

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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

August 2, 2018  
7:30 pm  
Juliani Meeting Room  
Town Hall

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

### BUSINESS MEETING

#### ZBA 2017-85, BABSON COLLEGE, WEISSMAN CENTER, 9 MAP HILL DRIVE

Mr. Becker said that there is a proposed change that would add 13 additional trees beyond those on the previously approved plan.

Present at the public meeting was David Grissino, Director of Capital Projects & Planning, Babson College. He said that there has been a change to the Landscape Plan at the Weissman Center. He said that everything but the landscape has not changed.

Mr. Grissino said that Babson has several projects underway simultaneously as part of their build up to their centennial. He said that in an effort to provide unity to those projects, they hired the same landscape architect that they have had for projects at the Webster Center, the Horn Library and Centennial Park. He said that to provide more unity among the projects, there have been some enhancements to the plan that includes additional trees, low plantings and shrubs. He said that the before and after plans that were submitted clearly show the changes.

Mr. Grissino said that they are at a point now where they are nearing the end of the project. He said that they are looking to get a temporary Certificate of Occupancy in three weeks. He said that they are looking for a September installation of the planting material.

Mr. Grissino said that Babson is before the Board tonight for its review and determination that the proposed changes are a minor modification to the approved application. He said that, for clarity, when Michael Grant comes to do his inspections to give Babson the ability to use the building, they would like to highlight the

fact that all of the plant materials will not be in place in three weeks but will be in place for the final Certificate of Occupancy is issued in September.

Mr. Levy asked for more details about the actual change. Mr. Grissino said that in the previous version there were fewer trees, particularly along the rear and the front. He said that Plan A0.01 shows five additional new trees located along the front and the side. He said that has been enhanced in the new plan where they will now have a total of eight trees in that same area. He said that has been additional planting along the back to provide screening between the Weissman Center and the residence hall. He said that the bigger change will occur at the street edge where there is a much greater variety of drought tolerant plants, as shown on Plan L0.01. He said that the species selection is more consistent with the rest of the campus. Mr. Levy asked if you can tell which trees are additional on the plans. Mr. Grissino said that plans show a combination of the approved and the proposed plans. He said that the change was not just additive but a reconsideration of all of the landscape. Mr. Levy asked if any of the trees on the approved plans will be moved. Mr. Grissino said that some of the trees will be moved to accommodate the fact that there will be more of them and in some cases, a different species. He said that they are still trying to create a canopy edge along the street and provide a buffer. He said that the plans have been intensified in terms of the number of plantings.

Mr. Levy moved and Mr. Redgate seconded the motion that the Board make a determination that the proposed changes are minor modifications that do not require a public hearing and approve the changes. The Board voted unanimously to make a determination that the proposed changes are minor modifications that do not require a public hearing and approve the changes.

#### ZBA 2017-63, PETER KATISKARIS, 15 MANOR AVENUE

Present at the public meeting was David Himmelberger, Esq., representing Peter Katiskaris, 15 Manor Avenue. Mr. Himmelberger said that the request is for the Board to make a determination that the extension of a deck that was previously approved at 7 feet by 28 feet can be extended to 14 feet by 28 feet. HE said that the Applicant has gone through wetlands to receive the requisite approval for pushing the deck out another 7 feet, and further that, of the total additional square footage, only 3.5 feet will be into the setback area that was the source of the 1972 zoning relief which called the paper street frontage and thereby required a 30 foot setback instead of a 20 foot side yard setback. He said that they are seeking a determination that it is a minor modification and further approval of that.

Mr. Levy confirmed that Rose Street is a paper street. He asked if this property had been the subject of a Building Inspector appeal. Mr. Himmelberger said that when he previously came before the Board, he argued that this was a special permit because the basis for the application and granting of the original variance was no longer operative. He said that if the 1972 application to build this house came forward today, it would not require any zoning relief because Mike Grant would say that it is more than 20 feet from the side yard because Rose Street is impassable and cannot provide frontage. He said that he argued that it was entitled to a Section 6 finding. He said that the Board granted a variance instead. He said that when they went to submit the Building Permit application, the Building Inspector said that because this did not get a special permit/finding, it was subject to Large House Review (LHR). He said that it was on that point that they appealed and argued that the exemption for LHR does not require the actual granting of a special permit or making a Section 6 finding but rather that it only be subject to a Section 6 finding. He said that this Board upheld the appeal. Mr. Levy said that there were two hearings for that, the first hearing being for the variance and the hearing on an appeal. He said that an appeal is not germane to this today. Mr. Himmelberger said that the request is to modify the decision to allow deck to be an extra seven feet deep.

Mr. Levy said that he has a plan dated July 2, 2018. He asked what the Board approved. Mr. Himmelberger said that the Board approved the June 6<sup>th</sup> where the deck is seven feet deep. He said that on the July 2<sup>nd</sup> plan, the deck is 14 feet deep. He said that it will still be 28 feet long and the stairs are turned. He said that it will be exactly doubled in size.

