

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

Thursday, November 2, 2017, 7:30 pm

Juliani Meeting Room
Town Hall

Zoning Board of Appeals Members Present:

Richard L. Seegel, Chairman
J. Randolph Becker
David G. Sheffield, Acting Chairman
Robert W. Levy
Walter B. Adams
Derek B. Redgate

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

Mr. Becker said that the public meeting was being held to approve Site Plan Approval, a Special Permit for a major construction project in a Water Supply Protection District and conditions that were drafted and distributed.

Mr. Adams asked if one of the conditions was removed. He said that the conditions were renumbered. Mr. Becker said that the conditions had not changed. He said that the change in numbering was from a previous decision.

Mr. Adams said that there appeared to be a change to the hours of outside work, not inside work. Mr. Langer said that was consistent with prior decisions that the Board made, particularly the Park Manor decision, so that interior work could go on outside of the approved hours of construction. Mr. Adams said that it is a big campus, so interior work noise should not be an issue. He said that the work will be conducted when the structure is fully enclosed. Mr. Levy said that the condition also has to do with traffic, access and other things that could affect the public. He said that the fact that they are still doing inside work is not the sole purpose of the restrictions on timing. He said that this is located in the middle of the campus and will only disturb students, staff and employees, not members of the general public. Mr. Becker said that the Board had similar conditions for the Fiske and Schofield Schools. He said that the clear intent was that if there is non-noisy interior work it is not an issue.

Mr. Adams said that typically Saturday work is not prohibited but Sunday work is. Mr. Langer said that the bylaw allows work to begin at 8 am on Saturdays. Mr. Levy said that in this particular circumstance, it is not a major issue.

Mr. Becker said that Condition #5 talks about a reasonable procedure that is intended to safeguard the Water Supply Protection District. He said that there is no reporting requirement. He questioned whether that is something that the Board should think about adding or whether the procedure is enough, similar to the Operation & Maintenance Plan for runoff and drainage. He said that they have to report annually to the Town Engineer. Mr. Levy said that they are also governed by State and Federal laws with regard to hazardous materials. Mr. Adams said that they have to establish procedure that can be reviewed if there are any issues.

Mr. Grissino said that Babson has art studios and two science labs on campus, so they have policies and protocols in place already, which is why he changed the language to Director of Operations, who oversees all of Babson's facilities and the health and safety group. He said that this will be consistent with other things that they have in place.

Mr. Becker said that the edits to the conditions are acceptable.

Mr. Levy moved and Mr. Adams seconded the motion to grant Site Plan subject to the conditions that were discussed at the public meeting. The Board voted unanimously to grant Site Plan Approval.

Mr. Adams moved and Mr. Levy seconded the motion to grant a Special Permit for a major construction project in a Water Supply Protection District, finding that the project will meet the requirements of Section XIVE of the Zoning Bylaw, subject to a condition that the Applicant shall establish, apply, and maintain a reasonable procedure under which appropriate members of the Babson College faculty, with the Director of Facilities Operations and the Director of Public Safety, shall review and approve a program for the delivery, use, storage, and disposal of any Toxic or Hazardous Materials (as defined in Section XIVE of the Zoning ByLaw) in any part of the Project. The procedure shall, as a minimum, meet the applicable requirements of Section XIVE(F) of the Zoning ByLaw. The Board voted unanimously to grant a Special Permit.

ZBA 2017-57 UNITARIAN UNIVERSALIST WELLESLEY, 309 WASHINGTON STREET

Mr. Seegel said that the request is for a determination by the Board that allowing the Wellesley Farmers' Market to operate on Wednesday, November 22, 2017 instead of on Thursday, November 23, 2017 is a minor modification that does not require at public hearing. Mr. Sheffield moved and Mr. Redgate seconded the motion to make a determination that allowing the Wellesley Farmers' Market to operate on Wednesday, November 22, 2017 instead of on Thursday, November 23, 2017 is a minor modification that does not require at public hearing. The Board voted unanimously to make a determination that the proposed change is a minor modification that does not require a public hearing.

