

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ROBERT W. LEVY
WALTER B. ADAMS
DEREK B. REDGATE

July 12, 2018
7:30 pm
Juliani Meeting Room
Town Hall

Zoning Board of Appeals Members Present: J. Randolph Becker, Acting Chairman
Robert W. Levy
Walter B. Adams

ZBA 2018-36, NEEDHAM BANK, 458 WASHINGTON STREET

Mr. Becker said that this petition was continued from the previous hearing because the Board had questions about striping and painting arrows and the Applicant was not present at the hearing.

Eric Morse said that Needham Bank is not seeking relief but compliance. Mr. Adams said that the request is for renewal of a special permit for a drive-through facility.

Mr. Levy said that between the time this petition was originally scheduled and the hearing tonight, the Applicant has striped and painted arrows as required under the existing permit to comply it.

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

Levy moved and Mr. Adams seconded the motion to allow the approval of a special permit, subject to the same conditions that are currently in effect, including a condition that the special permit will expire in two years. The Board voted unanimously to renew the special permit.

ZBA 2018-05, TIMMY HO & KRISTIN JACQUES, 42 RIVER RIDGE

Presenting the case at the hearing was David Himmelberger, Esq., representing Timmy Ho and Kristin Jacques, who are two of the defendants in an appeal that was brought subsequent to this Board's decision in 2018-05 in which his clients sought and received a special permit to construct an addition on a nonconforming lot. He said that thereafter that decision was appealed by the direct abutters, Benjamin and Myriam Spiegel. He said that thereafter Mr. Ho and Ms. Jacques retained him in the appeal but during the pendency of the appeal they advised that they no longer wished to proceed with the case as they had concluded that they would rather move than remain where they were. He said that accordingly he filed an

assented to motion for remand at the Norfolk Superior Court for the express purpose of moving to withdraw this matter. He said that Mr. Ho and Ms. Jacques now seek permission to withdraw the previously presented request for special permit without prejudice. He said that his clients are both doctors and could not be present at the hearing tonight. He said that he asked them if there was anything that they wished to convey to the Board and they said that there were three points that they wished to make: they wanted to thank the rest of their neighbors on River Ridge for their love and kindness throughout the permitting process; they wanted to thank the Zoning Board for their time and consideration of their application for a special permit; and they wanted to apologize to the Zoning Board that they became involved in such behavior unbecoming of Wellesley families. He said that it is regrettable that this matter came to where it did but his clients have decided that they would prefer to move and therefore respectfully request that the Board grant leave to withdraw this request for a special permit without prejudice.

Mr. Adams stated for the record that he is a resident of River Ridge and he did not sit on the initial hearing for this case but he does feel that he can fairly and impartially adjudicate his opinion and determination on the appropriateness of this request.

Mr. Levy asked if there was anyone present at the public hearing on behalf of the Spiegels. Mr. Himmelberger said that he was in contact with their Attorney, Brian Almeida, who advised via email that his clients would not be appearing tonight and he would not be appearing tonight. Mr. Levy said that he had some questions. He said that Mr. Almeida filed an affidavit attesting to the fact that he served the compliant to all of the members of the Board. He said that he was never served with it. He said that it was filed in the Superior Court under the pains and penalties of perjury, in accordance with Rule 11 of the Massachusetts Rules of Civil Procedure. He said that he was also offended by some of the allegations that he made in the complaint concerning on of the members of this Board, which he believes are completely unfounded and lack any merit or pass muster under Rule 11. He said that is for a different venue from what the Board is present for at this hearing.

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

Mr. Levy moved and Mr. Adams seconded the motion to allow the Petitioner to withdraw the request for a special permit without prejudice. Mr. Becker seconded the motion as well, in case there is any question. The Board voted unanimously to allow the Petitioner to withdraw the request for a special permit without prejudice.

ZBA 2018-55, SANDRA MASTERS, 889 WORCESTER STREET

Presenting the case at the hearing was Dr. Sandra Masters, who said that the request is to renew a special permit to allow her to continue to her chiropractic practice out of her home at 889 Worcester Street. She said that she has been doing this since 1996 and it is working quite well. She said that she is no longer working on Friday mornings. She said that she is working on Thursday afternoons from 3:30 pm to 7 pm instead. She said that it adds up to be the same amount of hours.

Mr. Levy said that the decision is limited to 20.5 hours per week. He said that the hours were not listed in the decision.

Mr. Becker said that there were some suggested changes to conditions in the Planning Board's recommendation, none of which made them more restrictive but consolidated them. He said that due to time

constraints with tonight's public hearing, he was willing to renew the special permit subject to the conditions that are currently in effect.

Mr. Adams asked if the change in hours will affect the employees. Dr. Masters said that the employees will move with her. Mr. Becker said that the total hours of employees shall not exceed 25.5 hours. He said that the total hours will be consistent with the existing conditions.

Mr. Levy asked about the hours for employees exceeding the hours of operation. Mr. Becker said that there are more employees.

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

Mr. Levy moved and Mr. Adams seconded the motion to allow the petition, subject to the same conditions as are currently in effect. The Board voted unanimously to grant renewal of the special permit for a home occupation.

ZBA 2018-44, SUN LIFE ASSURANCE CO. OF CANADA, 96 & 110 WORCESTER STREET, ZBA 2018-45, SUN LIFE ASSURANCE CO. OF CANADA, 100 WORCESTER STREET, ZBA 2018-46, SUN LIFE ASSURANCE CO. OF CANADA, 112 WORCESTER STREET

Mr. Becker said that the Board would hear the three petitions for Sun Life together and would make separate motions.

Presenting the case at the hearing were Bart Steele, ViewPoint Sign and Awning and Paulette Nicolliello, Sun Life Assurance Co. of Canada (Sun Life), the Petitioner.