Mr. Levy asked whether the basis for granting the variance had been based on the shape of the lot, the topography or the soil condition. Mr. Himmelberger said that the original variance in 1972 granted relief from a 30 foot setback from Rose Street, which the Building Inspector at the time said provided frontage. He said that, of this extended deck, only 3.5 feet will be in the 30 foot setback.

Mr. Levy said that there is an issue with doing this piecemeal and having the deck double in size.

Mr. Becker said that he had been through a similar situation at his vacation home and opted for a 14 foot deck instead of a 7 foot deck. He said that he could consider it to be a minor change. Mr. Redgate agreed.

Mr. Redgate moved and Mr. Levy seconded the motion to make a determination that the proposed changes are minor modifications that do not require a public hearing. The Board voted unanimously to make a determination that the proposed changes are minor modifications that do not require a public hearing.

#### ZBA 2018-17, NIELS BOEGHOLM, 2 PLEASANT STREET

There was no one present at the public meeting who wished to speak to this.

#### ZBA 2017-95, 285 GROVE STREET LLC, 285 GROVE STREET AKA 45 LONDMEADOW

Present at the public meeting were David Himmelberger, Esq., and David Silverstein, Copper Leaf Development.

Mr. Himmelberger said that the request is for the Board to make a determination that the proposed change to a wall that is no taller than 2.5 feet and associated changes in the grading of the land is a minor modification. He said that a retaining wall that was no taller than 2.5 feet was previously shown in the approved plans that extended from the front right of the house, roughly parallel but in a bit of an arc toward the front driveway. He said that after giving further thought, the Applicant is seeking to modify the wall such that, although it will still come out from the front right corner of the house, it will arc to the side yard. He said that with the associated grading that will be done, there will be no change in the engineering for the runoff. He said that they have a letter from a civil engineer attesting to the fact that the drainage will continue to work as originally designed, namely, with a portion of the drainage going in one direction and a portion going in the opposite direction toward the rain garden.

Mr. Levy confirmed that this is not jurisdictional because of the Retaining Wall Zoning Bylaw but solely because a Section 6 Finding was needed. He asked if it could be done as a matter of right. Mr. Himmelberger said that he spoke with the Building Inspector, who was inclined to say that the proposed change is insignificant but would be more comfortable if the ZBA would approve it. He said that it has nothing to do with the structure. He said that there was nothing upon which the Board based its decision that in any way was implicated by how the original wall was configured and how the grading was done. He said that there is nothing about this that would in any way contraindicate the wisdom in the earlier decision. Mr. Becker said that it flattens the slopes on the upper portions without changing the slopes on the total wall, which it what makes for no change in the drainage.

Mr. Levy moved and Mr. Redgate seconded the motion to make a determination that the proposed changes are minor modifications that do not require a public hearing and approve it. The Board voted unanimously to make a determination that the proposed changes are minor modifications that do not require a public hearing and grant approval.

## PUBLIC HEARING

### ZBA 2018-53, STEVEN WELLS, 24 CAVANAGH ROAD

Mr. Becker said that at the previous hearing there were two principle issues regarding the air conditioning units that would have required a variance and for which the case was not advertised, and habitable space in the garage and having only one habitable dwelling per lot.

Presenting the case at the hearing were Robert Williamson, Architect, and Erik Rockwood, General Contractor.

Mr. Williamson said that he included a letter with the revisions to the drawings. He said that their first focus was to redesign the garage. He said that they lowered the ridgeline by three feet so that the ridge aligns with the soffit and gutter of the main body of the house. He said that the owner would like to have a utility sink on the first floor at the back right hand corner of the garage so that he can wash his hands when he is working outside. He said that they fully understand that the intent is to not have a bathroom, so they will only have a two inch sanitary line.

Mr. Williamson said that TLAG has been reduced. He said that they kept the design of the shed dormers. He said that the gutters and the roof overhang at the first floor level is best to reduce the impact from the street. He said that having a shed dormer facing the street was the best option for that. He said that they reduced the height of the garage by approximately three feet. He said that they lost six inches of ceiling height.

Mr. Williamson said that the air conditioning condensers will be located in a well under the stairs in the rear yard in a conforming location, as shown on Plan A1.1 and on all of the building elevations.

Mr. Adams said that there appeared to be a typo in Mr. Williamson's cover letter where it said that the two condensers are located within the existing side yard in the new set of drawings. He said that the condensers will not be located in the side yard setback.

Mr. Williamson said that he spoke with people in the Planning Department. He said that in the previous design they had shown a TLAG that was just under the 3,600 square foot threshold. He said that they understood that was a requirement so that they would not have to go through Large House Review (LHR). He said that they had a plan to make the second floor of the house a cathedral ceiling, which would cut out 202 square feet of existing TLAG attic space. He said that after speaking with Planning Department staff, they were told that they can go over the 3,600 square foot threshold with an approved ZBA decision. He said that the final TLAG will be 3,789 square feet, including the second floor of the garage. He said that they opted to not tear up the existing ceiling just to comply with the TLAG threshold.

