

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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LENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208
Web: www.wellesleyma.gov

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

Thursday, March 23, 2017, 7:30 pm

Juliani Meeting Room
Town Hall

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

PUBLIC MEETING

ZBA 2017-12, BABSON COLLEGE, 89 MAP HILL DRIVE (TENNIS COURTS)

Present at the public meeting were David Grissino, Director of Capital Projects & Planning, Babson College and Stephen Langer, Esq.

The Board discussed revisions to the draft conditions for Site Plan Approval.

The Board confirmed that any sound system for the tennis courts will not be permanent and that temporary sound systems may be brought in for events. Mr. Levy said that amplification should not carry off site to disrupt the neighborhoods. Mr. Langer said that the championship games are played during the day. Mr. Levy said that sound amplification should also be limited to daytime.

Mr. Adams confirmed that the nets will not be taken down for use as a roller skating rink.

The Board discussed delivery times on Saturdays. Mr. Langer said construction vehicle traffic on Saturdays will be between 8 am and 5 pm. Mr. Grissino said that Babson is currently not anticipating deliveries on Saturdays. He said that they would like to have some flexibility. Mr. Adams said that traffic is lower on Saturdays. Mr. Sheffield said that the Board could limit construction traffic to 8 am to 4 pm on Saturdays. Mr. Adams said that weekday construction traffic will be limited to 7 am to 4pm.

The Board confirmed that there will be a sign with contact information posted during construction.

Mr. Adams moved and Mr. Levy seconded the motion to approve changes to Conditions 10, 15 and 18 of the draft conditions, as discussed, and approve the conditions. The Board voted unanimously to approve the conditions.

PUBLIC HEARING

ZBA 2017-13, JOAN & JEFFREY TALMADGE, 30 MAYO ROAD

Mr. Sheffield said that the Board received a letter from the Petitioner. He said that their business takes them from Cape Cod and the Islands to Florida. He said that they are currently in Florida. He read the letter that was submitted to the Board.

Mr. Adams said that it is a large property. He said that the house is set way back on the site. He said that he saw no reason that it would be disruptive to the neighborhood. He said that there are a lot of areas for the employees to park.

Mr. Adams moved and Mr. Levy seconded the motion to grant renewal of the special permit, subject to the same conditions. The Board voted unanimously to grant renewal of the special permit.

ZBA 2017-11, PROPRIETORS OF WOODLAWN CEMETERY, 148 BROOK STREET

Mr. Levy asked if there were further revisions to the March 21, 2017 Plan Set. Mr. White said that there are further revisions. Mr. Levy said that he did not have a chance to review them.

Presenting the case at the hearing was David Himmelberger, Esq., and Jim White, H.W. Moore, representing the Proprietors of Woodlawn Cemetery, the Petitioner. He said that they presented a petition for Site Plan Approval at the previous hearing. He said that some concerns were raised by abutters on Swarthmore Road regarding one of the proposed work areas. He said that the Zoning Bylaw calls for a 20 foot setback. He said that there was a proposed road from the 20 foot setback. He said that they re-sited the road, as shown on Plan C 2. He said that the road used to run on the perimeter of the property. He said that an infiltration system is shown at an intersection at the upper left quadrant. He said that the road went straight up to what is shown as the 20 foot buffer and then came down to meet what is shown on the plan as Well Wind Avenue. He said that the Duffy residence is approximately 110 feet away. Mr. Adams asked how far the road moved. He said that the lots shown as Sharma and Segall have fairly consistent rear yards that run up at a steep slope to a ridge, and from the high point of the ridge, the road is a foot or two below. He said that when you get to the Duffy property, the ridge begins to die down. He said that the Duffy property line is at an angle. He said that, as you are facing the Cemetery, the rear right is at an upper level from the rear left. He said that with the road pulled away there is greater attenuation.

Mr. Himmelberger said that his client made a decision that it would be mutually beneficial to the neighbors and the Cemetery to offer evergreen screening from Sharma over to Duffy where the line turns as a condition to Site Plan Approval. He said that it would be within the 20 foot setback. He said that it is unclear whether it will be a hedgerow or staggered but the intent is to have a continuous evergreen screen that will initially be five to six feet tall. Mr. Sheffield said that it could be a more casual screening with some of it not contained in the 20 foot setback. Mr. Sheffield asked if there will be gravesites between the road and the 20 foot setback. Mr. Himmelberger said that they will be up to the 20 foot

setback. He said that the thought is to get the screening planted now before the graves go in. He said that it has the benefit of being a south facing with the sun coming toward the houses from the Cemetery. He said that whatever is planted there will get good sunlight to grow.

Mr. Sheffield asked if there is opportunity to landscape and plant trees in the expanded plot area. Mr. Himmelberger said that the practice of the Cemetery is that once the graves are placed, the trees are placed. He said that you can see trees of different ages and heights in different sections of the Cemetery. Mr. Adams confirmed that there is no Landscaping Plan. Mr. Himmelberger said that he did not believe that there is a formal landscape pattern. Mr. Sheffield said that planting depends on the configuration of the gravesites. He said that the topography here would lend itself to a more casual landscape design with a concentration within the gravesites. He said that the Board does not have that information yet.

Mr. Levy asked about the number of new gravesites. Sam Siccio said that the Cemetery practice is to use square footage for graves, which are typically ten feet long and three feet, three inches wide, for 34 square feet per grave. He said that they typically leave a walking path between headstones. He said that when the area is leveled, they will lay out the graves. He said that they could come up with a rough estimate at this time. Mr. Sheffield said that there has to be circulation for maintenance vehicles as well. Mr. Siccio said that normal practice is to start at one side and work their way out. He said that does not always work. He said that sometimes they sell graves ahead of time. He said that sometimes they sell them in groups of two, four or six. He said that they take all of that into consideration when they do the layout.

Mr. Sheffield asked that, given the topography, what approach the Cemetery plans to take. Mr. Siccio said that the slope is a lot less than in some of the older sections of the Cemetery. He said that it is the Proprietor's decision but his guess is that they will start selling the graves at the bottom and work their way up. Mr. Sheffield asked if this could become one of the more densely populated areas because of the topography. Mr. Siccio said that it would not be any more populated than other areas. Mr. Sheffield said that he was thinking in terms of what kind of landscaping can go in the new area. Mr. Siccio said that they will plant trees along the outside and the middle. He said that in this case with the road going in the middle, they will gain a few trees on either side of the roadway. He said that landscaping around the gravestones is done by the families. He said that the Cemetery has rules for that. Mr. Sheffield said that the Board is looking at the macro scale. Mr. Himmelberger said that there will be trees along the road and the outer perimeter area, consistent with what is there now in some of the newer areas.

Mr. Adams asked if it would be possible on the steeper slope to landscape within the 20 foot buffer. Mr. Himmelberger said that it is not that steep and landscaping will be possible. Mr. Sheffield asked if there is a Landscape Architect involved. Mr. Siccio said that the Superintendent if the Cemetery is a professional landscaper. Mr. Sheffield said that hopefully the landscaping will not the same species and height as the screening. Mr. Himmelberger said that they can vary it.

Mr. Himmelberger said that an email came out on March 22nd from Dave Hickey that said to accept it as Engineering's updated memo. He said that the revised plans were acceptable to the Engineering Department. He said that there should be a condition regarding subsoil conditions, among other things. He said that there were a couple of items that were of concern. He said that his clients responded to those concerns even though Engineering had indicated that they were satisfied with the plans. He said that his clients sent in further revisions. He said that Engineering sent an email to Victor Panak this afternoon. He that said his clients feel that they have satisfied the Town's Engineering Department's concerns. He

said that they added a map to the Construction Management Plan (CMP) showing that construction traffic has to enter and exit through Needham.

Mr. Sheffield said that Engineering had concerns about stormwater runoff on the hard surfaces of the new roads and that there are no curbs to control the direction of flow. He said that the site is adjacent to Fuller Brook. He said that the Board needs to be concerned about where the runoff goes and how these changes will affect that. Mr. Himmelberger said that was one of the items that was addressed. He said that it was noted that a Cape Cod berm would be installed with a berm behind that. Mr. Adams said that because there will be no graves on the side of the road with the curb there should be no interference with the operation of the facility.

Mr. Sheffield said that the slope of the road is not something that Engineering would design. He said that they indicated that since it is located on private property, it is not an issue for them. Mr. Siccio said that the slope is not unusual at 14 percent. He said that there are other roads in the Cemetery that are that steep.

Mr. Adams asked if the Petitioner met with the neighbors. He asked if they had seen the revised design. Mr. Himmelberger said that he spoke with Mr. Shind and shared the revised roadway plan. He said that he told Mr. Shind that his clients would commit to evergreen screening. He said that they did not physically meet with the neighbors. He said that his clients took the neighbors' comments about wanting greater attenuation and moved the road and have committed to the screening. Mr. Adams said that at the previous hearing he was very impressed and pleased with the work that some of the neighbors had done to look at this with fresh eyes and make appropriate suggestions. Mr. Sheffield said that the neighbors provided insightful comments. Mr. Adams said that it is reassuring to him that there are ways for property owners and neighbors to come together to come up with a solution that works better for everyone. Mr. Himmelberger said that he thought that it is a better design as a result of the neighbors' comments.

Mr. Levy asked how many gravesites are anticipated in the new areas. Mr. Himmelberger said that there will be approximately 300 for the 10,000 square foot area on the north side. Mr. Siccio said that does not necessarily mean that there will be 300 headstones. He said that looking at some of the newer areas in the Cemetery gives an idea of the spacing of the graves. He said that it is a rural cemetery.

Mr. Sheffield asked if there have been changes to patterns for gravesites over the years and the kind of markers that they do. Mr. Siccio said that there are some limitations on the size of the grave markers. He said that in the areas that were done in the 1880's there are some ornate monolithic markers and some plain headstones that go back even earlier than that. He said that over the past 50 years, most people are using good judgment as to what they are putting in there. Mr. Himmelberger said that if it is a single grave, it is a marker that is flush on the ground. Mr. Levy asked about limitations on the size of the headstone. Mr. Siccio and Mr. White said that they did not have that information. Mr. Levy confirmed that there is no lighting.

Mr. Levy said that there were some concerns at the previous hearing about leaf blowers and other equipment. Mr. Himmelberger said that they spoke with the Superintendent. He said that there is no noise going on outside of the permitted hours. He said that anyone who thinks that there is should contact the Superintendent or the Police because that is something that the Cemetery does adhere to. He said that

the permitted hours are 7 am to 7 pm on Monday through Friday, 8 am to 7 pm on Saturday and nothing on Sunday. Mr. Siccio said that it does not preclude them from plowing snow. Mr. Himmelberger said that snow plowing is exempt, in accordance with the Town Bylaw.

Laurence Shind, Esq., said that he was representing the homeowners at 41 Swarthmore Road. He said that he appreciated Mr. Himmelberger reaching out to him. He said that, based on concerns that were raised at the previous hearing, revisions were made to the plans. He said that his clients appreciated that the road has been moved back a good amount and that the Applicant has undertaken to plant screening in the area that they described. He said that they would still like to see and would encourage the Board to require is that there actually be a Landscape Plan presented and approved because it is customary in situations like this. He said that the Town Engineer asked for that in his initial letter. He said that the new plantings and efforts to preserve existing plantings should be memorialized in an actual Landscape Plan. He said that it is important because they would like to know the size and number of new screening plantings to be added and also efforts to preserve existing mature trees that could add to the landscaping buffer as well. He said that his clients are concerned about the lack of definition for the interior landscaping in the new area. He said that the overriding concern to his clients is that this is a dramatic change in the visual for the neighbors. He said that they understand that the Cemetery has every right to proceed to provide more sites. He said that given that it is currently vegetated by mature trees that give a great deal of screening, they would like to see that whatever screening can be added or preserved be detailed in a Landscape Plan.

Stephen Foraste, 41 Swarthmore Road, said that the major issues from the previous hearing was to have a meeting and a Landscape Plan. He said that they have had neither. He said that they are not quite ready to agree. He said that he went into the Cemetery. He said that nobody wants to be buried under or next to a road. He said that the average distance from the road to a grave averages eight to twenty-six feet. He said that if they start putting buffers on the side of the road, it ends up being a rather expensive proposition for the Cemetery, both in lost revenue as well as a significant amount of maintenance and the additional burden of coming up with a Landscape Plan. He said that he had done some approximate figures from what he could ascertain what gravesites cost and square footages. He said that it is a couple of million dollars that the Cemetery Trustees are foregoing and a couple hundred plots. He said that the stated case is that they have as many plots as possible. He said that they will be re-grading the areas. He asked about re-grading a false hill between the neighborhood and the Cemetery to provide a nice wide screening area. He said that they would not have to put in formal plantings to break up the distance back and forth. He displayed photographs of the roads in the Cemetery. He said that now that the road has been moved, it is essentially the same distance from the existing road as people walk into the Cemetery today. He said that it does not create any better access inside of the road because people are used to walking that far. He said that taking a 50 foot swath through the new area for an 18 foot road and a buffer to plant trees along the road, it cuts away so much rather than blowing out the tree line and leveling everything out and create a false hill. He said that would be a win-win. He said that it would involve less money laid out by the Cemetery, the same number of plots or more, and more screening for the neighborhood.

Mr. Adams asked Mr. Foraste if he was suggesting that the 20 foot buffer be incorporated in some way into the Cemetery or that would be where the hill would be. Mr. Foraste said that if they took all that they were giving up for the road and instead of blasting it through the middle, added to where the buffer is now. Mr. Adams confirmed that Mr. Foraste wanted no road there. Mr. Foraste said that if they added

the 50 foot swath to the 20 foot buffer, what is left is the distance that people already walk to the graves. He said that there were be no hard surface for drainage issues and no catch basin that they have to write a maintenance plan for. He said that they will not need snow plow trucks up there after hours, which they can be because it is outside of the Town Bylaw from 7 pm to 7 am. He said that there would be no need for artificial plantings that may or may not thrive. He asked who will maintain the plantings. He said that he was looking for a way where everybody wins.

Mr. Foraste said that he would prefer to meet face to face with the Petitioner rather than communicate through emails and to see a formal Landscape Plan. Mr. Sheffield said that it would be more of a Layout Plan that describes the zones.

Mr. Himmelberger said that this is way beyond the scope of Site Plan Approval. He said that he appreciated the abutters' concerns but Site Plan Approval is to ensure that the site does not impact off-site municipal infrastructure. He said that he did not think that it goes to how the Cemetery lays out internal roads and whether or not they choose to have them. He said that it would be a marked departure from the scope of Site Plan Approval to have the Cemetery obligated to re-design its design. Mr. Adams asked Mr. Himmelberger if he thought it was outside of the scope of Site Plan Approval for the Board to require a Landscape Plan. Mr. Himmelberger said that he thought that is starting to push it. He said that all of the land outside of the 20 foot buffer is being cleared for graves. He said that it is the practice of the Cemetery to plant trees after the grave areas have been filled in. He said that there is a certain fluidity to how the graves fill in. He said that he did not believe that at any time the Cemetery has been laid out with future graves set forth in a grid. He said that they are organically spread out, determined in part by how many people wanted a particular site. He said that is a micro level that exceeds the Site Plan Approval. Mr. Adams said that he did not think that it is in the Board's purview to direct that there be an Interior Landscaping Plan. He said that the Petitioner told the Board that they will provide a buffer in the 20 foot buffer. He said that he was not sure that the Board has to see a totally detailed Landscape Plan. He said that it is in the Cemetery's best interest to have what they plant survive. He said that he was not suggesting that the Petitioner hire a licensed arborist to come up with a plan. He said that there could be significant expense to that. He said that it would be reasonable to expect some sort of a drawing prepared that represented the Cemetery's ideas for the plantings. Mr. Himmelberger said that the bylaw proscribes that the 20 foot buffer zone, period. He said that the bylaw says that natural growth of trees and shrubs shall be maintained within said 20 feet. Mr. Sheffield said that could mean any type of species. Mr. Himmelberger said that they committed, above and beyond anything that is required in the bylaw. He said that his client volunteered to make the commitment to have an evergreen screening, five to six feet in height at inception planting. He said that he thought that was enough of a condition that if they fail to fulfill it, they would be in violation of the Site Plan Approval. Mr. Sheffield said that generally the term evergreen screening means an orderly row of arbor vitae or something like that. He said that could look very artificial in natural landscape. He said that his previous comments were to try to find a way to design the screening so that it did not look artificial. Mr. Himmelberger said that doing that on a piece of paper is one thing but his clients have not had an arborist go out to assess the 20 foot buffer. He said that if they are now being required to go out to assess the 20 foot buffer to plot on a plan where each tree is to go, that is a considerable expense. Mr. Sheffield said that he would not recommend that because it would be almost impossible to do in this case. Mr. Himmelberger said that if it is a conceptual intent or design that shows how a series of species could inter-relate, that might be something different. He said that the screening is not part of the scope of Site Plan Approval. He said that the Cemetery has a long history of being quite tasteful in its landscape design. He said that the Cemetery should be given the benefit of the

doubt to do it in that way and if there is an issue, the Board always retains jurisdiction to say that it is not in compliance with the Site Plan Approval.

Mr. Himmelberger asked the Board's permission to speak with his client. After a brief recess, Mr. Himmelberger said that his client would prefer that the Board issue as one of its conditions that there be staggered and varied planting of evergreens as screening but the details of that be left to implementation as the project progresses. He said that would be articulated in whatever particular fashion is warranted. He said that it will be evergreen screen screening of various species. He said that where this is something above and beyond Site Plan Approval, that his clients not be put to the cost and time of having to come back with a specific Landscape Plan but just have the Site Plan Approval conditioned upon complying with landscape screening as described.

Mr. Sheffield asked about the process of establishing a contract for the planting zone. Mr. Himmelberger said that he did not believe that it will be a contract. He said that it will be internal, not outsourced. Mr. Sheffield asked about a drawing that shows what they plan to do. Mr. Himmelberger said that he would communicate to the Superintendent that it has to be a staggered screen. Mr. Sheffield asked if something could be drawn that shows the intent and can be discussed with the neighbors. He asked if the Cemetery has a process for planting. Mr. Himmelberger said that the planting will be determined in part by what is in the 20 foot buffer. He said that they can identify the species. Mr. Sheffield said that part of the buffer might be Norway Maples. Mr. Himmelberger said that it is not. He said that they will have to plant on the cemetery side of the buffer because they bylaw says that they have to maintain natural growth in the buffer. He said that they will plant a staggered, varied species screen with five to six foot stock. He said that it can be articulated so that it achieves the result that the Board is seeking. He said that they will have to abide by the articulated condition. Mr. Sheffield discussed a condition that the buffer planting will be of varied native species. Mr. Himmelberger said that would eliminate holly. He said that one thing that they will not put in are yews because they have no desire to improve the deer population. He said that the options are limited if the condition says that the species have to be native evergreen. He said that holly would be a great screen, as well as some arbor vitae and blue spruce. Mr. Sheffield said that the Board is looking for a process to make the neighbors happy.

Mr. Himmelberger asked to have a moment to speak with his client.

Mr. Himmelberger said that in addition to the articulated description, could add a condition that prior to installation of the plantings, that a plan be submitted to the Board and shared with the neighbors to confirm that the Board is satisfied with it and to allow for neighbor input as well. Mr. Levy said that once the Board closes the hearing and issues its decision, it will not open another public hearing to review a plan.

Mr. Sheffield said that he was interested to know if there will be a plan that will be followed for installation of the screening. He said that the plan can allow for appropriate changes because the ground is always changing. He said that he did not know if the Cemetery practice is to never draw up a landscape plan. Mr. Himmelberger said that the process is to go in and plant as they go along here and there. He said that the request is to have the Board issue a condition that it be planted based upon the articulated standard and if there is a concern or a belief that the standard is not being met, it can be enforced by the Building Inspector.