Ms. Nicolliello said that Sun Life previously occupied all four buildings in the park. She said that Sun Life will consolidate to two buildings and will lease the other buildings to third party tenants. She said that they will rebrand the park as "Park 9" versus Sun Life Executive Park. She said that the petition is to rebrand the park with new entry signs and wayfinding signs within the park to identify each of the buildings with a tenant directory on them. She said that this will also assist the Post Office in delivering mail. She said that currently the Post Office delivers to one building and Sun Life distributes it. He said that the Post Office will now have to go to all four buildings.

Mr. Steele said that this is a unique circumstance with multiple businesses on three separate lots in the park. He said that they will be replacing six existing signs with new signs or upgrading signs. He said that the entrance to the park is quite large. He said that there are two large walls with signs on them that reflect the Sun Life Office Park. Mr. Adams confirmed that those signs are on the face of the wall. Mr. Steele said that those main signs are out front. He said that they will add the Park 9 logo. He said that they worked with the Design Review Board (DRB) and the Planning to come up with a sign that will have a halo illuminated letter. He said that one side the Sun Life sign will remain intact and on the other side they will remove the Sun Life sign and put the six main anchor businesses. He said that the curved wall signs are on different lots. He said that they will be adding Park 9 on each side, leaving Sun Life on one side and adding Park 9, and removing Sun Life from the other side, adding Park 9 and the six tenants. He said that one side will be almost 46 square feet and the other side will be 50 square feet. He said that the individual letters will be halo illuminated. He said that the existing sign is illuminated by flood lights. Mr. Adams asked if the lighting will be on a timer. Ms. Nicolliello said that the lighting will go off at 9 pm.

Mr. Becker said that it was not clear to him what would be happening to the external illumination for Sun Life and the six tenants. Ms. Nicolliello said that the existing floodlights will remain.

Mr. Steele said that both of the signs will be under 50 square feet, will have 14 inch letters with 18 on the logo. He said that the DRB agreed that the signage is to scale, fit the shape, and was reasonable. He said that just the number 9 in the logo will be 18 inches and the main letters will be 14 inches. He said that the park is located at a busy intersection. Mr. Adams said that they need signage on both sides because people will be coming from each direction on Route 9.

Mr. Levy asked if the Park 9 sign will be on top of the wall. Mr. Steele said that it will lip down slightly. He said that the design was worked through with DRB and the Planning Board.

Mr. Becker asked about limitations on the number of tenants. Ms. Nicolliello said that the thought is to put only the major tenants on the front wall. She said that the inner directory will have a complete listing of all of the tenants in the building. She said that based on leasing activity thus far, the six should be adequate.

Mr. Steele said that the restriction of 50 square feet was the maximum that DRB and Planning Board did not want to exceed. – couldn't go bigger cause of that

Mr. Adams asked about additional signage for the buildings that Sun Life will continue to operate in. Ms. Nicolliello said that there will be four monument signs within the park, two of them will be for Sun Life and their two buildings with the address on them and the other two will be for the other buildings.

Mr. Becker asked what would happen if Sun Life moves out of the space. Ms. Nicolliello said that they would have to come back before the Board.

Mr. Becker said that the monument signs for the buildings did not appear to be a different size from the existing signs. Mr. Steele said that in addition to the two main signs, the proposal is for four free standing directories, one in front of each building. He said that the existing signs are 5 by 3. He said that now that there will be additional tenants, it will be necessary to identify each building. He said that the new signs will be 6 feet high, mounted on an 8 inch pedestal. He said that the logo will be the same for continuity and will match the signs out front. He said that the tenant panels will be 10 inches high by 36 inches wide. He said that the scale seems to fit in and the Board has approved signs of this height before. Mr. Adams asked if the monument signs will be externally illuminated. Mr. Steele said that the monument signs will not be illuminated. Mr. Adams confirmed that just the entry signs and the curved walls will be illuminated.

Mr. Becker said that what is referred to in the application package as a monument sign is a standing sign under the definitions in the bylaw.

Mr. Becker summarized the sign proposal. He said that the curved signs are trying to be responsive to traffic on Worcester Street. He said that this request does not fit in with the bylaw definition of a commercial zone fronting Worcester Street. He said that other signs within the three lots will provide consistency through the site for branding purposes and will identify the various tenants in the buildings. He said that Sun Life is not asking for much that is different from what is there. He said that the differences are due to rebranding. He said that in terms of the bylaw, there are no issues with the monuments signs because they are on a per building basis in the Zoning District. He said that there is some issue with the total of the signs because it does not quite add up because it is three different parcels and numbers on buildings in the parcels. He said that the purposes of the signs are still consistent with what is there. He said that there are differences

between the three proposals on the table and what the bylaw actually requires. He said that there is nothing there that is not currently there. He said that the addition of the Park 9 is the only deviation from that. He said that it seems to make sense, notwithstanding the letter of the law.

Mr. Levy asked if Sun Life has been in contact with the Post Office yet. Ms. Nicolliello said that they had not done that because they do not have any new tenants yet. Mr. Levy said that Sun Life should also contact the Police and Fire Departments so that they would know where to go in case of emergency.

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

Mr. Adams said that there is currently a sign high up on the building that faces Route 128. Ms. Nicolliello said that sign will remain. She said that is a building that Sun Life is staying in.

Mr. Becker read the Planning Board recommendations for the three sign proposals.

Mr. Adams moved and Mr. Levy seconded the motion to make findings pursuant to Section XXIIA. H and approve three (3) special permits for signage at 96 & 110 Worcester Street, 100 Worcester Street and 112 Worcester Street, subject to conditions that illumination shall be during the business day only and shall be turned off at 9 pm. The Board voted unanimously to approve the special permits.