Mr. Levy said that a TLAG affidavit requires a signature. Mr. Williamson said that his understanding is that a final Affidavit must be submitted to the Building Department.

Mr. Adams said that there is no stair to the attic. He asked if there will be a pull down stair in the house. He said that although there is no intention to use that space, under the 2017 TLAG Rules, all of that space is counted. Mr. Adams asked if it will be seven feet to the peak. He said that the attic floor is at 181 and the attic roof is at 189, for eight feet.

Mr. Levy asked how much of the second floor of the garage is attributable to TLAG. Mr. Williamson said that it is 380 to 400 square feet. Mr. Levy asked if the space would not be calculated if it was under seven feet. Catherine Johnson, Planning Board, said that it has to be under five feet to not be counted.

Mr. Levy said that the dormer on the garage is a big structure for something so close to the lot line. Mr. Adams said that he agreed. He said that there will also be stairs back there. He said that he still felt that the Applicant is trying to get too much out of it. He said that he did not understand the need for a handwashing sink in the garage. He said that there are three sources of water within a short walk to the house, on the first floor and in the basement. He said that the Board is not prohibiting any kind of an exterior water source.

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

Mr. Adams said that Mr. Williamson mentioned in his letter that a revised plot plan that shows the new location of the air conditioning units will be submitted.

Mr. Levy said that he was concerned about the side yard setback for the garage.

Mr. Adams said that the revised plans do not change his concerns about the garage. He said that the eave line did not change. Mr. Williamson said that the ridge changed. Mr. Adams said that it is actually a little less pleasantly proportioned. He said that the Board's concern is that it is a large garage that is taking advantage of what was a pre-existing nonconforming garage. He said that it was not moved further away from the neighbor's property. He said that it will be too much on the site with respect to the height and the dormers. He said that with the location of the stair and the size of the second floor of the garage, they are trying to put too much on the site.

Mr. Adams said that the neighbors have had the opportunity to voice any objections. He said that it will be a large structure right next to their back yard. He said that just by having the first floor and the area under the gable with an access, they would have storage space in the garage. He said that this plan is asking for a lot more than that. He said that they will already be enlarging the house substantially. He said that the request for the garage is more than what is reasonable for this site. Mr. Becker agreed. He said that he applauded lowering the ridge as a good step but, given the proximity to the property lines, the exterior stair and the dormers do not respect the shallowness of that distance. Mr. Levy said that it looks like an apartment from the outside. Mr. Adams said that use of the space could be an issue for the neighbors.

Mr. Becker discussed various options for moving forward with the petition. Mr. Levy said that Mr. Williamson should have the opportunity to discuss the options with his clients. Mr. Becker said that the Board would not be comfortable approving the petition based on a design change that it had not seen.

Mr. Levy moved and Mr. Adams seconded the motion to continue the petition to September 13, 2018 at 7 pm. The Board voted unanimously to continue the petition.

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 thanked the Board for allowing the petition to be continued from the July 12, 2018 hearing. She said that it allowed her client time to think clearly about the best approach for renovation.

Ms. Qin said that the project includes four parts: enclosing the front porch; putting an addition on the second floor over the entrance on the west side; putting an addition on the second floor over the side porch on the east side; and lowering the basement floor about one foot. She said that the renovations will be confined to the existing footprint and the roof ridge will stay the same.

Ms. Qin said that the request is for zoning relief for the existing front porch that encroaches into the setback. She said that enclosing the front porch will not increase the nonconformity. She said that the entry on the west side is located in the setback area. She said that an addition on the second floor over the existing first floor structure will not exacerbate the nonconformity. She said that the lot is 8,000 square feet, which is less than 10,000 square feet which is standard for the district. She asked that the Board consider the request for relief.

Mr. Redgate asked about the front and side setbacks in a 10,000 square foot Single Residence District. Mr. Becker said that they are 30 and 20 feet.

Mr. Becker said that the property is located in a General Residence District, which does not fit in well with the Large House Review (LHR) category. He said that the surrounding zone is 10,000 square feet. He said that if you treat the General Residence District like a 10,000 square foot district. He said that the TLAG is under the trigger for LHR for that district. Mr. Levy confirmed that there are no thresholds for LHR in General Residence Districts.

Mr. Redgate asked if all of Pleasant Street is in the General Residence District. Mr. Becker said that it is not. He said that the part closest to downtown is and the part towards the Sprague School is not.

Mr. Levy said that even though it is under the TLAG threshold, it is still a lot of house for the neighborhood. Mr. Becker said that it does add significantly but is will only be slightly larger than average by 10 to 15 percent.

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. Levy asked if a TLAG Affidavit was submitted. He said that the calculations are shown on Plan A-101 but it is not stamped.

Mr. Redgate confirmed that construction will all be within the footprint of the existing building if you count the porch. He said that there will be no new addition.

Mr. Levy moved and Mr. Redgate seconded the motion that the Board make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming

structure and approve a special permit, subject to a condition that a TLAG Affidavit that shows a TLAG calculation of less than 2,620 square feet is submitted. The Board voted unanimously to approve a special permit.

ZBA 2018-56, DEREK & SUSAN WEYCKER, 14 AVON ROAD

Presenting the case at the hearing were Timothy Burke, Architect, Derek and Susan Weycker, the Petitioner.

Mr. Burke said that the Weyckers have lived in their house for 14 years, love the neighborhood and are looking to stay. He said that they asked him to help improve a kitchen that is not up to par.

Mr. Burke said that the existing house is nonconforming with respect to the front yard setback, which is fairly common along Avon Road. He said that the plan is to expand the kitchen where there is a side porch. He said that they would like to wrap the porch around the corner. He said that the porch is currently 11.5 feet from Avon Road and they would not extend it further than that. He said that wrapping the porch on the side will make it symmetrical on the main of the house, improves the curb appeal and what the neighbors see from the street. He said that the Weyckers like to use the porch and it is a great way to engage with their neighbors as they walk down the street.

Mr. Levy said that in addition to the nonconforming front yard setback, it is also an undersized lot and the left side yard setback is less than required.

Mr. Redgate said that the existing porch 6 feet 6 inches and the width of the addition along the side of the house will be less than 6 feet. Mr. Burke said that they will match the existing porch footprint.

Mr. Becker said that the wrap around portion of the front porch will come out as far as the existing nonconforming front of the porch but will comply on the right side.

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. Levy asked if a TLAG had been submitted. Mr. Burke said that he did not have TLAG calculations with him. Mr. Levy said that the Total Living Area is 3,139 square feet. He said that the property is located in a 10,000 square foot Single Residence District. He asked about the size of the addition. Mr. Burke said that they will add 150 square feet on the first floor and 120 square feet on the second floor. Mr. Levy discussed inserting a condition that the TLAG be less than 3,600 square feet. He said that the Assessor's records show a TLA of 3,158 square feet. He said that this would be exempt from Large House Review but TLAG helps the Board to get an understanding about how this fits in with the Town's view of what constitutes a large house.

Mr. moved and Mr. Redgate seconded the motion that the Board find that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure and approve a special permit, subject to a condition that the post-construction TLAG shall be less than 3,600 square feet. The Board voted unanimously to approve a special permit.

ZBA 2018-57, NORBERT & RITU ANTHONY, 7 ROBERTS ROAD

Presenting the case at the hearing were Robert Williamson, Architect, Norbert and Ritu Anthony, the Petitioner.

Mr. Williamson said that the request is for a special permit for an addition and renovation to a nonconforming structure with less than required side yard setbacks on the west side. He said that Roberts Road is a cul de sac. He said that he did a similar project at 24 Roberts Road a few years ago.

Mr. Redgate asked about the requested relief. Mr. Williamson said that the relief is to reconstruct an existing one-car garage that does not have a suitable foundation to support the proposed second story addition, as well as an extension of the setback to build an addition behind it. He said that the addition will be partially one and partially two stories. He said that the goal of the project is to provide two more bedrooms and bathrooms for family and guests.

Mr. Williamson said that the lot is good sized and there are no issues with coverage. He said that all work on the east will comply. He said that there is a big back yard and there are no issues with setbacks at the rear. He said that they are proposing a small one-story addition so that the mudroom can function and a portico over the front entrance of the house.

Mr. Becker said that there are three nonconformities, left and right side yard setbacks, and lot size.

Mr. Williamson said that the ridge line of the addition above the one-story garage will not exceed the ridgeline of the existing house. He said that the new space above the existing garage will have positive effect on the front elevation.

Mr. Levy asked about the total TLAG. Mr. Williamson said that the TLAG will be approximately 3,500 square feet, including the attic and the garage.

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 said that the Planning recommended that the Board insert a condition for plantings along the northwest property line. Mr. Levy asked if any consideration had been given to adding screening. He said that the house at 9 Roberts Road appears to be close to the line. Mr. Anthony said that he has a lot more trees on his property than his neighbors do but he can plant more. He said that they discussed the plans with the neighbors and they were willing to submit a letter of support.

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

#### ZBA 2018-58, STEPHANIE ANDERSON, 24 AVON ROAD

Presenting the case at the hearing were David Himmelberger, Esq., Stephanie Anderson, the Petitioner, and Charles Kraus, Architect.

Mr. Himmelberger said that the request is for a special permit to raze and rebuild an existing nonconforming structure. He said that the only nonconformity that they cannot change is an 8,000 square foot lot. He said that it has a side yard setback of 19 feet, a front yard setback of 22 feet, and a rear yard setback of 9.3 feet.

He said that the reconstructed house will be fully compliant. He said that the height of the house will present almost identical to the existing house. He distributed a comparison of the existing and proposed elevations. He said that if this was a conforming lot and they needed to, they would have a basis to seek a variance for topography that drops 28 feet from the front to the rear.

Mr. Himmelberger said that proposed TLAG will be 5,452 square feet. He said that in the main body of the house the two floors total 3,680 square feet. He said that because of the 28 foot drop from front to rear, much of the basement is exposed and therefore, 1,122 square feet is counted in TLAG, as well as 650 square feet in the attic.

Mr. Himmelberger said that this will be a 36 foot by 36 foot structure with a rear projection. He said that the Planning Board made note of the fact that the rear will present at about 40 feet, which is the case today. He said that the abutter at 211 Weston Road is a significant Victorian which is also a substantial building. He said that there is screening proposed at the rear, consisting of 10 foot arbor vitae that will grow significantly taller. He said that the house will present almost identically to another home at 10 Avon Road.

Ms. Anderson displayed pictures of the existing house and the house that they are hoping to replicate. Mr. Redgate confirmed that the proposed house will be 10 feet wider than the house at 10 Avon Road.

Mr. Himmelberger said that the Planning Board commented about the impervious surface. He said that the Applicant would accept a condition that the driveway be pervious pavers. He said that there are two drywells shown at the rear of the lot. He said that the Applicant would accept a condition that the drywells be sized to accommodate all of the roof runoff.

Mr. Himmelberger said that the house has been through the historical review process and was deemed preferably preserved. He said that if the Board grants a special permit tonight, it will extend and be valid beyond the one-year demo delay period. He said that they will meet with the Historic Commission on September 13, 2018 to request a waiver. He said that being in a delay mode should not be the basis for not granting a special permit.

Mr. Himmelberger said that the Applicant believes that the proposed house will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. He said that they will eliminate three nonconformities on the rear, side and front.

Mr. Himmelberger said that the house at the front will present at about 30 feet. He said that it will be an appropriate size, as evidenced by the beautiful home at 10 Avon Road. He said that the request is for favorable approval.

Mr. Redgate asked if the site naturally slopes as steeply as shown on the plans. He asked if there will be a significant amount of excavation to build the basement level and the garage level. Mr. Kraus said that the site slopes similar to the proposed plans. He said that the grade at the back left corner is the same as the existing. He said that there are a couple of retaining walls behind the existing house that enable the site to drop down. He said that they will use the level at the lowest point for the garage. He said that they will remove the walls and have the site slope continuously. Mr. Redgate said that the turn into the garage looks tight on paper. Mr. Kraus said that the right hand radius could be wider but it will be slightly more than 30 feet from the property line.

Mr. Redgate asked about the calculations for the basement and attic space. Mr. Himmelberger said that without the basement and attic, the TLAG will be 3,680 square feet, which is just slightly over the threshold for the district. He said that because of the steep slope, the basement will be 1,100 plus square feet. He said that the attic will be 650 square feet. He said that the total seems large but from the street the house will look comparable to 10 Avon Road, 30 feet tall and 36 feet wide. Mr. Becker said that he did not see anything on Avon Road comes anywhere near the square footage of total living area. Mr. Himmelberger said that they do not go as far back into the lot as this one does. He said that it will be four feet wider than 10 Avon Road.

Ms. Anderson asked about the Total Living Area. Mr. Becker said that it is different from TLAG but is sometimes the only thing that the Board has to use for comparison. Mr. Kraus said that the garage is included in the TLAG calculation but not in the Assessor's calculations. Mr. Becker said that they have taken the setbacks, horizontally and vertically, are filled them up with house. Ms. Anderson said that they could have gone another five feet on each side.

Ms. Anderson said that they would love to save the house if they could. She said that the bathroom is falling off of the side. She said that she has four children and she chose Wellesley because it is not a land of many mansions. She said that when she went under contract for this in July, the rules had just gone into effect and her understanding was not complete. She said that there are minute changes that some of the architects catch. She said that it is really not an excessive house. She said that it will meet all of the zoning codes. She said that to renovate the house, they would have to put a ten foot addition on both sides, which would cost too much.

Mr. Becker said that the petition before the Board is for a special permit and the standard for granting that is whether the proposed change will be substantially more detrimental to the neighborhood. He said that it is a good thing to conform to the setbacks in the Zoning Bylaw but that does not automatically mean that it will be less detrimental. Mr. Himmelberger said that the standard is not whether it will be more detrimental but whether it will not be substantially more detrimental. He said that it will be a significant home but the question is whether it will be beyond the line at which a home would be substantially more detrimental. He said that that he would argue that this would be far away from that line, based upon 10 Avon Road, how it presents to the street, and how it fits in with the neighborhood.

Mr. Levy said that the proposed house will be 50 percent over TLAG, which is the criteria that Town Meeting determined constitutes a large house. Mr. Becker said that 10 Avon Road has a Total Living Area of 1,948 square feet. He said that doubling that to account for the difference between TLA and TLAG, this will still be 150 percent of that. He questioned how that would not be substantially more detrimental. Mr. Himmelberger said that he would focus on the nonconformities. He said that they have eliminated the nonconformities except for the lot size.

Ms. Anderson said that a good amount of the TLAG is in the basement. Mr. Himmelberger said that the effect on the neighborhood from Avon Road will be benign.

Mr. Becker said that this is a Water Supply Protection District (WSPD). He said that a proposed drywell was shown but there was nothing in the application package that talked about what happens to the runoff. He said that the WSPD bylaw says that runoff should be reinjected to groundwater unless there is some issue with that. Mr. Himmelberger said that the intention is to tie all of the roof runoff to two drywells. Mr. Kraus said that only one drywell is shown on the Plot Plan but two drywells are shown at the rear corners on Landscape Plan L1.1. He said that the Applicant is willing to accept a condition that all of the runoff will be

tied off to two drywells that are sized to the satisfaction of the Town's Engineering Department. He said that the Applicant would accept a condition that the driveway paving be pervious.

Mr. Levy asked if an analysis of the 500 Foot Rule had been done. Mr. Himmelberger said that the Certified Plot Plan notes that the building at #14 Avon Road is approximately 9.2 feet from the street line. Mr. Levy asked if 14 Avon Road is within 500 feet of 24 Avon Road. Mr. Himmelberger said that 24 Avon Road has a front yard setback of 22.4. He said that 14 Avon Road is two houses down from 24 Avon Road. He said that the lots are 80 feet wide.

Mr. Levy said that there was nothing on the plans that indicated where the air conditioning units will go. Mr. Kraus said that they are shown on the Landscape Plan L1.1 under the deck on the right. Mr. Levy said that the air conditioning units cannot be in the setback area. He said that the Board will not grant relief for the ac units.

Mr. Becker said that the issue is the size of the house. Ms. Anderson said that they do not plan to use the basement for living space. She said that her mother lives with them and would not be able to walk up and down the steps. She said that it is awkward that her lot slopes the way that it does. She said that she did not understand that it would be as awkward as it is when she bought the house. She said that it is a very close neighborhood, which is why they chose it. She said that she wants her mother to be able to get out and walk. She said that the neighborhood is very community oriented. She said that everyone is supportive of this due to the fact that the current house is a blemish on the neighborhood. She said that it will not be substantially more detrimental to the neighborhood.

Mr. Redgate said that if TLAG is going to be exceeded, it is better if the space that causes the substantial increase in square footage is subterranean. He said that his opinion changed from prior to hearing when he looked at the proposed home in relation to other elevations along Avon Road, including 10 Avon Road, which seems very similar to this house. He said that the proposed house seems to be a premium architectural home with respect to windows, finishes and appearance. He said that he has adjusted his opinion. He said he is not as swayed by the numbers that are presented but is more swayed about the actual appearance of the house from the street.

Mr. Levy asked about the intent for the attic. He said that a bathroom is shown on the plans. Ms. Anderson said that she was hoping to use that space for her boys who will be going to college. Mr. Kraus said that they could avoid the TLAG calculation for the attic by raising the second floor ceiling joist or lowering the pitch of the roof. He said that lowering the pitch of the roof would not be in keeping with the neighborhood. Ms. Anderson said that older houses had higher pitches. She said that they were trying to replicate 10 Avon Road, which has a higher roof pitch. She said that they looked at alternative roof shapes so that they would not have to go as high. She said that a square roof is almost indicative of the neighborhood.

Mr. Becker said that the height of the proposed house from average existing grade will be slightly less than 36 feet.

Mr. Becker said that he recognized Mr. Redgate's change of heart and heard Mr. Himmelberger's argument about the width and how it looks in comparison to other houses in the neighborhood. He said that the TLAG requirement was done for a reason. He said that recognizing the 24 Avon Road will look like 10 Avon Road, it does not sit next to its neighbor the way that 10 Avon Road does. He said that the house next door on the right hand side is at a lower elevation and will look dwarfed by this house. Mr. Himmelberger said that he did not believe that it will look dwarfed when you look at the streetscape. Mr. Becker said that people will

