



ZONING BOARD OF APPEALS

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

Thursday, August 10, 2017, 7:30 pm

Juliani Meeting Room
Town Hall

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

PUBLIC MEETING

ZBA 2015-92, TOWN OF WELLESLEY, (SENIOR CENTER), 494 & 496 WASHINGTON STREET

Presenting the case at the hearing were Matt King, Chairman, Permanent Building Committee, and Richard Thuma, Project Manager, BH+A.

Mr. Thuma said that two memorandums were submitted that list minor changes in the plan. He said that there are some features on the site that have been relocated quite modestly to avoid damage to existing tree roots, relocation of a sidewalk along the St. Paul's property line, and relocation of a rain garden that could be put in in accordance with the approved plans but the adjacent existing trees would probably not survive. He said that two trees were shown on the plan that were Austrian Pines. He said that with the existing canopy, cannot be planted and have been deleted from the plan. He said that they made some adjustments to the plant list to coordinate with that. He said that they corrected a drafting error in the plant list to reflect the number of plants that were originally shown on the plans. He said that they have increased the number of perennials to better cover the site and relocated a couple of plants to accommodate sidewalks. He said that they changed the kind of entry from radius curbs to drop-down curbs along Washington Street at the entry and exit drive due to an existing underground electric duct bank that prevents them from easily putting in the radius curbs. He said that detection plates in the sidewalks are shown on both of the plans. He said that DPW asked that the plates not be installed. He said that the request is to not install them. He said that the modifications are to coordinate the landscaping with the reality that they have encountered in the field.

Mr. Redgate asked if there will be no more additional sidewalk or paved areas resulting from the changes. Mr. Thuma said that there will be no increase in impervious area. He said that they will just be moving things.

Mr. Becker said that, as a Zoning issue, the Board is generally not concerned with design changes unless they impact the basis for its decision. He said that he thought that the proposed changes are minor modifications that do not require a public hearing. Mr. Redgate agreed.

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

PUBLIC HEARING

ZBA 2017-64, GLEN MAGPIONG, 89 RUSSELL ROAD

Presenting the case at the hearing were David Himmelberger, Esq., and Jane Magpiong.

Mr. Himmelberger said that when they were last here, the Board expressed concern about the size of the structure. He said that they took the Board's concerns into consideration and revisited the design. He said that the Board had questioned whether 1,000 square feet could be taken off of the design. He said that the original TLAG was 4,804 square feet. He said that they reduced the side yard width by four feet to increase the side yard setbacks to 14.5 feet. He said that by changing the interior design, particularly moving the master bedroom to the upper basement level and through eliminating a portion of the basement, they were able to reduce the TLAG to 3,589 square feet, which is well over 1,000 square feet less and approximately 25 percent less. He said that the side elevations have benefitted from removal of dormers as well as the elimination of the ramp access on the left. He said that the greatest impact of redesign affects the rear elevation. He said that it is now a traditional roof with gables. He said that they eliminated a major larger covered dormer, roof deck and covered roof deck for a significant reduction in massing. He said that they opened about half of the basement to a covered patio. He said that significant amounts of glass were reduced, which also serves to reduce the sense of massing. He said that the Board wanted more detail for the lighting. He said that they submitted a plan that shows the location, wattage and lumens for each light. He said that all of the sconce lights are dark sky compliant and the majority of the lights are recessed can down lights. He said that the Board had a question about the overall stormwater management system. He said that they had gone through Wetlands Protection Committee review and submitted a letter from Anthony Stella, Professional Engineer, confirming that the original design for a TLAG of 4,804 square feet captured and recharged virtually all of the stormwater generated on site. He said that the system was sized for a 100 year storm. He said that with reduced TLAG in the redesign, the system will be more than adequate. He said that the Board had concerns about the nature of the air conditioning condensers and asked for specifications. He said that they reduced the number of units from three to two and they have the lowest possible decibel rating at 56 decibels. He said that they spoke with the abutter on that side who supports the project and said that the condensers will line up with an area of his house that he does not frequently use.

Mr. Himmelberger said that, based upon the proposed redesign of the home, they are renewing their request for a variance for the front yard setback and special permits for the right and left side yard setbacks and a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Mr. Levy said that a variance is needed for the air conditioning condensers.

Mr. Becker said that the revised plans responded to Board's concerns in a fairly creative way.

Mr. Adams said that, at the previous hearing, the Board felt that although it was a nicely designed project, it was too bulky for the site. He said that each member had a different take on what made it too bulky. He congratulated the Petitioner and their Architect for coming up with an alternative design that does reduce the size of the house. He said that he hoped that the design can accommodate the needs that the Petitioner expressed at the previous hearing. He said that the redesign has addressed each of the members' concerns and he can support the requested relief.

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

Mr. Levy asked if the Petitioner looked to see if there was any other place else to put the air conditioners. He said that the Board has to look at satisfying the variance standards. He said that it is not just inconvenience or substantial detriment. He said that the bylaw is specific as to intent. He asked if there was any other place where they could tuck the condensers in. Mr. Mr. Himmelberger said that the issue is that to put them at the rear of the structure within the setback would put them more in line with the neighbors on either side. He said that the focus of the neighbors and the Petitioners is to use the outdoor space and the neighbor expressed a preference that the condensers not be visible at the rear. He said that they reduced the number from three to two. Ms. Magpiong said that the neighbor's bedroom is at the pond. She said that having the condensers half way up will not bother them but moving them to the rear will. Mr. Levy asked about screening the units. Mr. Himmelberger said that proposed planting of a line of arbor vitae along the property line is shown on the plot plan.

Mr. Becker said that topography is an issue here.

Mr. Adams moved and Mr. Levy seconded the motion to grant a special permit to allow the structure as proposed, except for the front yard setback and the air conditioning condensers that will require further relief, and make a finding that the proposed shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Mr. Levy said that there were no comments from the Planning Board on the revised project. The Board voted unanimously to grant a special permit.

Mr. Adams moved and Mr. Levy seconded the motion to grant a variance for the location of air conditioning condensers, finding that there is a uniqueness to this property due to the topography, that there is a hardship to the Applicant and the neighbor, and the proposed location of the condensers will not derogate from the intent of the Zoning Bylaw.

Mr. Adams moved and Mr. Levy seconded the motion to grant a variance for front yard setbacks, finding that it is consistent with this lot with its severe topographical situation and with variances that were granted for other properties in this neighborhood for the same reason, and the severe topographic change limits the ability to move the structure further back on the lot, that not granting a variance would create a hardship in terms of the ability to provide structure of the proposed design, and granting a variance will not derogate from the intent of the bylaw. Mr. Levy said that soil condition is also a basis for granting relief for the variances. The Board voted unanimously to grant the variance.

ZBA 2017-66, ROBERT SARAFIAN, TRUSTEE, EVELYN SARAFIAN REVOCABLE TRUST, 6 CLIFFORD STREET

Mr. Becker said that this is an appeal of a decision of the Building Inspector. He said that if there was anyone present at the public hearing who was expecting to talk about water in backyards and how it got there, this is not the time nor the place for it. He said that the basis for the appeal is whether or not the project was properly treated from the perspective of Large House Review (LHR).

Presenting the case at the hearing were Hamilton Hackney, Esq., Dain/Torpy, and Robert Sarafian, 19 Cottonwood Road, the Appellant.

Mr. Becker said that the Board received an email from the owner of 6 Clifford Street asking for a delay in the meeting. He said that since Mr. Sarafian is the Proponent, he can ask for a delay and it was not his intention to delay the petition unless Mr. Sarafian requested it. Mr. Hackney said that they would like to go forward with the hearing.

Mr. Becker said that the purpose of the hearing was to talk about LHR calculations, not water issues.

Mr. Hackney said that they did reach out to the developer to try to resolve this issue but they did not hear back from them. He said that the issue here is whether LHR is applicable. He said that there is a pretty straight forward calculation based on that. He submitted a foundation plan and TLAG calculations. He said that it is a conservation calculation that is based on the foundation. He said that it does not include the basement or the attic space. He said that the main rectangle on the plan has an area of 29 feet by 60 feet which includes two floors, for a total of 3,480 square feet. He said that there is a small projection of 9 feet by 12 feet with two floors, for a total of 216 square feet. He said that the total square footage is 3,696 square feet, which is over the applicable threshold of 3,600 square feet. He said that the original house on the property was 1,700 square feet. He said that to the extent that someone would try to argue that this is an alteration, and not a new residence, it also crosses the 10 percent threshold as well.

Mr. Hackney said that the Building Inspector informed the Petitioner in a letter that TLAG is under 3,600 square feet but did not share his calculations.

Mr. Hackney said that there are some concerns about flooding. He said that LHR has stormwater and drainage standards, and flood controls for review that the Petitioner thinks should apply to this project. He said that the basis for their request for relief is to find that LHR is applicable and that the homeowner apply to the Planning Board and go through that process.

Mr. Levy said that the property is located in a 10,000 square foot district where the regulations require that any house over 3,600 square feet to go through LHR. He said that he was not sure if he understood the argument about alteration. He said that this was a teardown, not an alteration. He said that the Board has never interpreted the bylaw to cover 10 percent alteration but considered the TLAG of the new structure. Mr. Hackney said that was an alternative argument but they are happy to agree that this is a new residence.

Mr. Levy asked if there is anywhere in the record where there has been a certified calculation that was stamped by an engineer, architect or surveyor as to the TLAG. Michael Grant, Inspector of Buildings, said that the calculations are done by the Applicant, who have to provide calculation plans to show how they came up with the numbers. He said that the Building Department verifies that the house was calculated correctly, in accordance with the instructions on the LHR affidavit. Mr. Levy said that the Board often sees TLAG calculations that are completed by architects or registered professionals. Mr. Grant said that there is no requirement that the calculations be done by a registered design professional.

Mr. Becker asked Mr. Hackney if the extension that he referred to is the sun room on the plan. Mr. Hackney said that it is not labeled on the plan that he has. He said that it is a two story extension at the bottom of the plan, inboard of the foundation. He said that it is not a three season porch on footings but is part of the building.

Mr. Becker asked Mr. Grant to review the TLAG Affidavit. Mr. Grant said that this was calculated previous to Town Meeting actions, so the current regulations do not apply. He said that this is grandfathered. He said that he did not review the calculations originally but reviewed them after a complaint was filed. He said that under the previous regulations, garages of less than 600 square feet did not count in the calculations, regardless of where they were located in the building. He said that the basement calculations line up with the calculations on the TLAG affidavit. He said that the basement space counted out at 24 percent and did not count for LHR. He said that the calculations will be verified at the time of final inspection, once the final grades are set

Mr. Grant said that the first floor is 29 x 60 feet. He said that on his drawings it says that there is an unheated sunroom. He said that, per TLAG calculations, any unheated sun porches do not count, as they are not considered to be habitable space under LHR. He said that the construction drawings from the modular company state that there will be no heat in the sun room. He said that the thermal envelope is between that the house and the sun room, representing that it will be a true sun room. He said that the 9 x 12 extension is included in the second floor TLAG calculation, for a total TLAG for the structure at 3,588 square feet.

Mr. Levy confirmed that the disconnect is the calculations for the sunroom. Mr. Becker said that the document that Mr. Hackney submitted tonight includes the sunroom. Mr. Redgate asked if the garage is included in the calculation. Mr. Hackney said that the calculation is just for the first and second floor. He asked if the homeowner submitted anything that shows whether the attic space should be counted towards LHR. Mr. Grant said that the attic cannot be finished because of the pitch, so it did not count.

Mr. Hackney said that the issue is whether you can call this an unheated sun room where it is the first story of a two story extension. He said that it is not a one story extension off of the building. He said that people design around the rules. He said that this is really part of the main building envelope that has heated usable space above it.

Mr. Levy asked Mr. Grant if the Building Department takes a second look when the as-built foundation plan is submitted. He said that this is close at just 12 feet below the threshold. Mr. Grant said that the Building Department verifies that the as built matches up with what was proposed. He said that there are checks and balances in the process. He said that right now the site is in compliance with LHR. Mr. Levy asked if it has ever occurred that there is a discrepancy between the application and construction. Mr. Grant said that the Applicant for this permit was in his office extensively and is well versed in the regulations. He said that they did due diligence to conform to the regulations. Mr. Levy said that it is Mr. Grant's job to make sure that it is a sunroom, not a heated room.

