house, accessed by an exterior staircase to maximize their ability to carry things up and down. He said that the project will not change the existing nonconformity in any way. He said that they spoke with neighbors on both sides and they were supportive of the project.

Mr. Adams said that the design is too busy in terms of the various projections from the second floor roof and the roof overhang. He said that he did not object to the space that they are trying to create on the second floor in terms of its volume but the proposed design would be much more noticeable and will not blend in with the garage that is there. He said that the proposal is for two shed dormers, one on either side, and two dog house projections beyond the shed dormer, which seems to be way too busy. He asked about the purpose of the overhang. Mr. Boehm said that the overhang is existing. He said that several years ago they added Nantucket dormers on a third floor renovation to the house. He said that they received such positive feedback on that design style that they wanted to mirror the look of the house with the garage structure.

Mr. Levy asked if there will be open space on the second floor of the garage. Mr. Boehm said that it will be storage space for boxes, skis and various things that they have on the first floor. Mr. Levy asked if the windows are for architectural detail. Mr. Boehm said that the windows were for the design aesthetics, thinking that it would be reasonable to retain the character that they are captured on the third floor of the house.

Mr. Levy said that there is a lot going on, especially for a storage area.

Mr. Becker read the Planning Board recommendation.

Mr. Boehm said that the intent is not to use the second floor for living space. He said that he spoke with Michael Grant, Building Inspector, about three possible stair locations. He said that an actual interior stair would be difficult because of space and a pull down would limit the ability to bring things upstairs. He said that exterior stairs can be built by right. He said that they were also trying to balance the aesthetics.

Mr. Levy said that it looks like the space will be for more than storage.

Mr. Adams said that the Board has permitted use of second floor garage living space but without a bathroom.

Mr. Becker said that the overhangs at seven feet higher give the garage a different character. Mr. Boehm said that the roof is 4.5 feet higher and 13' 12 inches is the total height on the inside. Mr. Becker said that it changes the character of the structure. He said that although the Board has seen more proposals for exterior stairs recently, there are currently not many in Wellesley.

Mr. Becker said that the Wellesley Avenue is a busy street with a lot of traffic. He said that the garage will be visible from Wellesley Avenue, Dexter Circle and the homes on Brook Street. Mr. Boehm said that was why they worked so hard on the design aesthetic.

Mr. Becker said that it looks like a second structure on a lot, not a garage.

Mr. Boehm said that the design was to make it look more fancy than for what its use will be. He said that the stairs will be nestled behind, visible to the abutting neighbor but not visible to Wellesley Avenue. He said that they were trying to capture a positive design aesthetic because of the prominence of the property.

Mr. Levy said that this is not a one or two family dwelling.

Mr. Becker discussed the requirement for unanimous decisions of the Board. He discussed Section 17 of the Zoning Bylaw and MGL, Chapter 40A, Section 6, regarding changes in nonconformities to existing single and two family homes and protections to the homeowners. He said that those same protections do not extend to accessory structures. He said that it is not clear that the Board has a mechanism to grant the relief that the Petitioner is asking for.

Mr. Boehm said that he has been working with neighbors on projects to preserve the neighborhood.

Mr. Becker said that there are no new nonconformities proposed. He said that this is a corner lot with two front yard and two side yard setbacks.

Mr. Boehm said that their options were to simply replace the roof, which would not achieve the outcome of storage space, replace the roof with a simplistic structure such as a shed dormer, which would provide some storage but would be out of character with the house, or design the structure with something that was more aesthetically pleasing.

Mr. Adams questioned the need for the exterior stairs. He said that he had no objection to living space on the second floor. He said that the design brings more attention to the garage than its function warrants. He said that the house is a much bigger structure and can handle the roof treatment. He said that the proposed structure is way too busy for what it is. He said that the Board's decision will be based on its determination of whether the change will be more detrimental to the neighborhood.

Mr. Becker discussed the options to move forward.

Mr. Levy discussed MGL Chapter 40 A, Section 6. He said that the height of the nonconforming structure will be increased. Mr. Becker said that the assumption is that the stairs do not count for setbacks. Mr. Adams said that it is a corner lot and the stairs would be located in a side yard.

Mr. Levy said that it looks like a residential structure. He said that it can be designed for the same utility without the mass and architectural detail. He said that there are a lot of windows for storage space. Mr. Adams said that they will want to have some windows for natural light.

Mr. Becker said that an external stair does not fit in with most neighborhoods in Wellesley. Mr. Adams said these stairs will be hidden behind the house and the garage. He said that the Board is seeing more of them. He said that the Petitioner is looking for more space and would lose space if the stairs have to be inside.

Mr. Boehm said that his property abuts the church, so the situation is a little bit different. He said that the property is located in a General Residence District. Mr. Becker said that the property in the back abuts people who live on Brook Street.

Mr. Becker asked if Mr. Boehm is amenable to making some changes to the design that would accommodate some of the Board's and the Planning Board's comments. Mr. Adams said that the design is too busy, regardless of the use. Mr. Boehm confirmed that the Board would like to see a simpler structure. Mr. Becker said that it should be a garage that looks like a garage. Mr. Levy said that, from the street, the proposed garage looks like a house. He said that the upstairs space could be used as a rec room but not an in-law apartment. Mr. Becker said that it cannot be a dwelling unit. Mr. Boehm said that he would like to

preserve the ability for storage space and a place for his kids to throw a ball around. Mr. Levy said that the bylaw prohibits more than one dwelling on a lot. He said that the proposed structure should look more like a garage with second floor storage area. He said that the Board will insert a condition that there is no water allowed in the second floor space.

The Board discussed moving forward with the petition. Mr. Levy said that if the project is withdrawn without prejudice, the application fee for a new application would be waived. He said that the Petitioner will have to pay the publication fee.

Mr. Boehm asked if the Board's concerns were about the bulkiness of the design aesthetic. Mr. Adams said that the Board objects to the busyness of too many corners and overhangs. Mr. Boehm asked if the Board objects to any dormer structures. Mr. Levy said that it should look like a garage with a second floor.

Mr. Adams said that shed dormers simplify the design. He said that it is a wide enough expanse so that they could not do the same thing with a single dog house dormer.

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

As there was no further business to come before the Board, the hearing was adjourned at 9:58 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary