

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

May 3, 2018
7:30 pm
Juliani Meeting Room
Town Hall

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

ZBA 2018-16, ACT DEVELOPMENT, 9 FRAMAR ROAD

Presenting the case at the hearing were David Himmelberger, Esq., and Laith Tashman, Act Development, the Petitioner.

Mr. Himmelberger said that Mr. Tashman reached out to him in the past few days to review the proposal that had previously been submitted and to review the changes that had been made since the April 5th hearing. He said that he watched the video of the previous hearing and is aware of the Board's concerns. He said that the revised plan significantly addresses the three primary concerns that the Board and the neighbors raised. He said that his client met with a number of neighbors about a week ago to review the changes. He said that the concern that had been raised regarding the lack of architectural integrity of the addition to the existing structure was addressed with the revised plan that now shows a complimentary Dutch gambrel treatment on the rear, which makes a huge difference. He said that drainage has been supplied with roof leaders running from the new roof structure into a drywell that is shown on the revised plot plan. He said that there may be some misunderstanding with regard to any intention to take down trees. Mr. Tashman distributed revised plot plans to the Board members. Mr. Himmelberger said that the revised plot plan shows the drywell and a reduction in the size of the deck at the rear. He said that his client is committed to installing a row of arbor vitae along the common property line abutting the Seaver Street property to further provide screening. He said that when looking at the existing photos from 22 Seaver Street, one's eye goes to the bare cement foundation. He said that it has been his experience that when there is greenery, the eye goes to it. He said that the less attractive exposed bare masonry foundation will no longer be visible with the arbor vitae. He said that while there may be some neighbors who are still in opposition, a number have become supportive of the plan.

Mr. Himmelberger said that it will be a modest addition that is no taller than the existing structure with a relatively low profile. He said that the revision to the rear, particularly the second floor with the Dutch gambrel treatment with the arched vent above the window and shutters on the windows vastly improves the overall appearance.

Mr. Adams said that he appreciated that Mr. Himmelberger's client listened to the Board and the neighbors. He said that he is aware of two letters that the Board received from neighbors who still think that it is too big. He said that this is one of the smallest lots and houses in the neighborhood. He said that the additional space still keeps it within the framework of LHR. He said that most of his concerns have been addressed. He asked if the lower rear door below the back porch on Sheet 5 of 13 is existing. Mr. Tashman said that door is existing. He said that they removed the door in the rear addition and put it on the side. Mr. Adams said that works better not having another set of stairs up to the door at that corner of the house.

Mr. Levy said that a letter of recommendation was submitted from the owners at 17 Park Avenue. He asked where that property is located in relation to 9 Framar Road. Mr. Himmelberger said that Framar Road connects between Park Avenue and Seaver Street. Mr. Levy said that the issues seem to be more from Seaver Street because the addition is in the rear.

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

David Burgess and Elaine Metcalf, 22 Seaver Street, said that their main two concerns that they previously expressed continue to be there, the looming nature of the structure that will be two stories and will come 13 feet toward their home. Mr. Burgess said that the feature that the Board specifically raised at the previous hearing continues to be there. He said that the design is much more attractive and they appreciate that improvement. He said that the topography is such that it will loom way over their house. He said that theirs is the second smallest lot in the neighborhood and 9 Framar Road is the smallest. He said that the two smallest lots are next to each other, which has the effect of forcing these homes closer together. He said that they met with Mr. Tashman last week and have heard from him since then. He said that they discussed some thoughts with him and the possibility of putting the hearing off so that he could address those things. He said that his understanding is that the Board members would not be sitting together for several months, so it was important for Mr. Tashman to go ahead tonight. He said that they recognize that Mr. Tashman and his partners want to make a house that is as large as is allowed but the size of the lot does not support a house of this size with a two story addition coming closer to them. He said that since sending the Board a letter, they got more information about the trees. He said that they met with an arborist who works with the town. He said that the existing hemlock trees do provide some screening. He said that the arborist pointed out that the branches facing the addition will have to come off because they will be too close to the addition and that is likely to impair these tree. He said that construction vehicles going over the land, unless great precaution is taken, are likely to compact the soil and damage the roots, which could also kill the trees. He said that the arborist pointed out that although the foundation will be coming out 13 feet, they will have to dig a bigger hole in order to set the foundation and unless great precautions are taken, it will damage the tree roots. He said that the arborist thinks that it is likely that the hemlocks, even though they are healthy now, will not survive more than a couple of years and then that screening will be gone. He said that it was good to hear that there will be some arbor vitae going in. He asked if that can be made a condition or if there can be something binding to ensure that it actually happens. He said that they recognize that they will have to compromise on privacy but some of that can be ameliorated with the screening. He asked that the Board encourage Mr. Tashman to come back with a design that only has a one story addition, which will at least address the looming nature of this. He said that is a big concern for the whole neighborhood. He said that these two houses are in such close proximity and will have two stories coming up where it is already 15 feet

higher at ground level. He said that if the Petitioner insists on proceeding at this hearing, they asked the Board to deny the permit.

Ms. Metcalf said that she met with the arborist this morning. She said that the concern was with both of the hemlocks. She said that with careful root pruning and some sort of fertilizing, there may be some possibility of conservation of the trees. He said that the trees would probably not die for a couple of years but at that point, they will be beyond being able to do anything about it. She said that there are two mature maples on the side that will be preserved. She said that the arborist was concerned about compression to the soil by heavy machinery killing them unless measures were taken such as steel plates. She said that none of this will trigger the tree bylaw because of the size. She said that the only thing that might be relevant is that because of the difference in topography of the two properties, the measures that are normally done in the tree bylaw for critical root zones could be brought into this decision.

Mr. Adams asked Mr. Tashman if he has discussed with the builder how they plan to get the concrete in. He asked if they will be using a pump. He said that it seems hard to believe that they will be able to get a concrete truck into the backyard. He said that the lot slopes at the back. He said that there is 9' 6" between the garage and the side property line. He said that it will be pretty tight to get a concrete truck back there. He said that the other side slopes down and there is a retaining wall. Mr. Himmelberger said that his client is amenable and wants to protect the trees. He said that he would accept a condition that they put steel plates down. He said that, according to the Town's GIS map, there is an eight foot differential, not 15 feet, and the distance between the two structures with the addition will be 40 feet. He said that there are numerous instances in town where homes abide by the 10 foot setback back to back, so people only enjoy 20 feet between. He said that his client is also willing to accept a condition that states that if any of the hemlocks on the property line go out, they will be replaced with equivalent arbor vitae to complete the screening.

Mr. Burgess said that the plot plan shows that it is more than eight feet differential. Mr. Adams said that the addition will be set back 17 feet further than what is required. He said that it is 24 feet to the existing garage. He said that there is no dimension shown to the corner of the existing house but his estimate is about 23 feet. Mr. Levy said that the original plot plan showed 18.3 feet from the proposed addition to the lot line and the plot plan that was distributed to the Board members tonight shows 17.7 feet, which is going in the wrong direction.

Mr. Burgess said that he and Mr. Himmelberger reviewed the contour lines and concluded that there is a 10 foot difference. Mr. Himmelberger said that the prior plot plan had an inaccurate width of 21 feet where the design plan showed 23 feet, which accounts for 17.7 feet versus 18.3 feet. Mr. Levy said that the only plot plan that is stamped and signed by a surveyor is wrong and the plot plan that was submitted tonight is not stamped or signed is correct.

Mr. Becker said that the Board has concerns about the looming nature and size of the addition, as well as differences in the plot plan. He said that the existing house already has a looming nature. He said that what he is seeing in the elevation views does not look like it would be significantly more looming than what is already there. He said that it will be a little bit closer but will be as tall as what is there but not as wide, 23 feet wide instead of 21 feet as shown in the plot plan. He said that he was not sure that the proposal materially impacts the looming nature of the site. He said that this is the smallest lot and house in the neighborhood and the addition that they are making is not particularly large in comparison others that the Board has seen, even given the size of the lot. He said that he did not see size as an issue. He said that there should be conditions for drainage, which is now shown in the plan. He said that there is no mechanism in the bylaw for the Board to condition trees. He said that the Board can protect the trees during construction. Mr.

Adams said that the Petitioner has volunteered to replace trees. Mr. Becker said that cannot be a condition. Mr. Adams said that if the Board is deciding whether this will be more detrimental to the neighborhood, it could condition something on a requirement to replace at a certain size, given the idea that the trees provide an important screening element. He said that if the Applicant is volunteering to do replace the trees if they are in dire straits, and he is represented by counsel, he can create a mechanism to let the neighbors know who to contact, and the Board will rely on that being done. Mr. Himmelberger said that the screening works both ways. He said that it is to the benefit of the Applicant to have screening. Mr. Tashman said that he met with the neighbors and told them that he would put screening on the right and rear sides.

Mr. Adams said that the Board would have to condition any decision with submittal of a proper plot plan that is signed, sealed and dated by an engineer.

Mr. Levy said that the drainage plan also shows a dimension of 21 feet for the addition. Mr. Himmelberger said that number is wrong. Mr. Tashman said that it should be 23 feet.

Mr. Levy asked if the square footage of the house is changing at all between the two sets of plans. Mr. Tashman said that it is not.

Mr. Adams said that the corner room that is affected by the gable does not reduce the square footage. He said that there is a little cut out in the proposed floor plan.

Mr. Adams moved that the Board approve the request for a special permit and make a finding that the proposed addition will not be more detrimental to the neighborhood, subject to a condition that a revised plot plan that has been signed, sealed and dated by a registered land surveyor be submitted, a drainage and drywell detail be revised to correct the typographic error on the dimension of the proposed addition, and the arbor vitae that is proposed to provide screening between 9 Framar Road and the abutting properties on the rear property line, including 18 and 22 Seaver Street, be included as conditions of approval. He said that the arbor vitae shall be a minimum of eight feet and the contractor shall take all efforts to provide metal plates or other methods to support the weight of any construction vehicles that will come within the umbrella of the tree roots. Mr. Levy said that the drainage plan will be incorporated in the decision. He said that the plot plan should show a revision date because it is confusing as to which is the right plan because they are both dated December 13, 2017. He said that there was a suggestion that the existing trees be protected in a like manner as if they were jurisdictional under the tree bylaw by putting fencing around them to protect their roots. He seconded Mr. Adams' motion. The Board voted unanimously to approve the special permit.

ZBA 2018-18, DAVID & MYEONG COLETTA, 39 ATWOOD STREET

Presenting the case at the hearing were Douglas Stefanov, Architect, and David Coletta, the Petitioner. Mr. Stefanov said that he submitted an updated plan that shows a greatly reduced roof at the back of the building. He said that the roof on the proposed addition will be lower than the existing roof. He said that the revised survey shows a small addition at an inside corner at the back of the building. He said that they are requesting approval of an enlarged garage to make it more usable. He said that the plan is to add a second story to the garage. Mr. Adams said that he was a little surprised by the larger garage. He said that it did not come up at the previous hearing. He said that the rest of the building is much more compatible with the lot and the neighbors. He said that he appreciated that the direct connection between the building and the garage was removed. He said that side of the house will not be a wall of the house, the garage and the connection. He said that now you will be able to see into the backyard from the street.

Mr. Becker said that the Board had opined at the previous hearing that the addition was too big. He said that the size has been reduced by 1,000 square feet so that it is within the trigger for LHR.

Mr. Adams said that the allowed building height is still shown as 45 feet on the drawing cover sheet. –

Mr. Levy confirmed that there will be a full set of stairs to the second floor in the garage. Mr. Stefanov said that the second floor will be used for storage. He said that he added windows for light. He said that he could make it a pull down stair. Mr. Adams said that they might want to have it as a pull down because the width of the garage door encroaches into the pathway. Mr. Levy said that there will be no plumbing allowed in the garage.

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

Mr. Adams said that he was satisfied with the alterations that were made. He said that it is much more in harmony with the neighborhood.

Mr. Levy moved and Mr. Adams seconded the motion to allow the petition and make a finding that it is not substantially more detrimental to the neighborhood than the existing nonconformity, subject to a condition that there shall be no plumbing in the garage. The Board voted unanimously to grant a special permit.

ZBA 2018-27, DAVID & CAROLYN MORRIS, 39 AVON ROAD

Presenting the case at the hearing was Richard Curl, Architect. He said that also present at the hearing were Michael Lynch, Builder, and David and Carolyn Morris, the Petitioner.

Mr. Curl said that the request is for a finding for a proposed addition of a kitchen, family room and master suite on the back of a pre-existing nonconforming house with less than required side yard setbacks. He said that they worked hard to keep the addition in line with the size and detail of the existing house. He said that you will not see any change from the front of the house. He said that the roof will be slightly lower than the existing house on the side. He said that the upper story will be shingled and will have windows that are similar to the existing house. He said that the lower story will have painted wood siding and windows that are of a slightly more contemporary look.

Mr. Sheffield asked about existing and proposed conditions for site drainage since this is located at the bottom of a hill. Mr. Curl said that the existing house drains into gutters which go to downspouts that appear to go into clay pipes. He said that the intent is for the upper roof to go into the same system. He said that there are a couple of flat pieces on the lower roof that will drip onto a stone border and be collected by a French drain. Mr. Sheffield asked if they are just assuming that the additional runoff will be handled in the current approach. Mr. Curl said that they are currently unsure of part of it. He said that they expect to know more when they start excavating. He said that there are outcroppings of ledge here and there. Mr. Sheffield said that they may need to find places for drywells. Mr. Lynch said that the goal will be to add an infiltration drywell towards the back of the property but they are unsure of what the ledge situation will be as they open up that part of the yard. Mr. Sheffield said that the Board could insert a condition that a drywell be located with input by a civil engineer.

Mr. Sheffield said that he was a little concerned about the north elevation. He said that it is a rather flat surface at the second floor that is somewhat mitigated with railings that come from the side of the house. He said that the length is mitigated by the protrusion on the north side. He said that the addition continues the

façade on the north side in a single plane, whereas on the other side it breaks the plane and therefore makes the house appear a little smaller. Mr. Curl said that the intent was to try to minimize the bulk and the mass. He said that there are a couple of pieces of the first floor that step in and out. He said that the intention was that the second floor be more of a continuation of the house. Mr. Sheffield said that he is not as concerned because the two porches and railings are there.

Mr. Levy asked if the Petitioners had spoken to any of the neighbors about the project. Ms. Morris said that it is a very close knit neighborhood, so the neighbors have all known about the project since the beginning stages. She said that the neighbors know what is going on and are very much in favor of it. Mr. Levy confirmed that the neighbors have seen the plans.

Mr. Becker said that the lot size is larger than what is required by a significant amount. He said that the current house is about 75 percent of average for living space in the neighborhood. He said that it will jump up a bit with the proposed addition to just under 2,900 square feet, which is less than the trigger for Large House Review (LHR). He said that it will still be a decent size addition. He said that it fits nicely on the lot and does not look out of scale in the neighborhood.

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. He discussed Demolition Review.

Mr. Sheffield discussed a condition for an appropriate design by a civil engineer for the additional hard surface runoff related to the addition.

Mr. Levy moved approve and Mr. Sheffield seconded the motion to approve the petition and make a finding that the proposed construction will not be substantially more detrimental than the existing nonconforming structure, subject to a condition that an appropriate design by a civil engineer for the additional hard surface runoff related to the addition be submitted. The Board voted unanimously to approve the special permit.

ZBA 2018-27, TENACRE SCHOOL, 78 BENVENUE STREET

Presenting the case at the hearing were William Foley, Trustee, and Chris Elliot, Head of School, Tenacre School, the Petitioner.

Mr. Foley said that the request is for a special permit for signs to identify buildings that are not permitted by right under Section XXIIA of the Zoning Bylaw. He said that they would like to install the signs in seven locations around the campus. He said that only two can be seen from the street, Wells Playhouse and Leesway. He said that there are existing signs on those buildings that pre-date Tenacre. He said that they are wrought iron painted green. He said that they would like to replace those signs with the same signs as the other buildings. He said that the remaining five signs will be placed over entry doors on buildings that all face into the campus. He said that the letters will be dark brown anodized aluminum, 3/8 inch thick, applied directly to the white fascia over the existing entry doors, and there will be no illumination of any kind.

Mr. Sheffield confirmed that the project has been reviewed by the Design Review Board.

Mr. Becker said that a campus like this does not fit the fundamental assumptions for the sign bylaw. He said that the things that the Board is normally concerned with do not apply here. –

Mr. Sheffield said that there are eclectic, disparate, varying buildings on the campus. He said that generally the buildings are white with porticos. He said that signage of this type identifying the buildings has a subtle unifying effect for the campus. He said that he applauded this approach.

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. –

Findings – It is the opinion of this Authority that installation of a 2.22 square foot historical plaque commemorating the Wellesley Hills Railroad Station Building that will exceed the area of 2 square feet that is allowed by right in a Business A District, will be in harmony with the general purpose and intent of Section XXIIA of the Zoning Bylaw, as the sign scale will be will in reasonable relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures; sign size, shape, and placement will serve to define or enhance architectural elements of the building and will not unreasonably interrupt, obscure or hide them; sign design will be in reasonable continuity with the mounting location, height, proportions and materials of other signage on the same or adjacent structures; sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and sign size, location design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic.

Mr. Levy moved and Mr. Sheffield seconded the motion to approve a special permit for seven wall signs, and make the following findings: the signs will be otherwise in compliance with Section XXIIA of the Zoning Bylaw, as the sign scale will be will in reasonable relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures; sign size, shape, and placement will serve to define or enhance architectural elements of the building and will not unreasonably interrupt, obscure or hide them; sign design will be in reasonable continuity with the mounting location, height, proportions and materials of other signage on the same or adjacent structures; sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and sign size, location design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic. The Board voted unanimously to approve a special permit.

ZBA 2018-28, WAYNE & JAN JOHNSON, 11 FIFE ROAD

Presenting the case at the hearing was Robert Ouellet, who said that he is the owner of a Design/Build Company, and Jan and Wayne Johnson, the Petitioner.

Mr. Ouellet said that they received approval from the Historical Commission on January 10, 2018, with a status of non-preferable preserved. He said that the house lot is approximately 10,000 square feet in an SR 15 District. He said that the existing house is about 1,200 square feet and is an existing ranch that is in fairly bad shape. He said that the back side deteriorating and the foundation is really compromised. He said that the request is for a special permit because the lot is nonconforming. Mr. Levy confirmed that the proposed structure will meet all dimensional requirements.

Mr. Becker asked about the Total Living Area plus Garage (TLAG). Mr. Ouellet said that the first floor will be 1,800 square feet and the second floor will be approximately 1,066 square feet. He said that it is a sloping lot, so there will be 733 square feet in the basement. He said that TLAG will be approximately 5,472 square feet. He said that without the TLAG calculation, the livable square footage is 4,221 square feet. He said that the garage and attic will be 1,200 square feet. He said that there will be a pull down for the attic and it will

be used strictly for storage. He said that they were very mindful of the height when they were designing this, so they put a hip roof on to bring the height down.

Mr. Ouellet said that there are some problems with the lot. He said that the existing house is six feet below the street level and there are inherent problems with drainage. He said that they are proposing to put a series of drywells around the house to capture the water on the back and the sides. He said that they typically try to put drywell systems near planting bed areas so that they can recycle the collected water.

Mr. Sheffield said that a four bedroom house that is just about to the max of the setbacks for a 10,000 square foot lot, even though it is in a 15,000 square foot district, is more than a little bit of a reach for the volume on the lot with this degree of slope. He said that it is difficult to look at the change that will be in the neighborhood because of the scale of the house. He said that there are a number blank walls in the design of the house with no windows. He said that he had some fair concerns about the project.

Mr. Becker said that there are nine properties on Fife Road and only one property meets the 15,000 square foot lot size. He said that the lots run from 4,200 square feet up through 12,175 square feet. He said that 11 Fife Road is not as undersized as some of the other lots. He said that the Assessors records show that the existing house has 850 square feet of living space. He said that there are two houses on the street that are smaller than that. He said that 4,200 square feet is about three times the average size of the houses on the street and he is struggling with that being not more detrimental to the neighborhood. He said that if you apply the TLAG definitions, the numbers are even bigger. Mr. Levy asked about the TLAG threshold in a 15,000 square foot Single Residence District. Mr. Becker said that it is 4,300 square feet.

Mr. Sheffield said that he had to go a block away or so to find buildings that approach the scale of this house. He said that it is difficult in a tight neighborhood that has not been encroached upon by larger houses for this to be the first one. He said that it will be a surprise in the neighborhood.

Mr. Johnson said that there are four to five houses recently built on Dunedin Street. He said that there is a house diagonally across from 11 Fife Road that had a large addition put on about 10 years ago. He said that as Fife Road goes down, there is a private road that borders Cedar Street where there is a very large house. He said that the proposed house will not be the only large house.

Mr. Sheffield asked if the Johnsons are the current residents of 11 Fife Road. Mr. Johnson said that they are the owners. He said that it was Ms. Johnson's mother's house and she passed away recently. Mr. Sheffield confirmed that the Johnsons are not living there now. He asked if this will be a spec house. Mr. Johnson said that it will be. He said that the existing house is not in good shape. Mr. Becker said that the Board has not heard any objections to tearing down what is there. He said that the real question is what do you replace it with. Mr. Johnson said that the proposed design is for a beautiful house that will be a nice addition to the neighborhood.

Mr. Levy asked if the Johnsons had shown the plans to the neighbors. Mr. and Ms. Johnson said that they had not.

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

Paul Sullivan, 15 Fife Road, said that his house is next to 11 Fife Road. He said that he only found out about this project a couple of hours ago. He said that they were not notified. He said that he went around to neighbors who were home and they said that they were not notified. He said that it is a small dead end street

and they recognize that something should be done with the property. He said that they knew the previous owner before she passed away and she was a wonderful lady. He said that shortly after she passed away, he met one of her relatives in the front yard and he told Mr. Sullivan that they were going to sell this for maximum value as soon as possible. He said that they understand and think that it would be an improvement to the neighborhood if the house is replaced with something nicer. He said that the big concern is that they were not notified. He said that it is a little dead end street. He said that if it is something that requires a special permit, the neighbors think that they should have some input on their tiny street. He said that he only had a couple of hours to find out what is going on. He said that he found pictures of the plan and the neighbors that he showed it to were taken aback by a couple of things. He said that they were concerned that they did not know anything about it and the size of the house with nothing else like it around. He said that he is concerned about the house size compared to the lot size. He said that the neighbors have not had a chance to digest the design. He said that they are concerned about the enormous size, views of large blank walls and drainage. He said that this house sits up higher than his and the property behind it much lower. He asked if anyone has studied the ramifications of having this large house on a tiny lot and spill off to the area. He said that the Planning Board recommended that the special permit be denied. He said that the neighbors welcome the idea of a new house but it needs to be appropriate to the neighborhood. He said that houses around this have square footage of 407, 1,120, 1,843, 1,053, and 939. He said that this is not an area where they can put up similar large houses, given the lot sizes. He said that the house with 407 square feet used to be a chicken coop. He said that a young couple is living there now. He said that it is appropriate as a starter home. He said that on this tiny street, they should not start putting houses like this. He said that potentially there will be two construction projects going on the street that will be close to each other. He said that neighbors will have difficulty accessing their property during construction. He asked if it is possible for the Board to mitigate some of that difficulty. He said that there is an older woman who is confined to her home that is directly across from 11 Fife Road. He said that periodically ambulances must go to her house. He said that it will not be possible while construction is going on. He said that they are very concerned. He said that the Planning Board Recommendation was a red flag. He said that every neighbor that he spoke to said that they would like to see a new house there but this is way too big and inappropriate for their little neighborhood. Mr. Levy asked if Mr. Sullivan was representing other abutters or present on his own behalf. Mr. Sullivan said that he asked the neighbors to sign a petition saying that they are not in favor of this change and feel that it is unsuitable to their neighborhood. He said that he only found out about this a few hours ago. Mr. Levy said that under the bylaw and State Law, three forms of notice are given: publication in a newspaper of general circulation, which is the Wellesley Townsman; posting at Town Hall; and sending actual notice to abutters and abutters to abutters within 300 feet. He said that the notices are sent to addresses that the Assessor's Office has listed as the owners. Mr. Sullivan said that the neighbors said that they received notice about the Historical Commission Hearing. Mr. Levy said that all that the Board can rely on is the Assessor's database as to who the notices went out to.

Mr. Sullivan said that of the six neighbors that he found at home, they all signed the petition that asked that the brakes be put on because this appears to be a massive house that does not look like anything that is in the neighborhood. He said that they want something nice there but this does not seem to be appropriate for the neighborhood. He said that of the six people that he found, five people signed petition. He said that they were the residents of 15, 14, 4 and 6 Fife Road, and 202 Cedar Street.

Ms. Johnson said that they did get a postcard for this hearing at 11 Fife Road.

Laurie Sullivan, 15 Fife Road, said that they have lived in their house for over 12 years. She said that she has spent a lot of time speaking with her neighbors. She said that her boys are boy scouts who have gone out and shoveled snow. She said that they have gotten to know the people in the area. She said that this is a

classic old time Wellesley neighborhood. She said that the houses in this area were part of a farm. She said that the area was named for Dunedin Scotland. She said that Fife Road is part of this area. She said that these little houses were actually parts of the farm, including a pig house and a chicken coop. She said that all of these were little pieces of Wellesley that still remains as a farming community. She said that the houses exemplify who they were. She said that one of the houses on the corner of Dunedin and Cedar was renovated and maintained the footprint of the original house. She said that they made it into something that is really beautiful that compliments the neighborhood. She said that we live in a world of constant change but in this little neighborhood with its tiny lots and community history, we need to think about what we bring to our kids and what message we send. She said that her fear is that having a gigantic house in the middle of all of these tiny houses where the neighbors have formed a community will send a message to the kids of the community. She said that we need to think about what the neighborhood looks like, what will it support in terms of size, ethos and beauty. She said that the house will make money. She said that this is a town where people buy houses when they are for sale. She said that thinking about what the house should look like and talking with the neighbors is really important. She said that her husband went to Town Hall today by accident to talk about the house next to them and found out about this. She said that they never saw the plans for this. She said that if they had seen the plans, the Board would have gotten feedback from all of the neighbors that this is just too big. Mr. Becker said that those comments should be directed to the Planning Board and Town Meeting for changes in the bylaw.

Mr. Becker said that as a three person Board, its decisions must be unanimous. He discussed restrictions under the bylaw and processes for moving forward with this petition. He said that the Board heard concerns about size. Mr. Sheffield said that there are more than just a few tweaks that would satisfy the Board and the neighbors. He said that the proposed building, as designed, exceeds what the Board, the Planning Board and the neighbors would like to see. He suggested that the petition be withdraw without prejudice to allow the Petitioner time to figure things out. Mr. Ouellet said that his company has an in house design crew and they are very good at getting things out on time. He said that it took quite a while to get to this stage. \

Mr. Levy said that the legal standard that the Board applies is whether the proposed structure will be substantial more detrimental to the neighborhood than the existing nonconforming structure. He said that the best evidence of that for the Board is the neighbors' opinions because they are the neighborhood. He said that the Board usually encourages but cannot require that whatever the Petitioner decides to do, they should attempt to schedule meetings with the abutters. He said that the worst thing is the unknown and they may be able to address a lot of concerns by demonstrating what the plans are and taking suggestions from the neighbors before they come back.

Mr. Ouellet discussed coming back before the Board with a brand new design.

Mr. Levy moved and Mr. Sheffield seconded the motion to continue the petition to May 31, 2018 at 7 pm. The Board voted unanimously to continue the hearing.

ZBA 2018-29, ANTHONY & LEAH CINELLI, 102 OAK STREET

Presenting the case at the hearing was Mike Tartamella, Architect, representing Anthony and Leah Cinelli, the Petitioner. He said that the property is located in a 10,000 square foot Single Residence District on a 10,000 square foot lot. He said that there is a pre-existing nonconforming structure on the side yard setback. He said that all of the proposed additions will be within the setback and none of them will maintain the existing nonconformities. He said that all of the additions will be off of the rear and will not be visible from

the public way. He said that the proposed structure will be below the Total Living Area plus Garage (TLAG) threshold at 3,258 square feet.

Mr. Sheffield said that he likes the way that the yard works. He said that the steps work to the patio and the retaining wall re-justifies the grade change there. He said that the garage with a gable roof on each side will loom large in the backyard. He asked if the Petitioner would consider a roof that slopes in all four directions. He said that in looking at the proposed left and right side elevations, the garage does appear to be large in comparison to the house. He confirmed that the upper level is for storage. Mr. Tartamella said that they took cues from the neighborhood. He said that the gables compliment the existing house style. He said that adding a gable would make it seem much larger toward the rear property line. – adding another would make it seem larger to the rear. Mr. Sheffield said that he was suggesting a hip roof. He said that it would be foreign to the architecture on the site. Mr. Tartamella said that he would be willing to lower but at 20 feet, it is modest. He said that he could lower the plate height and keep the same pitch. He said that the existing house is at 23 feet. He said that they will be matching the pitch. He said that the geometry is such that it came to 20 feet for the garage.