ZBA 2017-86, JOHN CHAPMAN, 12 FLETCHER ROAD

Presenting the case at the hearing was John Chapman, the Petitioner, who said that he has a small architectural practice that he runs in his home in Wellesley. He said that the request is to continue under the same conditions that he has been working under the past 15 to 20 years. He said that there have been no complaints from the neighbors. He said that there is adequate parking on the property. He said that there will be no change to the number of clients.

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

Mr. Adams moved and Mr. Redgate seconded the motion to grant renewal of a special permit for a two year period to allow a home occupation for an architectural business. The Board voted unanimously to grant renewal of the special permit.

ZBA 2017-57, UNITARIAN UNIVERSALIST WELLESLEY, 309 WASHINGTON STREET

Present at the hearing was John Spencer. Mr. Seegel said that Wellesley Farmers Market asked the Board to make a determination that moving the market day from Thursday, November 23rd to Wednesday, November 22nd be deemed a minor modification without requiring a public hearing. The Board voted unanimously to deem the requested change as a minor modification that does not require a public hearing.

ZBA 2017-87, UNITARIAN UNIVERSALIST WELLESLEY, 309 WASHINGTON STREET

Presenting the case at the hearing was John Spencer, representing the Wellesley Farmers Market. He said that the request is to extend the special permit to 2018. He said that the permit that is in effect will expire on December 31, 2017.

Mr. Spencer said that the Zoning Bylaw mentions the words temporary and seasonal. He said that Mike Grant, Building Inspector, determined that this is a temporary use. He said that part of the conversation about granting the special permit to the end of the year was to allow time to figure out what the bylaw meant by temporary and seasonal because the request was to go for a longer period. He said that Mr. Grant determined that this fits the definition of temporary use.

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

Mr. Spencer said that one of the conditions was to meet with the police monthly. He said that over the past five years they have not had any issues with traffic. He said that the Police Department does not think that they have to meet every month. He asked that the Board grant relief from that condition. He said that they could meet with the police either quarterly or not at all. Mr. Seegel said that the operators of the Farmers Market should make the police aware that this will be a 12 month temporary permit.

Mr. Adams moved and Mr. Redgate seconded the motion to grant a special permit to allow a temporary use to operate a Farmers Market from 12:30 pm to 2:30 pm, on a weekly basis for the entire year. The Board voted unanimously to grant a special permit.

ZBA 2017-78 NORTHLAND RESIDENTIAL ADVISORY GROUP, LLC, 11 HOMESTEAD ROAD

Presenting the case at the hearing were David Himmelberger, Esq., Peter Crabtree, representing Northland Residential Advisory Group, LLC, Alan Aukeman, Landscape Architect, Chris Russ, Architect, and Wes Mize, Engineer.

Mr. Himmelberger said that at the Board's first hearing for the request for a special permit many neighbors raised a number of concerns. He said that the Board requested that further information be provided, similar to that which would accompany a Large House Review (LHR) submittal and that efforts be made to work with the neighbors to address their concerns. He said that Northland had made extensive outreach to the neighbors prior to the first hearing. He said that they redoubled their efforts. He said that the revised materials that were submitted last week contained extensive and additional reformatted information regarding a detailed Landscape Design Planting Plan, contextual information regarding the neighborhood demonstrating that the proposed house is similar in height and TLAG density to many other homes in the neighborhood, and an Stormwater Management Plan. He said that the rear third floor dormer was redesigned and reduced the height by several feet, which was an issue that was of great concern to the neighbors. He said that ongoing conversations continued with direct

abutters regarding the landscaping screening to be planted on their common property lines. He said that the Applicant met with seven neighbors on site on October 24, 2017 to narrow and clarify the issues and concerns of the neighbors. He said that the primary issue that remained following that meeting was the design of the rear third floor dormer. He said that the neighbors expressed willingness to support the project if further mutually agreeable changes or reductions to the dormer design could be achieved. He said that Northland and its Architects, Jan Gleysteen, went back to the drawing board. He said that he, Northland and Mr. Gleysteen met with eight neighbors last night to present a two new dormer design options. He said that the neighbors unanimously supported one of those options which resulted in a further reduction in the width of the face of the dormer from 28 feet to 19 feet. He said that there were additional modifications to the angled side walls and a reduction in the height of the overall dormer face.

