

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2022-06  
Petition of Justin Nyweide  
47 Radcliffe Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 6, 2022 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Justin Nyweide requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw for installation of a generator with less than required right side yard setbacks, at 47 Radcliffe Road, in a 20,000 square foot Single Residence District. Existing air conditioning condensers are located in the right side yard setback area.

On December 1, 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.

### WITHDRAWN WITHOUT PREJUDICE

Present at the public hearing was Justin Nyweide, the Petitioner, who said that the request is for a variance to put a generator in the right side yard setback, due to the soil conditions and topography of the rear yard. He said that the rear of the property abuts properties on Brook Street, which is approximately 20 feet higher. He said that water runoff from Brook Street causes issues on his property. He said that the amount of trenching and re-grading to provide an adequate location for the generator would be cost prohibitive. He said that the request is to locate the generator on the right side, which is naturally higher than the back and left sides of the house.

Mr. Nyweide said there are existing ac condensers at the proposed location of the generator. He said that the neighbors on the right side at 43 Radcliffe Road are ok with the plan. He said that it will be a very quiet generator in terms of decibel levels. He said that there are 15 foot high arbor vitae in between the properties, near the neighbor's garage.

A Board member said that the existing ac condensers are located in the side yard setback. He asked when the ac condensers were installed. Mr. Nyweide said that there was an existing condenser when he moved

there in 2013. He said that they replaced an existing condenser in 2016. He said that he was not aware of any relief granted for the condensers.

A Board member said that the generator will be very prominent. He asked if the plan is to take out the tree at the corner. Mr. Nyweide said that the plan is to keep the tree. He said that there are arbor vitae half way on the other side of the property line and he plans to plant on the sides.

Mr. Nyweide said that the generator will be 48 by 25 by 29 inches. A Board member asked about frequency of testing the generator. Mr. Nyweide said that it runs once a week for 10 to 15 minutes.

A Board member said that the rear of the property seems to be extensive and he was not convinced that the generator could not go in the back yard. Mr. Nyweide said that the main reason for the generator is to pump the water in the basement that comes from Brook Street. He said that they will have a lot of piping and a French drain across the back and drywells in the front. He said that they would have to raise the generator incrementally higher. He said that they had to regrade the back when they moved in. He said that they are trying to have play space for their kids and a patio. He said that the amount of regrading would be a hardship.

The Chairman said that there is 25 feet at the right rear corner. He questioned why there was not enough space back there. Mr. Nyweide said that the kitchen windows are there. A Board member said that the area shown on Floor Plan A1 adjacent to the covered porch would not be in the way of windows and might be a logical place to put the generator. Mr. Nyweide said that the plans were to have the barbecue in that area and that is where the kids spill out off the porch.

A Board member said that the proposed location is on a corner that is prominent to the street and the neighborhood. He said that it will be in your face. Mr. Nyweide said that the property is elevated four feet from the street with a retaining wall. He said that the tree and the shrubbery protects that area to the point that you cannot see the condensers.

The Board discussed the Zoning Bylaw and authorization for granting variances. A Board member said that it looks like there are alternative locations that would not require relief from the Board. Mr. Nyweide said that the hardship related to the topography of the lot. The Chairman said that the Board was not persuaded that this can meet the variance standards. He said that the Applicant should try to find a place where the generator will be compliant.

Mr. Nyweide asked that the Board allow the petition to be withdrawn without prejudice.

The Board voted unanimously to allow the petition to be withdrawn without prejudice.