Mr. Sheffield asked about the retaining wall that holds up the patio. Mr. Tartamella said that there is no retaining wall proposed. He said that there is a fence and a gate to define the patio area.

Mr. Levy asked about access to the second floor of the garage. Mr. Tartamella said that it will be just be storage space with a scuttle per Building Code. He said that it was included in the TLAG calculation.

Mr. Becker said that TLAG will still only be at 3,200 square feet. Mr. Tartamella said that mass and scale were heavily considered. He said that the garage may not be built right away. He said that they are in the process of determining that now.

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

Mr. Sheffield said that the plan works very well.

Mr. Becker read the Planning Board recommendation.

Mr. Becker said that the nonconformities are the left and right side yard setbacks. Mr. Tartamella said that the proposed additions will be conforming.

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

ZBA 2018-30, DONALD CZERNIACH 81 AUDUBON ROAD

Presenting the case at the hearing were Jacob Barnes and Adam Harrington, Element Construction, and Don Czerniach, the Petitioner.

Mr. Barnes said that the request is for relief on an existing nonconforming structure for a 12 foot by 30 foot garage on the left side. He said that the existing setback is 19 feet and they are asking for an 8 foot setback. He said that there are a couple of issues with the lot. He said that there is a drainage easement that runs through the front of the property that prohibits them from putting a garage in the L shape in the front. He

said that there is a water infiltration mitigation system that runs around the property that prohibits them from building on many spots on the lot. He said that the topography at the rear of the lot raises about eight feet.

Mr. Barnes said that the existing house has an encroachment of 17.2 feet on the right side. He said that the neighbor on the right side has an encroachment of 17.6 feet. He said that there are some pre-existing nonconformities in the neighborhood.

Mr. Levy said that Mr. Barnes was mixing up concepts. He said that a pre-existing nonconformity concerns a special permit and this is request for a variance, which has a different legal standard. He discussed the criteria under the State Statute and the bylaw that the Board must consider in granting a variance. He said that Mr. Barnes discussed topography as being an issue but he did not think that would prevent them from putting the garage behind the house. He said that the Board did not hear any evidence of wetlands or soil conditions other than a drainage easement. He said that there are no issues with the shape of the lot. He said that there is a heavy burden for the Board to make a finding that this qualifies for one of the three areas that the Board has to address. Mr. Barnes said that both homeowners are on-call physicians who need to be able to get in their car and go immediately in an emergency. He said that the existing garage is too small with less than nine feet from wall to wall. He said that they do not have any use of the existing garage. He said that they need to get their cars under cover.

Mr. Czerniach said that he and his wife are both physicians. He said that this is their eighth year in Wellesley. He said that they have been in New England for many years and know about the winters. He said that it is difficult for them to get into their cars emergently when car is in driveway in two feet of snow. He said that he has to constantly keep his car cleaned off when he is on call during the winter, which has started to become a burden. He said that the stimulus of this is to try to get some protected parking for their second car. He said that economically this plan is probably the best option given their lot. He said that they have already put in an expensive water infiltration system in 2015 to prevent water in in the basement. He said that they did not see a lot of options. He said that they have a very undersized garage for the size of house. He said that the additions that were put on the house were not done by them. He said that they bought the house with the intention of adding a second bay.

Mr. Becker said that while he understands the rationale, it does not change what the Massachusetts State Law and the bylaw says. He said that they only empower the Board to grant variances based on the three criteria that Mr. Levy discussed. He said that the Board did not hear about soil conditions, lot shape or topography. Mr. Czerniach asked if the 10 foot drainage easement that runs through the front yard impacts the decision at all. He said that they cannot build forward and building at the back would be difficult. Mr. Becker said that the standards for a variance is quite clear, as are the Board's powers under bylaw. He said that it does not consider things such as two physicians and drainage easements.

Mr. Barnes said that it would be cost prohibitive to put the garage in the rear. Mr. Becker said that just means that you do not build a garage.

Mr. Sheffield said that he got a sense that the previous owner put an addition over the current garage. He said that was an addition to a single story garage at the time. He said that the combination of the geometries has made it difficult for this house. He said that there may be a different design with unattached garage that will satisfy all of their needs.

Mr. Becker said that there is a lot of land at the back. He said that while the Board heard the claim that it would be expensive to building at the back, there is nothing in the record that says that it is difficult or expensive to build back there.

Mr. Harrington said that if they were to put the garage at the back there would be a lot more impervious surface to extend the driveway. He said that would take up more of the greenscape. Mr. Sheffield said that could be solved. He said that does not become a zoning issue. Mr. Levy said that they would still need a special permit because of the existing nonconformities. Mr. Becker said that the standard for granting a special permit is lower and they are easier to get. Mr. Barnes said that this seemed to be the most viable option.

Mr. Sheffield said that getting within eight feet of the lot line is difficult.

Mr. Barnes asked about setbacks for side facing garages. Mr. Becker said that it is a 30 foot setback from the side lot line to the garage doors.

Mr. Czerniach said that the initial idea was to come forward towards Audubon Road. Mr. Levy said that it would still impinge on the side yard setbacks. Mr. Czerniach asked about putting in two bays and moving the driveway. Mr. Levy said that would still need a variance to impinge into the setback. Mr. Czerniach said that the best thing about his house is the backyard and it will be a difficult leap to dig into it. Mr. Levy said that the homeowner could consider getting a state curb cut permit to come in off of Route 9 and putting a garage back there.

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

Mr. Becker discussed the process for moving forward with this petition.

Mr. Czerniach requested that the petition be allowed to be withdrawn without prejudice.

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

ZBA 2018-31, JOHN & NATALIE MACVARISH, 110 OAK STREET

Presenting the case at the hearing Danielle Abelow, Architect, representing John & Natalie MacVarish, the Petitioner. She said that it is a pre-existing nonconforming structure that encroaches into both side yard setbacks. She said that the proposal is for construction of a rear addition that will be conforming and rebuilding a screened porch to an enclosed space on the existing footprint.

Mr. Sheffield said that the screened porch encroaches into the side setback by about 3.3 feet.

Mr. Becker read the Planning Board recommendation.

Mr. Levy confirmed that the front portico is allowed by right.

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

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

ZBA 2018-32, AMIR KHAN & AYLALARI, 54 WINDEMERE ROAD

Presenting the case at the hearing were David Himmelberger, Esq., Diane Miller, Architect, Amir Khan and Ayla Lari, the Petitioner.

Mr. Himmelberger said that his clients have lived at 54 Windemere Road for 12 years with their two children. He said that they are looking to stay in the neighborhood and make an addition. He said that the issue for them is that they have an irregularly shaped lot and some topography challenge. He said that, as a consequence, the place to build is to the rear of the house, which impinges into a second front yard because they abut Route 9 at the rear of the house. He said that his clients are seeking a variance to build within the front setback to Route 9, keeping a 20.9 foot setback to Route 9. He said that there is a stone wall with a stockade fence on it. He said that the land runs about 10 to 12 feet down to Route 9. He said that photos that were submitted show that the nearest abutter across Route 9 is about 330 feet away because of the Abbott Pond woods. He said that every abutter has signed a letter in support of the petition.

Ms. Miller said that this property has all three hardships for a variance. She said that the unusual shape of the lot is the primary hardship but there is also ledge on the east side of the lot and severe topography at the rear. She said that it is a challenging lot to work with. She said that it has two front yards opposite of each other. She said that they initially looked at where they might be able to expand this structure by right. She said that it is already very close to the property line on the west side, it is already very close to the setback on the front and rear setback, which left the eastern side. She said that because of the acute angle on that side, they are somewhat limited in expanding to the east. She said that expanding to the east would end up making the house look really large from the street and one of the things that they were really striving to do with this was to preserve the size and scale of the house while giving them the space that they need. She displayed a massing model. She said that they will be expanding slightly on the side but it will keep in scale. She said that there will be an addition over the garage for a master suite that will be set back a couple of feet so that it is not in line with the garage doors. She said that the bulk of the construction will be at the back. She said that the 20.9 setback at the rear is to the corner of house that is the bump out for the kitchen table area. She said that the majority of the back of the house will be at 23 feet. She said that most of the rear addition will be one story with a couple of two story elements incorporated into it.

Mr. Levy said that right now this is a totally conforming structure. He said that the project will not be exempt from Large House Review (LHR).

Mr. Becker said that the bump out appears to sit on a foundation. He asked if the 20.9 foot dimension is to the bump out or the wall of the house. Ms. Miller said that it is measured to the bump out.

Mr. Levy said that the plot plan does not show topography. Ms. Miller said that the elevations are marked on the plot plan but not as contour lines. She said that it is about a ten foot drop from the back of the house to Route 9, approximately 14.5 feet at the far east corner.

Mr. Sheffield said that the areas that were chosen to create addition makes the house more compact. He said that a linear arrangement would have been impractical.

Mr. Levy questioned whether topography is creating a hardship. Ms. Miller said that lot shape is the primary hardship. She said that the other hardships exist but the lot shape is the most challenging. Mr. Himmelberger said that the Planning Board found that the argument for shape of the lot persuasive. Ms. Miller said that because most of the topography is at the back, it renders the backyard relatively not usable. She said that her clients have two young children who like to use the side yard. She said that if they were to expand into the side yard, they would will lose that usable space and it would encroach more on the neighborhood.

Mr. Sheffield asked Ms. Miller is she is in charge of any landscape design changes. Ms. Miller said that she is not. Mr. Himmelberger said that they will have to address landscaping in LHR.

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. Sheffield moved and Mr. Levy seconded the motion to approve a variance, finding a hardship due to the shape of the lot. The Board voted unanimously to grant a variance.

ZBA 2018-33, CAROL KINAS & GEORGE STATHAS, 50 BANCROFT ROAD

Presenting the case at the hearing were Leah McGavern, Architect, Carol Kinas and George Stathas, the Petitioner.

Ms. McGavern said that the request is for a variance due to hardships of lot configuration and topography. She said that from the upper right corner of the lot as shown on the architect's drawing, to the bottom, which is the driveway corner, there is a difference of 20 feet, which made placement of a garage difficult. She said that they tried to put it in front of the house but that created an awkward relationship where it would block the front entry. She said that the other hardship that they are claiming is lot configuration. She said that they acknowledge that it is a rectangular lot but when the house was built in the 1800's, it was built to face Route 9. She said that the front of the house is not Bancroft Road but faces Route 9. She said that the configuration of the whole lot is awkward, which is why you cannot put a garage on the side of the lot as you enter because that is where the entry is. She said that they looked at every other option for a place to put a garage including at the top of the hill behind them and the other in the middle of the front entry.

Ms. Kinas said that they spoke with their direct neighbors and they are all in full support of the changes. She submitted a letter of support from neighbors at 43,53, and 54 Bancroft Road.

Ms. Kinas said that they love their older home. She said that in this day and age, a lot of older homes are being torn down. She said that they want to preserve the charm of their home and make it amenable for modern day living. She said that they have small children and are planning to have her elderly parents move in. She said that this is the best solution that would make it a safe and livable area to enjoy for many decades to come.

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

Mr. Levy said that it appears that the Total Living Area plus Garage (TLAG) calculation is under the threshold for the district.

Mr. Becker talked about the 500 Foot Rule. He said that the variance request is not for 30 feet but from the minimum setback governed by the 500 Foot Rule. He said that one property within that span has a setback of 30.2 feet. He said that, for him, the case hinges on topography, whether the topography is steep enough and whether there is space on this lot to put a garage. Ms. McGavern said that ordinances often do not take into account historic structures and the unusual constraints. Mr. Becker said that the Board sees about 100 cases a year and does review cases with similar issues. He said that he visited the site and looked at the neighborhood. He said that the neighborhood does have plenty of grade changes. He questioned whether this property is so different from the rest that it qualifies for a hardship. He asked, given the slopes that are there, could they put a driveway up and around a corner to put a conforming garage in.

Mr. Sheffield said that the most logical solution is the one that the Petitioners are pursuing. He said that it minimizes that length of driveway to get from Bancroft Road to the garage. He said that it has the look of a garrison colonial at some parts of the house. He said that he would like to see a break in the plan on the west elevation, as shown on Plan A.10. Ms. McGavern said that would be easy to do. Mr. Sheffield said that would make the end of the house that faces Bancroft Road look measurably smaller. He said that it is the west elevation and would have shadow on it for most of the afternoon.

Mr. Sheffield asked about reclaiming the rest of the site from blacktop. Ms. McGavern said that the intention is to keep the driveway that goes all the way to the back door by the kitchen, where they could drop off Ms. Kinas' elderly parents at the main floor level. Mr. Sheffield asked if the existing garage will remain or be removed. Ms. McGavern said that they had not spoken about removing it.

Mr. Levy said that this is otherwise conforming, other than the garage. He said that the request is for a variance for setbacks. Mr. Becker said that this is nonconforming. Mr. Sheffield said that the distance from Bancroft Road to the new structure will be 22.3 feet. He said that he was not convinced that there is a better solution for location of the garage, given the dimensions of the house to the lot line. Mr. Becker said that an alternative area would be at the back, where you are not digging into the slope. Ms. McGavern said that is the only flat area in the yard. She said that it would be a fairly steep driveway up to it.

Mr. Sheffield asked if the existing garage will be repurposed if it remains. Ms. McGavern said that the existing garage will probably be used as a storage shed. Ms. Kinas said that they keep their bikes and trash there. Ms. McGavern said that cars cannot fit into the garage. Mr. Stathas said that the driveway is essentially one car lane. The Board discussed Zoning regulations for storage sheds.

Mr. Becker read the Planning Board recommendation. Ms. McGavern said that locating the addition in a southern location would put the garage in front of the door, so they would no longer have the front of the house. She said that they did not look at putting the addition at the rear depth. She said that they wrote it off for several reasons. She said that it would be smack in the middle of the yard. She said that she did not have enough information to say whether there would be enough room inside the setback to park a car. She said that it looks like there could be if you entered directly perpendicular to Bancroft Road. She said that it would be a very steep driveway, which is one of the problems that they are trying to address. She said that it does get icy and her clients have been to the hospital a couple of times to deal with shoveling and ice.

Mr. Stathas said that on the northern side there are several mature maple trees that probably would be compromised. Ms. Kinas said that they would like to preserve the play area for their small children. Ms. McGavern said that if the house was turned another way, it would be an entirely different situation. She said that placement of the structure on the lot is an issue.

Mr. Sheffield said that he is inclined to grant the variance but he would really like to see the west elevation addressed a bit because it shows a single plane towards Bancroft Road. He said that the rest of the house has different planes to it. He asked that the elevation facing Bancroft Road be modified to enhance the scale of the building.

Mr. Levy said that he would like to see the existing garage removed. He said that it is an existing nonconformity that could be eliminated. He said that the Petitioner can put up a free standing shed up to 100 square feet as a matter of right.

Mr. Becker said that a conforming garage on the north side would be a hardship for the use of the house. He said that there would be no open space or anything one could do for where the kids play. He said that he would be amenable to a finding that the topography creates a hardship.

Ms. McGavern asked how much the decision relies on demolition of the existing garage and replacement with a shed. Mr. Levy said that he would like to see the nonconformity eliminated, since they will be adding a garage. He said that they will be repurposing the building, so they will not need to use it as a garage. Ms. Kinas said that they currently use the garage for storage. She said that it is nicely settled into the wall. Ms. McGavern said that it is part of the retaining wall. Mr. Becker said that the issue is that the variance creates a nonconformity that was not there. He said that the garage is nonconforming. He said that the idea is that they will add a nonconformity but will take one away as well. Mr. Sheffield said that the retaining wall can stay by taking off the back end of the garage and leaving it as a size that is permitted as a shed within the Zoning ordinance. He said that would solve the problem. He said that they would still have access where they normally have it. Mr. Becker estimated that the existing garage is 22 feet long by 12 feet wide, which is approximately double of what is allowed by right. Mr. Levy said that since they will be adding a garage, reducing the existing garage would be a fair trade. Ms. McGavern said that it is not an unusually high garage. Mr. Becker said that the existing garage could be reduced in size or demolished and replaced somewhere on the lot that meets the Zoning requirement of 100 square feet or less.

Mr. Stathas said that there is storage space above in the garage, much like an unfinished attic. Mr. Becker said that 100 square feet that is allowed is footprint.

Mr. Levy moved and Mr. Sheffield seconded the motion that the Board make a finding that literal enforcement of the Zoning Bylaw would involve substantial hardship due to the topography of the lot and that a variance be allowed, subject to a condition that the existing garage be reduced to a conforming size. The Board voted unanimously to grant a variance.

ZBA 2018-34, NANCY ERNE, 599 WASHINGTON STREET

Mr. Becker asked if anyone knows why the Board added in the condition that Ms. Erne must be the owner. He said that the Board has done that before but in places where the use was incompatible with the underlying zoning. He said that except for the fact that this structure is located in a Townhouse District but is divided horizontally instead of vertically. Mr. Levy said that it is not grandfathered. Mr. Becker said that it was created in 1981 with the original Site Plan Approval for that district. He said that he tried to find a way out of this but the Board has not figured it out since 1981.

Mr. Becker read the Planning Board recommendation. He said that they recommended that the special permit be renewed with only one requirement that it expire after three years.

Mr. Levy moved and Mr. Sheffield seconded the motion to renew the special permit with a condition that it will expire in three years. The Board voted unanimously to grant renewal of the special permit.

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

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary

DRAFT