Mr. Shind said that the reason that his clients did want to see a landscape plan and think that the Board should request it, as the Town Engineer mentioned. He said that his reading of Site Plan Review is that there is a Design Review Board component where they review it. He said that it is up to the Zoning Board to enforce the bylaw as to Design Review. He said that part of that is preservation and enhancement of landscaping. He said that in similar situations that he has been involved in, the Board has asked for a landscape plan. He said that he did not see how they can know that the preservation and enhancement has occurred unless there is a plan that has to be carried out. He said that his clients would really like to see that done. He said that his belief was that the bylaw just prevented structures from going into the 20 foot buffer.

Mr. Himmelberger said that the project did go for Design Review and there were no issues with the proposal. He said that they had no concern about screening.

Mr. Himmelberger said that they will not be preserving or enhancing any landscaping in the areas to be cleared.

Mr. Levy asked if neighbors appeared at the Design Review meeting. Mr. Himmelberger said that they did not.

Mr. Sheffield said that they will be enhancing the screening on the Cemetery side. Mr. Himmelberger said that within the 20 foot buffer they are to maintain the natural growth. He said that he did not believe that authorizes them to put any screening within the 20 foot buffer. He said that they would defer to the Board's interpretation of the bylaw. He said that if the Board authorizes them to do it, they would be happy to put the screening within the 20 foot buffer. Mr. Adams said that the bylaw implies that existing natural growth of trees and shrubs shall be maintained. He said that he was not sure if the bylaw prohibits it. He said that the Board would like to see some augmentation of growth in the 20 foot buffer. He said that he shared the Chairman's concerns that there not just be a fence of trees. Mr. Himmelberger said that if they are permitted to go into the 20 foot buffer with the staggered, varied evergreen species screening, the trees that go in after the graves go in would typically be hardwoods. He said that given the varied nature of the 20 foot buffer, they would like to have the ability to do the screening as they go, with the understanding that if someone believes that the plantings are not up to snuff, they can contact the Cemetery or the Building Inspector. He said that the Cemetery has committed to the screening to screen out views of homes. He said that the neighbors' homes are situated anywhere from five to twelve feet below the Cemetery's grade. He said that the view from the Cemetery is the top of the houses but the neighbors do not necessarily see up and over into the Cemetery. He said that for the Cemetery the screening is quite important. He said that five to six feet screening is not small. Mr. Sheffield said that it is an appropriate solution in that topography on both sides of the property line.

Mr. Foraste said that he appreciates that the Cemetery has done a very good job over the last 100 years. He said that there is no other place in the Cemetery where they have gone up to 20 feet, except for one small corner where it did not turn out well. He said that since this will be the new normal and because the Town Engineer would like to have a mutual agreement about what will be happening out there, that is what he is asking the Board to ensure that it happens.

Mr. Sheffield said that it would be difficult to have a pre-determined landscape plan with species and accounting for the existing trees because it will all change as the plant materials go in. Mr. Foraste said

that if they plant trees after the graves are filled, they may take another fifty to sixty years. He said that he is an Engineer and he designs things. He said that he would like to see something that shows what they will be working with. Mr. Himmelberger said that the screening will go in contemporaneous with this work being done. He said that it will not be done sixty years down the road. He said that the trees within the Cemetery that will go in after the graves will be planted later on. Mr. Adams said that he did not think that the Board has to authority to tell the Cemetery that it has to plant any trees in the Cemetery itself. He said that the bylaw does establish an expectation and a requirement that there be a vegetated buffer. He said that the Board would like to see some variation in the location and species of the plantings that will provide a visual buffer. He said that at the time of the initial work, the screening will serve to further separate plots from the neighbors. Mr. Sheffield said that it will further benefit both sides of the property. Mr. Levy said that it may serve as a potential noise buffer. Mr. Adams said that noise finds its way through trees.

Mr. Levy said that he was not sure if he was willing to make a determination what natural growth of trees and shrubs within the 20 foot buffer means. Mr. Adams said that the Applicant believes that they cannot put anything in the 20 foot buffer. Mr. Levy said that Mr. Himmelberger should speak with the Building Inspector about that. He said that the bylaw is specific to the 20 foot buffer for cemeteries. Mr. Himmelberger and the Board discussed the definition of natural vegetation in relation to the bylaw and the 20 foot buffer. He said that his Applicant would take the position that they can plant within the 20 foot buffer. Mr. Levy said that the Board would not make that determination. He said that issue will be between the Applicant and the Building Inspector.

Mr. Sheffield said that there was a lot of back and forth of emails with the DPW. He said that he would like to see a clean letter from DPW that their concerns have been expressed. Mr. Himmelberger said that the Wednesday, March 22nd 2:53 pm email says that it is DPW's updated memo for the project. He said that should be adequate but could be augmented with the March 23rd email where the Town Engineer comments on the revised plans. He said that the March 23rd email contains far fewer conditions. Mr. Sheffield said that he would like to see a letter from DPW. Mr. Himmelberger asked if that would be subject to a condition. Mr. Sheffield asked that the issue of the slope of the road be addressed. Mr. Adams said that he would be willing to accept the email rather than asking DPW to produce a letter. Mr. Sheffield said that he would prefer to have the DPW comments on letterhead. Mr. Himmelberger confirmed that the Chairman would like to have a condition that the letter be received and be made part of the file. Mr. Adams said that the Board will formulate a condition for that to be approved at a public meeting at a later date. Mr. Sheffield said that the condition will discuss the intent for a varied evergreen screen of not less than three species, five to six feet, interspersed in a non-linear manner. He said that it shall be a natural appearing screening.

Mr. Levy asked about a Construction Management Plan. Mr. Himmelberger said that it was discussed at the previous hearing that construction traffic will all be entering and exiting the through Needham. He said that it is shown on the CMP. Mr. Adams said that there was a representation that the temporary entrance would be continued as a permanent emergency access. He said that was not presented at the previous hearing. Mr. Himmelberger said that the DPW, in their memo of March 22nd said that they took no issue with making the temporary entrance a permanent gated secondary point. He said that it is a gated, locked access for construction vehicles only and for service vehicles in the future. Mr. Adams said that is a significant change from the notion that it would only be there during construction activity. He said that if there was a serious tree problem, they could always make an arrangement to get into the

Cemetery. Mr. Himmelberger said that it is a utilitarian purpose because it provides access to an area that construction vehicles would be using and service vehicles would use in the future. He said that it would avoid bringing the vehicles in over the newly paved Cemetery roads. Mr. Adams said that he did not recall that it was represented that it would not be removed. He said that it was his understanding that once the project was done, it would be removed and returned to its previous condition. Mr. Himmelberger said that it was never the Applicant's intent to give the Board that impression. He said that they do want it to remain as a permanent, gated and locked access. Mr. Adams asked if there is a design of the gate that the Board can look at. Mr. Himmelberger said that it would pretty much be what is there now. Mr. White said that there is a chain affixed to two trees at that location currently. He said that it will be a gate. Mr. Himmelberger said that the intent is that it will always be kept closed except when being used by construction or service vehicles. Mr. Adams confirmed that there is an existing road surface there. Mr. Himmelberger said that the Applicant would offer the condition that the Board approve the gate. Mr. Sheffield asked about the location of the gate. Mr. Himmelberger said that it is on Brook Street. Mr. Sheffield confirmed that it will be within 50 feet of the pavement. He asked if that is something that the DRB would be interested in. Mr. Himmelberger said that the Applicant would be willing to have DRB review the gate and get its approval. Mr. Sheffield said that since it is part of the installation with road curbing details, there should be a detail of the gate. He said that he thought that it should be reviewed by DRB because it will be adjacent to a public way. Mr. Himmelberger said that the Applicant would like to remove the gate element from this project. He said that they will keep it as a temporary gate. Mr. Adams said that the original plan called it a temporary construction access drive. He said that he did not look at that area when he went out to the site. He said that he assumed that it did not get used very often. He said that it sounds very rustic now. He said that if it is just a chain between two trees that keeps vehicles from using it, that is what it should be until the Board receives more information. Mr. Himmelberger said that, in the interest of trying to move this project forward, they would go back to the condition that it be a temporary gate. Mr. Levy said that it will be a temporary gate through construction. He said that the Applicant wants to use it afterwards as an emergency access. Mr. Siccio said that there is already binder on the access. He said that when they rebuilt the roads in the Cemetery they used it as access for the construction trucks. He said that they used it when they were not able to use the front entrance. He said that it turned out to be very useful for bringing in the burial vaults. He said that at the time of the paving, they had extra binder. He said that they can remove it. Mr. Sheffield said that the intent seems to be for maintenance as well as emergency access. Mr. Adams said that it sounds like it is there now but what is not there is the gate. Mr. Sheffield confirmed that it is a service entrance, not a public entrance. Mr. Siccio said that it was not intended for public use. Mr. Sheffield said that there is no reason to not have a service entrance. Mr. Siccio said that it makes sense to have a second access.

Mr. Himmelberger said that to allow the Board to have control over it, its final implementation and design, he questioned whether it should remain as a temporary construction for now with the understanding that if they wish to make it permanent, they would come back to modify the Site Plan Approval. He said that they would go back to DRB and then come back before the Board for a service entrance. He said that would allow them, at this point, to move forward with Site Plan Approval.

Mr. Sheffield asked if the service entrance will require a curb cut application. Mr. Siccio said that it will not. He said that they pulled a permit from DPW for the access. Mr. Adams said that this came up because he misconstrued what the plans were for the entrance. Mr. Himmelberger said that the Board can issue a condition that says that the temporary gate is not to be made permanent without coming back before the Board for modification of the Site Plan Approval. Mr. Adams confirmed that the access will

remain as it is now. He said that they can use crushed stone if there are any problems with the surface during construction. Mr. Himmelberger said that they will not put up a gate without coming back before the Board.

Mr. Levy moved to close the public hearing. He said that the Board would hold a public meeting at a later date to vote approval of the Site Plan Approval and conditions. He said that a condition will be that DPW submit a formal letter of support for the petition and a condition that the construction road be temporary until the Applicant comes back before the Board seeking approval to make that a permanent access.

The Board discussed scheduling the public meeting.

Mr. Shind said that if the public hearing is closed, the conditions are not known at this time and there is no landscape plan. He said that there would be no further opportunity for comments. He said that he and his client would like to see the vote take place and know exactly what is happening. He said that otherwise they would have no opportunity to give input. Mr. Levy said that the Board has input from Mr. Shind and his client. He said that the ultimate condition is the Board's decision. He said that if a member of the public is not happy with the Board's decision, they can appeal it.

Mr. Sheffield said that the conditions that the Board discussed and refined concern the screening and the definition of that and the approach and the design and any limitations that the Board would want to put on that. He said that the Board will require a letter from DPW on its letterhead. He said that the access will be temporary until the time that the Board receives a formal application for and approves a service entry. Mr. Levy said that those conditions will be in addition to typical conditions that the Board deems appropriate.

Mr. Foraste said that he felt that there was unfinished business from the previous hearing. He said that it had been suggested that the Applicant meet with the neighbors. He said that has not happened yet. Mr. Adams said that the Board does not have the authority to direct the Applicant to meet with the neighbors. Mr. Foraste said that they have made good progress toward a better solution. He said that if they actually met they could probably get it done.

Mr. Levy said that if the issue is the screening, he would invite the parties to discuss it amongst themselves. Mr. Adams said that the input and work that Mr. Foraste put in has greatly improved this project. He said that it will be better for Mr. Foraste and his neighbors than what it would have been. He said that it may not meet all of his goals.

Mr. Adams seconded the motion to close the public hearing. The Board voted unanimously to close the public hearing. Mr. Levy said that a business meeting will be posted. He said that the Board will meet as soon as a draft decision and conditions are ready. Mr. Himmelberger asked if the Board could avoid meeting during week of April 17th. He said that he will be out of the State. The Board agreed to not schedule the meeting that week.

Respectfully submitted,

Lenore R. Mahoney

Executive Secretary

DRAFT