

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

J. RANDOLPH BECKER, CHAIRMAN  
ROBERT W. LEVY, VICE CHAIRMAN  
DAVID G. SHEFFIELD

LENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208

WALTER B. ADAMS  
DEREK B. REDGATE  
RICHARD L. SEEGEL

October 1, 2020

7:30 pm

Remote Public Hearing

Zoning Board of Appeals Members Present:

Robert W. Levy  
J. Randolph Becker  
David G. Sheffield  
Derek B. Redgate

ZBA 2020- 32 B. CULLEN REALTY, LLC, 159 LINDEN STREET

Present at the public hearing were Michael and Kim LaRoche, co-owners of Pampered Puppies. Mr. LaRoche said that the owner of the property, Bill Cullen, was listening the hearing online.

Mr. LaRoche said that they opened Pampered Puppies at this location in April of 2019. He said that it is a dog services business where they provide daycare, grooming, training and retail for dogs, which is what they specialize in. He said that the request is for a special permit to allow them to board dogs on site overnight, using the same facility and most of the same clients that currently use the daycare. He said that many of their clients have asked for boarding services for when they go away. He said that they have their kennel license. He said that they are asking to board up to 20 dogs overnight. He said that the place is self-enclosed with everything indoors and soundproofed. He said that they have good relationships with the other businesses and there have been no noise complaints. He said that after 8 pm there is no one else in the building. He said that the property is zoned Industrial and is located at the edge of the Linden Square shopping district.

Mr. Levy said that the application was very sparse and there is a lot of information that the Board does not have. He said that there was no plan of the inside of how the operation is set up. He asked if a permit was needed from the Health Department. Mr. LaRoche said that he spoke with the Health Department and Animal Control and were told that they were covered by the kennel license. He said that there are no plans because there will be no change to the footprint or operations. He said that all of that was done when they opened the business 1.5 years ago. Mr. Levy said that they Board does not have the plan because it was not involved in opening the business. He said that the Board only received an application page and an Assessor's map showing where the parcel is.

Mr. Levy said that he searched the Zoning Bylaw, which was sparse for kennels. He said that he found in Section 9C, Wellesley Square Commercial District (WSCD), a provision relating to boarding kennels that

are accessory to veterinary hospital or other medical institution for the care of animals. He said that there was no specific use allowed for boarding. He read an excerpt from Section 9C of the Zoning Bylaw. – using that as guideline –

Mr. Levy said that he was troubled by the fact that the website is already advertising dog boarding. Mr. LaRoche said they just paid someone to modify the website to include other updates. Mr. Levy said that a concern is that they are advertising for something that they have not yet received a permit for.

Mr. Levy said that this is a very built up area in town with no green space. He asked how waste from 20 dogs is disposed of. Mr. LaRoche said that today they had 33 on site in the daycare facility, 18 dogs in grooming and 6 in training. He said that dogs come in for daycare from 8 am to 6 pm and do not go outside. He said that they built a 1,000 square foot daycare room for larger dogs and an 800 square foot room for smaller dogs. He said that capacity in the small dog room is limited to 20 and is limited to 14 in the large dog room. He said that they have equine grade rubber flooring that is sealed. He said that accidents on that floor are cleaned up immediately, disinfected, deodorized and then tossed away in the rubbish. He said that if the waste is solid is picked up with a baggy and put in a dedicated flushing system, which is acceptable for dog waste. He said that each room has a built up platform with artificial turf with a drainage system underneath. He said that they train the dogs to use the platform. He said that when the dog is done with its business, the platform is immediately washed down, deodorized and disinfected with a solution that is made for artificial turf and dogs. He said that everything is hosed down, vacuumed and cleaned up at the end of the day. He said that once a week they do a deep clean by hosing down the artificial turf and the floors are mopped with a concentrated solution that deodorizes and disinfects.

Mr. LaRoche said that boarding would use the same facilities from 6 am to 8 pm. He said that after 8 pm they will use holding crates that are used for other purposes during the day. He said that dogs will be limited to under 60 pounds because of the size of the crates. He said that people who have been asking for boarding are primarily small dog owners.

Mr. LaRoche said that they are looking for a larger lot of land west of Route 495 to build a larger facility with dog runs. He said that clients would drop their dogs off at Linden Street and the dogs would be transported to the other facility.

Mr. LaRoche said that the request is for a special permit for what they currently do except to allow them to have up to 20 dogs sleep in the crates at night.

Mr. Levy confirmed that there are drains in the floor. He asked if there will be a limit on the number of consecutive nights. Mr. LaRoche said that they offer financial incentives for a dog to stay a week. Mr. Levy asked if the dogs will be inside for 7 days. Mr. LaRoche said that the plan is to offer at mealtimes, early in the morning from 5 to 6 am and in the evening from 6 to 8 pm, a walk outside on leash for two dogs at a time up and down Linden Street. He said that they installed a dedicated potty area in front of the building. Mr. Levy discussed concerns that there will be no green space for the dogs who could be there for up to a week. Mr. LaRoche said that their indoor dog parks are fairly large and have enough room for dogs to run and play. He said that some of their clients have their dogs come every day of the week for daycare. He said that the entire facility is 3,750 square feet, with daycare, grooming and retail at just over 3,000 square feet.

Mr. LaRoche said that the Dog Officer, Sue Webb, comes to the facility frequently. He said that they have known her for many years. He said that they started their business grooming dogs in their garage. He said that he and his wife retired from the corporate world to start this business a couple of years ago. Mr. Levy

said that it is a laudable goal and he applauded them for their entrepreneurialism but questioned whether this is the right place in town for it.

Mr. Becker said that for the Board to make a determination for a special permit, it needs to find that the proposed use is similar to one or more authorized uses in the district. He said that this property could be LSOD, Industrial or Business District. He said that the only thing that he found in any of those districts is a veterinary hospital. He said that he was not convinced that it is an allowed use in this district. Mr. Levy said that there are no other 24 hour or overnight uses in the district.

Mr. LaRoche said that they would expect to have an attendant spend the night on site. He said that the dogs will never be left unattended, there are no residential areas close by, no one else in the building at night and there will be no additional traffic. Mr. Redgate asked what the closest residence is. Mr. LaRoche said that there are some townhomes behind the Citgo Station. Mr. Sheffield said that there some residences above the CT Paint Store.

Mr. Redgate said that doggy daycare may not have been considered when the bylaw was written. He said that doggy daycare is a business that has a great unmet demand in Wellesley. He said that the term kennel implies many animals in cages in close proximity. He said that this facility has a lot of interior open space. He said that kennel may not be a good comparison to what is in the bylaw but it is the closest that the Board has. Ms. LaRoche said that it will be night care in their daycare rooms.

Mr. LaRoche said that there is a large demand for the business. He said that they started 1.5 years ago with one client out of their garage and today they have over 1,500 human clients and over 1,800 dog clients. Ms. LaRoche said that they had 80 new clients last month.

There was no member of the public who wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Levy said that the initial issue is whether the Board has the authority to grant a special permit for this particular use. He said that if the Board can get past that determination, he would want to see a letter from the Dog Officer and the Board of Health saying that they have no objections. Mr. Becker said that there should be some documentation about the things that the Board heard about tonight. Mr. Levy said that he would like to see a floor plan and a description of the operation of the business.

Mr. Levy said that it is a great use and there is a great need but he questioned whether this is the right place for it. He said that dogs should be able to go outside and get fresh air and run.

Brian Menna, 30 Cottage Street, said that his mother lives in Brookline and family friends who live in other cities and towns use similar services where the greenspace is limited. He asked that the Board keep in mind that similar places exist where daycare is converted for night and kennel care in the same facility where it is more densely populated and there is less greenspace.

Mr. Becker said that the issue is that when you look at the other allowed uses in the business district and the industrial district, there is nothing in the bylaw that allows for 24 hour operations. He said that for lack of a specific authorization for the use, it was difficult for him to determine that the proposed use is similar to another use. He said that he understands the need for it but that is not the issue. He said that the fundamental issue is whether the Zoning Bylaw allows this use. He said that he could not find that.

Mr. LaRoche asked if it was prohibited anywhere in the Zoning Bylaw. Mr. Becker said that the bylaw lists the allowed uses. Mr. Levy said that the only time he saw boarding or kennel mentioned in the Zoning Bylaw was for the Wellesley Square Commercial District.

Mr. Levy said that approval would require a unanimous vote of the Board. He discussed allowing the petition to be withdrawn without prejudice. Mr. LaRoche requested that the petition be allowed to be withdrawn without prejudice.

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

Mr. Becker voted aye.

Mr. Redgate voted aye.

Mr. Levy voted aye.

ZBA 2028-18, DAVID & MYEONG COLETTA, 39 ATWOOD STREET

Present at the public hearing was David Coletta, the Petitioner, who said that a special permit was approved a couple of years ago to widen the garage by 4 feet and add a second floor. He said that he has just recently started to work on getting the project done by getting an architect. He said that he hopes to get it built in the spring. He said that he does not plan to move forward with the expansion at the corner of the house at this time.

Mr. Levy said that a special permit was granted for a period of two years on May 17, 2018. He confirmed that the request is for extension of that approval.

Mr. Sheffield asked if there will be heat in the upper floor. Mr. Coletta said that he would like to put electrical in the garage and at some time add electric heat. Mr. Levy confirmed that there will be no plumbing.

Mr. Sheffield said that because of the open stair, the garage and office is considered to be one space. He asked about smoke and carbon monoxide detectors. Mr. Coletta said that he will provide all of the safety requirements.

Mr. Levy read the Planning Board recommendation. He confirmed that the plans have not changed. He said that extension would be for one year.

There was no member of the public wished to speak to the petition.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to approve extension of the special permit for one year.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2020-34, GUY & MAYA YEHIIV, 1 PICKEREL ROAD

Present at the public hearing were David Himmelberger, Esq., Guy and Maya Yehiav, the Petitioner. Mr. Himmelberger said that the request is to raze and rebuild the existing home on a nonconforming lot with insufficient setbacks. He said that also present at the hearing were Greg Legault, Architect, Kevin O'Leary, Engineer, Jillson Company, and John Sullivan, Builder.

Mr. Himmelberger said that the lot is 4,092 square feet and is reached via Natick. He said that existing setbacks are 11.6 feet in the front, 8.1 feet on the left side and 10.1 feet on the right side. He said that an air conditioning unit is located in the setback area. He said that the request is for a special permit for a new home that will maintain the existing setbacks and add a second story. He said that in 2006 the Board approved a special permit to add a second story over the existing home but the project was not done. He said that the existing home has a height above finished grade at the front of 23.4 feet and the new home will be 34.11 feet from average finished grade due to the drop off of approximately eight feet from the front to the back of the lot. He said that the height at the street will present at approximately 27 feet tall. He said that a variance or modification of a variance is sought to permit a rear first floor deck with a 7.7 feet setback to replace a patio. He said that the requested 7.7 foot setback is only to the property line and there is another 25 feet of land owned by the town before getting to Morses Pond. He said that ZBA decision 55-24 characterized the relief granted for the setbacks as a variance but called it an exception. He said that they do need a variance for the rear deck and for relocation of the hot tub to the rear, according to Michael Grant, Building Inspector.

Mr. Himmelberger said that existing lot coverage will decrease from 1,964 square feet to 1,607 square feet due to removal of other decking on site. He said that the project was reviewed by the Wetlands Protection Committee (WPC) and an Order of Conditions was recorded at the Registry of Deeds. He said that the property is located in a flood plain and a wetlands buffer. He said that there was a question raised after the submittal about whether flood plain requirements pertained to the project. He said that they submitted a supplemental plan that shows a decrease in ground coverage, so the flood plain law does not apply.

Mr. Himmelberger said that this is a tight knit neighborhood. He said that six to seven letters or emails were submitted in support of the project. He said that they request a variance for the hot tub and deck, citing the basis for that on the unusual trapezoidal shape of the lot, the eight foot drop off from front to back, as well as a request for a special permit for reconstruction of the pre-existing nonconforming structure that will not be substantially more detrimental to the neighborhood than the existing nonconformity. He said that while recognizing that each case is unique, the Board has issued special permits in the neighborhood.

Mr. Levy said that it is a unique neighborhood and the Board has seen a number of petitions over the years. He said that it was originally a neighborhood of summer camps. He said that this is one of the smallest lots and the largest houses. He said that TLAG will almost double and exceeds the lot area. Mr. Himmelberger said that over 1,000 square feet will be in the basement and not project as significantly as the TLAG might suggest. Mr. Levy said that the property is located in a 10,000 square foot district and is 60 percent smaller than what is zoned for the district. He said that the proposed TLAG is 20 percent larger than what is permitted in the 10,000 square foot district. Mr. Himmelberger said that the proposed house will retain the existing footprint. He said that the prior approval for a second floor probably pre-dated TLAG. He said that this is a unique neighborhood and the neighbors are supportive of this project.

Mr. Sheffield said that this is an appropriate addition to the community. He said that the house presents itself as a narrow house to Pickerel Road. He said that it would appear to not be as large as some of the adjacent houses that are oriented in a different fashion.

Mr. Redgate asked for the square footage of the proposed house. Mr. Himmelberger said that it will be 4,272 square feet, with 1,000 square feet in the basement. Mr. Redgate said that with the slope it will essentially become a three story on the left, right and rear, which seem quite large from that point of view. Mr. Himmelberger said that it is relatively narrow from the street and you do not get a full side on view from the street. He said that the abutter directly to the left at 9 Pickerel Road is supportive. Mr. Levy said that the house on the other side is in Natick. Mr. Himmelberger said that a portion of the Natick house pushes over the line. He said that 9 and 3 Pickerel Road neighbors as well as others up and down the street are supportive.

Mr. Levy discussed the variance standard. He said that more than the shape and topography, the issue is the size of the lot, which is one of the smallest lots in town and is less than half the required size for the district. He said that according to the Planning Board, it would be the largest house on the street on the smallest lot.

John Thompson, 10 Pickerel Road, said that he strongly supports the project. He said that as you drive down the street, the house appears small from Pickerel Road because of the slope of the lot. He said that the house next door in Natick has a lot of trees that obscure the side of the house. He said that he was speaking on behalf of the neighbors and they hope that the Board will allow the project.

Joel Lunger, 25 Pickerel Road, said that there is also a wall on the right side of the house. He said that the house sinks down and is really hidden as you head down Pickerel Road. He said that there is also a wall on the driveway side, so you do not see a massive house either way. He said that he went through the process with the Board years ago. He said that he has a small lot and the town owns property in back of it. He said that he has a basement, first and second floors and an attic. He said that the house height from the rear elevation is consistent with houses on Pickerel Road and several houses around the pond because all of the houses have the same issue with narrow lots with houses that look like tall houses in the back with a small street side façade because of the hill. He said that he is supportive of the project and thinks that it will be a great addition and consistent with the neighborhood.

Mr. Himmelberger said that the back elevation is shown on Plan A2.2. He said that it is comparable to the other houses in the neighborhood because they all have the drop off to the rear and tried to take advantage of the view out over the water. Mr. Lunger said that quite a few houses are very tall above the water. Mr. Thompson said that most of the houses are taller from the pond side.

Mr. Yehiav confirmed that the neighbor in Natick is aware of the proposed plans.

Mr. Sheffield said that the height of the house is mitigated for a car coming down the hill to this neighborhood from Natick.

Mr. Sullivan said that 65 percent of the space is in the basement. He said that the back and three quarters of the sides will be exposed.

Mr. Himmelberger discussed Mr. Sullivan's experience working on 11 and 9 Pickerel Road. He discussed construction access. Mr. Sullivan said that because there are no lay down areas, they bring materials in as needed on 100 yard trailers. He said that they had a fire detail because the road was blocked. He said that all debris and fill was brought off site. He said that they emailed and spoke to the neighbors.



Mr. Levy said that he said letters of support from the owners of 9 and 3 Pickerel Road. He confirmed that the owners at 4 or 5 Pickerel support the project. Mr. Lunger said that the neighbors are used to construction on tight sites on their street. He said that they have learned to cope with it and respect each other with the road. He said that Mr. Sullivan has been good about communicating with the neighbors and lets them know when there will be an activity that might impact them.

Mr. Redgate asked about excavation or change in elevation. Mr. Sullivan said that there will be no in elevation. Mr. Redgate asked why Michael Grant considers this to be a basement when there are no parts of it that are underground. Mr. Sullivan said that the front, right and left side are underground. He said that the left side will be knee wall that comes up to ground level at the back and then steps up again. He said that 65 percent of the basement is underground with three corners at the back that are open. He said that there will be 28 feet of driveway on the left side.

Mr. Himmelberger said that the height at the front will be 27 feet but the average finished grade because of the drop off is 34 feet 11 inches. He said that the part that is in the public view is 27 feet. He said that Sheet A2.1 shows a height of 34 feet 11 inches at the rear, which would make the average from finished grade less at 34.9 feet. He discussed ceiling heights.

Mr. Redgate said that the flood elevation shown on one of the plans is 124, which appears to be higher than the doorways on the basement. Kevin O'Leary said that the basement slab is higher than flood plain by approximately four inches. He said that the flood plain is elevation 124.0 and the proposed basement slab elevation is 124.3. He said that re-grading the property slightly increases the flood capacity. He said that they will be adding approximately 150 cubic yards of flood capacity, so at project build out the floor levels will not be as high around the pond by a small incremental amount.

Mr. Sheffield asked about disruption to the neighborhood. Mr. Thompson said that the builder has demonstrated with two projects the ability to do the construction on small lots with minimal disruption to the neighborhood. He said that the hill ramps up steeply so other than the house next door, the rest of the houses in Natick are uphill. Mr. Himmelberger said that the topography line is 140 at the Wellesley line on Pickerel Road and runs up to 180, for a 40 foot elevation gain from the Wellesley line to 7 or 8 Pickerel Road.

Mr. Redgate asked for a brief description of the unique roof treatment and window elements. Mr. Legault said that from the street they tried to make the face of the house look narrow and keep the window sizes in keeping with the neighborhood. He said that they recessed the front door. He said that the character changes at the back with almost floor to ceiling windows to take advantage of the pond views. He said that there will be clapboard siding on the street side of the house that transitions to board and batten as it goes around and then becomes mostly windows and trim at the back. He said that they will do half timber trim in the gables

Mr. Levy read the Planning Board recommendation.

Mr. Levy said that the most persuasive part of this hearing is the neighbors' support. He discussed the legal standard for granting a special permit and the finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. He said that considering the neighbors' comments, he believes that the Board can make that finding.

Mr. Levy asked what the variance is requested for. Mr. Himmelberger said that relief is requested for the rear setback for the deck at 7.7 feet and for the proposed location of the hot tub in the setback. Mr. Levy asked how this house compares to other houses in the neighborhood with respect to proximity to the edge of

the water. Mr. Himmelberger said that every house on this side of Pickerel Road before it crosses the bridge to the eastern portion of Pickerel Road has town land between it and the water. He said that after crossing the bridge on the south side, they have substantial amounts of land between the houses and the water. Mr. Levy confirmed that this will not be closer to the water than other houses. Mr. Himmelberger said that it is further away from the water than 8 Pickerel Road. Mr. Sullivan said that 9 Pickerel Road is 7 feet off of the town property.

Mr. Levy discussed a hardship with respect to the variance. He said that it is not so much shape as it is size. Mr. Himmelberger said that there is a drop off. Mr. Levy said that the drop off does not affect the setback. Mr. Himmelberger said that the lot is trapezoidal, which is an unusual shape.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to approve a variance, finding that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Mr. Redgate voted aye.  
Mr. Sheffield voted aye.  
Mr. Levy voted aye.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to approve a 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. Redgate voted aye.  
Mr. Sheffield voted aye.  
Mr. Levy voted aye.

#### ZBA 2020-40, JON & ALLEXE-LAW FLOOD, 7 CAVANAGH ROAD

Present at the public hearing were Jon and Allexe Flood, the Petitioner. Mr. Flood said that they have owned the property since 2000. He said that they have come before the Board two times for other requested improvements and those requests were approved. He said that the current request is to construct an exterior stair from the master bedroom on the second floor that comes down to the side of structure and lands at the end of the driveway and to also replace and expand an existing shed.

Mr. Flood said that he has correspondence from Michael Grant, Building Inspector, who stated that his opinion was that a special permit was not required for the stairs because they are uncovered and the landing that is in the setback is less than 25 square feet.

Mr. Flood said that the existing shed is 6 feet by 20 feet, for a total of 120 square feet. He said that the southern side of the shed at its closest point is just over 3 feet from the property line. He said that the proposal is to maintain that setback. He said that the rear setback of the shed is conforming at 13 feet. He said that the existing shed was built in the mid to late 1950's. He said that it is an open air structure. He said that the request is for a special permit for a proposed shed that would increase the width from 6 feet to 10 feet, with a total square footage of 200 square feet. Ms. Flood said that it will extend into the yard.



Mr. Levy asked about electrical or plumbing. Mr. Flood said that there is existing electrical for a light and outlets but no plumbing.

Mr. Levy asked about the height of the existing and proposed shed. Mr. Flood said that the existing height is 9 feet and the proposed height is 12 feet.

Mr. Flood said that they spoke with many of the neighbors and there were no objections. Ms. Flood said that the neighbor who is next door has a large garage that obscures the view. Mr. Levy said that the properties abutting the southerly property line face onto Elmwood Road. Mr. Flood said that he spoke with the former owner's daughter who remembered her father constructing the shed when she was young. She sent a picture of the shed dating from 1978. He said that her recollection is that the shed was built in the mid to late 1950's.

Mr. Flood said that he asked Mr. Grant about Zoning Bylaws in effect when the shed was built. He said that according to the 1956 bylaw, the side yard setback was 20 feet and there was an exception to the bylaw that allowed for ancillary structures that were not more than 1.5 stories and not used for human habitation. Mr. Grant told him that he would be surprised if there was documentation for the shed since the Building Code did not go into effect until 1975.

Mr. Flood said that proposed lot coverage will be 1,686 square feet or 13 percent. He said that there are 24 homes fronting on Cavanagh Road and 21 of them have structures in excess of 100 square feet within the side yard setback and 12 of them have ancillary structures in excess of 200 square feet. He discussed an expanded count of homes with ancillary structures in addition to Cavanagh Road. He said that the neighborhood consists of many nonconforming accessory structures. He requested that the Board approve a special permit.

Mr. Levy asked if any consideration had been given to shifting the shed to the north to try to mitigate for the additional 3 feet in height, which will be more imposing than the current structure. Mr. Flood said that the greatest visibility is for the neighbors to the south. He said that if they shifted the shed north, it would be more visible. Ms. Flood said that the neighbors across said that they like the location of the new shed. Mr. Flood said that by shifting the shed off of the property line would bring it further into the yard and because of angle of house and garage would increase the view of the shed.

Mr. Redgate said that the neighborhood plan that the Petitioner displayed was helpful. He asked if the yard is fenced. Mr. Flood said that there is a stockade fence at the rear on the neighbor's property and the other sides have wire fencing.

Mr. Levy asked if the purpose of the shed is just for storage. Mr. Flood said that it is used for storage and will still be used for the same purpose.

Mr. Redgate said that the fence lessens the impact. He suggested that the new shed be installed to make it perpendicular to the lot lines.

Mr. Sheffield said that there is no room for planting or screening between the shed and the lot line. Ms. Flood said that there is an existing grave vine there.

Mr. Sheffield asked if the shed will be as shown in the materials submitted as pre-manufactured. Mr. Flood said that the shed will come to site panelized.

Mr. Levy asked if the Petitioner would have a problem with squaring the shed off with the property lines, using 6.3 feet for the setback.

There was no member of the public who wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit, subject to a condition that the shed be realigned to be parallel with the lot line at a setback that is no closer than 6.3 feet.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

#### ZBA 2020-41, OLGA BORIC, 30 RIVER RIDGE

Present at the public hearing were Olimpiu Dejeu and Olga Boric, the Petitioner. Mr. Dejeu said that the request is for a special permit/finding or modification of a variance to extend a nonconforming structure and build one level addition with a garage underneath.

Mr. Dejeu displayed an Existing Conditions Plan. He said that 30 River Ridge is located in a 10,000 square foot district Single Residence District and a Water Supply Protection District. He said that the lot is odd shaped and has a nonconforming right side and front yard setbacks as well as nonconforming frontage. He displayed the location of Riverfront Protection Line. He said that the addition will encroach into the protection area. He said that an Order of Conditions was approved by Wetlands Protection Committee (WPC) on June 5, 2020.

Mr. Dejeu displayed the proposed plot plan. He said that existing lot coverage of 8 percent will increase to 17 percent, which is below the maximum allowed. He said that TLAG will be 3,481 square feet, with 640 square feet in the basement and garage. He said that the existing height of 25.7 feet will increase to 26.1 feet. He said that the proposal is to extend the current house out with the addition. He said that the garage doors will meet the required 30 feet to the side lot line. He said that there will be no new nonconformities. He said that they tried to minimize the impact to the Riverfront Protection area.

Mr. Dejeu said that they showed the plans to the neighbors and they were supportive. He said that some of the neighbors sent emails in support of the project.

Mr. Redgate asked about access to the garage. Mr. Dejeu said that there is a driveway from the street. He said that the driveway will be permeable pavers.

Mr. Sheffield said that he liked the plans.

Mr. Levy asked if any member of the public wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

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

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2020-42, RICHARD & MARY QUINCY, 19 LINCOLN ROAD

Present at the public hearing was Mike Tartamella, Architect, representing Richard and Mary Quincy, the Petitioner. Mr. Tartamella said that 19 Lincoln Road is a 1.5 story cape with an existing two car detached garage. He said that the house was built in approximately 1924 and was renovated in 1979. He said that it runs along Lincoln Road and the rear property line abuts Wellesley Country Club. He said that the lot is 15,838 square feet and is located a 20,000 square foot Single Residence District. He said that the current structure has a total living area of 2,532 square feet, which is modest for the neighborhood and the district. He said that the existing structure is nonconforming on the western property line with a 10.2 foot setback. He said that the existing detached two car garage has a setback of 3.8 feet, which increases to approximately 5 feet as it goes to the north.

Mr. Tartamella said that the proposal is to raze the existing two car garage and reconstruct a new two car garage further away from the existing setback and improving the current nonconformity. He said that the new two car garage will attach a new mudroom connector piece to the existing kitchen in the house. He said that the entire house will be renovated on the interior. He said that proposed TLAG will be approximately 4,000 square feet, which is well below the 5,900 square foot threshold for the district. He said that it will be well below the demolition delay calculations. He said that lot coverage will be well below the maximum allowed. He said that the project will be relocation of an existing detached garage and attaching with an improvement on the eastern setback side. He said that they spoke with the neighbors and they support the relocation of the garage.

Mr. Levy said that the project will almost double the square footage. He said that the existing garage is 413 square feet and the proposed addition is 793 square feet. He asked about the height of the existing garage and the proposed garage. Mr. Tartamella said that the addition includes the mudroom connector. He said that the proposed height of the garage will be six feet higher than the existing height. He said that Sheet A1 shows a gable that runs from front to back, with the highest point of the gable along the east property line. He said that while the proposed ridge will be higher, it will still be lower than the existing house. He said that the roof will slope away from the east property line, so there will be less exposed elevation than what is currently there.

Mr. Redgate confirmed that the neighbors, the Costellos were notified. Mr. Tartamella said that they are the direct abutter to the east. He said that the Petitioner and the Costellos have spoken together a number of times to discuss landscaping and installing the buffer between the two driveways.

Mr. Levy asked about plumbing in the new structure. Mr. Tartamella said that there is no proposed finished space above the garage. He said that there will be a slight expansion above the mudroom. He said that above the garage will be attic storage. He said that the house is quite modest in comparison to the scale of other houses in the neighborhood. He said that the homeowners are downsizing to the area. He said that

they would like to have the garage attached for a number of reasons and would like to have a more reasonably sized garage because the existing garage is a little too tight.

Mr. Levy asked if the height is being driven by trying to fit into the architectural integrity of the building. Mr. Tartamella discussed the slope and pitch of the roof. He said that it will pick up on the existing architectural character. Mr. Levy said that the cupola is a nice structure but it is close to the lot line, which exacerbates the massing issue. Mr. Tartamella said that the purpose of the cupola was to add verticality to something that is horizontal. He said that they enlarged the chimney for the same purpose. He said that it is a false chimney that is an architectural detail that provides verticality. Mr. Levy said that his concern was the effect on the abutters with the cupola being so close to the lot line.

Mr. Sheffield said that all of his comments about the proposed structure would be positive.

Mr. Redgate asked how the intersection with the other driveway will be restored. He said that the new driveway will impact a stone wall and lots of trees will be coming out. Mr. Tartamella said that the existing driveway comes in low on the property. He said that the plan is to relocate the curb cut. He said that currently there is agreement to use the curb cut for both properties. He said that the new curb cut will be located further up the street. He said that there will be an arborist's report. He said that the project will not trigger the Tree Preservation Bylaw. He said that intention is to thin out the trees, some of which are dead and others that have not been maintained over time. He said that the proposed driveway will be a straight shot and not so steep a slope. He said that the existing curb cut will be reduced to be sufficient for the property to the west.

Mr. Becker questioned why this would not be a variance. He said that it starts out with an existing house that is nonconforming on the west side and the east side is conforming. He said that by attaching the garage to the house, it makes a new nonconformity on the east side of the house. Mr. Tartamella said that, by definition, the house is already nonconforming. He said that there are a couple of precedents for this in town.

Mr. Levy discussed special consideration given to one and two story houses. He said that this is an alteration to a detached garage, which is neither one or two story house. He said that it is a nonconforming garage and they will be adding a new nonconformity to the east side of the house. Mr. Tartamella said that there is a case log history of similar approvals done by special permit, particularly with nonconformities. He said that they would be connecting what is an existing nonconforming structure to another nonconforming structure. Mr. Levy said that the nonconformity is on the other side of the house. Mr. Redgate said that he agreed with Mr. Levy and Mr. Becker.

Mr. Sheffield said that he sat for other petitions with similar conditions. He said that they were judged as individual cases. He said that this seems like an appropriate solution.

Mr. Levy said that the Board has to apply the rules as it sees them, not whether it likes the project or not. He said that those other houses may have been nonconforming on that side but that is not what is currently before the Board. He said that in accordance with the bylaw and State Law, the Board tries to make properties as conforming as possible, and not create new nonconformities. He said that the homeowners may want to come back in the future to expand toward the front of the house using the nonconformity that will exist. Mr. Tartamella said that the garage is a structure and the house is a structure. He said that if the two are connected, they will still maintain their nonconformities. Mr. Levy said that currently it is a detached garage which could not be built today as a matter of right. He said that they could not expand the house to

the east without a variance. Mr. Tartamella said that there are other cases where that was acceptable. Mr. Levy said that it not before the Board and what happens in other cases is not persuasive. Mr. Tartamella said that they were working with what they thought would be the Board's interpretation of the bylaw. He said that because the language is open to that, they were hoping that the Board would see that favorably. He said that what they are proposing is well under the TLAG threshold, they addressed the mass and scale, and they have an architectural solution that enhances the overall character and scale and is not substantially more detrimental to the neighborhood. He said that they are not asking for something that is above and beyond in terms of mass and scale.

Mr. Levy said that the point of concern is whether the Board has the authority to grant this by special permit or whether it requires a variance. He said that there are two different criteria analyses. He said that he likes the project and thinks that it has been well designed. He discussed seeking advice from Town Counsel regarding whether they believe that the Board can grant relief to attach the nonconforming garage to the house as a special permit. He said that at least two members have questioned whether the Board can grant a special permit for the relief being sought. He said that if that determination came down, the Petitioner would probably get an affirmative vote. He said that the issue is whether the Board has authority under Chapter 40A, Section 6, as well as the Wellesley Zoning Bylaw to permit this proposal, based on a special permit instead of a variance. Mr. Tartamella said that their Architectural firm has practiced in town for a number of years. He said that they based their interpretation off of previous experiences.

Mr. Levy suggested that the Board continue the matter and seek advice from Town Counsel as to whether the Board is legally permitted to issue a special permit, given the creation of potentially a new nonconformity. Mr. Redgate agreed. Mr. Levy said that if Mr. Tartamella wanted to provide any further legal authority, he would be willing to consider it.

John Costello, 25 Lincoln Road, said that he wanted to offer his support for what Mr. Tartamella has said. He said that he has working with the Petitioner for a couple of months and feels positive about all of the design decisions that have been made. He said that it is an impressive improvement to the house, the lot and the neighborhood.

Mr. Tartamella said that he will ask his Counsel to review the petition as well. Mr. Levy said that the Board will be willing to consider an analysis of why this can be granted as a special permit.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the petition to October 29, 2020.

Mr. Redgate voted aye.  
Mr. Sheffield voted aye.  
Mr. Levy voted aye.

#### ZBA 2020-43, ANN CARTER JAMESON 9 WILSON STREET

Present at the public hearing was David Himmelberger, Esq., representing Phil and Ann Carter Jameson, the Petitioner. Mr. Himmelberger said that the request is to raze a pre-exist nonconforming garage and construct an addition to an existing nonconforming single family residence with less than required front and side yard setbacks on a corner lot with 9.9 feet to the porch and 13.1 feet to the house on the front and side yard setbacks of 11 feet and 17 feet. He said that the existing garage is set back 2.5 from the rear property line. He said that the lot size is conforming but is constrained because it is only 61 feet deep. He said that the

proposed new addition will have a slightly improved front setback of 8.2 feet and a rear/side yard setback of 8.9 feet. He said that the new attached garage will have a setback of 19.4 feet. He said that the existing height of 21 feet will increase to 24.5 feet. He said that lot coverage of 1,661 square feet or 13.77 percent will increase to 2,461 square feet, which is less than the permissible 2,500 square feet. He said that TLAG of 2,206 square feet will increase to 3,245 square feet, which is below the threshold for the district. He said that the project was previously deemed to be preferably preserved by the Historical Commission and subsequently a waiver application was submitted. He said that waiver received glowing accolades from the Historical Commission as they felt that the design complemented the existing house while removing the nonconforming detached garage. He asked that the Board find that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconformities.

Mr. Sheffield said that attaching the garage to the house does not create a new nonconformity. He asked that a door from the garage at the back right corner to get into the mudroom be considered. He said that you would go outside and then up the steps. Mr. Levy said that the minutes will reflect the conversation regarding the possible change without requiring further action from the Board.

Mr. Levy read the Planning Board recommendation.

No member of the public wished to speak to the petition.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to grant a special permit, finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2019-54, HYMAN FELDMAN FAMILY TRUST & DANIEL KARP, MD, 170-184 WORCESTER STREET & 7 BURKE LANE

Present at the public hearing representing the Petitioner were Dan Hazen, Guerriere & Halnon, and Dennis DiSchino, Equity Partners. He said that the Petitioner came before the Board in July, 2020 to discuss elimination of the pervious pavement and add subsurface chambers with catch basins. He said that the change was due to the cost of asphalt. He said that the Board asked DPW to review and comment on the calculations and the plans. He said that DPW reviewed the plans and had some minor questions and comments which have been responded to. He said that DPW wants some labels added to some of the manholes explaining the inverts. He said that DPW had some questions about drainage issues at Worcester Street. He said that DPW had some comments about the Operation and Maintenance Plan. He said that the comments were addressed and DPW is satisfied.

Mr. Levy asked about the requested relief. Mr. DiSchino said that they made a change to the Site Plan Approval which the Board determined to be significant and required that it come back for a public hearing. Mr. Levy confirmed that it is a material modification. Mr. Hazen said that the layout of the parking lot or configurations did not change but just the subsurface utilities.



Mr. Sheffield said that the proposed change seems to be an improvement. He said that the Board received an email from Gary Miller, who is a neighbor. He said that Mr. Miller's concerns have been addressed by DPW.

Mr. Becker said that the Board thought that the switch from porous paving to a more conventional drainage system was not a minor change and needed to be looked at. He said that DPW did look at it and there are no remaining issues with the drainage system. He said that the permeable pavement was never installed. Mr. Redgate said that this seems to be a better solution.

Mr. Levy read the Planning Board recommendation.

There was no member of the public who wished to speak to the petition.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to approve the modification to the stormwater system from the original Site Plan Approval.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2020-46, BLUE HILLS FUEL LLC, 461 WORCESTER STREET

Present at the public hearing was Suneet Sharma, representing Blue Hills Fuels LLC, the Petitioner, regarding the Gulf Station at 461 Worcester Street. He said that Gulf came out with a new national brand standard earlier this year and the station is required to upgrade to the new image.

Mr. Sharma displayed a plan showing the existing and proposed layout. He said that the new image incorporates a three dimensional piece on the canopy with two illuminated logos. He said that the request is also for internal illumination of the main identification sign where the Gulf logo is located, similar to the Shell Station that is 2.8 miles away on Worcester Street.

Mr. Sharma displayed on a plan the location of the proposed signs. He said that the site is open from 5 am to 11 pm, so all external lights will be turned off when the site closes at 11 pm. He said that illumination will be limited to the evening hours up until 11 pm.

Mr. Sharma displayed a plan of the main identification sign. He said that the Gulf section of the sign is the only portion that will be illuminated, just the Gulf logo, not the white background. He said that the electronic numbers will be low level LED lights. Mr. Levy confirmed that it will be the same size as the existing sign. Mr. Sharma said that they will just reface the existing cabinet. He said that the existing sign is externally illuminated.

Mr. Sharma displayed a plan showing the dispensers. He said that they will have a logo that is not illuminated.

Mr. Levy said that the Design Review Board (DRB) voted to approve the proposed signage. He read the Planning Board recommendation.

Mr. Levy said that this is a gateway site to the town even though it is not on the border. He said that it is prominent hearing west on Route 9. He said that it seemed to be an aggressive sign package. Mr. Sheffield agreed. He said that it seems to be over the top with the orange colors. He said that when driving west on Route 9, beyond the Gulf Station it becomes residential until Weston Road, which has been the desire of the town for a long time. He said that it was his understanding that the pumps arrived pre-packaged with all of the logos on them. Mr. Redgate said that he agreed with Mr. Levy and Mr. Sheffield's comments.

Mr. Levy said that it is a totally different character with an internally illuminated sign. He said that combined with the LED price digits, it is more in your face. Mr. Sharma said that they are asking for the same consideration as other gas stations in town with internal illumination and LED price signs, especially the Shell Station that is two miles away on the same road. He displayed an image of the Shell Station at 987 Worcester Street. He said that the sign on the canopy extends above the height, all three sides are internally illuminated, there are large digits on the LED price sign where the proposed digits on the Gulf sign are significantly smaller on a small sign that is closer to the ground.

Mr. Sheffield asked about the orange at the top of the columns under the canopy. Mr. Sharma said that those are the number signs so that the attendant inside knows which dispenser a customer is fueling from. Mr. Sheffield asked if it has to be orange. Mr. Sharma said that orange is the Gulf standard. Mr. Sheffield asked if it could just be a number on the column. Mr. Sharma said that he can proposed not putting them up with Gulf. Mr. Sheffield said that there is an advantage to seeing the number but not the orange color.

Mr. Levy said that one of the things that the Board has to consider is safety. He said that this is located at a bend in the road in a high traveled area. He said that the Shell Station on a straight away in a more remote area. He said that at this location, cars are turning onto Cliff Road, turning off of Route 16, out of the Fire Station and the Municipal Light Plant. He said that it is a difficult interchange –and is different from the Shell Station location. Mr. Redgate said that it does not have the standard curb cuts that the Shell Station has.

Mr. Sharma said that LED digits make it easier for the customer to read the price sign.

Mr. Becker said that he agreed that the sign package is aggressive. He said that in addition to the signs that are shown as part of the Gulf package, there are currently wall signs all over the face of the building and the windows facing Worcester Street are covered with signs as well. He said that there are a lot of signs in a small space. Mr. Sharma said that the signs may have been put up by the dealer. He said that he will make sure that they are removed.

Mr. Becker discussed the Zoning Bylaw and prohibition of internal illumination. He said that the argument that he heard is that it is Gulf's standard to have it internally illuminated. Mr. Sharma said that it is more energy efficient, is an easier design for them and is what all the other gas stations in town have already. He said that it is not fair to exclude this station. Mr. Becker said that those installations probably were done before the current version of the Zoning Bylaw went into effect. Mr. Levy read an excerpt from Section 22A of the Zoning Bylaw.

Mr. Levy asked about the requested relief. Mr. Sharma said that the request is internal illumination for the signage. He said that the existing monument sign is existing and they are only asking to reface it and add internal illumination. He said that they are requesting relief to illuminate the logos on the canopy.

Mr. Levy confirmed that the standing sign will have the same footprint, size, and setback. He said that the only change is to change the background color behind the logo and illuminating the logo, two pricing areas instead of one that are digitized.

There was no member of the public who wished to speak to the petition.

Mr. Sharma said that the orange bands on the columns will be eliminated. He said that the two logos on the canopy will be internally illuminated. He said that they will just be facing the canopy not replacing it.

Mr. Levy asked about the window signs. Mr. Becker discussed requirements under the Zoning Bylaw. He said that the canopy and the dispensers do not fit in well with the bylaw. He said that it would be fair to look at some reduction in the other signs to move toward more compliance with the bylaw. Mr. Sharma said that this is a new dealer for them and has only been in place for a short time, so he may not be aware of the regulations. He said that he will make sure that all of the signage in the windows will be removed by tomorrow. Mr. Levy said that there was also a free standing sign for inspections. He asked about the signs over the bay doors. Mr. Sharma said that those signs are existing. He said that this is a new dealer who is starting his business. He said that they would like to be able to keep them.

Mr. Becker asked if the Gulf logo is on both sides of the dispensers or just on the side that faces Worcester Street. He asked about the Gulf sign on the side on the dispensers. Mr. Sharma said that sign will be on both sides of the dispensers. Mr. Levy said that the Board is not granting any relief on the pumps. Mr. Becker said that he was looking at the aggregate number of signs, where they are installed and what they look like.

Mr. Sheffield said that the number of the pump is located on the existing pumps rather than at the top of the column. He said that the Applicant may want to consider continuing that practice.

Mr. Levy said that the Planning Board discussed reducing the size of the lettering. He said that he did not find it too out of line with reality. Mr. Redgate and Mr. Sheffield agreed.

Mr. Levy proposed a motion that the Board permit a free standing sign as shown, with a condition that the lights be shut off at the earlier of close of business or 11 pm, and for canopy signs, subject to conditions that the orange numbering on the columns be eliminated, and all other signs be removed and not replaced on the site excluding the signs over the bay doors. Mr. Sharma requested that the free-standing sign for inspections be allowed to remain. Mr. Levy said that the Board would not be giving permission to have it. He said that there may be a provision in the Zoning Bylaw to permit the sign. Mr. Sharma said that Gulf has a policy of removing any paper signs that are not allowed.

Mr. Sheffield asked if the level of illumination can be adjusted behind the Gulf sign. Mr. Sharma said that the light level can be reduced if it is too bright. Mr. Levy said a condition would be that the sign can be illuminated to an extent to not be a distraction to motorists and if it is found to be too bright, will be adjusted.

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

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2020-49, JEFFREY HARPER, 16 RICE STREET

Present at the public hearing was Jeffrey Harper, the Petitioner, who said that the request is for a variance to install a mini split air conditioning system (AC) into the house. He said that 16 Rice Street is a nonconforming lot that is adjacent to town land. He displayed a plot plan that shows the location of a fence along his property line abutting the town land. He said that the proposal is to install a 34 inch by 44 inch by 5 inch slab in the area behind the bulkhead. He said that a variance is needed because there will be a 9 foot setback to the property line. He said that the unit is approximately 13 inches deep and will be 9 feet 8 inches to the property line. He said that the 4 foot fence is located between where the pad and unit will be. He displayed a view of the area where the unit will be located. He said that the Brook Path will be protected from noise from the unit by the fence. He displayed the location of the window where he typically has a large window AC located in the summer. He said that unit has a noise level of approximately 65 decibels. He said that the noise level for the new unit is approximately 56 decibels. He said that by replacing the window units throughout the house, they will reduce the noise. Mr. Levy said that the window units may have been illegal. He discussed grandfathered status and removal and replacement in the setback area.

Mr. Harper said that he spoke with neighbors across the street and to the north and there were no negative comments.

Mr. Harper said that the relief is requested because he is getting to the age when it is challenging to put window units in throughout the house in the summer.

Mr. Levy discussed the purpose of the bylaw for noise regulation. He read an excerpt from Section 19 of the Zoning Bylaw.

Mr. Levy asked if any sound mitigation is proposed. Mr. Harper said that he thought about building something around it or put plants around it. Mr. Sheffield said that some manufacturers provide sound absorbing materials, some of which could be put on the fence and some behind the unit on the house. He said that plants do not do a good job soundproofing.

Mr. Levy discussed variance standards and findings that the Board has to make in order to grant a variance. He said that the shape of the lot is irregular.

There was no member of the public who wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Harper said that he found information about noise and what is common at different decibels. He said that the 56 decibels for the AC unit is the same as for conversation. Mr. Levy said that technology has probably improved since this bylaw went into effect.

Mr. Sheffield said that manufactures often have suggestions for mitigation. Mr. Harper said that they thought that a fence around the unit might be more aesthetically pleasing.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to grant a variance, finding that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-

created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw, subject to reasonable efforts to provide sound mitigation materials.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2020-54, BRIAN MENNA, 30 COTTAGE STREET

Present at the public hearing was Brian Menna, the Petitioner, who said that the request is for a variance for two air conditioning condensers (AC) on the northern side of the building abutting the bulkhead. He said that 30 Cottage Street is a nonconforming lot. He said that the condensers will be within 9 feet to the lot line.

Mr. Levy asked if the Petitioner looked at placing the AC in other places. Mr. Menna said that the units cannot be placed in the shared driveway on the southern side and cannot be placed in the front yard. He said that placing them in the back yard would be closer to the neighbor's house, right outside of her kitchen window.

Mr. Levy asked who lives to the west. Mr. Menna said that Valerie Gates lives at 28 Cottage Street. Mr. Levy said that her house is set back further on the lot.

Mr. Levy asked about the decibel level of the proposed units. Mr. Menna said that it is 56 to 76 decibels.

Mr. Levy asked if any member of the public wished to speak to the petition.

Mr. Levy read the Planning Board recommendation. Mr. Sheffield said that the Planning Board commented that the property is located in a Historic District.

Mr. Levy asked about sound mitigation. Mr. Menna said that because the property is located in a Historic District, any enclosure would have to match the existing characteristics of the house. He said that he had a previous meeting with the Historic District Commission (HDC) and they recommended vegetation or plants. He said that there is an old rhododendron that he does not want to take down. He said that they are limited for space to put the units. He said that most of the condensers on the street are bare. He said that 12 and 27 Cottage Street have condensers that are close to the lot line.

Mr. Levy said that the narrow lot shape could justify the variance.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve a variance, finding that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

As there was no further business to come before the Board, the hearing was adjourned at 11:30 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary

DRAFT