2018-48 HI NEIGHBOR, 39-43 GROVE STREET, 576-590 WASHINGTON STREET

Presenting the case at the hearing were Bart Steele, ViewPoint Sign and Awning, and Bernard Pucker, Hi Neighbor LLC and Retail at Belclare.

Mr. Steele said that the request is for relief for a 25 square foot, non-illuminated free standing sign that will be mounted behind the wall. He said that the location was suggested by the Design Review Board (DRB). He said that the sign will exceed the maximum allowed by eight inches and will not meet the setback requirements.

Mr. Adams said that the materials that were provided are hard to understand, especially the rendering to show the setback of the sign. He said that the sign appears to be attached to the light pole. He said that it is not clear how far back the sign will be from the wall. Mr. Steele said that it will be set back approximately three feet from the wall. Mr. Adams asked why it could not be set back further.

Mr. Becker asked that the Applicant review the total tenants. He said that the submittal talked about 10 total, he could only count nine signs, and the free standing sign has three tenants. Mr. Pucker said that on the front side of the building on Washington Street, there are eight retail locations, starting with 576 a, b and c. He said that is where the sign that is set back from the street is proposed. He said that where the condominiums and where the porches come out above, there is an outdoor seating area with a brick patio. He said that on the other side is 582, 584, 586, 588 and 590 and they make up the other portion of the other five retain units. He said that on the back of the building, there are 39 and 41 Grove Street. He said that the request is that, for the three stores that are set back, the requested sign would be their main signage. He said that they are under the overhang and do not have an awning. He said that a and c have awnings but b does not have an awning. He said that they are all set way back off of the street. He said that it is very difficult to know and see what is back there. He said that, rather than asking to put a sign up on the building itself, the request to do something that is similar to what was put up in Linden Square that shows what retailers exist on the

premises. He said that for 582 to 590 Washington Street, and 39 and 41 Grove Street, the request is to increase the size of the awning lettering, as well as window signage.

Mr. Adams asked about the request for window signage.

Mr. Becker said that the standing sign is intended to identify three commercial users between a and b. Mr. Pucker said that it includes a, b and c, which is all of the retail on the left side. Mr. Becker said that a will get an awning sign, a window sign and a standing sign in front of the building. Mr. Pucker said that is far back from the street, whereas all of the other signage and retailers are directly on the street. He said that there is quite a distance between the sidewalk and the retailers. Mr. Becker said that you cannot see a window sign. Mr. Pucker said that they were trying to standardize the window and awnings for all locations. He said that the free standing sign was a separate request to try to help the retailers that are set so far back.

Mr. Steele said that this application involves three separate elements, the standing sign to provide visibility for the three tenants around the side, the awnings to provide a consistent sign presence, and eliminate hodgepodge by right signage. He said that all of the signage will be to the proposed specifications. He said that DRB wanted to eliminate signs on the building and have all of the copy on the valence of the awnings. Mr. Becker said that the Board understands and has approved the concept at Linden Square, Lower Falls and at the colleges where the properties do not fit well with the bylaw. He said that the Board recently reviewed a request for a business asking for a combination of 27 wall, awning and window signs. Mr. Steele said that the window signs will be by right signs and they will not be asking for any relief for them. Mr. Becker said that they are part of the overall sign package.

Mr. Steele said that the request is for a 25 square foot non-illuminated standing sign that will be set back behind the wall. He said that, in lieu of putting signage on the building and to create a cohesive look along the building, they would like to put white lettering on the valences that is consistent for the whole building.

Mr. Adams asked about the letter height on the awnings. Mr. Steele said that they are not seeking relief for that. He said that the square footage proportion on the valence is the issue. He said that the valences will be eight inches with proposed letter heights of 6.5 inches, as approved by DRB. He said that the widths will vary with the tenant names. Mr. Adams confirmed that it might exceed 25 percent of the valence. Mr. Steele said that the proposed valence signs are in lieu of a second by right blade sign. He said that if they put signs up on the building, they will be in different spots. He said that the proposed signage will be consistent

Mr. Becker said that the question for him is whether the number of overall signs is right. He said that he understands about one square foot and hours of operation. He said that somebody will see that when they are up at the door. He said that he was struggling with the tension between the awning sign and the window sign. He questioned what they would be getting what the other does not provide. He said that if the contention is that a window sign is most effective for people passing by, then why are the awning signs needed. Mr. Steele said that window signs are usually for pedestrian traffic. He said that you will see the tenant name on the awning. Mr. Adams said that, unless there is a condition, if the window signage is kept at 10 percent or 10 square feet of the area of the exterior windows, it is as of right. Mr. Becker said that it is part of the overall signage for the site. Mr. Steele said that the proposed signage will be far less than what would be allowed by right.

Mr. Adams asked about the nature of the window signs, since the name of the retailer will be on the awning. Mr. Pucker said that while the landlord wants to provide continuity in terms of the look, the retailer loses some identity by that process. He said that with the window sign, the retailer can differentiate themselves

with their own colors, hours of operation, and dot com or Instagram information. Mr. Becker said that is the less than one square foot sign that has that kind of information. Mr. Steele said that the one square foot sign is typically used for hours of operation, not secondary information. He said that this property is unique. He said that the Board would not be setting a precedent because it has different characteristics from a lot of shops. Mr. Becker asked how this is different from what was Blue Ginger Restaurant across the street. Mr. Steele said that there was one tenant there. Mr. Pucker said that Smith & Wollensky has their logo on every awning. Mr. Becker said that they also proposed to have it on every window and the door. Mr. Pucker said that there are trade-offs in terms of consistency. He said that as a landlord he has to balance the needs of the retail tenants and being a good neighbor to the residential tenants and the general community. Mr. Adams said that there has been concern about the number of vacancies in downtown Wellesley. He said that the property owners think that signage is an important way to attract customers. He said that the Board has to balance it against an infusion of signage on Washington and Grove Streets. He said that these are more narrow storefronts, so it seems like there are a lot more signs there.