see it from more than just front on. Mr. Himmelberger said that TLAG is not a bar or ceiling but is a trigger for review. He said that if there can be additional conditions that the Board might want to impose as a Planning Board might in terms of screening or something like that. Mr. Becker said that the Board has granted special permits for TLAGs in excess of the trigger, some of them significantly larger, but he could not recall seeing one that is this much beyond at three or four times. Mr. Himmelberger said that the Board has granted special permits for TLAG that is significantly larger than the trigger. He said that it is just a trigger for review and is not pejorative. Mr. Becker said that the action that the Applicant is requesting, short circuits that process. Mr. Himmelberger said that they did not create the fact that LHR is specifically exempted from the special permit process. He said that he was part of the Town Meeting process where it was deemed that this Board could exercise its judgment for those areas that are traditionally otherwise covered under LHR such as circulation, lighting, screening and landscaping. He said that this project does a good job to address those issues. He said that he did not think that this would be a dead on arrival project before the Planning Board. Mr. Redgate said that it might be useful to look at examples of conforming lots that went through LHR that were significant to this level. Ms. Anderson said that it is hard to understand unless you walk the lot. She said that there is an eight to nine foot drop with a foundation wall. She said that if they would fill in the basement and have it be all first floor if they could. She said that the basement is almost a hardship in this case. Mr. Levy said that it is usable space. He said that there will be a bedroom down there. Ms. Anderson said that it will not be usable for anyone who is elderly. She said that Wellesley's Zoning changes were about stopping development just for the sake of development and big mansions. She said that she is trying to do something for her mother. Mr. Levy said that there is also a full bathroom, a walk in closet and a mudroom in the basement. Mr. Himmelberger said that you cannot come directly into the first floor at the back of the house because it is in the air.

Mr. Levy said that the standard of review is whether the proposed structure will be substantially more detrimental to the neighborhood than the existing nonconformities. He said that the Board looks at the LHR bylaw. He said that the Town has determined that anything over a certain square footage is a large house. He said that just because it is large does not mean that it is substantially more detrimental but the two fit together in some way.

Ms. Anderson said that there was a house built on a 4,500 square foot lot. She said that the Board ruled that it was a hardship because the lot would have no commercial value. Mr. Levy said that it was probably a variance. He said that this Board looks at every petition individually.

Mr. Himmelberger said that if you look to LHR, there are six criteria. He discussed how this petition meets the criteria.

Mr. Becker said that when you compare the numbers, they are not even close. He said that if this was built, it would be the most intense use of land on this street by a factor of three. He said that the proposal is to fill up a lot that is undersized to start with. He said that they will not exceed lot coverage. Mr. Becker said that the bylaw was predicated on these being 10,000 square foot lots. Mr. Himmelberger said that it is a percentage basis, so it already takes into account that it is an 8,000 square foot lot. He said that there is a pro-rata aspect to the lot coverage built in. He said that the Zoning Bylaw says it is not unreasonable. Mr. Becker said that the logical extension of that is that every lot in Wellesley can be built out to the setbacks and be built to the 36 foot height. Mr. Himmelberger said that lot coverage goes to how much of the lot is being used and this is within the permissible amount for that. Mr. Becker said that does not talk about use/living area. Mr. Himmelberger said that when talking about living area it concerns what is seen. He said that there is a significant drop off at the rear which causes them to include 1,100 square feet in the basement. He said that it is a seamless look as you are going down the street, which should count for something.

Mr. Redgate said that it would be interesting to see what a 5,400 square foot house would look like on a flat 8,000 square foot lot. He said that the appearance would be massive. He asked if it would be possible for the Applicant to come up with some sort of plan that showed the comparison.

Mr. Becker said that 89 Russell Road is located at Morses Pond on a very steep lot. He said that from the road it looks like a single story. He said that all of the building was below that.

Ms. Anderson said that the house would look enormous if all of the living space was on two floors. Mr. Kraus said that the nature of this lot is that they have to include 56 percent of the basement in the TLAG calculation in addition to the garage and attic.

Mr. Levy asked Victor Panak, Assistant Planning Director, for LHR projects, what is the range of percentage above the allowable area that has been granted in a 10,000 square foot district. He asked if 150 percent is allowed. Mr. Panak said that does happen. He said that this would be largest the TLAG in a 10,000 square foot district that the Planning Board has seen at least in the past year. He said that all of the ones that were in the 5,000 square foot range for TLAG were on lots around 11,000 square feet and one around 16,000 square feet. He said that this would be the highest over the past year.

Mr. Himmelberger said that there are plenty of situations on larger lots where the TLAG is more than double the trigger. Mr. Panak said that the lots are oversized in a lot of those cases. Mr. Redgate asked if 14,000 square foot houses are coming before the Planning Board for LHR. Mr. Panak said that they are. He said that they are on 40,000 square foot lots in 20,000 square foot districts.

Mr. Becker discussed the process with 89 Russell Road when the Board said that the house was too big and asked the Applicant how they would fix it. He said that it was a unique site. He asked how the Applicant for 24 Avon Road would go about reducing the TLAG if the Board said that it was too high. Mr. Kraus said that it would be very difficult because they have the attic to deal and do not want to lower the pitch of the roof. He said that it would not look right in the context of the neighborhood. He said that the lot is narrow but they will comply with the side yard setbacks. He said that 36 feet is not a wide house. He said that it is a questions of trying to squeeze what they have with the same spaces. He said that the basement is what it is without filling the site up with retaining walls. He said that LHR does not look at the grade the same way that the Zoning bylaw does. He said that they would not have to count the basement if they filled up the site and built retaining walls. He said that those are the kinds of things that they would have to look at. Mr. Himmelberger said that if it is just the number that is being chased, the way that the height has been minimized is by raising p the second floor ceilings on a traditional gable house down the center hallway, going up two to three feet to take out attic space. He said that 89 Russell Road exposed a portion of the lower level to make it a covered patio so that it did not count in the calculations. He said that they took a dormer out of the garage area. Mr. Becker said that they had a narrow house with glass on one side that overlooked the pond. He said that they had a cathedral ceiling, so they were essentially missing a floor that counted toward TLAG but you could not stand on that floor space. Mr. Himmelberger said that the actual volume did not go away. Ms. Anderson said that will not change the look at the street. She said that she has been trying hard to go between the Historical Commission and the Zoning Board. Mr. Becker said that the TLAG requirements do not talk about how it looks from the street. Ms. Anderson said that TLAG does not apply here. She said that Zoning Laws are to protect the community. She said that the proposal is to take down a natural hazard in the neighborhood that no one wants. She said that other developers are buying up property and working to avoid the Demolition Bylaw by renting their houses for a year to wait for demo delay to expire rather than go through the process. She said that the Board should want Wellesley to be a

town where people come to raise a family. She said that this will not be a sore thumb in the neighborhood. She said that 1,100 square feet will be basement and 600 square feet will be attic. She said that there will be 3,600 of livable square feet. Mr. Levy said that it will be a six to seven bedroom house on an 8,000 square foot lot. Mr. Becker questioned how that would not be considered to be a mc mansion. Mr. Kraus said that the main floors have five bedrooms. Ms. Anderson said that it is not a mc mansion for someone with four children and a mother living with them. She said that it has been specifically designed to fit in with the street and the neighborhood.

Mr. Himmelberger said that mc mansions were built up to 36 feet and had multiple dormers on the third floor. He said that they were overpowering to the street. He said that if they had an issue with height, they built a hill for height from finished grade. He said that the predominant aspect was that people were building ugly large houses that overpower people from the streetscape. He said that the proposed house here will blend in with all of the other homes.

Ms. Anderson said that the elevation makes the difference here. She said that the Board would not approve this house on a flat lot. She said that this will not open the door for everyone to come in with plans for a 5,400 square foot house. She said that it may open the door for people who have a similar elevation change. She said that this is unique because of the elevation change. She said that they are trying to do something that is conforming to both the Zoning Board and the Historical Commission.

Mr. Himmelberger discussed architectural details on the proposed house. He said that the details make this a very attractive home.

Catherine Johnson, Planning Board, said that McAlester's Book of Styles defines mc mansions. She said that mc mansions were typically built in subdivisions and used every bit of available space on the lots. She said that the proposed house has a lot of the same characteristics as mc mansions. She said that it will be a complete use of the allowable volume. She said that there are various architectural details that try to differentiate and give articulation to it but defies the description of whether it will be more detrimental to the neighborhood. She said in terms of volume, it will be very large.

Mr. Becker said that if this was smaller, he would not have a problem but this is so far beyond what everything else in the neighborhood is. Mr. Kraus asked if Mr. Becker was concerned about the numbers or the scale. Mr. Becker said that he was concerned about the numbers. He said that other houses in the neighborhood have living areas that are on the order of 2,100 square feet. He said that increasing that by 50 percent, this house is still two to three times bigger than that. Mr. Kraus said that the house that was built across the street is 4,700 square feet. Ms. Anderson said that it is at a much higher elevation. Mr. Kraus said that the TLAG was 3,600 square feet. He said that the attic did not count because it went through the special permit process before the bylaw change. Mr. Becker said that because this is a special permit process, he looks at 3,600 square feet as a guideline, recognizing that TLA is not TLAG and the rules were changed without changing the trigger, so the numbers that are submitted will be bigger than the trigger. He said that he could not remember anything in a 10,000 square foot district that was 5,300 square feet on an 8,000 square foot lot. He said that he was having difficulty getting over the determination that it will not be substantially more detrimental. He said that he understood the argument about the width of the house and how it will look from the street.

Mr. Kraus said that they could make changes to the attic to eliminate that number altogether. He said that they could raise the grade on the side and build retaining walls to get the TLAG down by approximately 25

percent. He said that could make the grade more detrimental to the neighborhood by changing the slope of the lot with retaining walls.

Mr. Himmelberger asked if the Board would be willing to continue the petition to give the Applicant more time to address concerns raised by the Board.

Mr. Redgate moved and Mr. Levy seconded the motion to continue the hearing to September 11, 2018 at 7 pm. The Board voted unanimously to continue the hearing.

Mr. Levy said that the Board would take no action on the request for determination of a minor modification for 2 Pleasant Street.

As there was no further business to come before the Board, the hearing was adjourned at 9:34 pm.

Respectfully submitted,

Lenore Mahoney  
Executive Secretary

DRAFT