Mr. Seegel asked to see a copy of the revised plans. Mr. Crabtree distributed plans. Mr. Himmelberger said that the plans show a revised third floor rear dormer, a third floor plan and the side elevations. He said that the rear elevation shows a redesign of the dormer that met with approval of the neighbors.

Mr. Himmelberger said that Northland and the neighbors agreed on a location of a chain link construction fence – rear yard to protect mature trees that provide screen – on house side of fence – temporary chain link fence across the rear yard to protect a number of trees that provide vital screening to the neighbors. He said that there is further confirmation that the minor grading proposed in the rear yard is as shown on the previously submitted and thus is on the house of the chain link fencing. Mr. Redgate confirmed that it will be a temporary chain link fence during construction. Mr. Himmelberger said that the neighbors requested and Northland agreed to meet with the neighbors prior to installation of the chain link fence and the irrigation system. He said that Northland further agreed to meet with the neighbors on a periodic basis, every 30 days. He said that the collaboration between Northland and the engaged neighbors was unprecedented. He said that spirited concerns of neighbors led to meetings with the Developer and ended with all of the parties reaching consensus.

Mr. Seegel said that the plan with the fence is dated October 18, 2017. Mr. Himmelberger said that a Revision 1 is shown in the title block. He said that they will mark a revision for November 2, 2017. He said that the revised elevation drawings of the rear dormer and the side elevations that show a minor change, revised Plan C1 reflecting the location of construction fencing. He said that the Applicant further offers language to be incorporated by the Board in the granting of the special permit with regard to tree protection measures. He submitted a copy to the Board. He said that it was reviewed with the neighbors and met with their approval. He said that it provides for a protocol to ensure that mature trees at the rear are best protected during construction by fencing and additional irrigation prior to installation of the irrigation system if they get into dry conditions. He said that the protective fencing may be temporarily taken to remove the trees that are shown on plan to be coming down, which are diseased or invasive species. He said those trees were listed on the previously submitted plan. He said that met with the approval and support of the neighbors. He said that they believe that they have adequately addressed the Board's concerns regarding receiving additional information for stormwater, a detailed landscape plan, new dormer design and a revised site construction plan showing the construction fencing. He said that the neighbors are satisfied that the Applicant has addressed their significant concerns.

Mr. Sheffield said that the temporary fence is to demonstrate the limit of work line. Mr. Himmelberger said that it will keep heavy equipment off of tree roots.

Mr. Sheffield said that carriage lamps often create quite a distance of horizontal glare. He said that there are three carriage lamps, two on the back and one by the garage. He said that you can see the

light from some distance. Mr. Mize said that VHB developed the Photometrics Plan. He said that the lamps will be low wattage, so there will not be much light. He said that they will be similar to an indoor light. He said that the Photometrics Plan is based upon the lights that were selected. He said that the table in the plan shows the wattage that was selected. He said that the LED wattage will be 2 watts. Mr. Sheffield said that direct glare is different from light levels. Jan Gleysteen, Architect, said that the fixtures are normal wall sconces that are dark sky compliant. He said that the rear lot is heavily vegetated at the rear and the front. He said that the three abutters at the rear rise up approximately six feet in topography, so their first floors are higher than the first floor for this property. He said that lighting at the rear is for the terrace and for the garage at the front. He said that it should not be impactful on the neighbors.

Mr. Sheffield said that on the front elevation the location of the lighting may not have been coordinated with the lighting plan. He said that there is a carriage light on the wall adjacent to the door but nothing on either side of the garage doors. Mr. Gleysteen said that the plan was not updated.

Mr. Sheffield said that the discussions with the neighbors has helped the neighbors. He said that the design has responded to that. He said that the rear dormer is greatly reduced, which was a sticking point at the previous hearing.

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

Lisa Abeles, 11 Cottage Street, said she is the representative for the neighbor group. She said that Mr. Redgate had suggested that the Developers meet with the neighbors. She said that they had very good meetings. She said that Mr. Crabtree met with people individually and as a group. She said that he seems to be sincere and she trusts him completely. She said that the neighbors give their whole hearted support. She applauded Mr. Crabtree on the good team that he put together.

Mr. Seegel said that it is a pleasure to see developers and neighbors get together and reach a consensus.

Mr. Redgate said that the graphics were very helpful.

Mr. Seegel said that the Plans are as amended on November 2, 2017.