Mr. Becker said that he is sympathetic to the argument for both an awning and a window sign but there is not much in the submittal package about the window signs. He said that the Board does not have a good view of what the overall package will look like. Mr. Steele said that what was submitted said that the window signage will be to code and by right. Mr. Becker said that does not get at what it will look like. He said that this is located in the center of town. He said that the Board wants to make sure that this does not end up like 457 Washington Street with dozens of signs in the windows. He said that it would not make sense for the Board to go through an extensive review process for the building without considering what the signs will look like. Mr. Steele said that if Mr. Becker is looking at the number of signs as a negative, this package is less offensive than the postage stamps and blade signs that would be allowed by right. He said that the proposal is for a consistent band. He said that it is very unusual to have ten different designs for ten window signs with this type of a setup.

Mr. Adams said that the Applicant is not asking for approval for a building sign but they could in the future.

Mr. Becker asked about the size of the windows. Mr. Pucker said that they are approximately 4 feet by 6 feet. Mr. Becker said that the bylaw talks about 10 square feet or 10 percent of the area of all exterior windows of the business establishment, whichever is less. He said that would be approximately 24 square feet for 2.5 square feet.

Mr. Adams said that he is less concerned about the window signs. He said that it does allow the retailers to individualize and is no worse than putting merchandise on the shelf in the window.

Mr. Adams asked if the plans show the lettering style that is proposed. Mr. Steele said that they do. Mr. Adams said that, according to the DRB and Planning Board recommendations, the letter height will be 6.5 inches. Mr. Steele said that the drawings that were submitted are to scale.

Mr. Becker asked why 6 foot 8 inches was chosen for the standing sign. Mr. Steele said that it will be similar to the sign that the Board approved at Church Square. He said that the iron work around it is a similar design and is also similar to what is at Linden Square. Mr. Adams said that he was on the Board that approved the sign at Church Square and felt that the sign was a little too big. Mr. Steele said that they had proposed eight feet and the Board suggested six feet. Mr. Adams said that the sign is consistent with what the Board had approved but it takes each case individually. He said that location was at the edge of a parking lot.

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

Ellen Staelin, 65 Grove Street, said that as 5 foot by 5 foot sign behind the fence was talked about. She asked what size the bylaw suggests that it could be. Mr. Adams said that 25 square feet is allowed. Mr. Becker said that Zoning relief is being sought for the setback. He said that clearly a 15 foot setback would not work at this property.

Ms. Staelin asked about the decals that were talked about. Mr. Adams said that those are window signs. Mr. Becker said that the bylaw has provisions that limit the size of them but allows up to 10 square feet or 10 percent of the window area, whichever is less. He said that a window could, but does not have to be, a decal. Mr. Adams said that the size is not limited if it is moved away from the window.

Mr. Becker read the Planning Board recommendations.

Ms. Staelin asked if there will be a separate discussion for Grove Street. Mr. Becker said that the signs on Grove Street are included in the sign package that was discussed at the hearing. He said that it is the same awnings and window signs that were discussed. Ms. Staelin confirmed that the awnings will project over the sidewalk. Mr. Becker said that there are restrictions on the height and how far the awnings can project over the public way.

Mr. Becker said that he was willing to depend on the by right requirements for the window signs, given that the 10 percent is relatively small compared to the size of the window. Mr. Adams said that he was not overly concerned about the window signs. He said that he would have preferred to see the standing sign set further back. He said that it appears that the proposed plantings will be obscure it. He said that the further back that the sign is, the more it could obscure what is on the building, so he understands the Applicant's request.

Mr. Adams moved and Mr. Levy seconded the motion to approve the signage as proposed, subject to adoption of the Planning Board findings, and subject to a condition that the awning signs not exceed 6.5 inches high and that the length not exceed 7 feet in width. Mr. Adams said that each case is decided on its own merit and does not set a precedent. The Board voted unanimously to grant a special permit.

ZBA 2018-47, FENG ZHAO, 15 PLEASANT STREET

Presenting the case at the hearing was Lan Qin, Architect, representing Feng Zhao, the Petitioner. Ms. Qin said that the homeowner decided to downsize the renovation scope. She said that previously there were five items including, enclosing the front porch, a second story addition of the entrance on the west side, second story addition over the side porch on the east side, lowering the basement floor, and increase the second floor height and redo the roof with a slight increase in slope. She said that her client has decided to only do the first two items. She requested permission from the Board to continue the petition to August 2, 2018. She said that she will submit revised drawings before the August 2nd hearing.

Mr. Adams said that TLAG calculations had not been submitted. He said that although it is not required, the Board likes to see those calculations to help in its determination of whether the proposed construction will be more detrimental to the neighborhood. Ms. Qin said that she will add that to the drawings.

Mr. Levy suggested that the Board not open the hearing so there is no restriction on the members who sit on the panel. He moved that the petition be continued to August 2, 2018. Mr. Adams seconded the motion. The Board voted unanimously to continue the hearing.

ZBA 2018-49, JOHN & BETHANY COLAVINCENZO, 40 CLEVELAND ROAD

Presenting the case at the hearing were David Sharff, Architect and John Colavincenzo, the Petitioner.

Mr. Sharff said that request is to build a small addition at the side of the existing house. He said that they will rebuild an existing side porch and add a second floor. He said that they are seeking relief for the rear yard setback. Mr. Levy said that it is actually a side yard setback because this is a corner lot.

