

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

Thursday, May 4, 2017, 7:30 pm

Juliani Meeting Room
Town Hall

Zoning Board of Appeals Members Present: Richard L. Seegel, Chairman
J. Randolph Becker
Walter B. Adams
David G. Sheffield

ZBA 2017-29 & 48, SCOTT & ELIZABETH LUBKER, 14 OAKLAND CIRCLE

Presenting the case were Les Shea, Esq., Paul Griffin, 35 Standish Circle, who is Mr. Lubker's father-in-law, and Glen Hoffman, Architect.

Mr. Shea said that Mr. Lubker **wife** has a child by a previous marriage and his wife is now pregnant. He said that Mr. Lubker is **hoping** to add **an** addition to his home at 14 Oakland Circle, which is in a 10,000 square foot zone. He said that the current house on the property is approximately 125 years old and is closer to the street on the **north** and **east** sides than currently zoning would allow.

Mr. Shea said that Mr. Lubker was previously before this Board and it was suggested to him that he file a new petition, which has been done. Mr. Seegel said that at last month's meeting, the Board was not fully informed about the history of the lot. He said that he suggested that the petition might be more appropriate as a special permit. He said that he has since learned that there are two prior variances that have been granted to this property. He said that the Board will hear this as two separate amendments to a variance. He said that one amendment will address the air conditioning condensers on the **northern** end of the property and the other variance will address the other items in the construction that do not conform to the Zoning Bylaw.

Mr. Shea said that as a result of some of the concerns of the neighborhood at the last meeting, he met with Mr. Lubker and the Architect, who has substantially lessened the impact of the old proposed unit with approximately 20 percent lot coverage. He said that it has gone down to less than 15.1 percent lot coverage. He said that the Architect took 573 square feet by getting rid of the wrap around porch that had a roof over it and four feet off of the right side of the house. He said that Mr. Hoffman moved the front

steps that were previously proposed on the west side of the house to the east side of the house where he created a covered entry. He said that he told Mr. Hoffman to make the entry 25 square feet or less so that the side yard would not be less than it would be otherwise. Mr. Seegel said that the revised plan shows the entry on the east side at 29 square feet. Mr. Shea said that it will be reduced to 25 square feet to meet the side yard exemption. He said that the setback will be no worse than it currently is. Mr. Seegel said that the rear of the house is at 17 feet.

Mr. Shea said that an air conditioning unit was shown on the old plan. He said that there is currently one on the north side of the building. He said that it was felt that the one that they had proposed on the east side could be moved to the north side where there are no neighbors and there is a gully that goes down. He said that any noise would not impact anyone. He said that the house to the right at #10 is a rental house at this point in time. Mr. Seegel said that he did not see anywhere that the existing unit was permitted. He asked why both units could not be on the southern end of the property. He said that he did not think that they belong so close to the road. Mr. Shea said that they can put the units on the southern end. Mr. Seegel said that the Board will only have to deal with one variance if the units are moved to the southern end.

Mr. Shea said that with the current location of the house, the proposed addition would not be in derogation of the Zoning Bylaw. Mr. Adams said that it has been the practice of this Board to treat previously granted variances as being determinative and the Board does not revisit whether or not the previous Board made the right decision at the time. He said that when the request is to modify a variance, the Board looks at whether or not the proposed construction would be more detrimental to the neighborhood than what is there now.

Mr. Seegel said that one of the previously granted variances permitted a deck on the northeast side of the house. He said that deck is no longer there. He said that it has been down for some time. He said that it cannot be rebuilt. Mr. Shea said that is acceptable. Mr. Griffin said that the deck came down prior to Mr. Lubker's purchase of the house.

Mr. Seegel said that the lot conforms size-wise. He asked if any thought was given to relocating the structures on the lot to make it fully conforming. Mr. Griffin said that it became a cost issue. Mr. Adams confirmed that the current plan is to construct an addition and do some reconfiguration of the structures.

Mr. Seegel read the Planning Board recommendation.

Mr. Seegel said that, for the record, the property has two prior variances, ZBA 89-19 and another variance that is dated January 16, 1970.

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

Stanley Brooks, Esq., said that he was representing Tom and Allison Fields, the abutters at 15 Oakland Circle. He asked which petition the Board was addressing. Mr. Seegel said that the Board is addressing them together. He said that the Board is dealing with the May 1, 2017 revised plans that will be further revised by removing the air conditioning condensers from the north side of the property and placing them on the southern side of the property in a compliant location. He said that the covered entry way on the

east side of the house will be reduced from 29 square feet to 25 square feet and therefore not increasing the nonconformity on that side.

Mr. Brooks asked if the Board is hearing ZBA 2017-48 simultaneously with ZBA 2017-29. Mr. Seegel said that the Board is hearing the two petitions combined. He said that the Board is reviewing the plans submitted for ZBA 2017-48. He said that ZBA 2017-48 was advertised for a variance and a special permit/finding. He said that it has been determined that the case is for an amended variance because there are two prior variances that have been granted on the property. Mr. Brooks asked if the petition will be reviewed pursuant to variance standards or pursuant to special permit standards. Mr. Seegel said that the Board has always in the past, when there is a prior variance, applied the standard then in existence to the amendment to the variance. He said that the Board is not applying current variance standards. He said that the Board has done that all over town because there are so many undersized lots that have prior variances on them that might not meet the current standard. He said that this Board will follow a prior Board's findings.

Mr. Seegel moved and Mr. Becker seconded the motion to allow the petition, ZBA 2017-29, to be withdrawn without prejudice. The Board voted unanimously to allow the petition to be withdrawn without prejudice.

Tom Fields, 15 Oakland Circle, was present at the public hearing.

Mr. Brooks said that the original variance, ZBA 69-75, was granted as a special exemption. Mr. Seegel said that it pre-dates the current Zoning Bylaw. Mr. Brooks said that in 1989 there was a variance granted to incorporate the deck that was removed in the early 1990's. Mr. Fields said that he thought that it was removed in 1992. Mr. Brooks said that the Board has followed an unwritten policy of the past few years to not accept plans that are not filed well in advance of the hearing. He said that the Planning Board did not have an opportunity to review the revised plans. He said that Town Counsel has advised that the Planning Board be allowed sufficient time to review. Mr. Adams said that as a Board member, he also is concerned about timely submissions. He said that the Board has continued to accept late filings with the understanding the Board will make of them what they wish, given the late nature of their filing and whether the Board has enough time to assess them sufficiently. He said that there has not been a long standing practice of this Board to have an unwritten deadline for things to be considered.

Mr. Brooks said that his clients are not opposed to development of this lot. He said that it need to be done in a manner that is appropriate for the neighborhood and does not overwhelm it. He said that Mr. Seegel made a comment about the building envelope that does allow for a fully conforming structure to be built. He distributed a proposed plot plan with a structure with a 1,400 square foot footprint. He said that it would allow for this structure to be built without any Zoning relief whatsoever. He said that it was expressed to Mr. Fields that was the Applicant's preference. Mr. Adams said that the Applicant has already explained the extreme hardship to tear down the existing house and construct a new one. Mr. Seegel said that two other residents on Oakland Circle submitted letters of support for what is before the Board tonight. Mr. Brooks said that those letters support that reconstruction would add value to their properties. He said that they do not address any of the concerns or requirements or standards for either a variance or a special permit. He said that he did not lend a lot of weight to those letters in that respect.

Mr. Brooks said that the proposed structure on the May 1, 2017 plan is over 3,000 square feet, which will dwarf the immediately abutting properties. He said that 10 Oakland Circle is a one and half story cottage style house with 798 square feet. He said that 14 Oakland Circle currently has a total living area of 1,232 square feet. He displayed the existing elevation drawing as seen from the Fields' property. He said that the height is 21 feet. He said that the 20 foot long section is 13 feet. Mr. Adams said that they are allowed to go to 35 feet. He said that the proposed structure will be 29 feet high. Mr. Seegel asked Mr. Fields about the height of his home. Mr. Fields said that his home is approximately 22 feet at the peak. He said that the addition that he put on the house was at the back of the house, away from the street. He said the addition is two stories and is probably 21 feet high. Mr. Seegel said that it looks much taller when you drive by it. Mr. Brooks said that Mr. Fields' house may look larger because of its proximity to the street. He said that Oakland Circle is a 10 foot wide right of way. He said that Mr. Fields' house is located approximately 11 feet from the street. He said that 14 Oakland Circle is about 8 feet from the street at its closest point.

Mr. Brooks said that the Board has described this neighborhood in prior decisions as small, cottage-style older homes. He said that the proposed house will be 30 feet away from front door to front door. He said that it will not be not invasive. Mr. Seegel said that 30 feet separating the houses is not accurate. He said that the proposed house will comply with the west side yard. Mr. Brooks said that he did not see any setbacks from Oakland Circle on the May 1 plans. He said that they appreciated that the air conditioning units were relocated and the size of the covered entry was reduced. He said that the entry way onto Oakland Circle is also noncompliant because it is closer than 25 feet to the street and it projects more than five feet from the face of the building. Mr. Becker said that the balance of the existing house is already closer than that to Oakland Circle. Mr. Brooks said that it is a term of the bylaw and requires a variance at that point.

Mr. Brooks asked if the Board is working off of the 1969 or the 1989 Zoning Bylaw standards. Mr. Seegel said that he did not have that information with him. He said that the Board will have to make a determination. Mr. Brooks said that soil conditions, topography or shape of the lot were not addressed. He said that the house can be fully compliant. He said that his client currently has sunlight and trees when he walks out his front door. He said that now he will just be looking at building. He said that there is no landscaping or other shielding that could be done because you cannot hide 29 feet. Mr. Adams asked if the sun rises to the right of Mr. Fields' property over the empty part of the 14 Oakland Circle lot. Mr. Fields said that it does rise there but will the 29 foot high structure, it will be blocked. Mr. Seegel said that there is no easement to light in the State.