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

Joanna Winkleman, 23 Cottonwood Road, displayed a picture of the sunroom that she had taken. She said that based on what she has seen, it is her belief that this an attempt to finesse the rules to claim that this is a sun room. She said that it looks to be livable space. She said that the windows from the kitchen to the back yard are located in the sunroom, not in the kitchen. She said that there is a large back yard that cannot be seen from the kitchen unless the area to the sun room is open. She said that she thinks that this is intended to be livable space as an extension of the kitchen rather than as a separate room that will be closed off. She said that there are no windows in the kitchen facing the back yard, which is the most attractive part of the property. Mr. Becker confirmed that Ms. Winkleman's only contention is that because there are no windows in the kitchen, the only way to see out is through the sunroom. Ms. Winkleman said that it makes it appear as livable space, not as a sun room that is not intended for use. She said that it appears to be a intended as gathering space off of the kitchen, which makes it livable space, regardless of whether there is a heater or not. She said that there is heat right off of that space in the kitchen, the living room and from above. She said that the three walls on the sun room are all exposed to sun. She said that she has a sun room on the same side of her house that requires no heating. She said that it is fully livable at all times.

Robert Sarafian said that his mother has been a resident for almost 50 years. He said that they made several attempts to reach out to the homeowner. He said that from what he heard tonight, this is an attempt by the homeowner to play on the edge of the rules. He said that if the Board is inclined to not grant his request, he hoped that the Building Inspector will be super focused on this project. He said that his 87 year old mother is quite upset about the construction.

Mr. Adams asked about the term, "total livable space." Mr. Grant said that there is a TLAG affidavit that was approved by the Planning Board that tells what does or does not count toward LHR. He said that the affidavit was developed in 2008 and modified to comply with bylaw changes. Mr. Levy asked if there is anything in the Rules and Regulations. Mr. Grant said that there are additional pages that explain TLAG. He said that the Rules and Regulations may not address that specifically.

Mr. Hackney said that prior to the recent changes, the bylaw says nothing about sun rooms. He said that it just refers to the total living area. Mr. Becker said that it defined as the sum of the horizontal of the above grade floors measured from the exterior face of the exterior walls.

Mr. Hackney said that the Planning Board Rules and Regulations do not include any reference to a sun room. He said that sun rooms are not exempt under the bylaw and Rules & Regulations. Mr. Adams clarified that Mr. Hackney was referring to a sun room as a room that does not have heat. Mr. Hackney said that is the term used in the affidavit. Mr. Levy asked where the requirements for heating are shown in the application. Mr. Grant said that the TLAG affidavit says that unheated porches do not count for TLAG. He said that it is shown on the third page on the graph. Mr. Hackney read an excerpt from the TLAG Affidavit. He questioned whether this is this a porch. He said that a two story structure that is inside the foundation is not.

Mr. Redgate asked if the building permit plans that were submitted had elevations that look similar to what has been built. Mr. Grant said that the plans were similar to what was built.

Mr. Redgate asked if this is modular construction. Mr. Grant said that it is.

Mr. Adams asked about the genesis of the TLAG affidavit and how that came to be. Mr. Becker said that the Board is looking for the link from the Planning Board's Rules and Regulations to the form that developers fill out. Mr. Grant said that when LHR came into effect, it used Assessor's methodology. He said that he had to develop some criteria for the real world. He said that he developed the form and had it approved by the Planning Board for consistency with the bylaw. He said that it was voted on again when they changed from Assessor's methodology to how they were dealing with roofs and habitable or non-habitable attics. He said that the Planning Board voted to change the document. He said that the Planning Board voted to change the document again in accordance with its recent actions. He said that the affidavit is almost an extension to the Rules and Regulations. He said that it was reviewed in accordance with part G of the bylaw at a public hearing.

Mr. Levy said that the Rules and Regulations seem to be more procedural than an attempt to define the bylaw and what it does or does not cover. He said that he would be more persuaded if the affidavit was an exhibit that was attached to the Rules and Regulations instead of being adopted in the same manner in which the Rules and Regulations were adopted.

Mr. Levy said that he was troubled looking at the picture that Ms. Winkleman submitted. He said that it certainly does not look like a sun room. He said that it seems like it could easily be converted to heated space without anyone's approval or knowledge. Mr. Grant said that they try to enforce the bylaw at the time that they are there. He said that the Building Department cannot prevent people from doing illegal work in their home.

Mr. Levy said that the intent of LHR was to limit structures as they are visible to public from outside. He said that this does not look like a porch or an ancillary accessory structure. Mr. Grant said that under the Building Code, a sun room is defined as a space containing at least 40 percent glazing and is thermally separated from the house, which this complies with. Mr. Levy said that the affidavit exempts unheated porches. Mr. Grant said that there are no rules saying that a porch cannot be enclosed. Mr. Levy said that his master closet is unheated but gets ambient heat from the rest of the house. Mr. Grant said that the sun room is thermally isolated from the house. He said that it is not part of the heated space of the house. He said that a bedroom closet is not thermally isolated from the rest of the house or have 40 percent glazing, so it would not meet the definition of a sun room. Mr. Levy said that is the Building Code but the affidavit addresses unheated porches. Mr. Grant said that in the world of construction, he has to make tough choices and try to apply the language to real world situations. He said that there is no rule in the Building Code or the Zoning Bylaw that says that a porch cannot be enclosed. He questioned the difference between an unheated enclosed porch and a sun room. He said that the Building Code defines this as a sun room. He said that the bylaw does not define an enclosed porch either.

Mr. Hackney read an excerpt from the Rules and Regulations. He said that an interpretation could be that anything without a basement would not be considered for TLAG. He said that with a room over a basement, heated or not heated makes a lot less difference. He said that a three-season room that sits outside the foundation is a lot less habitable in the wintertime than a room that is sitting over a basement. He said that this

is not an unheated porch without a foundation and does not qualify for the exemption. Mr. Becker said that any porch has a foundation but it may not be a concrete wall. He said that he was not persuaded that having a basement is a key factor. Mr. Hackney said that it says unheated porch and this strains credulity to call that structure a porch when it has a second floor with a four season habitable room above it. Mr. Levy said that there are plenty of screened porches with living area above them. He said that the Building Code is somewhat helpful with its definition.

Mr. Adams said that the Building Official has to take the bylaw and figure out a way to consistently enforce the wording in the bylaw. He said that a form was created after it went through a procedure that was reviewed and approved at a public hearing to establish a gauge to come up with a number in the calculations. He said that it is up to the Board to determine if the Building Inspector's gauge is reasonable and appropriate, given the conditions here. He said that the area in question is approximately 180 square feet.

Mr. Levy said that if the Board read the bylaw without the benefit of the Rules and Regulations or the Affidavit, it would conclude that the sun room is part of the house for the purpose of TLAG. He said that the bylaw says that it is the sum of the horizontal areas above grade floors measured from exterior walls. Mr. Becker said that the thermal break could be used to define the exterior wall, and the sunroom is outside of the exterior wall, it is not included in the definition. Mr. Levy said that the bylaw says that the Planning Board can promulgate Rules and Regulations that pertain to the plan approval process. Mr. Becker said that the Planning Board cannot change the substance. Mr. Levy said that if the argument is that the Rules and Regulations or the Affidavit are defining that the unheated room is to be excluded, that is beyond the jurisdiction of the Planning Board. He said that the bylaw permits the Planning Board to make Rules and Regulations which pertain to the approval process, which is procedural, not substantive. He said that by defining what is included in TLAG is substantive.

Mr. Levy said that there is a procedure to get a determination from the Planning Board for a waiver. Catherine Johnson, Planning Board, said that the procedures in the bylaw allow for certain submission requirements to be waived. She said that the Planning Board might not require elevation plans for a building that is going to be torn down.

Mr. Redgate asked why the homeowner of 6 Clifford Street was not present at the public hearing. Mr. Hackney said that the homeowner is currently in Asia. He said that they left after the hearing was noticed. He said that they have not responded to Mr. Sarafian's inquiry.

Mr. Levy asked if this is a spec house or a custom house. Mr. Grant said that he did not know but believes that the owner is building it. He said that it is a modular house.

Mr. Becker said that, in looking at the numbers, the Board is nibbling around the edges of what the bylaw says. He said that the Board is trying to balance what the bylaw says with all of the possible combinations that it might apply to but it cannot catch them all. He said that it is clear that this is to the edge but there is nothing that says that you cannot do that. He said that if the Board decides that the sun room is outside of the exterior wall, it is not covered in the definition and therefore the Building Inspector's determination of 3,588 square feet is correct.

Mr. Levy asked when the appeal was filed in relation to the issuance of the building permit. Mr. Grant said that the permit was issued on December 27, 2016 and the request for enforcement was filed on May 8, 2017. He said that the time limit to request for enforcement is up to six years.

Mr. Hackney said that the issue that drove this is flooding. He said that the Appellant is not complaining that the house is too big. He said that there is a physical impact with a possible engineering solution and LHR provides that solution. He said that there was three to five foot filling that went on and a very substantial increase in impervious area. Mr. Becker said that they opted to seek relief for a drainage problem through a LHR process. Mr. Hackney said that that they preferred to not bring a lawsuit. He said that they were not

aware of any other avenue to request relief under the ZBL. He said that there was no Con Com review here. He said that absent LHR, it is the Building Inspector.

Mr. Levy asked if there had been any discussion with the builder. Mr. Hackney said that they have reached out but there has been no response. Mr. Levy said that this is a matter that is begging for a resolution. He said that he was not convinced whether the sun room should be included in the TLAG calculations or not. He questioned whether heated or not heated is a justifiable exclusion, notwithstanding what the application says. Mr. Becker said that exterior wall applies. Mr. Levy questioned whether someone could spend more money insulating a wall to get around TLAG. Mr. Becker said that people are evading LHR by having trusses in attics so that the space is not habitable. He said that they are making garages that are 600 square feet.

Mr. Hackney said that the Appellant would be willing to continue the hearing for a month when the developer would be back and could attend the public hearing and be part of this discussion. Mr. Levy said that he would prefer to see an agreement between the parties that would allow the appeal to be withdrawn.

Mr. Redgate said that Ms. Winkelman's picture shows a room that is not in the spirit of LHR. He said that it is probably an honest oops on the homeowner's part. Mr. Levy said that the homeowner asked for a continuance so that they could be present at the public hearing. He said that because they asked for the continuance, the Board is not prejudicing them. He suggested that the parties discuss the matter before the next public hearing.

Mr. Hackney requested that the Board allow the appeal to be continued to the next public hearing on September 7, 2017.

Mr. Levy asked if the house is completed or under construction. Mr. Grant said that it is a modular house and goes up fast. He said that because of the appeal, the homeowner can proceed at their own risk. He said that he would speak with Town Counsel about issuing a Certificate of Compliance while the appeal is open. He said that there has been no determination one way or the other.

Mr. Levy moved and Mr. Redgate seconded the motion to continue the appeal to September 7, 2017. The Board voted unanimously to continue the appeal.

ZBA 2017-72, BROSSI BROTHERS LTD PARTNERSHIP, 11 PLEASANT STREET

Presenting the case at the hearing were Stanley Brooks, Esq., David A. Brossi, David W. Brossi and Michael Brossi, the Petitioner.

Mr. Brooks said that David Brossi, Senior was born on Pleasant Street 80 years ago and the family has owned this property in excess of 50 years.

Mr. Brooks said that there are two requests before the Board. He said that the first request is for a special permit because it is an undersized lot upon which it is proposed to be constructed a two family dwelling. He said that the property is located in a General Residence District where the minimum conforming lot size is 10,000 square feet. He said that this property is 9,974 square feet, which is short of the minimum by an area about the size of a piece of plywood.

Mr. Levy asked if the lot has always been that size or if it changed as a result of a taking over the years. Mr. Brooks said that the lot was laid out a long time ago. He said that the first two lots along Pleasant Street, southerly to northerly, are both exactly 8,000 square feet, or 80 by 100 feet. He said that this lot has a crooked line that rendered the lot to the south, number 7, exactly 8,000 square feet. He said that on the other side at 15 Pleasant Street, it is exactly 8,000 square feet. He said that the lots pre-exist zoning. He said that a two-family is an of right use on conforming lots in the district. He said that the existing house encroaches in the front yard

and the existing garage encroaches in the side and rear yard. He said that there are four existing nonconformities.

Mr. Brooks said that the proposed project will eliminate the front, side and rear encroachments so that lot size will be the only nonconformity. He said that they will create a new nonconformity because they need 5,000 square feet of land per dwelling unit, in accordance with Section XVIII of the Zoning Bylaw. He said that the owner attempted to acquire additional property from the abutters to the rear on Oak Street, both of which have more than sufficient land to give but they both declined to sell, so the petition is before the seeking relief.

Mr. Brooks said that the proposed dwelling will be 31 feet from the street, 21 feet on the left side and 21.5 feet on the right side, and 17.5 at the rear, well within the setbacks. He said that lot coverage is proposed to be 25 percent, which is allowable. He said that the proposal is for two four-bedroom, three and a half bath dwellings which will be consistent with what is in the neighborhood. He displayed an aerial photograph of the neighborhood that showed the multi-family dwellings in the district. He said that directly across the street is a rather large two unit condominium. He said that there are multi family dwellings a couple of lots down and behind the lot. He said that there will be approximately 60 feet of separation between the proposed structures and the abutting dwellings on either side and 120 feet from the houses that abut to the rear on Oak Street. He said that the request is that the Board grant a special permit to allow construction on a lot with nonconforming area and find that the proposed structure will not be substantially more detrimental to the neighborhood than the existing dwelling. He said that these plans were shown to all of the direct abutters and many others in the neighborhood and there were no objections by anyone to this project going forward.

Mr. Brooks said that the second request is for variance or a special permit for relief from Section 18C.1 that requires 5,000 square feet per dwelling unit. He said that they will be 13 square feet short for each unit, which is rather di minimis. He said that you can see on the Town Plan that there is an odd lot line that, if it were straight, would have created sufficient land area. He said that attempts were made to make the lot compliant but were not successful. He said that this project will not make the lot less conforming, as it will remain short by 26 square feet, regardless of what is constructed there. He said that it is their opinion that literal enforcement of the Zoning Bylaw would involve substantial hardship to the Petitioner because they would not have the ability to control the lot that they have owned for over 50 years. He said that the lot shape is an issue. He said that it is a sloping lot but they have dealt with the topography with a retaining wall. He said that the proposed house has a lot of nice architectural features that will reduce the mass and bulk. He said that the hardship is not self-created and would affect any owner of this property. He said that it is a di minimis shortage of square footage and it prevents the owner from using the property for which they would otherwise be entitled to under the Zoning Bylaw. He said that the owners cannot reasonably use the land in a manner that is consistent with the zoning district and the neighborhood. He said that the issuance of a variance would not create any injustice to the abutters or to the neighborhood and will allow for a reasonable use of the property. He said that the project would be consistent with the neighborhood and the bylaw, would be in harmony with the intent of the bylaw, would not be a detriment to the public good, and would not nullify or derogate from the intent or purpose of the bylaw.

Mr. Becker said that the Board does not have the option with respect to the units per square foot because of the change of use from single to two family. He said that a different set of rules apply. He said that it will be a new nonconformance and a special permit is not an option because it is not currently nonconforming. Mr. Brooks said that a two family is of right in a General Residence District.

Michael Grant, Inspector of Buildings, said that two approvals are needed. He said that a special permit is required to allow the Petitioner to take down the house because it is a nonconforming structure. He said that it would require a variance to put the two family house there.

Mr. Becker said that there was nothing in the submittal that talked about hardship as it related to topography, soil condition or lot shape. Mr. Brooks said that to the best of their knowledge there are no soil conditions. He

said that they do not know if there is ledge. He said that topography and slope have been addressed with the design and the retaining wall. He said that the shape of the lot is due to some quirk with laying of the lot line. He said that the lot is irregular with one straight boundary and an irregular boundary that prevents the parcel from being fully compliant. He said that it is a situation where it is not self-created because the owners did not acquire the property knowing that it is noncompliant. He said that they have owned it since it pre-dated zoning. He said that because of 13 square feet, they will be prevented from using the property as they are allowed under the bylaw. Mr. Becker said that the bylaw does not say that because a two-family use is allowed in a General Residence District that every lot in the district is suitable for a two family.

Mr. Brooks said that there has been conversation in the Planning Board that this is a change of use. He said that his opinion is that this is an existing residential use and is proposed to be a residential use. He said that his understanding of the case law is that a change of use means that you are asking to use the property for something that is not allowed under the bylaw. Mr. Levy said that this is a dimensional variance. He said that they can build a single family house. He said that it is not a hardship because they cannot build a two family house. Mr. Brooks said that the Petitioner cannot use it for an allowed use in the district because of its odd shape, which creates a hardship on the owner. Mr. Becker said that he was not persuaded by that you can put a two family house there just because it is located in a General Residence District. He said that you can only put a two family there if you comply with the bylaw or get a variance. Mr. Brooks said that the consideration is whether 13 square feet will nullify or derogate from the bylaw. He said that no one will know because it is such a di minimis impact. Mr. Levy said that the Board sees that all of the time. Mr. Brooks said that this is quite irrelevant. He said that this is a multi family neighborhood and the neighbors have not objected in any way. He said that the di minimis noncompliance will clearly not derogate from the purpose of the bylaw. Mr. Levy said that the bylaw does not say approximately 5,000 square feet.

Mr. Redgate said that there are about five older neighborhoods in town where there were errors in calculating square footage. He said that there needs to be some leeway when things are so close. He said that he would feel much differently if this was an 8,000 square foot lot. He said that this is one percent of one percent.

Mr. Becker said that the provisions for variances are specific for reasons. He said that the conditions under which the Board can grant a variance are narrow because things outside of that are not meant to be granted. He said that he did not see how shape of the lot, soil conditions or topography applies to the 5,000 square feet per unit requirement. He said that 5,000 square feet per unit was intentional. He said that he did not see this as a hardship. Mr. Brooks said that a grant of a variance for 13 square feet of lot area per unit is no different from a grant to encroach into a setback or other relief. Mr. Becker said that unless there is a hardship that is due to shape of the lot, topography and soil conditions, there is no basis for a variance. Mr. Brooks said that the hardship is an inability due to an extremely di minimis lack of square footage due to an engineering error that was made a long time ago that created an irregularly shaped lot. Mr. Levy said that the size of the lot is what is preventing the owner from building what he wants. Mr. Redgate said that the lot line is not perpendicular. Mr. Brooks said that the lot was laid out a long time ago.

Mr. Brossi said that by redeveloping the property, there will be fewer nonconformities, which is a good thing. Mr. Becker said that applies to special permits but not to variances. He said that the standards for granting a variance are higher. He said that the special permit part of the request is similar to what the Board sees for teardowns where a nonconforming structure is torn down and a compliant structure is put back. He said that the special permit request is not the issue but the request for a variance is. He said that he understands the frustration here.

Mr. Brooks said that he could argue that the hardship is financial in that the Applicant will not be able to realize the greatest benefit that he can from the property. Mr. Levy said that the bylaw does not require a maximum benefit. He said that he would be more persuaded if they could not build anything. He said that this has existed for over 50 years as a single family house and they have had the continued benefit of use of the property.

Mr. Becker read the Planning Board recommendation.

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

Mark Mooradian, 7 Pleasant Street, said that his family bought their house about 50 years ago. He asked about the setbacks for the new construction. He asked if the setback was measured from the edge of the main structure or the edge of the garage. Mr. Brooks said that it was measured from the edge of the garage.

Mr. Mooradian said that he spoke with his mother about this project. He said that she has seen the plan and is comfortable with having this structure next to them.

Mr. Brooks requested that the Board allow the petition to be withdrawn without prejudice. Mr. Levy moved and Mr. Redgate 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 2017-69, DANA HALL SCHOOL, 45 DANA ROAD

Presenting the case at the hearing was David Himmelberger, Esq., who said that the request is for Site Plan Approval for a project that involves disturbance of more than 5,000 square feet of land to enhance but not expand Dana Hall's Equestrian Program. He said that also present at the hearing were Bill Foley, Trustee, Rob Mather, Assistant Head of School, Sarah Summers, Director of Equestrian Activities, and Steve O'Connell, Andrews Engineering.

Mr. Himmelberger said that Dana Hall offers a comprehensive riding program. He said that the proposal is to construct a new outdoor riding ring. He said that they will flip flop the location of the existing ring and paddocks. He said that the new riding ring will be larger at 200 by 180 feet and will have a dust free footing material that will be a great benefit to the abutters. He said that the project been through DRB review. He said that they met with the Engineering Department, who had a few comments that have been responded to. He said that Mr. Saraceno sent a memo to the Zoning Board today advising that the project was in full compliance with any of his concerns.

Mr. O'Connell said that Dana Hall School currently operates their Equestrian Facility on Tenacre School property. He displayed the location of the stable and existing riding ring and existing paddocks. He said that the riding ring and paddocks are located on Tenacre School property. He said that Dana Hall would like to construct a 180 foot by 200 foot outdoor riding ring where the paddocks are and the paddocks will move to where the existing riding ring is. He said that in order to bring their program to an elite level, they need a bigger ring so that they can train properly so that when they go to competitions, they have training on the same level. He said that the project will involve landscaping, hardscaping and some engineering. He said that the riding ring will consist of a dust free footing and a perimeter drainage system that is similar to an athletic field. He said that the drainage system will collect stormwater runoff and convey it through Dana Hall property. He said that the topography of the site is uphill to the east and downhill to the west. He said that existing runoff is collected in a series of drywells that do overflow. He said that stormwater runs next to stable collects in catch basins near Vincent Road and then into a man-made pond on campus. He said that the proposal is to collect the stormwater in the perimeter drain and run to improved drywells with a pipe outlet that will convey the water to a closed pipe system that will run alongside of the stable and connect to the existing pipe system.

Mr. O'Connell said that in order to meet the project's objectives, they need to have some retaining walls. He said that they want to make the riding ring ADA accessible. He said that Dana Hall has a Therapeutic Riding Program. He said that because of the topography, they need a wall at the back and a cut slope and retaining wall on the front side. He said that students, parent and coaches typically take the horses from the stable and walk them up the path to a five percent walkway that goes to a landing that leads to ADA ramps to a multi-use area. He said that the retaining walls will be cast in place concrete with a fieldstone veneer. He said that the

fences will be three rail black or brown vinyl that are unique to the equestrian industry. He said that there is a significant landscape component of the project that will enhance the existing conditions and add to the equestrian theme with hedges and stone columns. He said that they met with one neighbor a number of times to address his concerns. He said that some of the landscaping has been designed to address his needs.

Mr. O'Connell said that they described work hours in the application package. He said that have made provisions for temporary paddocks that will be restored upon completion of construction. He said that trucks will enter and exit the site only Grove Street and head towards Needham. He said that no vehicles will be allowed to use Brook Street. He said that the truck route has been reviewed and approved by the Police Chief. He said that hours of operation will be standard under the Board's purview.

Mr. Redgate asked Dana Hall has coordinated the construction schedule with Tenacre's open Site Plan construction schedule. Mr. O'Connell said that they have been in open communication with Tenacre School. He said that they signed the application. He said that Tenacre's progress should not impact this project.

Mr. Becker asked about the duration of the project. Mr. O'Connell said that Dana Hall hopes to break ground in September, subject to contractor availability. He said that once the project commences, the bulk of the earth work and site preparation will have an approximate 90 day duration.

Mr. Adams asked if there will be a viewing area for competitions. Mr. O'Connell said that there are no competitions hosted here. He said that there will be no PA, lights or water system. He said that there will be a designated coaching area. He said that there will be no bleachers or crowds. Mr. Adams confirmed that there will be fence between the coaching area and the riding ring. He asked about the foundation of the dust free surface. Mr. O'Connell said that it is a compact stone dust product set to a proper pitch. He said that top and subsoil will be removed. He said that native soil is gravelly. He said that they compensated for high groundwater in the final grade. He said that the stone dust will have a six inch compacted thickness. Mr. Adams asked about maintenance. Mr. O'Connell said that the stone dust will be under three to four inches of horse footing, which will be maintained. Mr. Adams asked about the surface to accommodate people with mobility challenges getting close enough to be assisted onto horses. Mr. O'Connell said that coaching and staging area is grass.

Mr. Adams said that the retaining walls appear to be over four feet high. He confirmed that there will be fencing to ensure that nothing can slip through. Mr. O'Connell said that final grading of the ring and the retaining walls consumed most of their time. He said that they knew that it was a key component from viewing, feasibility and regulatory standpoints because of local codes. Mr. Adams asked if they will not provide fencing at the back side where it will be holding back earth because there will be no paths to walk on there. Mr. O'Connell said that DPW inquired about that. He said that they will provide equestrian fencing inside for the riding arena and will tie into a neighbor's fence and run it an existing post and rail fence on the Tenacre property.

