

TOWN OF WELLESLEY



MASSACHUSETTS

**ZONING BOARD OF APPEALS**  
888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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**ZBA 2022-81**  
Appeal/Petition of 20 Oakland St LLC  
20 Oakland Street

DEC 15 PM 12:32  
WELLESLEY MA 02482  
ZONING BOARD OF APPEALS

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 1, 2022, at 7:30 p.m. in the Juliani Room, 525 Washington Street, Wellesley, on the petition of 20 Oakland St LLC appealing a Zoning Interpretation by the Inspector of Buildings pursuant to the provisions of Section 6.2 of the Zoning Bylaw and requesting a Variance pursuant to the provisions of Section 5.3 and Section 6.2 of the Zoning Bylaw for relief from the front yard width due to shape of the lot, at 20 Oakland Street, in a 10,000 square foot Single Residence District.

On November 1, 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 on behalf of the Petitioner were David Himmelberger, Esq. and Mark Bobrowski, Esq., and Laurence Shind, Esq., on behalf of Aaron Williams, owner of Lot 1.

Present on behalf of the Town of Wellesley were Michael Grant, Inspector of Buildings/Zoning Enforcement Officer/Public Safety Officer, and Christopher Heep, Town Counsel.

The Chairman said that the petition is twofold. He said that the appeal would proceed as ZBA 2022-81A and the variance request would proceed as ZBA 2022-81B.

**ZBA 2022-81A**

The Chairman questioned whether this is the type of decision that Chapter 40A, Section 8 intended for the Board to hear. He said the case involves a letter that the Code Enforcement Officer sent to the Planning Board in response to their request for his opinion relative to the front yard. He said that the case before this Board does not concern an enforcement order.

Mr. Bobrowski said that there is a paucity of defined terms in the Wellesley Zoning Bylaw (ZBL). He said that the ZBL does not define the term, "building" and as a result, the Building Inspector was left to

make an interpretation of Section 5.3.B of the ZBL (Section 5.3.B). He said that the SJC said in *Framingham Clinic Inc. v Framingham ZBA*, such circumstances are to be determined by the ordinary principles of statutory construction, which tries to provide definition to an ambivalent term of a ZBL, law, statute or regulation. He said that the path generally takes one to other statutory contexts in which the word is used, or a dictionary definition or legislative intent, if available.

Mr. Bobrowski read an excerpt from Section 5.3.B. He said that the Building Inspector was asked to interpret the term "building" from Section 5.3.B and the definition of front yard. He said that the definition of building is not contained anywhere in the ZBL. He said that Exhibit 3, Site Plan in Wellesley, Massachusetts, shows the location of a proposed building that is between 30 and 40 feet from the street line of Oakland Street, with the intention that it would satisfy the definition of front yard. He said that the front yard would be everything in front of the building. He said that Exhibit 1, Subdivision Plan of Land, shows Lot 3. He said that Lot 3 was created by a 2021 ANR Plan. He said that Lot 3 looks like a capital C and is quite contorted. He said that the front yard would be appropriately located as defined in Section 5.3.B between the street line and the proposed building, as shown on Exhibit 3. He said that what happens behind that is not relevant to the definition of front yard because the front yard only goes to the undefined building. He said that when looking at the other statutory and regulatory contexts, as well as the dictionary definition of building, the term "building" is broader than what the Building Inspector defined it as, which was limited to dwelling. He said that the Building Inspector took the term in Section 5.3.B as meaning from the street line to the dwelling, but that is not what the bylaw says. He said that the bylaw says, "building." He said that the State Building Code defines a building as any structure used or intended for supporting or sheltering any use or occupancy. He said that he provided the definition of structure from the base volume of the State Building Code, which defines it as that which is built or constructed. He said that an accessory building in that context is a building for purposes of measuring the boundary of the front yard.

Mr. Bobrowski said that Section 5.3.B does not talk about accessory buildings. He said that the bylaw says that the front yard is measured from the street line to the building. The Chairman said that the bylaw says that front yard shall be provided for every building. Mr. Bobrowski said that the proposed building will have the required front yard width because the front yard width is defined by the building it is in front of, which is 30 to 40 feet deep. He said that the proposed building is approximately 150 square feet. Mr. Himmelberger said that the building was selected based on the size for which Mr. Grant requires a building permit.

Mr. Bobrowski said that the first disagreement with Mr. Grant's interpretation is that the measurement needs to be from the street line to a dwelling. He said that Section 5.3.B says, "building."

Mr. Bobrowski said that the second disagreement is with the later conclusion that Mr. Grant made that accessory buildings have to be located to meet the setback requirements in the side or rear yard, and are not permitted in the front yard. He said that Mr. Grant added words. He said that saying that a building has to meet side and rear yard setback standards is not the same thing as saying that no building is allowed in the front yard. He said that he provided a Second Rule of Statutory Construction that states that the bylaw should be construed without artificial enlargement or contraction. He said that the accessory building sets the pin for the end of the required front yard. He said that as long as it is 30 to 40 feet back, it provides ample front yard space, according to Section 5.3.B, Table 3. He said that what

happens behind that is essentially up for grabs. He said that they located a large house to the far rear of a 35,000 square foot lot, approximately 300 to 400 feet back from the street.

Mr. Himmelberger said that the appeal is of Mr. Grant's determination that an accessory building may not be located at the setback line to qualify as the building by which front yard is measured. He said that the Appellant is asking the Board to overturn that determination because, in this case, the bylaw clearly says, "from the street to the building." He said that "building" is a broader term than dwelling, based upon the ZBL definitions where definition of dwelling is a subset of building. He said that the bylaw provisions for side and rear setbacks pertaining to accessory buildings over 100 square feet say that you can have accessory buildings that are less than 100 square feet in the side and rear setbacks. He said that you cannot undercut the clear language of the bylaw. Mr. Bobrowski said that the Building Inspector has to be reasonable in his interpretation of the bylaw.

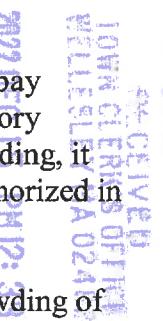
Mr. Grant read an excerpt from Section 5.3.B. He said that an accessory building shall mean a detached subordinate building located on the same lot with the main building, the use of which is customarily incidental to that of the main building or the use of the land. He said that the main building is what is allowed in the zoning district. He said that this property is located in a Single Residence District that allows the use for a single family dwelling. He said that his opinion is that when the bylaw talks about the main building, it goes to the use that is authorized in the district. He said that when the bylaw talks about the building, it is talking about the main building, not the accessory structure. He said that under ZBL, Section 2.1, it states that an accessory structure is an authorized use. He said that accessory uses are as customarily in connection with the uses enumerated in Clauses 1, 2, 3, 4, 5, 6 and are incidental thereto, including a private garage and a private stable. He said that in his opinion, they are talking about a single family dwelling when they talk about the "building" in that section of the bylaw.

The Chairman said that the definition of building in the ZBL refers to uncovered stairs, eaves, bay windows, and porches, which would be connected to a dwelling. Mr. Grant said that an accessory structure could have those things included but the way that the bylaw defines an accessory building, it makes the accessory structure incidental to the main use because you refer back to the uses authorized in the district.

Mr. Himmelberger said that part of the purpose of front yard setbacks is so that there is no crowding of structures at the street. He said that in this case, you will not see the second building at the rear of the lot because it is up a hill and 200 to 300 feet back.

The Chairman said that the Appellant is asking the Board to make a policy decision to determine that a 150 square foot shed is a building, a decision that will allow pork chop lots all around town. He said that he reviewed conveyancing documents and saw that the whole front yard that they want to put the building on is subject to an exclusive use easement for the benefit of Lot 1. He said that it shall expressly exclude the right of grantees to construct any building, however the grantor reserves the right to construct an accessory structure not to exceed 150 square feet. He said that right was granted to Lot 3 in the Appellant's deed. He said that the deed to Lot 1 does not give Lot 3 the right to put a shed in that area. Mr. Himmelberger said that the issue is addressed, subject to the existing easements.

Mr. Himmelberger said that the genesis of this was to preserve an existing home.



Herb Glick, 8 Bancroft Road, said the he has lived there for the past 55 years. He said that he watched this lot over the years and has never been particularly happy with it because it has always looked ratty. He said that he would welcome finally having someone trying to turn it into something other than a fourth growth forest. He said that the appeal process seems ridiculous. He said that he wants to support whatever will get the project moving. He said that it has been a disaster for years.

The Chairman discussed concerns about the lack of details for the proposed building. He questioned how the Board can make a determination of the definition of "building" when all it has is a square drawn on a plan with no dimensions.

ZBA 2022-81B

Mr. Bobrowski discussed the request for a variance. He said that the hardship relates to the shape of the lot, which is roughly a capital C, as shown on Exhibit 2, GIS Map, of the Variance Petition. He said that there is no other lot in the vicinity that has that shape. He discussed case law, *Paulding v Bruins*, in which the Court said that the shape of the lot was the unique circumstance, which was a hardship in and of itself. He said that the facts are the same in this case in that it is suitable only as a residential home site in a residential district. He said that it is nearly valueless if it is not going to be the location of a single family home. He said that the third and fourth prongs of the argument merge for a determination that location of the house at the back of the lot would result in detriment. He said that it results in less harm to the neighborhood, if any, than it would if it was closer to the street. He said that it is roughly 200 feet from the neighbor immediately to the west at 18 Oakland Street and has been placed in a position where the owners of Lots 2 and Lot 1 will see the least if it. He said that it could easily be screened after construction. He said that as there will be no detriment and no derogation from the ZBL. He requested that the variance be granted.

Mr. Bobrowski said that, similar to the Paulding Case, the current owner had nothing to do with the ANR Plan, so it was not a self-imposed hardship. The Chairman questioned whether the owner of Lot 3 knew at the time that they bought the lot that they would need a variance. He questioned why there was a requirement in the deed.

Mr. Himmelberger said that 20 Oakland Street LLC bought the property based on an ANR Plan that was designed by Verne Porter after some consultation with Mr. Grant. He said that based on the consultation and Mr. Himmelberger's interpretation of the word "building," it seemed to be a buildable lot. He said that Mr. Grant indicated that he had a different opinion when the conversation came up regarding the depth for which the front yard width needed to be maintained.

The Chairman said that the same owner owns Lot 2. He questioned whether the lots would be merged for zoning purposes. Mr. Himmelberger said that the lots do not merge because it is possible to build a 150 square foot dwelling as a matter of right. Mr. Heep said that Lot 3 is not inherently nonconforming. He said that it becomes nonconforming when you try to put a house on the rear part for failure to satisfy the front yard requirement. He said that merger does not occur automatically in the absence of the nonconforming house at the back.

The Chairman said that the bylaw requires that the front yard width be carried out. He said that it is the Board's job to try to make lots conform to the bylaw. He questioned whether this would set a precedent to

allow for pork chop lots all over town. Mr. Himmelberger said that it would not set a precedent because of the self-created hardship standard. He said that the evil of creating pork chop lots that the bylaw seeks to prevent does not exist here because the 40 foot corridor will not be used for access. He said that there is a 20 foot slope.

The Chairman said that the deed for Lot 1 has a reservation that gives them the exclusive easement into the front yard on Oakland Street and reserves the right of the seller to build a 150 square foot structure. He questioned the hardship if they can put a house at the front on a buildable lot. Mr. Himmelberger discussed hardship where instead of being able to build two houses, they can only build one. He said that a building lot that was purchased for \$1.28 million cannot be built upon without a variance. He said that the two lots were purchased in good faith at fair market value, and based on the change in circumstances, the Petitioner is asking that the Board grant a variance to allow them to build a single dwelling at the rear of 20 Oakland Street. He said that a variance could be granted based on the shape of the lot, the hardship not being self-created, and there being no element that would be harmed by allowing a house to be built 400 feet back from the street, a house that cannot be seen from the street due to the depth and elevation leading up to it.

The Chairman asked if subdivision was considered. Mr. Himmelberger said that they looked at it but the desire was to preserve the existing historic structure.

The Chairman said that the plans that were submitted to the Board show a block drawn on them. He said that the Board would have preferred to have plans with dimensions.