Mr. Sheffield moved and Mr. Redgate seconded the motion to grant a special permit, subject to all of the plans in the set including the revised plans dated November 2, 2017. The Board voted unanimously to grant a special permit.

ZBA 2017-88, KATHARINE CUNNINGHAM, 106 CREST ROAD

Presenting the case at the hearing was Hans Schaefer, representing Katharine Cunningham, the Petitioner. He said that the request is for a special permit for a small second floor addition on top of a flat garage roof.

Mr. Schaefer said that when the survey was done, it was discovered that at the corner of Crest and Oakencroft Roads there is a small nonconforming setback. He said that the house was built in 1926. Mr. Seegel said that the only nonconformity here is that the front yard setback is 27.4 feet where 30 feet is required.

Mr. Schaefer said that there will be no increase in footprint.

Mr. Adams said that the proposed addition will be in a compliant location. He said that the Planning Board commented that there is substantial vegetation that will pretty much obscure the addition altogether.

Mr. Schaefer said that the existing bedroom goes out over the garage roof. He said that the proposed addition will bring the look of the house closer to its original intent. He said that they will remove a fake copper roof and change it to a straight ridge. He said that they will repeat the existing stucco condition on the house.

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

Mr. Redgate moved and Mr. Adams seconded the motion to grant a special permit for a nonconforming structure with less than required front yard setback of 27.4 feet to Oakencroft Road, and made 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 2017-89, UNITED INVESTMENT FLEET, LLC, 48 CEDAR STREET

Presenting the case at the hearing were Terrence Morris, Esq. and Tom Zou, United Investment Fleet, LLC, the Petitioner.

Mr. Morris said that his client purchased the property several months ago. He said that the property consisted of two lots, an 8,000 square foot lot and a 6,000 square foot plus lot that merged to become a 14,000 square foot plus lot that is compliant in the 10,000 square foot Single Residence District. He said that the request is to demolish an existing porch that faces Cedar Street and add a two story addition to a nonconforming single family structure that does not meet the 30 foot setback requirement from Cedar Street and the 20 side yard setback. He said that the existing front yard setback is 22.6 feet and the existing side yard setback is 13.1 feet.

Mr. Morris said that his client spoke with the abutters on both sides and they have no objections.

Mr. Morris said that the proposed addition will not exacerbate the existing nonconformity. He said that demolition of the front porch will improve the situation by increasing the front yard setback to 27.3 feet.

Mr. Seegel said that the porch will be coming off and the setback will be increased to 27.3 feet.

Mr. Seegel read the Planning Board recommendation that said that the altered structure would result in a Total Living Area plus Garage (TLAG) of almost triple the existing structure and further, that the current structure's TLA is 1,464 square feet and this will be an almost 5,000 square foot home. Mr. Seegel said that this is a pre-existing nonconforming property. He said that it is a very large lot and the setbacks are enormous, 53 feet at the rear and 42 feet on the right side. He said that the Planning Board asked that the Zoning Board consider the criteria for Large House Review (LHR) in its review and request additional materials from the Applicant. He said that he did not see the need to apply LHR standards in this particular case.

Mr. Adams said that he is a neighbor who lives on River Ridge at the other end. He said that he will not be impacted by this proposal. He said that he would not be prejudiced in any way about his decision.

Mr. Adams asked if the Applicant shared the plans with anyone other than the two abutters. He asked if the plans were shared with the homeowner who lives across the town land. Mr. Zou said that he had not.

Mr. Morris said that it is his understanding that this project would be subject to LHR because it does exceed the existing TLAG by more than 10 percent. Mr. Seegel said that under the bylaw, this property is not subject to LHR because it is a pre-exist nonconforming property. He said that once a property is nonconforming, LHR goes away. He said that the Planning Board is asking ZBA to apply the LHR principles to the property. He said that it is a very large addition but he does not see it as something that adversely affects anyone around.

Mr. Adams said that the Board always encourages applicants to share their plans with as many neighbors as possible.