Mr. Brooks said that the mass and bulk of this structure will be significant. He said that the Board had concerns with ZBA 2017-5, 51 Atwood Street. Mr. Seegel said that each proposal stands on its own merit. Mr. Brooks said that this property will overwhelm the abutters at 10, 15 and 22 Oakland Circle. He said that there are also drainage issues involved here because there is nothing in the plans that addresses containing the roof or the surface runoff on the lot. He said that there is currently a sump pump on the property which they think is not permitted. He said that it dumps into the street. He said that because of the slope of the street, all of the water in both directions feeds down into Mr. Fields' lot. He said that there needs to be some accommodation or condition that all surface water and runoff be contained on site so that it does not adversely affect neighbors. Mr. Seegel said that is a reasonable condition. Mr. Brooks said that they requested that the height be brought down. He said that there is a 9 foot 6 inch tall attic. He said that, as proposed, this property will not be in keeping with the

neighborhood. He said that it will be an invasive structure, given all of the cottage-style structures that are there. He said that 19 Oakland Circle, which is across the street from this property, has a maximum ridgeline of 24 feet but it is downslope from this structure. He said that there is a three to four foot elevation difference. He said that this structure will be even more imposing because it is upgradient and because the lot is already raised. He said that there are railroad ties that flatten out the lot and keep the grade up. He said that they do not believe that, as proposed, it will be compatible with the surroundings. He said that it will be spatially consequential, will be a 40 to 80 percent increase in the height over the existing structure, the mass and bulk created will be out of character with the neighborhood, the siting on the lot, and the impacts on lighting that are not only invasive but also detrimental to the properties that are down gradient with a disproportionate impact on Mr. Fields' property. He said that they would request that the Board ask the Applicant to reduce the height of the structure to a maximum of 23 feet. He said that he did not think that there is a need for a 9 foot 6 inch attic. He said that they are concerned about light spillage because of the close nature of the houses.

Mr. Fields said that his biggest issue is the height. He said that it will be 40 percent over the current peak. He said that his peak has been the same since 1890. He said that the house across the street is roughly the same age or maybe a little older. He said that he has no problem with people improving their houses or adding to them. He said that he added to his house. He said that in 2002 he rebuilt 19 Oakland Circle, which was in a state of disrepair. He said that he went to great lengths with the Architect to keep the peak of the house at 24 feet so that it would match his peak, the peaks at 14 and 23 Oakland Circle so that it maintained the character of the house. He said that he is bothered by the huge long mass at that height. He said that he spoke with Mr. Lubker and asked him to reduce the height. He said that Mr. Lubker did not want to re-do the plans. He said that it will be a huge wall right in front of him. He said that the average road is 40 feet wide and the houses have 30 foot front yard setbacks. He said that there is 100 feet between them for a pleasant view. He said that this will be 35 feet against his house looking 30 feet up and that will not be a pleasant view. He said that inside of the house would not be substantially changed if the peak came down. He said that the peak blocks the light for the full length of the house. He said that he told Mr. Lubker that he would support a longer structure but with a lower peak. He said that he gets water all of the time because he is in a low spot. He said that the drainage on the street is bad. He said that there is a sump pump at 14 Oakland Circle that empties at his front door and all of the water from the south leg runs down into his property. He said that needs to be looked at. He said that he objects to the giant mass 35 feet away from him.

Mr. Hoffman said that the square footage of the proposed house will be 2,839 square feet. Mr. Becker said that the TLAG calculations that were submitted show that it will be over 3,000 square feet. Mr. Hoffman said that has been revised. He said that most of the house will be a one and a half story structure. He said that Mr. Lubker wanted to take great care to not create to address concerns of the neighborhood to not be too high. He said that they originally did a house that was two stories high. He said that there will be no attic space in this house. He said that the nine feet that Mr. Brooks referred to is to the peak of the house. He said that there will be no livable space in the attic. He said that the face of the house will be well below 29 feet and will be compatible with the neighborhood.

Mr. Seegel said that the street is only 10 feet wide and every property is nonconforming. He asked if there is any way to change the pitch of the roof to lower it. Mr. Hoffman said that they would lose square footage on the inside of the house. He said that it will be a one and a half story structure. He said that if

they lowered the roof, the walls would come in. He said that you have to have 6 foot 6 inch walls on the inside. He said that it could be done but square footage would be lost.

Mr. Becker said that the discussion that the Board heard speaks highly to a special permit where the concern is fitting into the neighborhood. He said that he was struggling with how to apply it to an amendment to an existing variance.

Mr. Adams said that Mr. Sheffield pointed out that there seems to be a lack of clarity in the front elevation, Plan A2.01 to show how effectively how the original house interfaces with the part that extends to the south. He said that he was not sure that it was graphically represented completely accurately. Mr. Hoffman said that it is graphically represented in the Floor Plan, A1.01. Mr. Adams said that it is more at the second floor level. Mr. Hoffman said that the existing second floor is a one and a half story space. He said that will be demolished and completely rebuilt, as shown on Plan A1.02. Mr. Adams said that what was shown as the front exterior elevation is facing down on Plan A1.02. He said that there is a jog line. He asked what goes to the right of the closet. Mr. Hoffman said that to the right of the jog is the addition.

Mr. Becker asked how the 12 on 15 slope was selected. Mr. Hoffman said that part of it was design implications and part of it was the need for interior space. He said that Mr. Lubker had gone around different neighborhoods in Wellesley. He said that a few of the houses that he liked had the higher pitched roof. Mr. Adams said that if they lower the slope they will reduce the square footage on the second floor. Mr. Hoffman said that if they lowered the roof, they would probably go to the full two stories which would raise the height of the house.

Mr. Adams asked if the dormers are just decorative elements. Mr. Hoffman said that the Nantucket style dormers are not decorative. He said that it acts as a shed dormer but they wanted to make it look nice.

Mr. Shea said that treating this as a variance, based on two prior variances. He said that the Petitioner went back to try to reduce the scope of the house to address some of the concerns of the neighbors. He said that the Board could grant relief without substantial detriment to the public good, without nullifying or substantially derogating from the intent and purposes of the Zoning Bylaw. He said that they hoped that the Board would vote in favor of these plans.

Mr. Seegel said that the Board would close the public hearing on this and take the case under advisement. He said that the Board will post a business meeting to announce the actual decision. He said that he would consult with Town Counsel on a couple of issues that have been raised.

Mr. Adams moved and Mr. Becker seconded the motion to close the public hearing and take the case under advisement. The Board voted unanimously to close the public hearing.

ZBA 2017-47, RAY & CAROLYN CARDIN, 17 CLIFTON ROAD

Presenting the case at the hearing was Ray Wiese, representing a client. He said that he was present at the public hearing last month seeking relief for a variance. He said that the air conditioning condensers were not shown on the original drawing so they added them to the plans. He said that at the last meeting Mr. Seegel asked that Mr. Wiese get some clarification on specs for the decibel levels for the units. He said

that they submitted the specifications. He said that he looked at different manufacturers and they all seem to list the same levels.

Mr. Sheffield said that the Board has seen a sufficient number of applications that have air conditioners within the setbacks. He said that he looked at acoustical fences and acoustical covers that can be applied to reduce the decibels. Mr. Wiese said that his client is open to that. He said that they believe that they do have a good case to not do that. He said that they a 67 decibel rating standing at the end of Clifton Road, which is downhill from Route 9. He said that they are a considerable distance away from it already. He said that the consistent noise level is very close to the air conditioner already in this case. He said that if you look at the recommendation from the Planning Board and the map that they use, you can see that this lot has a fence and it is almost like an alley way. He said that at the end of Clifton Road it is like a cul de sac but the cul de sac allows an alley way behind the houses on Route 9. He said that they submitted a letter from one abutter when they re-submitted last time. He said that the abutter's garage faces the alley way. He said that in this particular instance, he did not see that there would be a lot of benefit by adding an acoustical fence. Mr. Seegel said that he did not think that there would be benefit because the units are behind the house already.

Mr. Seegel said that the Planning Board recommended that the special permit be approved.

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

ZBA 2017-31, CAROLINE WARREN, 32 ARLINGTON ROAD

Presenting the case at the hearing was Mike Tartamella, representing Patrick Ahearn, Architect on behalf of the homeowner at 32 Arlington Road. He said that they presented at last month's hearing. He said that currently there is a two-car nonconforming structure that is inside of the setback. He said that they heard the comments from the Board and returned with a revised location of the structure. He said that it is also a two-car that decreases the nonconformity. He said that it is on a tight lot that is nonconforming. He said that they are trying to manage some space. He said that looked to decrease the nonconformity of the structure by moving it in slightly further from the setback lines. He said that they also sought to reduce the mass and scale of the structure by taking off the second floor dormers, which further demonstrates that they do not intend to use the second floor for anything more than storage. Mr. Seegel said that they did everything that the Board asked them to do.

Mr. Seegel asked if there was anyone present at the public hearing who wished to speak to the petition. Mr. Sheffield moved and Mr. Becker seconded the motion to approve the revised plans for a two-car garage. Mr. Seegel said that there shall be no living space on the second floor. Mr. Sheffield said that there shall be no plumbing on the second floor. The Board voted unanimously to grant the special permit.

ZBA 2017-36, 258 REALTY TRUST, 258 WASHINGTON STREET

Presenting the case at the hearing were Stanley Brooks, Esq., Jim Flynn, Century Bank and Peter Darlow, Darlow Christ Architects.

Mr. Brooks said that the proposed sign will be fully compliant with the exception of the front yard setback. He said that after putting up the wall sign it became apparent that it is not visible from the street due to the foliage that is in effect. He said that the landlord sought approval from the Design Review Board (DRB) to reconfigure the landscape islands in the parking area. He said that the DRB approved the project. He said that his client is now waiting for prices to come in from contractors. He said that the intent is to put up this sign simultaneously with the proposed revisions to the parking area. He said that the sign will be noncompliant in that it will be 5 feet 1 inch setback from the right of way where 15 feet is required. He said that if the sign was set back 15 feet, it would be behind parked cars and nobody would be able to see it.

Mr. Seegel asked if Mr. Brooks received the letter from Haynes Management. Mr. Brooks said that he had. Mr. Seegel read an excerpt from the letter dated May 4, 2017 from Mary R. Butler, Vice President, Haynes Management, Inc. Mr. Brooks said that it is his understanding from prior discussions with this Board that the fact someone else may or may not have acted on a decision that was granted is not consequential to the Board's decision in any given matter. He said that ZBA 91-9, Wellesley Free Library, allowed for a sign 5 feet from the edge of right of way. He said that Warren Recreation Building has a sign 5 feet from the edge of the right of way. Mr. Seegel said that Ms. Butler's letter was referring to the section in the middle of Wellesley Hills, not the Library or the Warren School. He said that Haynes Management owns 260 to 278 Washington Street and 280 to 284 Washington, where the First Republic Bank is located. He said that they have owned those properties for over 80 years. He said that they have owned the property at 254 Washington Street for 15 years. He said that they continually resisted and missed out on leasing opportunities to perspective tenants to allow free-standing signs. He said that they are asking to maintain the status quo in Wellesley Hills Square. Mr. Brooks said that if they have chosen not to come before this Board or go to the Building Inspector with an application for a fully compliant sign, that is outside of the control of the bank. He said that this application is for a fully compliant sign with the exception of the front yard setback. He said that they met with the DRB twice. He said that the first proposal was for a monument sign. He said that the DRB requested a similar to that which was approved for Boston Private Bank, so they modified the design to conform to DRB's request. He said that DRB voted 4 to 0 in support of this petition being approved. He said that in the immediate area, the Unitarian Universalist Society has a sign that is almost right on the street. He said that there are a number of signs. He said that he did not know what the boundaries of that district are. He said that the fact that another property owner has chosen to not come before this Board is not relevant to the decision that is before this Board.

Mr. Becker asked what they are trying to accomplish in moving the sign from the wall out to the street. Mr. Brooks said that a number of photographs were submitted that show the wall sign from various vantage points along the street coming both easterly and westerly. He said that in all of those instances the sign is not visible, either whole or in part. He said that the pictures are generally without foliage on the trees. He said that when there is foliage on the trees, you will not see the sign at all. He said that the Bank needs identification for its business. He said that there is an ATM on the site and they want people to know where that is as they drive up Washington Street. Mr. Becker asked if they considered putting the signs on the eastbound and westbound sides of the canopy. Mr. Brooks said that it would be blocked by the foliage. He said that the east side of the portico would face the other building and the west side of the portico would be affected by leaves on the trees. He said that they could consider relocating the wall sign. Mr. Darlow said that driving westbound on Route 16, you cannot see the canopy until you are perpendicular to the bank. He said that it is blocked by the neighboring property, coming from Route 9.

Mr. Becker asked how that does not apply to the proposed sign. Mr. Darlow said that it brings the sign out close to the street where you will see it. He said that will not be blocked by the building as you are driving westbound. Mr. Brooks said that a schematic plan was submitted that shows the sign installed on-site and the views from east and west from Washington Street.

Mr. Seegel read the Planning Board recommendation, subject to the condition that the exterior LED uplight be replaced with downward facing exterior lights. Mr. Brooks said that they met with the Planning Board on Monday evening. He said that the reference was to the proposed Zoning Bylaw that was not moved at Town Meeting that would have prohibited uplighting such as this. He said that the proposed lighting is in compliance with the Zoning Bylaw. He said that there was a concern about a potential danger to pedestrians. Mr. Darlow said that the light will be recessed in the ground with optics that only project towards the sign. Mr. Brooks said that it is also dimmable.

Mr. Becker asked about the working hours for the Bank. Mr. Flynn said that they are 9 am to 5 pm on Monday, Tuesday and Wednesday, 9 am to 6 pm on Thursday and Friday, and 9 am to 1 pm on Saturday. He said that the ATM is open 24 hours.

Mr. Becker asked about operating hours for the LED light. Mr. Brooks said that it is his understanding that the Town allows signs to be lit from the hours of 6 am to midnight. Mr. Seegel said that the general rule is during business hours. Mr. Brooks said that the Bank has the 24 hour ATM. Mr. Seegel said that he did not want to have the light on 24 hours a day. He said that it would be limited to an 8 pm shut off. Mr. Brooks said that the Bank would be willing to limit the operation of the light, shutting it off at 10 pm. He asked if the Board would be willing to compromise with a shut off time of 9 pm. Mr. Sheffield said that the nature of the bank in general is a destination for pedestrians. He said that it is more of an impulse location for an ATM user. Mr. Seegel said that most of the businesses in Wellesley Hills close by 8 pm. Mr. Sheffield said that the ATM is set back from the road. He said that other ATM's are lit from the inside. He said that their colors help to demonstrate who they are and helps with wayfinding. Mr. Brooks said that the Bank would be willing to extinguish the light at 8 pm. Mr. Becker said that if someone was looking for an ATM at that hour of the day, SIRI has already directed them to the place.

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

Mr. Becker moved and Mr. Sheffield seconded the motion to grant the special permit, subject to the condition that the hours of the lighting shall be at the opening of the bank and no later than 8 pm. The Board voted unanimously to grant the special permit.

ZBA 2017-37, SCOTT & KIM SNAPPER, 38 HILLSIDE ROAD

Presenting the case at the hearing was Laurence Shind, Esq., representing Scott and Kim Snapper, the Petitioner, who were also present at the public hearing.

Mr. Shind said that the petition is for a two-story addition at the right rear to square off the house. He said that it is a small house on a small lot in a 15,000 square foot zone. He said that they will be adding just over 100 square feet of living area to create a mudroom on the first floor and a master bathroom on the second floor. He said that the lot is less than half of the minimum required at 6,776 square feet. He said that the lot is extremely narrow at 40 feet across at the front and 45 feet across at the back. He said

that currently the house is nonconforming on both sides because it could not possible fit on the lot in a conforming way. He said that lot coverage will be increased by approximately one percent. He said that lot coverage is currently over the maximum allowed at 26 percent and will increase to 27 percent. He said that Total Living Area plus Garage (TLAG) of the house is 2,755 square feet and will increase to 2,866 square feet after the addition. He said that the addition will have no impact on the neighbors because the side that this addition will go on is abutted by town park land.

Mr. Sheffield said that it is a nice solution.

Mr. Becker said that this is one of the cases where the old lot size is different from the current lot size. He said that they lost a couple of thousand square feet somewhere along the line. He said that this is the first lot that he could remember coming before the Board, that if it was conforming on either side, the building would have a negative width.

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

Mr. Seegel said that the Planning Board recommended approval of the special permit.

Mr. Sheffield moved and Mr. Becker seconded the motion to approve the special permit, as submitted. The Board voted unanimously to grant the special permit.

ZBA 2017-38, RICHARD & AMY McCARRON, 2 LAWRENCE ROAD

Presenting the case at the hearing were William Farnsworth, Custom Contracting, Inc., Amy and Rich McCarron, the Petitioner.

Mr. Farnsworth said that it is a nonconforming lot and the right rear of the house is nonconforming. He said that they will not increase the nonconformity.

Mr. Seegel said that he did not previously know that there were any streets in Wellesley that dead ended on both ends.

Mr. Becker said that in addition to the right rear, the other nonconformity is the front yard setback. He asked where the runoff will go from the addition. Mr. Seegel said that they might want to consider putting a drywell there so that it does not runoff onto any of the neighbors' land. He said that they will be adding a lot of impervious surface and it is a small lot.

Mr. Sheffield said that the nonconformity is the 16.9 foot setback on the right side of the existing house. Mr. Becker said that the front yard setback is 27.6 feet. He said that the lot size is 5,953 square feet.

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

Mr. Seegel said that the Planning Board recommended approval of the special permit.

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

ZBA 2017-39, ANDY LANGOWITZ, 35 STANFORD ROAD

Presenting the case at the hearing were James Goodhue, Esq., Andy and Nan Langowitz, the Petitioner, and Barney Maier, Architect.

Mr. Seegel asked who did the original subdivision. Ms. Langowitz said that it was Porter.

Mr. Goodhue said that the request is for a special permit to add a 760 square foot addition to the rear of the property, along with a 272 square foot deck. He said that the rear of the property abuts land that is now, they believe, under the jurisdiction of the Natural Resources Commission (NRC). He said that he submitted a letter to the Board outlining how this lot came to be nonconforming.

Mr. Seegel said that the Planning Board recommended favorable action.

Mr. Goodhue said that they obtained an Order of Condition from the Wetlands Protection Committee.

Mr. Becker said that it could be that the original parcel has a different area than the current survey shows. Mr. Goodhue said that he believed that Gleason Engineering did the original survey. He said that other issues with them have come to light over the years. He said that technology has changed over the years.

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

Mr. Seegel said that the Planning Board recommended approval.

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

ZBA 2017-40, DANIEL CONNORS III, 46 GARDEN ROAD

Mr. Seegel said that, as a matter of disclosure, he resides at 63 Garden Road.

Presenting the case at the hearing was David Himmelberger, Esq., representing Daniel Connors, III, the Petitioner.

