

REPORT OF THE PLANNING BOARD (SUPPLEMENTAL)

CITIZENS PETITION TO REZONE 307 AND 309 WASHINGTON STREET

On August 16, 2021, the Planning Board received from the Executive Director on behalf of the Select Board a Citizens Petition signed by over 100 residents of the Town. The text of the Petition is:

“We present a Citizens’ Petition to see if Town Meeting will vote to amend the Zoning Map of the Town of Wellesley by rezoning 307 Washington Street and 309 Washington Street, currently zoned as General Residence District, to Business District, such that the entirety of 307 Washington Street and 309 Washington Street shall now be zoned entirely within the Business Zoning District.”

In accordance with the provisions of Section 26, *Notice of Public Hearings*, of the Zoning Bylaws, and Chapter 40A of the General Laws of the Commonwealth of Massachusetts, the Planning Board convened a duly advertised public hearing for the consideration of the Citizens Petition on Monday, September 13, 2021, which was subsequently continued to September 20, 2021, October 4, 2021, and October 18, 2021.

307 Washington Street and 309 Washington Street (the “Properties”) are located in the Wellesley Hills area between Washington Street on the south and both Worcester Street and the MBTA commuter rail line on the north. Each Property abuts Elm Park which is in the Parks, Recreation, and Conservation District. Both Properties currently are zoned as part of the General Residence District.

Nearby properties in Wellesley Hills Square have the following zoning:

- 323 and 325 Washington Street neighbor 309 Washington Street to the west. Both are residential buildings that are zoned General Residence. In addition, the 2019 ATM placed a Single Building Local Historic District over 323 Washington Street, the Stanwood House, which is owned by the Wellesley Historical Society.
- The area to the immediate north of and across the street from Elm Park (bounded on its north by Worcester Street) is zoned Business District.
- The area to the south (across Washington Street from the Properties) is zoned Business District and Business District A.

The Properties, as well as 323 Washington Street and 325 Washington Street, have together been zoned General Residence District since the adoption of the Town’s first zoning map in 1925, a copy of which is attached to this Report.

In the hearings on the petition, supporters have stated that the purposes of the petition are to permit the Unitarian Universalist Society of Wellesley Hills (“UU Wellesley Hills”) to:

- Lease portions of the historic building located at 307 Washington Street to a private psychological practice
- Lessen the need to obtain special permits from the Town

The Planning Board has the following concerns:

1. The Planning Board understands that the Business District has the second broadest set of uses in the Town's Zoning. The text of Section 11 Business District is attached to this report. Consideration of a proposed zoning change must consider the range of potential uses, not just the immediate intent of the property owner. Potential uses include gas stations, auto body repair, and retail stores up to 50,000 sq. ft. by right and over 50,000 sq. ft. by special permit.

While the supporters of the Petition have stated that UU Wellesley Hills has applied for various special permits over the years and that if the Properties are zoned as part of the Business District the need for such permits will be significantly reduced, we are concerned that the range of potential uses in a Business District and the unintended consequences that this could bring to the epicenter of Wellesley Hills outweighs the limited burdens and uncertainty of the special permit process. An initial review by the Planning Department indicates that in recent years UU Wellesley Hills has applied for special permits for signs, operation of farmers markets, and use of parking spaces at 309 Washington Street by other businesses in Wellesley Hills, namely Greens Hardware and commuter rail parking.

2. The Planning Board became aware of the issues surrounding the Properties when the Board received the Citizens Petition in mid-August. The public hearings revealed that the UU Wellesley Hills began exploring rezoning in the spring. In early May, the Inspector of Buildings received a request from UU Wellesley Hills as to whether it could be permitted to lease space in 307 Washington Street under the Dover Amendment. The Inspector of Buildings referred the question to Town Counsel who advised that the use would not be allowed. In hindsight, it would have been prudent if the Planning Board and Department were consulted early in this process. We might have been able to study the request and help craft the petition from the UU Wellesley Hills to request an alternate solution that would achieve the goals of UU Wellesley Hills while lessening the risks of unintended consequences. We believe that there are at least several potential solutions. However, the Citizens Petition is quite specific and, as a petition from residents, does not allow a friendly amendment.

3. There are many issues that complicate changing 307/309 Washington Street to a Business District:

- a. 307 Washington Street is a non-conforming structure, and the lot lacks access except through 309 Washington Street. Town Counsel has advised with respect to vehicular access:

"Based on our review of the case law, if only 307 Washington is re-zoned from residential to business, and 309 remains in the residential district, then I do not believe it would generally be acceptable to drive onto, or

park cars on, 309 Washington for purposes of supporting the new commercial use of 307 Washington.

“Given that there is already a special permit covering 309 Washington that allows for non-accessory parking on that lot, I suppose it would be possible to obtain similar relief to address the general concern noted above. I express no opinion as to whether such a special permit, if applied for, should or would be granted.”

With respect to pedestrian access Town Counsel has advised:

“pedestrian passage over residentially-zoned 309 Washington to get to business-zoned 307 Washington would be unlikely to generate observable impacts and would be unlikely to prompt zoning enforcement. But I am not aware of any authority to suggest that pedestrian passage is necessarily allowed as a matter of law, or that zoning enforcement could never be undertaken to prevent it.”

- b. From the inception of Wellesley’s zoning, the properties at 307 – 325 Washington Street have been zoned as a General Residence District even while many nearby properties are zoned in the Business District. A long-standing zoning should not be changed to accommodate one particular use. The treatment of 307-325 Washington Street as being in the General Residence District serves as a transition from the Single Residence districts to the north of the Properties (Cliff Estates), south of the Properties (Maugus Hill) and also limits business activities and building streetscape to Route 9, which has been a long-standing objective of the Town.
- c. The rezoning the potential range of uses for the property goes far beyond the stated objectives of UU Wellesley Hills.
- d. The Planning Board believes other options are available to meet the needs of UU Wellesley Hills without rezoning the Properties as Business District. In particular, allowing professional offices as a use, either by right or by special permit, in the General Residence District is an option to be reviewed. This use could be limited to properties with frontages on Washington Street and Worcester Street.
- e. The building at 307 Washington Street is a non-conforming structure and the Planning Board believes it an unwise to allow the intensification of use for a non-conforming structure with limited access.
- f. The Planning Board is concerned about permitting all uses in a Business District in properties directly abutting Elm Park, which is Conservation Land. The side setbacks for the Business District are 0 feet, so it is possible that reconstruction on 307 or 209 Washington Street would touch the conservation land.
- g. The Planning Board is concerned about disparate treatment of 307 and 309 Washington Street from 323 and 325 Washington Street.

In research so far, the Planning Board has determined that in the original Zoning Bylaws, use of properties in the Single Residence District could be used for a “hospital, sanitarium, or other medical institution” upon the granting of a special permit. As a use allowed in the Single Residence District such use was also allowed in the General Residence District. In 1957, a special permit was granted pursuant to such Section for medical offices at 490 Washington Street (ZBA 1957-04). In 1973 a special permit was granted pursuant to such Section for medical offices at 486 Washington Street (ZBA 1973-28). The “hospital, sanitarium, or other medical institution” special permit provisions were removed from the Zoning Bylaw in 1980. The Planning Board believes it is appropriate to review at this time whether allowing medical offices and other professional offices in the General Residence District should be allowed, by right or by special permit, particularly along Washington and Worcester Streets.

The Planning Board believes it is appropriate that all of 307 – 325 Washington Street should be included in a zoning change. It does not wish to fragment the district by rezoning only 307 and 309 Washington Street, leaving 323 and 325 Washington Street as a vestigial part of the General Residence District. Treating all these properties together will clearly show an update to the zoning map which does not focus on use of a specific property. However, the Planning Board sees no compelling reason to rezone 323-325 and so questions the mere contemplation of rezoning this area in its entirety.

The Planning Board believes that lessening the need for special permits is not a sufficient reason to rezone the property. Also, as a side note, it may be possible to address certain issues that arise by other measures. This would include signage requirements applicable to all religious institutions in the Town.

Therefore, because of the reasons stated above, the Planning Board requests that Town Meeting not approve the requested re-zoning so that it can review the needs of the Properties, explore alternative approaches to address the goals of the Citizens Petition, and bring an appropriate Warrant Article to Annual Town Meeting 2022.