Mr. Adams asked if they will balance the cut and fill or remove it. Mr. O'Connell said that they will be pretty close to a balance. He said that just under 900 cubic yards of fill are required due to the amount of top and subsoil to come off the site that cannot be used as structural fill. He said that trucks will exit to Grove Street and head south to Needham to Route 135 and Route 95. He said that the school deals with truck traffic on regular basis with food deliveries, etc., so they are very conscious of neighbors on Brook Street and going north on Grove Street.

Mr. Levy confirmed that there will be no lighting, no sound amplification or signage. He asked who will be using the facility. Ms. Summers said that it is just for students, their families and alums. She said that the larger community program was closed about ten years ago. She said that they have a therapeutic riding program that they operate as a community service on Sundays and a very small summer camp program that is open to the community. She said that Dana Hall made a decision ten years ago to focus on their students. She

said that the purpose of this project is to raise the bar on their program by having outdoor space that is similar to space that they encounter at horse shows.

Mr. Levy asked about the number of horses that are boarded. Ms. Summers said that there are 45. She said that some of the horses are boarded and some are owned by the school. She said that the facility is tucked away and is not really visible from the street.

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

Mr. Becker read the Planning Board recommendation.

The Board discussed closing the public hearing and then holding a public meeting to vote approval. Mr. Levy moved and Mr. Adams seconded the motion to close the public hearing. The Board voted unanimously to close the public hearing. Mr. Becker said that he will develop conditions, make them available to the public and a public meeting will be scheduled at a date to be determined later to vote final approval.

ZBA 2017-67, JON & JOANNE BLOTNER, 15 HOMESTEAD ROAD

Presenting the case at the hearing were Timothy Burke, Architect, Jon and Joanne Blotner, the Petitioner.

Mr. Burke said that the Petitioner had come before the Board a couple of months ago explaining some needs of the family. He said that Ms. Blotner's mother is coming to live with them. He said that they withdrew the previous petition without prejudice where they exceeded lot coverage. He said that the new proposal will meet lot coverage requirements. He said that they reduced the size of addition substantially. He said that to gain the additional space, they are seeking to raise the ridge on the roof to create two bedrooms on the third floor. He said that it has been designed with three gabled dormers on the front and a shed dormer on the rear of the house.

Mr. Blotner said that the Board made some specific recommendations about what the Petitioner should come back with. He said that they took those recommendations and redesigned the plan. He said that they met with the neighbors, who have submitted letters of support.

Mr. Redgate confirmed that the major issue at the previous hearing was lot coverage. Ms. Blotner said that the Board recommended that the Petitioner build up to get the space that they needed. She said that the initial plan had a larger footprint.

Mr. Levy said that the lot size, left side yard and front are nonconforming.

Mr. Redgate said that the Board had a lengthy conversation at the previous hearing and it appears that the Petitioner has gone back to the drawing board with this proposal.

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

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

ZBA 2017-70, MICHAEL & JENNIFER BRADY, 10 ARDEN ROAD

Presenting the case at the hearing were Paul Beaulieu, Field Resources, who said that it is a unique house that the homeowners are looking to enlarge with more functional space and a garage at the back.

Mr. Becker asked about the access driveway to the garage. Mr. Brady said that they share a driveway with the neighbors. Mr. Becker said that it looks like entrance is from the aqueduct. Mr. Brady said that there is a path into Beebe Meadow. He said that there is an easement off of Benvenue Street that branches to the left along the aqueduct. Mr. Becker asked if the right of way is incorporated in the deed. Mr. Brady said that it is. Mr. Beaulieu said that he worked on one other site on Falmouth Road in Wellesley where access is from the abutting town. Mr. Redgate confirmed that access is from Benvenue Street.

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

Mr. Redgate said that the Board appreciated seeing an infiltration plan.

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

ZBA 2017-71, K. WHITNEY HALL, 7 PRISCILLA ROAD

Presenting the case at the hearing was Mark Heavner, representing K. Whitney Hall, the Petitioner. He said that the request is for a special permit to demolish an existing dwelling and replace it with a new one family dwelling. He said that existing house is nonconforming by area. He said that the lot shows on the Assessor's Plan as 13,400 square feet. He said that the actual survey shows it as 13,283 square feet. He said that the proposed house will have a front setback of 35.1 feet. He said that, in accordance with the 500 Foot Rule, the setback could be as small as 31.9 feet, so this will be approximately three feet further back than they need to be. He said that the existing front setback is 40.4 feet. He said that the side setback on the new house will be 20.3 feet where 20 feet are allowed. He said that the rear setback will be 47.5 feet where 15 feet are allowed. He said that the proposed height from average grade will be 32 feet 9 inches where 35 feet is allowed. He said that proposed lot coverage will be 2,468 square feet, or 18.58 percent, where 2,656 square feet is allowed. He said that the proposed house will have 5,052 square feet of total living area on three floors, with the first floor at 1,784 square feet, the second floor at 2,143 square feet and the lower level at 1,125 square feet. He said that TLAG was calculated using both methods. He said that it is 3,927 square feet using the method that was in effect when he applied in June and 5,209 square feet using the new method. He said that the proposed house will have five bedrooms, four full bathrooms, two half bathrooms and a two car attached garage.

Mr. Redgate confirmed that the TLAG falls below the threshold for LHR.

Mr. Levy said that a petition that was signed by many people was submitted to the Board. Mr. Heavner said that he had a copy of it.

Mr. Levy said that the Board has to make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. He said that it is a large house that is somewhat out of character with the neighborhood.

Mr. Becker said that he did house and lot analysis. He read the Planning Board recommendation that said that the proposed house is entirely inconsistent with the neighborhood in terms of scale and is therefore more detrimental to the neighborhood than the existing structure. It said that the existing house is a one and a half story Cape Cod in a neighborhood consisting predominantly of one and a half story Cape Cod houses. He said that the Planning Board recommended that the Zoning Board deny the special permit.

Mr. Heavner said that there is a new house at 51 Standish Road, which is basically the abutting property. He said that it has the same scale as the proposed house. He said that he submitted a picture of that house in the application package.