Mr. Adams said that the Board always likes to see additions and modifications comply as much as possible. He said that although it is only a small encroachment, he did not understand why the addition was not moved one foot towards Cleveland Road. He said that they could have moved the entire thing one foot forward without falling into noncompliance. He said that the existing one story shed dormer structure that will be reconstructed was in the side yard setback. He said that shifting that structure one foot towards the front would still have a jog in the building and would improve the situation. He said that there appears to be enough room to accomplish the same size as proposed without having to encroach into the side yard setback. He said that would improve the situation. Mr. Sharff said that they had considered that option but they would have to pull the whole addition a foot and would put the front of the house on the same plane on the first floor. He said that the first floor footprint is already nonconforming. Mr. Becker said that the existing nonconformity is the 9.4 side yard setback. Mr. Sharff said that the whole back of the house sits within the setback.

Mr. Adams said that he would not be opposed to the addition as proposed. He said that the eyebrow roof is a little awkward.

Mr. Becker said that existing lot coverage is 1,845 square feet and proposed lot coverage will be 1,889 square feet.

Mr. Becker read the Planning Board recommendation.

Mr. Levy moved and Mr. Adams seconded the motion 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. Becker asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Becker said that this special permit and the Board's action at the public hearing does not relate at all to the Historical Commission's Demolition Review Process.

The Board voted unanimously to grant a special permit and find that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

ZBA 2018-50, JOSEPH FANNING, 7 PRISCILLA ROAD

Presenting the case at the hearing were David Himmelberger, Esq., Joseph and Marion Fanning, the Petitioner, Dustin Nolin, Architect, David Silverstein, Copperleaf Development, and Paul Beaulieu, P.E.

Mr. Himmelberger said that the request is for a special permit for relief for an undersized lot that has 13,350 square feet where 15,000 square are required. He said that the request is also for a special permit for a retaining wall that will be greater than four feet high within 10 feet of the property line that will retain land to the rear of the wall and will be seen from the owner's perspective and not from the neighbor's perspective. He said that the property is located in a Water Supply Protection District. He said that the existing home was reviewed under the Historical Commission process and was deemed to be preferably preserved. He said that a waiver was sought for the home that is being presented to the Board tonight. He said that the Historical Commission was quite impressed with the design of the house and granted a waiver to construct the design that was presented to this Board. He said that they left their hearing open in case the Zoning Board asked for any revisions. He said that the design has a TLAG of 4,635 square feet where the threshold for Large House Review in a 15,000 square foot district is 4,300 square feet. He said that it will be dimensionally compliant with all setbacks. He said that there was a prior submittal in 2017 was a poor design and was withdrawn without prejudice. He said that this is better and is more appropriate for the neighborhood and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Nolin said that they tried to come up with a style that was sensitive to the homes in the neighborhood. He said that a lot of effort was made to address the general massing of the home and how it presented itself to the street. He said that given the width of the lot, they needed to have the two-car garage face the street. He said that there was not enough room to make a side entry garage. He said that they wanted to create a home that presented its façade to the street and stepped back 10 feet to the garage. He said that they broke the house into three different masses that step back with the main gable facing the street with a steeper pitch and more narrow to make it appear to be more vertical. He said that they did a lot of detailing with elements to bring the scale down and not overwhelm the street. He said that it will be bigger than some of the homes in the neighborhood but will be well within scale. He said that it will be just under 30 feet from top of concrete and approximately 31 feet from grade at certain areas. He said that the house will step back to the front entry. He said that they kept all of the rooflines down to a story and a half façade where the roof starts at six feet on the second floor rather than eight or nine feet. He said that they extended the eave details out to pull the elevation down. He said that they will use two smaller dormers on the garage rather than one large one. He said that they will break it up with a flair coming across and some stone. He said that the main gable will face the street, which will create less mass for the neighbor on the left. He said that on the right side the gable roof for the garage will step down even further. He said that there will be a single story mudroom on the rear. He said that they used the rooflines, detailing and massing to present a house that will feel smaller from the street.

Mr. Beaulieu said that the existing site slopes quite a bit down from the rear property line to the road. He said that the majority of the slope is in the last 25 to 30 feet of the property. He said that Mr. Nolin incorporated a mud sill so that they could sink the house further into the grade to minimize the height. He said that they wanted to provide as much of a usable back yard as possible. He said that the homeowners want to spend time in the back yard with their kids. He said that they were able to stay under four feet for most of the wall but a larger wall is necessary as you go towards the left rear corner. He said that instead of being an exceptionally large single wall, they tried to break it up with a more substantial front wall with a sloped planting area to a small secondary wall. He said that adding them together will be six and a half feet tall from the grade at the front of the wall to the grade at the rear. He said that although the wall will be broken up, it will require a special permit.

Mr. Adams asked about the dimension of the horizontal distance from the property line to the closest sections of the retaining wall. Mr. Beaulieu said that it will be six feet to the back side of the wall. Mr. Adams said that it looks like they tried to keep the height of the wall under four feet as much as possible. He

asked if they anticipate any kind of guard rail along the wall. He said that if it considered to be a walking surface along the property line, the Building Code will require it for more than 30 inches above the grade. Mr. Beaulieu said that it will all be plantings. He said that the back of the abutter's property is quite wooded. He said that they will plant the uphill side to maintain the soil post-construction. He said that they want to minimize runoff from the lots behind this. He said that the plantings will minimize the natural sheet flow. Mr. Fanning said that the plantings will be between the property line and the rear wall for the reasons Mr. Beaulieu set forth, as well as screening. He said that between the walls on the left side, the plantings will be more ornamental.

