

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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WALTER B. ADAMS
DEREK B. REDGATE
PETER COVO

ZBA 2024-80

Petition of Amos Ami Saada
679 Worcester Street (ABLS)

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, December 5, 2024 at 7:30 pm, on the petition of Amos Ami Saada requesting a Special Permit pursuant to the provisions of Section 2.1.A.8.b and Section 6.3 of the Zoning Bylaw for an Educational Use, namely Applied Behavioral Learning Services (ABLS), in a portion of an existing two-family dwelling at 679 Worcester Street, which is a use not allowed by right in a 20,000 square foot Single Residence District.

On November 4, 2024, 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 Mariela Vargas-Irwin.

Mr. Himmelberger said that the matter was initially filed by Ms. Vargas-Irwin for a special permit for other than non-profit educational purposes, namely services to provide children with special needs, that are allowed by special permit in a single residence district. He said that after his review of Ms. Vargas-Irwin's proposal, he became convinced that this is an as of right use for child care facilities under Section 2.1.A.3A of the Zoning Bylaw (ZBL), with the exception of the two or three students who are 16 years or older. He discussed the ZBL and Massachusetts General Law (MGL) definitions of Child Care Facility. He said that the scope of the requested relief pertains to a special permit for up to five students who are 16 years or older to receive services at the facility. He said that the Applicant chose to pursue the matter as a special permit rather than under the Dover Amendment. He said that the proposed use will comply with Section 6.3.D. Special Use Permit Standards of the ZBL.

A Board member asked about the number of staff and students. Ms. Vargas-Irwin said that not everyone will be on site at the same time. She said that there may be four students in the morning and six in the afternoon. She said that 15 staff members is ideal but hard to achieve. She said that some of the staff members also serve some facilities in their own homes. She said that ABLS does not provide transportation.

A Board member discussed concerns about egress and separation of the living and ABLS spaces. He said that the Board will need to see a fully vetted set of plans that identify separations between the three functions of the building and how they interface. He suggested that the Applicant speak with the Building Inspector regarding Building Code implications.

The Board voted unanimously to continue the matter to January 9, 2025.

January 9, 2025

Mr. Himmelberger said that while going through the process to develop plans that delineate the internal uses within the building, namely, the two dwelling units and the space for Ms. Vargas-Irwin's child care and educational program, Ms. Vargas-Irwin decided that it would make sense to build an addition on the first floor at the rear of the building. He said that no relief is required for the proposed conforming addition. He said the request is for a special permit under the provisions of the ZBL for an educational use in a Single Family District to offer services to students who are 16 years of age and older.

Mr. Himmelberger said that he spoke with Michael Grant, Building Inspector, about the program qualifying as a child care facility. He said that Mr. Grant will enforce the bylaw with regard to the enumerated conditions that are required for the operation of any child care facility, which is what Ms. Vargas-Irwin will be providing to students who are less than 16 years of age. He said that the Building Inspector has jurisdiction over parking circulation around the building with respect to operation of the child care facility. He said that a plot plan was submitted that shows the design of the parking spaces and drop off area.

The Chairman discussed MGL Chapter 15, Section 6. He said that his understanding is that the State does not deal with the students who are over 16 years of age. Ms. Vargas-Irwin said that in many ways, the students who are over 16 years old fall under the same definition as younger children because they have special needs. She said that they come to the center because they can't live independently. She said that the reason that the regulations are the same, even though the students might be 18 years old, is that they are not competent. She said that the Autism Commission, the Insurance Commission and Mass Health all see them as equivalent, regardless of age. She said that the parents have custody of them. She said that early childhood and care is not regulated because none of her students sleep at the center.

The Chairman questioned whether the proposed use could be done as of right under Section 2.1.A.3A of the Zoning Bylaw. Mr. Himmelberger said that his understanding is that child care facility only applies to children up to the age of 16 if they have special needs but individuals 16 years or older with special needs don't fall within the State's definition of child care facility, which is what the Town uses as the basis for Section 2.1.3A of the ZBL. He said that he believes that a special permit under Section 2.1.A.8,b of the ZBL is needed for those special needs students who are 16 years and older, not Section 2.1.A.3A.

The Chairman asked about permitting from the State for the facility that Ms. Vargas-Irwin currently operates at 110 Cedar Street in Wellesley. Ms. Vargas-Irwin said that her two students who are over 16 years of age are funded by insurance. She said that there is some regulation by the Autism Commission but the insurance company has jurisdiction.

Mr. Himmelberger discussed the revised plans. He said that the plans show how the interior spaces are segregated. He said that Plan A-6 shows the proposed first floor, which includes the single story addition to the right rear and also shows a ramp at the front right. He said that the parking plan shows two ADA parking spaces adjacent to the ramp, which is one more than required. He said that the second floor will remain as is. He said that the layout is further delineated in color segments on Plan A-8. He said that the white areas are the ABLS Facility, with basement space as well as space on the right side of the first floor. He said that the green and yellow areas on the first and second floors are residential areas that have nothing to do with the use permit that is being sought. He said that the Section 2.1.A.8.b use is confined to the white areas shown on Plan A-8.

Ms. Vargas-Irwin said that the proposed white space on the first floor consists of a waiting room where students or parents come in, her office, and a designated classroom with three bathrooms for the younger students. She said that older students will be in the white portion of the basement. She said that the green portion of the basement will remain unfinished. She said that she will live in the green area with her senior in Wellesley High and her freshman in college who will come home on break occasionally. She said that the smaller apartment is currently rented and she plans to keep the tenant at least through construction. She said that once the center moves to 679 Worcester Street, they will decide whether to keep the tenant.

A Board member asked about the pinch point off Worcester Street that is shown on Plan A-4. He asked if 18 feet at its narrowest is enough to let two cars through. Mr. Himmelberger said that according to the design standards for off-street parking in Section 5.17 of the ZBL, the minimum width for two-way use is 18 feet. He said that they have 25 feet at the mouth onto Route 9 but 18 feet as you come in. He said that a benefit of its location is that there is a traffic light that stops traffic going west at the turnaround every minute or so. He said that there are always breaks in the traffic.

A Board member asked if the building is regulated by the Historic Commission. Mr. Himmelberger said that it is an eligible building because it is pre-1949 but because less than 50 percent of its exterior elevations will be covered up or removed, it doesn't qualify as a demolition and is therefore not subject to further demolition review by the Historic Commission.

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

Statement of Facts

The Petitioner is requesting a Special Permit pursuant to the provisions of Section 2.1.A.8.b and Section 6.3 of the Zoning Bylaw for an Educational Use, namely, Applied Behavioral Learning Services (ABLS), in a portion of an existing two-family dwelling, which is a use not allowed by right in a 20,000 square foot Single Residence District.

The subject premises is located at 679 Worcester Street, on a 36,598 square foot lot. The property contains a main house and a one-story detached garage. ABLS offers full-time, extensive behavior analytic intervention and specialized weekly sessions focusing on social skills development for members of the Autism community. Group sessions typically last two to three hours, with most students being dropped off. The Center would host ABLS Theatrical, a nonprofit organization led by Wellesley High School students to provide inclusive, affordable community theater.

Letter to Zoning Board of Appeals, dated 11/26/24, from David Himmelberger, Esq., Letter to Zoning Board of Appeals, dated 1/2/25, from David Himmelberger, Esq., Letter to Zoning Board of Appeals from Mariela Vargas-Irwin, Aerial Photograph, Parking Layout, Floor Plans, prepared by Cubicasa, Biography of Mariela Vargas-Irwin, Plot Plan, Floor Plans & Elevations Drawings, dated 1/2/25, revised 1/7/25, prepared by Emily's Interiors, were submitted.

On December 3, 2024, the Planning Board reviewed the petition and recommended that the Board delay action.

Decision

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

The Petitioner is requesting a Special Permit to allow a portion of the existing two-family dwelling at 679 Worcester Street to be used as an Applied Behavioral Learning Services center in a Single Residence District.

It is the opinion of this Authority that the use of a portion of the property as an Applied Behavioral Learning Services center shall not disturb or disrupt the customary character of the residential neighborhood, and is in harmony with the intent and purpose of the Zoning Bylaw.

Therefore, a Special Permit is granted for the requested use, as voted unanimously by this Authority at the Public Hearing, in accordance with the submitted plans.

7/17/25 11:23 PM 12:30
ZONING BOARD OF APPEALS
WORCESTER, MASSACHUSETTS

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 (lm)
J. Randolph Becker, Chairman

Walter B. Adams (lm)
Walter B. Adams

Peter Covo (lm)
Peter Covo

ZBA 2024-80
Applicant Amos Ami Saada
Address 679 Worcester Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2025 MAR 23 PM 12:30

WELLESLEY TOWN CLERK
RECEIVED
APR 12 2025
WELLESLEY TOWN CLERK

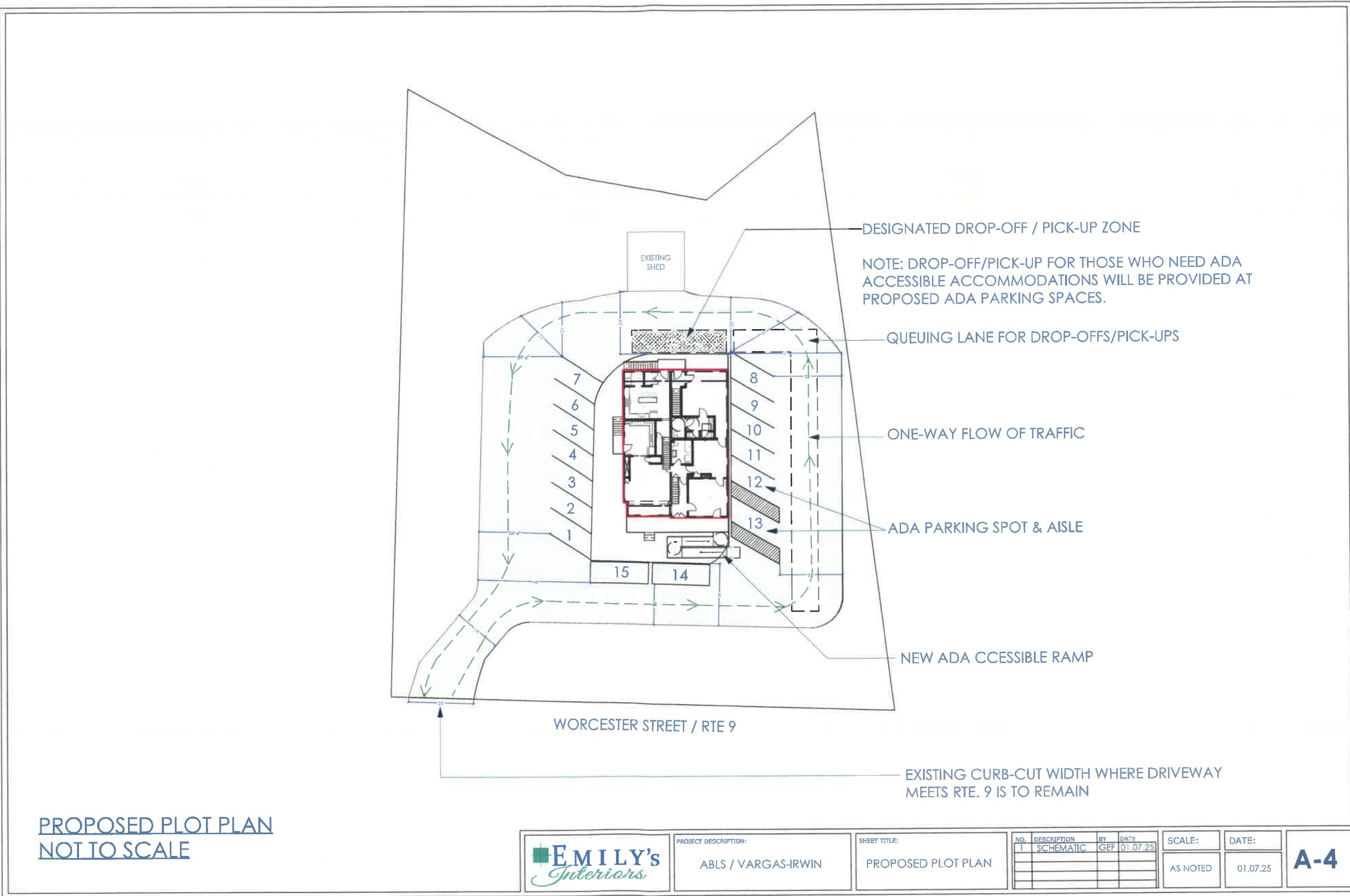
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



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Property Address: 679 Worcester St., Wellesley, MA
Deed Certificate #212984