

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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2021  
NOV 12 12:51

ZBA 2021-89  
Petition of Bryan Picariello  
17 Paine Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 4, 2021 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Bryan Picariello requesting a Special Permit/Finding and/or a Variance pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that installation of two air conditioning units with less than required right side yard setbacks, at 17 Paine Street, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 4, 2021, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing was Bryan Picariello, the Petitioner, owner and the builder at 17 Paine Street. He said that the pre-existing nonconforming house was built in 1915. He said that due to an oversight, proposed air conditioning condensers (ac) were not shown on the plot plan that was before the Board in February of 2021. He said that the project is near completion. He said that he spoke with the neighbors, including the direct abutter to the right side of the property, who supports the project and the proposed ac location.

The Chairman said that the specific model was not called out in the Goodman GSX 13 manufacturer's specifications that were submitted. He said that the sound pressure levels vary from 72 to 77, which is a logarithmic scale. Mr. Picariello said that he believes that the model number is 0301B.

The Board asked about locating the ac in alternative locations on the left side of the house, on vacant land out back or in the attic. The Board discussed reducing the size of the stairs and landing to the mudroom, separating the units on either side of the cellar window, or moving the driveway. The Board confirmed that the terrace at the back and the wide array of steps have been constructed.

Mr. Picariello said that his HVAC subs told him that putting the condensers behind the garage would be too far away for efficiency. He said that the corner at the back left side of the house where the driveway,

the approved deck and the doors are is very tight. He said that the back right side of the house is nonconforming.

Mr. Picariello said that locating the condensers on the left side would take away from the walkway from the mudroom door to the garage and would place the condensers below a window. He said that the driveway will be against the house at the back left corner to keep water out of the basement due to the high water table. He said that past the mudroom towards the front of the house will be approximately 18 inches of flower beds so that it is not all hardscape on the left side of the house. He said that the neighbor's driveway is on the lot line and there is a garden there that he was planning to keep. He said that the garden has been well maintained and is a great separation between two driveways that are relatively close to each other. He discussed concerns with snow plowing and maneuvering around condensers on the driveway.

A Board member said that the survey shows a cantilevered bay window and a bulkhead. He said that the bulkhead is not shown on Plan A1.0. Mr. Picariello said that the bulkhead will be under the cantilevered second floor bay window to the right of the basement window. He said that he plans to do some plantings around the condensers to mitigate noise and view. He said that he will not plant anything directly in front of the bulkhead.

Mr. Picariello said that he cannot put the condensers inside the attic.

The Chairman said that the Board would like to see a conforming location. He asked that the Petitioner submit a large scale plan that shows the condensers in between the two windows on the left side to see if that would be a feasible location for an HVAC system from the standpoint that cars can drive by and people can walk by. A Board member said that if the Applicant can show that the location on the left does not work, it will help to show that the proposed location is the only solution.

The Board voted unanimously to continue the petition to November 16, 2021

**November 16, 2021**

The Chairman said that Mr. Picariello provided a plot plan, dated 11/15/21, stamped by Stephen E. Davis, Professional Land Surveyor, that shows the ac units located on the left side of the house, and an Elevation Drawing showing the ac units centered between windows on the Proposed Left Elevation.

Board members questioned whether 20 inches between the first unit and the bottom of the stairs will work. A Board member said that 20 inches is too small. He said that the landing has to be as deep as it is wide in accordance with building code.

A Board member discussed inconsistencies between the elevation drawing and the survey. He questioned whether the stairs at the back are three-sided or one direction. Mr. Picariello said that the stairs were changed to three-sided in the field. He said that the original layout was too big and too close to the garage. The Board member said that there is not enough space at the corner to put the ac units if the stairs are three-sided.

A Board member said that he tried putting the ac units in different locations on the left side but he was not able to keep the units from being underneath the window.

Mr. Picariello said that he struggled with the left side for space where the units could go. He said that even if he pushed the units to the back corner underneath the window, which would not be ideal, it would be more cumbersome to get a second car into the right side of the garage.

Mr. Picariello said that it is 106 inches from center between the two windows to the corner of the house. He said that a basement window would be behind the condensers. He said that he made the spacing between the condensers and from the house 12 inches, where 18 inches is standard. He said that he tried to get it as tight as he could.

A Board member confirmed that the variance request is for two condensers that will be located on the right side of the house, centered in the space between the bay window and the first window on the left. Mr. Picariello said that the units will be directly underneath the square window on the second floor. He said that there were a lot of confinements and it was tough to get good placement for the ac units. The Chairman said lots on Paine Street tend to conform but are deep and narrow.

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

#### Statement of Facts

The subject property is located at 17 Paine Street, in a 10,000 square foot Single Residence District, with a minimum right side yard setback of 15.6 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding and/or a Variance pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that installation of two air conditioning units with less than required right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 9/27/21, stamped by Stephen E. Davis, Professional Land Surveyor, Goodman GSX13 Energy-Efficient Split System Air Conditioner 13 SEER/1 ½ to 5 Tons, and photographs were submitted.

On October 21, 2021, the Planning Board reviewed the petition and recommended that the driveway or the rear of the home be redesigned to place the condensers outside of the setback area.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority 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

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public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted to allow installation of two air conditioning units with less than required right side yard setbacks, in accordance with the submitted plot plan.

The Inspector of Buildings is hereby authorized to issue a permit upon receipt and approval of a building application and detailed plans.

If installation has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

2021 NOV 24 PM 12:51

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APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

J. Randolph Becker (A.M.)  
J. Randolph Becker, Chairman

David G. Sheffield (A.M.)  
David G. Sheffield

Richard L. Seegel (A.M.)  
Richard L. Seegel

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Applicant    Bryan Picariello  
Address      17 Paine Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2021 NOV 24 P 12:52

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

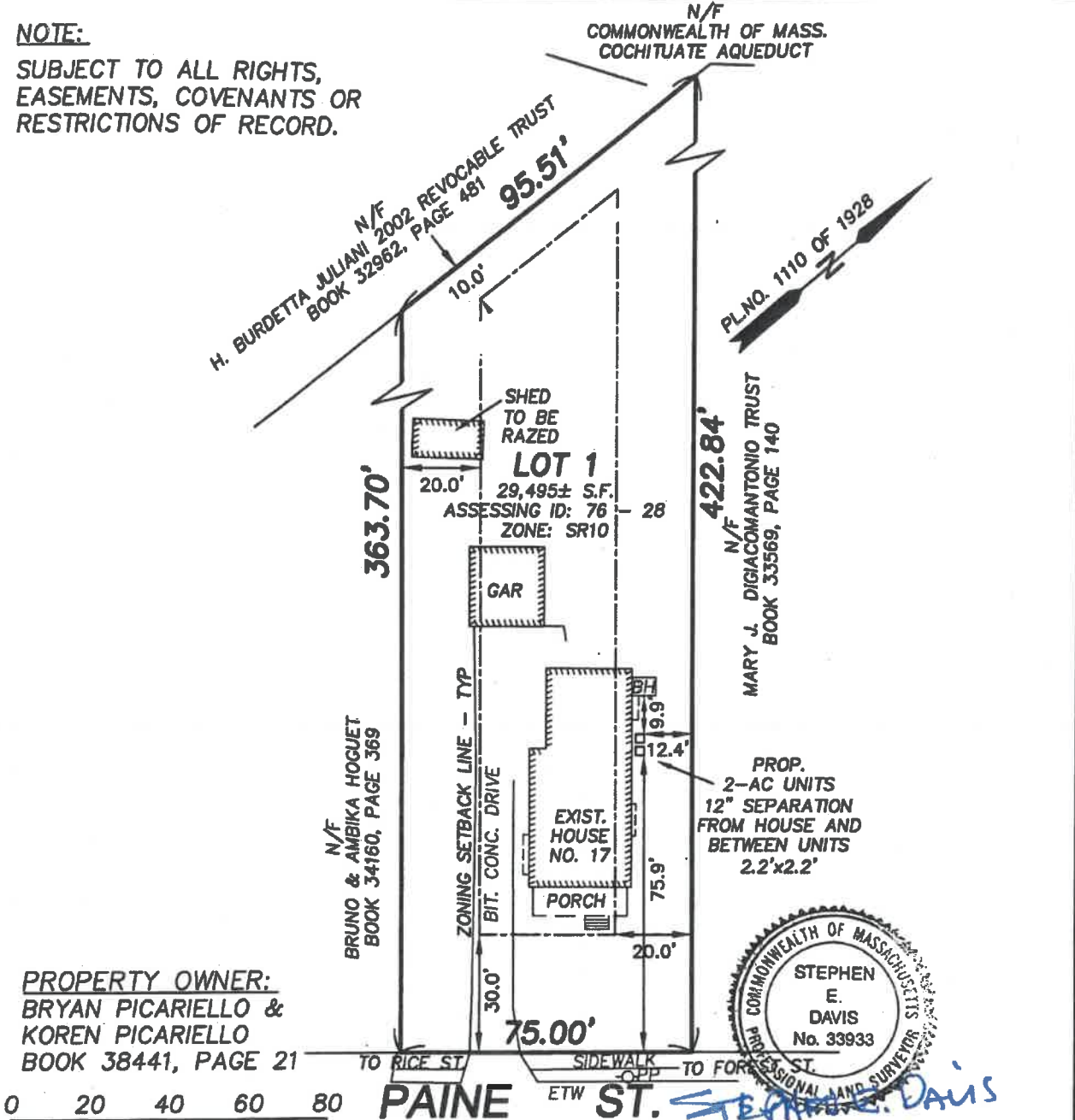
Attest:

\_\_\_\_\_  
Cathryn Jane Kato  
Town Clerk

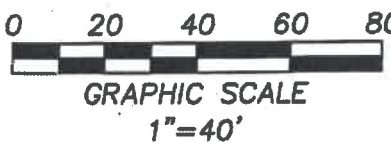
cc: Planning Board  
Inspector of Buildings  
lrm

**NOTE:**

SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD.



PROPERTY OWNER:  
 BRYAN PICARIELLO &  
 KOREN PICARIELLO  
 BOOK 38441, PAGE 21



I CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY AND THE LATEST PLANS AND DEEDS OF RECORD.

DATE: 9/27/2021

PROJECT # 1882

**PROPOSED 2-AC UNITS PLAN**  
 # 17 PAINE ST.  
 WELLESLEY, MA  
 NORFOLK COUNTY  
 AS PREPARED FOR  
**BRYAN PICARIELLO**

**CHENEY**  
**ENGINEERING CO., INC.**  
 53 MELLEEN STREET  
 NEEDHAM, MA 02494  
 TEL. 781-444-2188  
 admin@cheney-eng.com