Mr. Adams asked what the retaining wall will be constructed of. Mr. Fanning said that it will be fieldstone. Mr. Silverstein said that it will be mortar and fieldstone. Mr. Adams asked if the top of the wall will be level with the grade. Mr. Fanning said that it will be level. Mr. Adams said that it is outside the Zoning Board's jurisdiction but he urged the homeowners to consider putting a guard rail on top of the wall because four feet is a significant drop.

Mr. Himmelberger said that the Petitioners reached out to over 20 neighbors in proximity to the property, focusing on Priscilla Road and Standish Road, to discuss the plans. He said that they personally met with over 10 neighbors, including the five abutters and they are supportive of the plans.

Mr. Adams said that there is a fairly significant grade change. He asked about fencing between the properties. Mr. Fanning said that there is significant tree screening on three sides. He said that there is old fencing on two side that will come down. He said that they will probably increase the tree line. Mr. Adams said that he was concerned about the drop off if there is no fence that separates the property from the neighbors. Mr. Fanning said that it is his wife's intent that their children will play in the back yard. He said that they may do fence, trees or both. He said that they plan to line the whole back three quarters.

Mr. Becker said that two infiltration systems are shown on the front side of the house. He asked if they will be taking the runoff from the front side or from the whole roof. Mr. Beaulieu said that the entire roof will be captured and collected. He said that it will be divided approximately in half between the two infiltration systems. He said that they dug test pits and groundwater was substantially below. He said that they found that the site would work well.

Mr. Becker asked about the red square on the Tree Plan. Mr. Fanning said that it is a shed.

Mr. Levy said that he would have liked to have seen some elevations of the wall. Mr. Adams said that it is a tall wall. He said that he would be opposed to it if it was going in the other direction. He said that this wall system is not an offense to any neighbors because it is all on the Fanning's own property. He said that his only concern is the safety concern that is outside of the Zoning Board's jurisdiction.

Mr. Becker said that, as part of the special permit for the retaining wall, the Board has to make four separate findings: that the retaining wall is otherwise in compliance with the provisions of the bylaw; that the requested retaining wall will not adversely impact adjacent property or the public; that the report of the Design Review Board has been received and the requested retaining wall is consistent with that report and those criteria contained in Section XXII, Design Review, Part C., Design Criteria, of the Zoning Bylaw; and that the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

Mr. Becker asked if a report from the Design Review Board was submitted. Mr. Himmelberger said that Design Review under Section D, Design Review and Permitting, is required for retaining walls that retain seven feet or more of unbalanced fill. He said that this will be under seven feet in the combination of the two walls.

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

Mr. Levy confirmed that the Petitioner had spoken with the Foxes, the Myerows, the Zeiglers and the Stokes, as well as neighbors across and down the street.

Mr. Becker read the Planning Board recommendation.

Mr. Adams said that this petition is a case where design of the building is an important consideration. He said that the neighbors know what the plans are. He said that he is concerned about the lack of a fence. Mr. Fanning said that they met with their neighbors on the right, the Stokes, and they plan to put a fence up because they are getting a dog. He said that they spoke today about coordinating plans for trees and fences.

Mr. Levy said that the Planning Board recommendation seemed to address the special permit for the house, not the retaining wall. Mr. Himmelberger said that the request for a special permit for the retaining wall was called out on the application.

Mr. Levy asked if this will be a spec house. Mr. Fanning said that he plans to live there with his wife and his children. He said that they have owned the property for about six months and have been working on the plans.

Mr. Levy moved and Mr. Adams seconded the motion to grant a special to construct a home with a finding that it will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board voted unanimously to grant a special permit.

Mr. Becker read an excerpt from the bylaw, Section XXIID. Retaining Walls. He said that the requirement for a Design Review Report does not apply to this retaining wall.

Mr. Levy said that the Board had not seen a lot of design detail for the retaining wall. Mr. Adams said that it is a big wall and is a potential hazard to the neighbors. He said that one of the findings is hard to make, notwithstanding the fact that the current neighbors are aware of the wall. He said that a new neighbor could put up a fence. Mr. Fanning said that right now it is just a big hill that drops. He said that he walked the property with the neighbor and they talked about plans for the property line.

Mr. Becker discussed inserting a condition that the Board's finding is based on the representation that the homeowner will take positive actions to protect the safety of the children. Mr. Adams said that the Board could say that it found it safe within the context that a neighbor who feels uncomfortable about the wall can put up their own fence. Mr. Levy said that the Board does not usually create a situation that requires anything for the neighbor to have to spend money on.

Mr. Levy said that he has conceptual problems with the wall, having not seen a lot of information about them. Mr. Adams said that four feet is taller than most children. Mr. Becker said that there is not a single four foot drop. He said that there are three foot eight inch drops along the back wall and then the stepped wall that takes care of the biggest drop. He said that he understands and agrees with Mr. Adams' concern.

The Board discussed making the required findings. Mr. Adams said that the finding that the retaining wall will not adversely impact the adjacent property or the public is contingent upon that fact that the neighbors have a right to put up a fence.

Mr. Levy moved and Mr. Adams seconded the motion that the Board make a finding that the retaining wall is otherwise in compliance with the provisions of the bylaw; that the requested retaining wall will not adversely impact adjacent property or the public; and that the proposed retaining wall is the minimum structure necessary to allow the subject property to be reasonably utilized, and accordingly grant a special permit. The Board voted unanimously to grant a special permit.

ZBA 2018-51, KATHERINE VIG, 24 SHADOW LANE

Presenting the case at the hearing were Tom Timco, Architect and Katherine Vig, the Petitioner.