Mr. Becker said that looking at the houses on Priscilla Road only, there are 10 houses. He said that they all complied for lot size except for 7 Priscilla Road. He said that he looked at the intensity of use by dividing the TLAG by the lot area, and with a TLAG of 3,927 square feet, this would be the most dense use in the neighborhood by a significant amount. He said that Cape Cod houses were on six out of the ten lots. He said that the proposed house is significantly larger than what is there. He said that it would be the first house to be upgraded on Priscilla Road. Mr. Heavner said that the last three houses on Priscilla Road have been upgraded to substantially larger houses. Mr. Becker said that he was surprised at the consistency of dates of year built, which changes when there is a major modification.

Mr. Heavner said that this portion of Priscilla Road is part of a 34 lot subdivision that was done in 1938 where only two lots were conforming. Mr. Redgate asked about the size of the other nonconforming lots. Mr. Heavner said that they range from 10,000 to 12,000 square feet. He said that the lot at 7 Priscilla Road, with 13,283 square feet is one of the larger lots.

Mr. Heavner said that they could add onto the existing structure by special permit and stay within all of the Zoning requirements but the infrastructure is old and frail. He said that they are looking to build from the ground up to meet today's standards with updated utilities. He said that everything would be in compliance except for lot area.

Mr. Becker said that the assumption that a fully compliant structure is not more detrimental to the neighborhood is not necessarily true. He said that this is good example. He said that there are predominantly one and a half story houses on the street and this is considerably larger than that. He said that the question is whether the largeness is substantially more detrimental to the neighborhood or not. Mr. Heavner said that, at some point, all of the houses will want to expand. He questioned whether the subdivision will remain as one and a half story houses in perpetuity or is there the ability to expand.

Mr. Levy said that there are 20 neighbors who oppose the project, as well as the Planning Board.

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

Catherine Johnson, Planning Board, said that she recused herself from the Planning Board vote on this because she is a neighbor who signed the petition. She said that there are a lot of things wrong with the proposed house including mass, size and scale. She said that the TLAG 5,209 square feet is larger than what could be built by right on a conforming lot in the neighborhood without going through LHR. She said that the size is detrimental. She said that over the last five years there have been five new builds in the neighborhood that are detrimental to the neighborhood. She said that two of them have more character and three of them do not. She said that 50 Standish Road is next door. She said that the proposed house is larger than the house at 50 Standish Road. She said that a number of young families have bought existing homes in the neighborhood, all of whom have chosen to do renovations. She said that some done internal changes and others have come before this Board for additions. She said that they are gorgeous houses and they have kept the character. She said that in determining whether something is more detrimental to the neighborhood, it is character as much as it is proportions. She said that it is a neighborhood of capes and small colonials. She said that the houses are primarily designed by or in the style of Royal Barry Wills and were all built or supervised by Dunleavy. She said that there was a consistency on every street. She said that there is a classic traditional construction. She said that many of the houses were built at the end of the Depression going into World War II. She said that there is a sense of proportion on the houses where the windows balance the doorways. She said that there is an integrity to what is built there.

Ms. Johnson said that the houses that do not fit into the neighborhood are millennial mansions and are the typical subdivision house. She said that they have been seen everywhere since the mid 1980's. She said that the houses are typically asymmetrical and are built to the Zoning setbacks, especially in areas where land prices are

high, so that they can maximize the density and square footage. She said that they have an assortment of windows that seem to be out of a window catalog. She said that the most outstanding feature is the steeply pitched complex roof.

Ms. Johnson said that neighbors have added to their second floor and built to the back to upgrade their homes. She said that 7 Priscilla Road is a perfect example of where that could be done. She said that it has an existing two car garage that is slightly undersized by today's standards that could be expanded to the back and added to on top.

Ms. Johnson said that the character of the proposed house is almost what makes it more detrimental rather than the size of the house. She said that there are families moving into the neighborhood who do appreciate the old. She said that the best example of a new house is 5 Carver Road, which came before the Board in 2015. She said that it is a gambrel with 3,599 square feet, on an undersized lot of approximately 11,500 square feet. She said that the Board either deny this petition or allow the petition to be withdrawn so that the Petitioner can come back with something different.

Beth Urdang Ziegler, 11 Priscilla Road, read a letter that she had submitted to the Board.

Mr. Heavner requested that the Board allow the petition to be withdrawn without prejudice. Mr. Levy moved and Mr. Redgate 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 2017-73, DANIELA HRISTOVA- & WILLIAM NEELEY, 26 RIVERDALE ROAD

Presenting the case at the hearing were Kent Duckham, Architect and William Neeley, the Petitioner.

Mr. Duckham said that 26 Riverdale is an existing Colonial bungalow that was built around 1920 in a neighborhood with mostly similar homes. He said that many of the homes in the neighborhood have been updated, similar to what is being proposed here. He said that it is a 10,390 square foot lot in a 10,000 square foot Single Residence District where the threshold for LHR is 3,600 square feet. He said that the left side yard setback is nonconforming at 7.5 feet where 20 feet is required and the front yard setback is nonconforming at 27.5 feet where 30 feet is required.

Mr. Duckham said that the existing house is listed in the database as having 1,739 square feet. He said that when they adjust for the basement, it comes out to 2,180 square feet. He said that the proposed addition of 1,156 square feet will bring the TLAG up to 3,336 square feet.

Mr. Duckham said that the bulk of what they are asking for is for a family room with master suite above addition at the back that will fully comply. He said that they are proposing a deck on the left side of the house that will be tucked behind the main body of the house. He said that it will be a low deck for access and a small area for tables and chairs. He said that there is an existing open porch on the right side of the house that is not used. He said that the homeowner would like to enclose. He said that the corner of the porch is six to seven inches into the setback.

Mr. Duckham said that the proposed structure will meet lot coverage and height requirements. He said that the bulk of the addition will be at the back of the house. He said that the deck will be in the side yard setback but at the back and will be obscured from the street. He said that the front porch will be enclosed within the existing structure. He said that the proposed structure will not be more detrimental to the neighborhood and will be similar to other projects that have been proposed nearby. He said that it is a nice way to bring the house into the next century for a young family.

Mr. Levy asked if TLAG was calculated using the old method. He said that the new regulations became effective on July 1, 2017. He said that garages are now included in the calculations. Mr. Duckham said that would add 420 square feet.

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

Mr. Becker read the Planning Board recommendation.

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

As there was no further business to come before the Board, the hearing was adjourned at 10:47 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary

DRAFT