Herb Glick, 8 Bancroft Road, said that he is an abutter to the property. He said that he has walked over the property repeatedly and thinks that it is a mess. He said that an attempt to preserve the Greek revival house was clearly a mistake. He said that the only way at this point to try to correct the physical mistake is to grant the variance. He said that the land slopes from the existing house to Oakland Street. He said that the Zoning Code cannot address every possible quirk in the land. He said that the Board exists to deal with situations that the ZBL does not deal with in a human fashion. He said that the plan makes sense. He said that the Board will be protecting the town and the abutters by letting it happen. He said that nobody will rescue the land if the Board prevents two houses from being built. He said that it will drag on for years and will be a blight in the town. He said that the owners of the Greek Revival cannot go ahead without knowing what is going to happen around them. He said that nobody benefits by preventing development of this property. He urged the Board to grant a variance.

John Lanza, 18 Oakland Street, said that he is the abutter to the northwest side of the property. He said that he would like to get the project moving. He said that with the proposed patchwork quilt of lots, there will be a lot of detriment to his property at 18 Oakland Street. He said that the 40 foot corridor that will be created will have ownership by one lot and exclusive easement by another, effectively making it a no man's land. He said that the direction of the proposed driveway is towards Worcester Street. He said that there will be no reason for Lot 3 to care about maintenance of the corridor. He said that LHR plans that were submitted by the Applicant show a huge privacy fence that will cut Lot 3 from the rest of the property that goes down to Oakland Street. He said that there are very large trees along the property line with 18 Oakland Street, probably 30 to 40 feet high. He said that several years ago, a tree fell on his house and caused a few thousand dollars of damage. He discussed concerns about damage to his property if the trees are allowed to grow without any care for them. He said that he does not support a variance.

Mr. Lanza said that the Applicant said that detriment to the neighborhood and derogation from the bylaw prongs collapse, and cited *Cavanaugh v DiFlumera* from 1980. He said that case interpreted the pre-1975 version of Section 10, which was a much more lax standard. He said that the case is not on point with what is going on here and the Board does have to worry about derogation from the ZBL.

Mr. Lanza said that the Town increased the front yard width requirement to 60 feet in 1964. He said that in the 1964 Town Report, the Planning Board said that increasing the front yard width requirement to 60 feet would minimize the number of potential substandard lots that could be created. He said that what is proposed is a direct derogation of the ZBL.

The Chairman said that Lot 3 has no control over part of the lot because of the exclusive easement granted to Lot 1. He said that if the Board imposed a maintenance or O & M Plan, Lot 3 is prohibited from executing it.

Aaron Williams said that he and his wife are the owners of 367 Worcester Street, Lot 1. He said that the exclusive easement does not encumber the entirety of the lot along Oakland Street. He said that it creates an exclave area that could possibly be resolved through the Planning Board process or through conditions of a variance. He said that the initial plans had a road down to Oakland Street with the easement to the north of it. He said that access has been moved to Worcester Street. He said that the no man's land issue will have to be addressed.

The Chairman said that when this project is finished, there will be one house behind two houses, which is something that the bylaw attempts to prohibit.

A Board member said that there is a hill going up from Oakland Street and you cannot build anything there. He said that entering off of Worcester Street is the only thing that makes sense.

#### Statement of Facts

The subject property is located at 20 Oakland Street, in a 10,000 square foot Single Residence District.

The Appellant is appealing a Zoning Interpretation by the Inspector of Buildings pursuant to the provisions of Section 6.2 of the Zoning Bylaw and requesting a Variance pursuant to the provisions of Section 5.3 and Section 6.2 of the Zoning Bylaw for relief from the front yard width due to shape of the lot.

#### Submittals from the Appellant

- Letter to Zoning Board of Appeals, dated 10/25/22, from David J. Himmelberger, Esq., re: Appeal of Building Inspector's Zoning Interpretation and Request for Variance 20 Oakland Street, LLC, with attachments:
  - Subdivision Plan of Land, dated 3/31/21, stamped by Verne T. Porter, Jr., Professional Land Surveyor

- Email, dated 10/11/22, to Don McCauley from Michael Grant, re: 20 Oakland Road Opinion
- Letter to Planning Board, Town of Wellesley, dated 10/11/22, from Michael T. Grant, Inspector of Buildings/Zoning Enforcement Officer/Public Safety Officer, re: Large House Review Application 22-05, 20 Oakland Street, Wellesley, MA, with attachments:
  - Subdivision Plan of Land, dated 3/31/21, stamped by Verne T. Porter, Jr., Professional Land Surveyor
  - Site Plan, Sheets 1 & 2, dated 12/26/21, revised 3/1/22, 5/20/22, 7/11/22, 8/11/22 & 9/21/22, prepared by Stanski and McNary, Inc.
- Letter to Don McCauley, Planning Director, James Roberti, Chair, Planning Board, Planning Board Members, dated 9/8/22, from John D. Lanza, re: Large House Review 22-05 (20 Oakland St.)
- Letter to Don McCauley, Planning Director, James Roberti, Chair, Planning Board, Planning Board Members, dated 9/30/22, from Laurence D. Shind, Esq. and David J. Himmelberger, Esq., re: Large House Review 22-05 (20 Oakland St.)
- Notice of Appeal to Town Clerk Pursuant to Section 6.2 of the Zoning Bylaws, dated 11/3/22, signed by David J. Himmelberger, with attachments:
  - Letter to Planning Board, Town of Wellesley, dated 10/11/22, from Michael T. Grant, Inspector of Buildings/Zoning Enforcement Officer/Public Safety Officer, re: Large House Review Application 22-05, 20 Oakland Street, Wellesley, MA, with attachments:
    - Subdivision Plan of Land, dated 3/31/21, stamped by Verne T. Porter, Jr., Professional Land Surveyor
    - Site Plan, Sheets 1 & 2, dated 12/26/21, revised 3/1/22, 5/20/22, 7/11/22, 8/11/22 & 9/21/22, prepared by Stanski and McNary, Inc.
  - Letter to Don McCauley, Planning Director, James Roberti, Chair, Planning Board, Planning Board Members, dated 9/8/22, from John D. Lanza, re: Large House Review 22-05 (20 Oakland St.)
  - Letter to Don McCauley, Planning Director, James Roberti, Chair, Planning Board, Planning Board Members, dated 9/30/22, from Laurence D. Shind, Esq. and David J. Himmelberger, Esq., re: Large House Review 22-05 (20 Oakland St.)
- Letter to Zoning Board of Appeals, dated 11/28/22, from Mark Bobrowski, Esq., re: Administrative Appeal, 20 Oakland Street, Wellesley, with attachments:
  - Subdivision Plan of Land, dated 3/31/21, stamped by Verne T. Porter, Jr., Professional Land Surveyor
  - Letter to Planning Board, Town of Wellesley, dated 10/11/22, from Michael T. Grant, Inspector of Buildings/Zoning Enforcement Officer/Public Safety Officer, re: Large House Review Application 22-05, 20 Oakland Street, Wellesley, MA
  - Site Plan, Sheets 1 of 2, dated 12/26/21, revised 3/1/22, 5/20/22, 7/11/22, 8/11/22 & 9/21/22, prepared by Stanski and McNary, Inc.
- Letter to Zoning Board of Appeals, dated 11/28/22, from Mark Bobrowski, Esq., re: Variance Petition, 20 Oakland Street, with attachments:
  - Subdivision Plan of Land, dated 3/31/21, stamped by Verne T. Porter, Jr., Professional Land Surveyor
  - GIS Map – 20 Oakland Street

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WELLESLEY, MA 02451  
11/22/2023 1:57PM 12:33

- Site Plan, Sheets 1 of 2, dated 12/26/21, revised 3/1/22, 5/20/22, 7/11/22, 8/11/22 & 9/21/22, prepared by Stanski and McNary, Inc.

Decision – ZBA 2022-81A

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

The Board upholds the Building Inspector's interpretation of the term "building" in certain pertinent zoning bylaws, as meaning "dwelling," and the Appeal is denied.

Decision – ZBA 2022-81B

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 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 5.3 and pursuant to the provisions of Section 6.2 of the Zoning Bylaw is granted to allow for relief from the front yard width requirement, subject to the following condition:

- The Petitioner, its successors and assigns, shall maintain, including replacement as necessary, the tree line between Lot 3 and 18 Oakland Street so as to provide adequate screening for the benefit of 18 Oakland Street.