Mr. Timco said that the request is for relief for a one story bedroom and bath off of the left side of the house. He said that Ms. Vig is in her 70's and recently had a fall that limited her mobility. He said that she currently has a bedroom on the second floor but is looking to move down to the first floor because she wants to stay in the house.

Mr. Timco said that the lot has three fronts and a side. He said that the house was constructed in the 1940's when a 10 foot rear yard setback was in effect. He said that there are three existing nonconformities. He said that the garage on the right had been free-standing but was attached by special permit in 1991. He said that on the left side, the existing dining room is only 12.5 feet from the property line. He said that a small bedroom was added above that in 2007 by special permit.

Mr. Timco said that the proposal is to continue the rear line towards Shadow Lane on the left side, pulling it back from the existing line to maintain more than a 12.5 foot distance from the property. He said that that will give Ms. Vig a 14.5 foot by 13 foot bedroom with an attached bath and a small piece at the front where they will increase the glazing on a bay window because she will lose one of the other windows in the living room. He said that the new structure will not trigger the 500 Foot Rule. He said that it was difficult to meet all of the 30 foot setbacks. He said that there was nowhere else on the property to build. He said that anything they did would trigger a nonconformity. He said that they tried to create a low profile single story addition that is similar to what is in the neighborhood which is a mix of houses of this vintage and a number of new mansions. He said that the neighborhood is changing somewhat but they feel that this is in keeping with the spirit of existing more traditional construction in the neighborhood.

Mr. Adams said that it is a tastefully done one-story addition.

Mr. Becker said that he appreciated the summary that Mr. Timco put together. He said that it was quite helpful.

Mr. Timco said that Ms. Vig has spoken to most of the neighbors and they are generally supportive. Ms. Vig said that the closest neighbor is Jennifer Golden and she was very enthusiastic. She said that she spoke with the people across the road and they were also very encouraging.

Mr. Becker read the Planning Board recommendation.

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

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

ZBA 2018-52, JIMMI BAZZARI, 765 WORCESTER STREET

Presenting the case at the hearing were David Himmelberger, Esq. and Jimmi Bazzari, the Petitioner.

Mr. Himmelberger said that the request is for relief for a pre-existing nonconforming structure to which the Petitioner wishes to add a small addition. He said that currently the home has a 19.2 foot front yard setback and a left side yard setback of 15.4 feet. He said that the property is located in a SRD 15. He said that the property consists of two lots that combine 20,458 square feet. He said that the small addition will be a 590 square foot footprint being added on to a footprint of 1,321 square feet, for a new footprint of 1,911 square feet. He said that the existing structure has a TLAG of 2,697 square feet and new TLAG with the addition will be 3,847 square feet, which is below the threshold of 4,300 square feet for the district. He said that the structure will remain at 27.7 feet tall, as the addition will be less than the existing peak.

Mr. Himmelberger said that the house is very difficult to observe. He said that there is a significant block retaining wall at the front of the property on Route 9. He said that the property sits up high. He said that the new addition to the right side will have a front setback of 25.6 feet, significantly improved over the existing front setback of 19.2 feet. He said that the side yard setback will be compliant at 20.5 feet. He said that it will be a modest addition but offer the ability to create and expand breakfast, area, entry room, family room with a master bed above it that is far more comfortable in size than some of the existing bedrooms that range in the 10 foot by 10 foot dimension. He said that they believe that the proposal as designed is appropriate and is not significantly more detrimental to the neighborhood than the pre-existing nonconforming structure and they request favorable approval of a special permit.

Mr. Adams asked if there are two lots. Mr. Himmelberger said that the Assessor has it split but for Zoning purposes, whereas the garage has a less than 9 foot setback to the rear of what was shown as 765 on the Assessor's Map, because the lots are under common ownership, they are merged for Zoning purposes and are treated as a single lot.

Mr. Levy confirmed that both lots have been in the same chain of title. Mr. Himmelberger said that they are under common ownership now. Gina Bazzari said that they are only the second owners. Mr. Adams said that even with the huge amount of lot, he could not see if there was anything that could be done with it. He said that it is always good to see lots in common ownership merged legally but there are extra costs associated with that, which is unnecessary, given the prevailing law about merging of properties.

Mr. Levy talked about inserting a condition about maintaining common ownership of the lots. Mr. Himmelberger said that the rear lot is landlocked. Mr. Levy said that the two houses to the right share a common driveway. Mr. Adams asked about the costs to legally merge the lots. Mr. Himmelberger said that a survey would cost approximately \$2,000.

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

Mr. Becker read the Planning Board recommendation.

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

ZBA 2018-53, STEVEN WELLS, 24 CAVANAGH ROAD

Presenting the case at the hearing were Robert Williamson, Architect, Steven Wells, the Petitioner, and Erik Rockwood, Builder.

Mr. Williamson said that the request is for a special permit/finding to build an addition and renovate an existing house which is a nonconforming structure on a nonconforming lot. He said that the lot is under 10,000 square feet, which has created architectural and landscaping challenges for them. He said that the existing house is within both side yard setbacks.

Mr. Williamson said that in the 1990's there was a family room addition built at the back of the house. He said that the starting point of the proposed work is to create a second story master bedroom above the existing footprint that is within the side yard setback. He said that a small one-story bump out on the ground floor at the back that is in the setback area will be extended. He said that the proposal also includes a small two-story addition for a mudroom on the ground floor and part of a master suite on the second floor. He said that the proposal is to replace the existing one-story garage with a two-car, two-story garage. He said that they will use the existing footprint that is nonconforming in the side yard setback but conforming to the rear yard setback. He said that the proposed garage will be approximately 21 feet by 21 feet. He said that they are requesting relief for ground mounted two air conditioning units in the side yard setback along the family room, primarily because of the lot size where they do not want to have it take away from space that can be used on the lot.