Mr. Himmelberger said that the request is for a special permit to raze an existing nonconforming garage and carport and reconstruct a two-car garage. He said that it is presently a pre-existing nonconforming structure comprised of a one-car garage and an attached one-car carport located at the right rear of the property with less than the required rear and side yard setbacks. He said that the rear setback is 7.4 feet and the side yard setback is 13.5 feet. He said that the total square footage of the proposed two-car garage will be 576 square feet, which is approximately 40 square feet more than the existing garage and carport. He said that it will have improved setbacks with the rear setback moving forward to eight feet and the side yard setback moving to 17.5 feet. He said that the garage will be about 2.3 feet taller than the existing structure at 17.3 feet. He said that the garage will have no plumbing and will only have pull down access for storage. He said that the garage will be designed to complement the existing home, which the homeowner has just finished extensively renovating. He said that it will be stucco-clad.

Mr. Himmelberger said that the Board received communications from eight neighbors, all of whom are in support of the project which will replace a deteriorated and unsightly garage and carport. He said that there are not a lot of carports in Wellesley. He said that it will be an attractive new garage that will blend in with the architecture of the home and the neighborhood. He said that the closest and immediate abutter, Fred Igoe, 53 Garden Road, was present at the public hearing. He said that the Planning Board issued a favorable recommendation. He said that they requested that the Board approve this special permit request.

Mr. Sheffield asked where the blue barrels and the cement mixer will go. Mr. Himmelberger said that the barrels will go inside the garage and the cement mixer will go off-site. Mr. Sheffield said that the new garage will be an improvement to the property.

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

ZBA 2017-41, BENJAMIN PERCIA, 36 CLEVELAND ROAD

Presenting the case at the hearing were David Himmelberger Esq., Benjamin Percia, the Petitioner, and Mark Schryver, the Architect.

Mr. Himmelberger said that the request is for a special permit for a nonconforming structure with a front yard setback at 29.8 feet and a 9.5 foot side yard setback, on a corner lot that has two front yard and two side yard setbacks. He said that the part of the house that extends into the side yard setback will be removed and the new setback will be 14.1 feet. He said that the existing main body of the house currently is at 13.6 feet, so they will be improving even from the existing main body of the house. He said that lot coverage will go up modestly from 1,083 square feet to 1,557 square feet. He said that the height of the existing house is 25 feet at the peak. He said that the new addition will be stepped down a couple of feet from that. He said that Total Living Area plus Garage (TLAG), when completed, will be 2,484 square feet. He said that it will still be a modest home for the neighborhood. He said that 40 Cleveland Road, which is across Martin Road, has a total living area of 2,578 square feet. He said that the architect has done a very good job in breaking up the façades. He said that the fact that the gable over the garage picks up the other gables, and three-dimensional insets help to break up any massing that could be seen to exist. He said that the Planning Board has recommended favorable approval. He said that the request is that this Board grant approval as well.

Mr. Himmelberger said that, somewhat compromising the lot, is a ten foot easement that precluded any side entry garage on the left side of the house. He said that it is a drain easement that runs to the town.

Mr. Becker asked about any runoff from the addition. Mr. Himmelberger said that three sides of the addition will run to the front and back corner of the left side and the drains will then drain into the side yard across the easement.

Mr. Himmelberger said that Mr. Percia spoke with his neighbors, including the Shaws, who lived directly behind this property. He said that everyone has been supportive.

Mr. Sheffield commented on the shingles. Mr. Himmelberger said that it is a cedar shake shingle home and the addition will be in complementary style to that.

Mr. Sheffield moved and Mr. Becker seconded the motion to grant approval of the special permit. The Board voted unanimously to approve the special permit.

ZBA 2017-42, LYNNE HARDING, 20 SUMNER ROAD

Presenting the case at the hearing were Stephen McCullough, Red Tail Construction, John and Lynne Harding, the Petitioner.

Mr. McCullough said that it is an existing nonconforming lot and the proposal is to add an addition off of the back left corner and removal of an existing pantry. He said that the structure is nonconforming on the left side and at the front. He said that they will not be increasing the nonconformities. He said that the lot is undersized.

Mr. Seegel said that the Planning Board recommended approval of the special permit.

Mr. Becker asked what happens to the runoff from the addition. Mr. McCullough said that there are gutters on the existing house that run off to a flat level in the yard. He said that they plan to do the same thing for the addition off of the back.

Mr. Seegel asked if this property is affected by runoff from the Babson property. Mr. Harding said that it is not affected.

Mr. Sheffield said that it is a nice solution.

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

ZBA 2017-43, JOHN & AMANDA RICH, 54 RIVERDALE ROAD

Presenting the case at the hearing was Terry Heinlein, Architect, representing John and Amanda Rich, the Petitioner.

Mr. Seegel said that Mr. Heinlein had done a lovely job at the house. Mr. Sheffield said that it looks very nice.

Mr. Heinlein said that when they received approval from the Board a few years ago, they did not show the air conditioning condensers. He said that he and the owners were unaware that they needed to show them. He said that the Building Department pointed out to them that they needed to return to the Zoning Board before receiving final occupancy. Mr. Seegel said that the condensers are already there.

Mr. Seegel said that this house has received previous variances. He said that this will be an amendment to the variance that allowed construction to begin with. He said that the Board has seen the Amended Order of Conditions.

Mr. Sheffield asked about the adjacent property to the left. Mr. Heinlein said that it is owned by the town and is most often used by the neighbors for recreational use.

Mr. Sheffield said that he did not see any other possible location for the air conditioning condensers. Mr. Heinlein said that with respect to visual and acoustical impact to the neighbors, this location is probably the best.

Mr. Sheffield said that the properties along Boulevard Road are unique.

Mr. Becker said that the two different models of air conditioning condensers that were submitted have the same overall sound power levels. He said that they varied quite widely from octave band to octave band.

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

Mr. Seegel said that the Planning Board recommended approval.

Mr. Seegel moved and Mr. Becker seconded the motion to amend the previously issued variance, finding that literal enforcement of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner, owing to circumstances related to soil conditions and shape of the lot, especially affecting this land but not generally affecting the Zoning District in which it is located, and the hardship was not self-created and desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw. The Board voted unanimously to approve amendment of the previously granted variance.

ZBA 2017-44, RECECCA & JOSEPH KANNAM, 20 DAMIEN ROAD

Presenting the case at the hearing were Rebecca and Joseph Kannam, the Petitioner. Ms. Kannam said that she had some additional photographs that might be helpful. She said that the request is to put a garage to the right of the property. She said that the request is for a variance because the garage will be nonconforming. She said that it will be close to the property line at the right.

Ms. Kannam said that one of the photographs shows what it would be like if they were to put the garage behind the house. She said that they think that a two-car garage should go next to the house. She said that if they were to put the garage behind the house, it would start where the existing shed is. She said that the land drops there. She said that the drop off may not be clear on the plans. She said that putting a garage at the back presents an issue to them. She said that the back of the shed is elevated on a cinder block.

Ms. Kannam said that they currently have a back porch that is all windows. She said that they would not be able to attach the garage to the back of the house because it would attach to the existing room with full windows. She said that they would have to lose use of that room.

Ms. Kannam said that there is a very large tree right behind the house in between the shed and the back porch. She said that she spoke with someone at Hartney Greymount about doing some work to the roots

if they put the garage in the proposed location. She said that if they put the garage behind the house, they will have to take the tree down and they would have to incur the cost of moving the shed.

Ms. Kannam said that they spoke with the neighbor to the right and the neighbor across the street. She said that the neighbors that are directly impacted by the project have no problem with the garage at all.

Ms. Kannam said that putting up the garage would not do anything to the neighborhood.

Mr. Seegel said that this is a difficult case. He said that the property drops off at the back.

Mr. Seegel said that the Planning Board recommended that the variance be denied. Ms. Kannam said that, with respect to hardship, they are getting older. She said that it will be helpful to them to be able to exit the home right into the garage and to not have to clear off the cars. Mr. Becker said that they could do that with a single car garage in the same location and they would not need a variance to do that. Ms. Kannam said that they are looking to have both cars housed.

Mr. Seegel said that this property received a variance in October of 1957 when an addition was built on the house. He said that this would create a new variance. He said that he did not think that the Board could help with this variance. Mr. Becker said that the Board understands the Kannam's issue but the standard of the bylaw does not accommodate that. He said that the bylaw says that the Board can grant a variance for hardships caused by shape of the lot, topography or soil conditions. He said that he did not see anything in the application that relates to that. Ms. Kannam asked about the fact that they cannot move the garage to the back, given that the property falls off. Mr. Becker said that the criteria for a variance does not say whether you can or cannot do any other alternative solution. He said that they do not have a garage and there is no requirement in Wellesley that they have to have one. He said that they could have a single car garage by right.

Mr. Seegel recommended that the Petitioner request to withdraw the petition without prejudice and look for another solution. Ms. Kannam requested that the petition be allowed to be withdrawn without prejudice.

Mr. Sheffield and Mr. Becker said that the garage at the back that Ms. Kannam had discussed could be built by right. Ms. Kannam said that they are on a beautiful and they do not see anyone behind them. Mr. Sheffield said that putting the garage on the other side of the house would interfere with the circulation.

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

ZBA 2017-45, WILLIAM & DONNA McRAE, 25 ABERDEEN ROAD

Presenting the case at the hearing were Mark Arnold, Goddard Consulting and William McRae, the Petitioner.

Mr. Arnold said that the request is for a special permit for work on the Flood Plain District for a raised patio in an existing lawn area along the side of the house. He said that the project has been before the Wetlands Protection Committee and received an Order of Conditions. He said that the Committee found

that although they would be working near the flood plain, they would be able to compensate and increase the flood plain storage on the property. He said that no flood storage will be impacted. He said that the Planning Board recommended approval.

Mr. Sheffield said that the survey lists the address as Aberdeen Street, not Aberdeen Road.

Mr. Becker moved and Mr. Sheffield seconded the motion to grant the special permit, subject to the survey being corrected to read Aberdeen Road. The Board voted unanimously to grant the special permit.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary

DRAFT