

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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

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

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

March 2, 2023
Kingsbury Room, Police Station
7:30 pm

Zoning Board of Appeals Members Present: Robert W. Levy
Walter B. Adams
Derek B. Redgate

BUSINESS MEETING

ZBA 2022-23, LS BURKE, LLC, 56 WASHINGTON STREET

Present at the business meeting was David Himmelberger, Esq., representing Burke Funeral Home in connection with its application for a six month extension, pursuant to Chapter 40A, Section 10, to the previously granted modification of a variance to an existing variance, ZBA 77-4. He said that the modification was to allow a small addition to the building. He said that due to escalating construction costs, the project was delayed and has not yet commenced. He said that the variance is due to expire on March 17, 2023.

The Chairman confirmed that this was the first request to extend ZBA 2022-23 for six months. He questioned whether escalating construction price is good cause since it will not necessarily be reduced in the next six months. He said that the statute allows the Board's discretion without reciting any standard to do that.

A Board member said that there is no plan of the garage before the Board tonight. He said that they will be removing a parking space and replacing it with the garage. He said that the garage will make the handicapped ramp that is near to it inaccessible. Mr. Himmelberger said that another existing ramp on Crescent Street provides fully accessibility to areas that are open to the public.

Mr. Himmelberger said that the project has to commence within six months or the Petitioner will have to come back to the Board.

The Board voted unanimously to approve extension of the variance for six months from the date of the original expiration.

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TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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WALTER B. ADAMS
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ZBA 2022-23
Petition of LS Burke Realty, LLC
56 Washington Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 3, 2022 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of LS Burke Realty, LLC requesting Modification of a Variance and/or a Special Permit/Finding pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw for construction of a one story garage bay with less than required left side yard setbacks on an existing nonconforming structure with less than required side yard setbacks, that will increase the existing nonconforming lot coverage of 3,790 square feet, or 23 percent to 4,123 square feet, or 25.4 percent, on a corner lot, at 56 Washington Street, in a General Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 27, 2022, 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 were David Himmelberger, Esq. and Marianne Burke, LS Burke Realty, LLC.

Mr. Himmelberger said that request is for modification of an existing variance, ZBA 77-4. He said that the requested relief is to construct an additional one story garage bay with a less than required left side yard setback of 10.2 feet. He said that the existing building has a nonconforming left side yard setback of 19.7 feet. He said that the existing lot is nonconforming due to lot coverage of 3,790 square, or 23 percent. He said that by adding an additional 333 square feet, the lot coverage will increase to 4,123 square feet, or 25.4 percent. He said that the lot is located in a General Residence District, the Lower Falls Commercial District and an SR 10 District. He said that the abutter on the side where the proposed bay will be is a medical office located within feet of the common property line. He said that the owner will be remodeling some of the interior and will move into one of the two existing bays. He said that they require two bays for their business. He said that the passageway on the left side will remain the same, approximately 10 feet. He said that one of the conditions in the original variance was that cars entering from Crescent Street also exit onto Crescent Street. He said that there are a few parking spaces along the left side drive. He said that this is an appropriate modification of the existing variance that was granted in 1977 to continue so long as the operation continues at the funeral home.

Mr. Himmelberger said that beginning in 1953, special permits were issued and renewed. He said that in 1977 it was converted to a variance, contemporaneously with the recodification of the State Zoning Law.

The Chairman asked about traffic in and out of the new garage with cars parked in the spaces. Mr. Himmelberger said that the van is parked in one of the bays and the other bay is used for intake. He said that the bays are not in active use when the building is visited by guests.

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

Statement of Facts

The subject property is located at 56 Washington Street, in a General Residence District, on a corner lot, with minimum front yard setbacks of 14.7 feet and 29.2 feet where 30 feet is required, and a minimum side yard setback of 19.7 feet where 20 feet is required. Existing nonconforming lot coverage is 3,790 square feet, or 23 percent, where the greater of 2,500 square feet or 20 percent is allowed.

The Petitioner is requesting Modification of a Variance and/or a Special Permit/Finding pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw for construction of a one story garage bay with less than required side yard setbacks on an existing nonconforming structure with less than required left side yard setbacks, that will increase the existing nonconforming lot coverage of 3,790 square feet, or 23 percent to 4,123 square feet, or 25.4 percent, on a corner lot, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan and Proposed Plot Plan, dated 11/20/21, stamped by Michael A. Pustizzi, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 1/11/22, prepared by Kraus Associates, and photographs were submitted.

On February 25, 2022, the Planning Board reviewed the petition and recommended that a Variance be approved.

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 Board that a 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 and topography of the land and especially affecting this land but not generally affecting the Zoning District in which it is located, and the hardship is not self-created, and desirable relief may be granted without substantial detriment to the public good and without nullifying substantially from the intent and purpose of the Zoning Bylaw.

Therefore, in reliance on the prior findings of that Board, this Board modifies the Variance to permit construction of a one story garage bay with less than required side yard setbacks on an existing nonconforming structure with less than required left side yard setbacks, that will increase the existing nonconforming lot coverage of 3,790 square feet, or 23 percent to 4,123 square feet, or 25.4 percent, in accordance with the submitted plans.

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

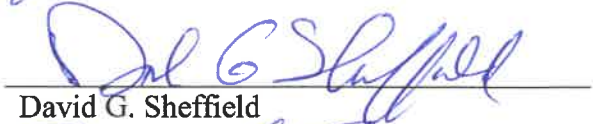
If construction has not commenced, except for good cause, modification of the Variance shall expire one year after the date time stamped on this decision.

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ZBA 2022-23
Petition of LS Burke Realty, LLC
56 Washington Street

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, Chairman


David G. Sheffield


Richard L. Seegel

ZBA 2022-23
Applicant LS Burke Realty, LLC
Address 56 Washington Street

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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