Mr. Levy said that the application that was submitted was for a special permit. He said that condensers would be a variance. Mr. Adams said that the Petitioner could easily find another location for the condensers that will be compliant. Mr. Becker said that the Board can address a special permit for all of the proposed work but cannot address a special permit for the condensers. He said that would have to be a variance. He said that the Petitioner can either find a location for the condensers that is not in the setback or come back for a variance. Mr. Levy said that the Petitioner can come back for a special permit to place the condensers within the existing setback of 14.17 feet. Mr. Becker said that the proposed condensers were not advertised for this hearing, so the Board cannot address them.

Mr. Levy said that it is a challenging lot. He said that there is a lot of information on the plot plan.

Mr. Becker asked about upstairs in the garage. He said that there is a note on the plans that talks about future plumbing. Mr. Williamson said that there are no plans to build that out immediately. He said that the plan is to have a loft/studio space with a bathroom. Mr. Levy said that said that the bylaw prohibits two living structures on one lot. He said that generally when the Board sees outbuildings such as this, it inserts a condition that there be no plumbing because it does not want to have habitable space made of that. He said that it cannot be an apartment or in-law space. He said that the Board typically restricts plumbing because it is very difficult for it to monitor whether someone is living there or not. He said that once there is plumbing it leaves it open for someone to be living there. He said that the Board could allow a slop sink in the garage on first floor. Mr. Adams said that they could install a hose bib instead of the slop sink.

Mr. Adams said that the proposed garage is rather large for the backyard. He said that the Petitioner chose to keep the nonconforming side wall rather than moving it further away from the side. He said that the garage is nicely designed but the Petitioner might be trying to take too many bites from the apple with the proposed plans. He said that the Planning Board recommended that the size of the second floor be reduced. Mr. Becker said that the height is too high. He said that the Petitioner designed a space that could have plumbing and could be habitable. He said that if it cannot be habitable, there is no reason to build something that big. Mr. Wells said that the reason for that was to match the roofline of the house. Mr. Becker said that the argument for matching the roofline does not apply here because you cannot easily see the garage from the street because most of it is behind the house. Mr. Williamson said that the plan was to start the roofline at the first floor rather than having a two-story structure plus a roof. He said that the idea was to have more of a one and three-quarter story for the garage space plus loft. Mr. Adams said that there is still a lot of space on the second floor. Mr. Levy said that the Board typically sees storage for garages. Mr. Adams said that the stairs on the outside brings the structure closer to the rear property line. Mr. Becker said that also isolates the upstairs from the downstairs of the garage because the separate access does not require going through the garage, which implies living space upstairs.

Mr. Wells said that they wanted to have storage space in the garage. He said that they can make it wider instead of going up. Mr. Becker said that there is a decent amount of area. He said that the volume that they put above the first floor depends on the roof. Mr. Adams said that they could drop the roof and gable it more. He said that the design is tasteful but it is a lot for this lot.

Mr. Adams asked about TLAG calculations. Mr. Williamson said that it is 3,598 square feet. Mr. Levy said that the property is located in a 10,000 square foot Single Residence District. Mr. Williamson said that the rules for calculating TLAG changed from the time they came up with the schematics last year and the plans that are proposed. He said that he reduced the addition a little bit.

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

Mr. Becker read the Planning Board recommendation.

Mr. Adams said that the Board typically wants to see a TLAG Affidavit that is signed by a licensed professional.

Mr. Adams said that the Board cannot approve a special permit subject to a design being submitted. He said that the Petitioner will have to come back for the garage and the air conditioning condensers. Mr. Williamson said that they will come back, keeping the addition the same and moving the condensers.

Mr. Levy moved and Mr. Adams seconded the motion to continue the hearing to August 2, 2018. The Board voted unanimously to continue the hearing.

ZBA 2018-54, PAUL & TAMARA BATTAGLINO, 29 LONGMEADOW ROAD

Mr. Becker said that the Board allowed a variance for the garage at a previous public hearing but a special permit is required for the project in general.

Presenting the case at the hearing were Paul and Tamara Battaglino, the Petitioner, and Kevin Gordon, Architect.

Mr. Battaglino said that the Board granted a variance for this project in June. He said that the request is for a special permit for a nonconforming structure on a nonconforming lot for an addition and renovation. Mr. Becker said that the frontage is nonconforming, it is an undersized lot, and a nonconforming setback.

Ms. Battaglino said that they spoke with all of their neighbors on Longmeadow Road about the variance and the special permit. She said that they have letters of support from all of them. She said that they have seen the plans and are well aware of what is being proposed. She said that they shared at the last meeting with the Board the letters of support from the neighbors.

Mr. Becker said that lot coverage will increase by approximately 50 percent. He asked about runoff from the new addition. Mr. Gordon said that the Board had requested at the previous hearing that the plans show a catch basin in the new driveway at the turnaround. He said that there will be 184 square feet of additional pavement. Mr. Battaglino said that they will shorten the driveway from the road. He said that the existing driveway is dangerously narrow. He said that they widened it to make it more friendly.

Mr. Becker said that his question was about the roof area of the addition, which is what causes the increase in lot coverage. He confirmed that the runoff will go to the catch basin in the driveway. Mr. Gordon said that there are galleys and feeds to the galleys under the driveway. He said that there is an existing storm system that is clay tile which must go to a drywell. –

Ms. Battaglino submitted a signed TLAG Affidavit.

Mr. Levy said that the property is located in a SRD 40.

Mr. Becker read the Planning Board recommendation.

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

As there was no further business to come before the Board, the hearing was adjourned at 10:15 pm.

Respectfully submitted,

Lenore Mahoney
Executive Secretary