No other zoning relief is granted.

Except for good cause, this Variance shall expire one year after the date time stamped on this decision.

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ZBA 2022-81  
Appeal/Petition of 20 Oakland St LLC  
20 Oakland 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.



Robert W. Levy, Acting Chairman



David G. Sheffield



Richard L. Seegel

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ZBA 2022-81  
Applicant 20 Oakland St LLC  
Address 20 Oakland Street

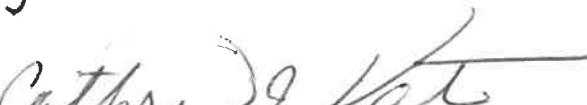
NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

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.

The appeal of this decision was filed with the Land Court as Lanza v. Wellesley Zoning Board of Appeals et al., Land Court 22 MISC 000673, and that said appeal has been dismissed.

Date: September 19, 2023

Attest:



Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm

COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF TRIAL COURT

NORFOLK, ss.

22 MISC 000673 (HPS)

JOHN D. LANZA and ANN-MARA S. LANZA, )  
Plaintiffs )  
v. )  
J. RANDOLPH BECKER, ROBERT W. LEVY, )  
DAVID G. SHEFIELD, WALTER B. ADAMS, )  
DEREK B. REDGATE AND RICHARD L. SEESEL, )  
as they are Members of the Zoning Board of Appeals )  
of the TOWN OF WELLESLEY and 20 OAKLAND )  
ST, LLC, )  
Defendants )

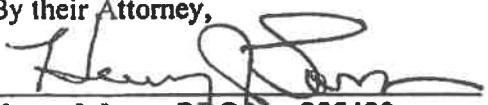
JOINT STIPULATION  
OF DISMISSAL

All parties hereby stipulate to the dismissal of the above-captioned matter, with prejudice,  
without costs, and waiving all rights of appeal.

Date: September 18, 2023

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By their Attorney,



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By its Attorneys,



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Wellesley Zoning Bd. of Appeals and its Members,  
By their Attorney,

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Plaintiffs,  
By their Attorney,

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Wellesley Zoning Bd. of Appeals and its Members,  
By their Attorney,

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Private Defendant,  
By its Attorneys,



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TOWN OF WELLESLEY



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J. RANDOLPH BECKER, CHAIRMAN  
ROBERT W. LEVY, VICE CHAIRMAN  
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WALTER B. ADAMS  
DEREK B. REDGATE  
RICHARD L. SEEDEL

*Book 39758-1  
Deed  
Wellesley  
20 Oakland Street, Wellesley*  
ZBA 2022-81  
Appeal/Petition of 20 Oakland St LLC  
20 Oakland Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 1, 2022, at 7:30 p.m. in the Juliani Room, 525 Washington Street, Wellesley, on the petition of 20 Oakland St LLC appealing a Zoning Interpretation by the Inspector of Buildings pursuant to the provisions of Section 6.2 of the Zoning Bylaw and requesting a Variance pursuant to the provisions of Section 5.3 and Section 6.2 of the Zoning Bylaw for relief from the front yard width due to shape of the lot, at 20 Oakland Street, in a 10,000 square foot Single Residence District.

On November 1, 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 on behalf of the Petitioner were David Himmelberger, Esq. and Mark Bobrowski, Esq., and Laurence Shind, Esq, on behalf of Aaron Williams, owner of Lot 1.

Present on behalf of the Town of Wellesley were Michael Grant, Inspector of Buildings/Zoning Enforcement Officer/Public Safety Officer, and Christopher Heep, Town Counsel.

The Chairman said that the petition is twofold. He said that the appeal would proceed as ZBA 2022-81A and the variance request would proceed as ZBA 2022-81B.

ZBA 2022-81A

The Chairman questioned whether this is the type of decision that Chapter 40A, Section 8 intended for the Board to hear. He said the case involves a letter that the Code Enforcement Officer sent to the Planning Board in response to their request for his opinion relative to the front yard. He said that the case before this Board does not concern an enforcement order.

Mr. Bobrowski said that there is a paucity of defined terms in the Wellesley Zoning Bylaw (ZBL). He said that the ZBL does not define the term, "building" and as a result, the Building Inspector was left to