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

Mr. Redgate asked if the Applicant would be willing to supply additional information that would meet the LHR criteria. Mr. Morris said that it is possible to affect some reduction in the structure. Mr. Seegel said that the Planning Board is talking about other things such as drainage, trees, landscaping, and lighting. Mr. Morris said that they were considering the main thrust of LHR, which is its volume. He said that drainage and the other standards are peripheral matters. Mr. Seegel said that they are major peripheral matters under LHR. Mr. Redgate said that those standards mitigate the impact. Mr. Morris said that the proposed setbacks are quite generous and they will not exacerbate the setbacks.

Mr. Morris said that the standard is whether the proposal will be substantially more detrimental to the neighborhood. He questioned whether simply expanding the structure will make it substantially more detrimental. He said that you would have to define what more detrimental is.

Mr. Redgate said that he would lean toward the determination that this would be more detrimental because of the massing and the increase from one story up to three stories. He said that it is a grand redevelopment of what is currently there and in comparison to other homes on Cedar Street. He said that another Petitioner helped the Board by providing the square footage of properties located around the neighborhood to help it decide if would be more detrimental.

Mr. Seegel asked if a TLAG Affidavit was submitted with the documents. Mr. Morris said that it was not because it was not required.

Mr. Adams said that the Planning Board represents that the proposed structure will be close to 5,000 square feet. Mr. Seegel said that it will be a huge house. Mr. Morris said that the plans show the house at 4,930 square feet, of which 552 square feet are garage. He said that it is possible to reduce the square footage to 10 percent over the threshold of 3,600 square feet. He said that the current square footage is 4,430 square feet because the garage is under 600 square feet and is not counted. Mr. Seegel said that it is part of the massing of the project. Mr. Morris said that they can reduce the proposed structure by 440 square feet, which will bring the total down to 3,960 square feet, which is below the threshold. Mr. Seegel said that was a good suggestion. He discussed continuing the petition to December 7, 2017. Mr. Morris said that the Applicant is able to submit revised plans a week before the public hearing.

Mr. Adams asked what areas the Applicant would consider modifying. Mr. Morris said that they can reduce the ridge height of the addition. He said that it over powers the main house. Mr. Adams said that the structure is set back from the neighbor facing onto River Ridge. He said that the Applicant

should be cognizant of the neighbor on Cedar Street because they would be most affected. Mr. Morris said that the addition will provide a new front porch that is oriented toward River Ridge.

Mr. Seegel asked that the Applicant provide as many of the items in summary form that LHR normally looks at. He said that he would like to see a TLAG calculation with the new plans.

Mr. Adams moved and Mr. Redgate seconded the motion to continue the petition to December 7, 2017. The Board voted unanimously to continue the petition.

ZBA 2017-90 STRALY REALTY CORP, 339 WASHINGTON STREET

Presenting the case at the hearing was Laurence Shind, Esq., representing Straly Realty Corp., the Petitioner. Mr. Shind said that there has been no change to the seating plan or arrangement since last year. He said that there have been no issues or complaints. He said that the Petitioner continues to police the area to make sure that everything is properly disposed of and that the tables are clean. He said that the request is for renewal of the special permit, with the additional request that it be extended for a longer period of time. Mr. Seegel said that the special permit will be renewed for two years.

Mr. Seegel said that he was concerned about the area to drive through to get to the mail box. He said that it is hard to get through there because the cars that are parked do not fully pull up as far as they can. He said that he would like to see some temporary signage in the front window requesting that all of the cars pull forward as far as possible. Mr. Redgate said that the last space is a problem. Mr. Seegel said that for people who do not move around easily and do drive up to the boxes, it can be difficult. The Board discussed inserting a condition that the end space that is closest to the mail boxes be reconfigured and signed for compact cars only. He said that it is so tight getting in and out of there, cars should pull all of the way forward.

Mr. Adams moved that a special permit be granted for two years for outdoor seating, subject to a condition that a temporary sign be put in the window. Mr. Seegel moved that the Board renew the special permit for a period of two years, subject to conditions that temporary sign that is no bigger than 2 feet by 3 feet be placed in the window with language to the effect of requesting people to pull forward as far as they can, and that the last space on the left facing the building be re-designated as a compact car space to avoid traffic tie ups for people using the mail boxes. He said that the temporary sign should be posted for a couple of months. Mr. Adams seconded the motion. The Board voted unanimously to grant renewal of the special permit.

As there was no further business to come before the Board, the hearing was adjourned at 8:28 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary