

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  
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WALTER B. ADAMS  
DEREK B. REDGATE  
PETER COVO

ZBA 2025-22

Petition of 71 Fairbanks Avenue LLC  
71 Fairbanks Avenue

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Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, March 6, 2025, on the petition of 71 Fairbanks Avenue LLC requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required right side yard setbacks, and construction of a new two-story structure that will meet setback requirements, at 71 Fairbanks Avenue, on a 13,991.7 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, , shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 30, 2025, 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 was David Himmelberger, Esq. and Tripp Pace, Builder.

Mr. Himmelberger said that the request is for a special permit to raze and rebuild a pre-existing nonconforming home. He said that the existing home and garage have insufficient side yard setbacks. He said that the lot is insufficient with 13,991 square feet in an SR15 district.

Mr. Himmelberger said that the house was built prior to 1949. He said that the Historical Commission initially deemed the house, preferably preserved, but subsequently approved a tweaked design of the house and granted a waiver.

Mr. Himmelberger said that the proposed house will be fully compliant with all dimensional requirements. He said that the only relief required is for the insufficient lot area.

Mr. Himmelberger said that the proposed home will have a TLAG of 4,855 square feet, which is slightly above the threshold of 4,300 square feet for the district.

Mr. Himmelberger said that the house is located in a Water Supply Protection District on a very level lot. He said that the Applicant is prepared to install a culvec infiltration system to take the roof runoff. He said that the Applicant would accept that as a condition.

Mr. Himmelberger said that the existing and proposed plots, photos, 500 Foot Rule, floor plans and elevation drawings, TLAG Affidavit, and waiver agreement were submitted.

The Board discussed imposing a condition to require an engineered drainage plan that is reviewed and approved by DPW. A Board member encouraged the project architect to revise the elevations drawings to be as detailed as the floor plans.

Mr. Himmelberger said that they are not seeking relief for the placement of any air conditioning condensers.

The Chairman said that the Engineering Department commented that the owner should be aware that the wood fence is shown on the outside of the property line on the east side of the lot.

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

#### Statement of Facts

The subject property is located at 71 Fairbanks Avenue, on a 13,991.7 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, with a minimum right side yard setback of 15.9 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required right side yard setbacks, and construction of a new two-story structure that will meet setback requirements, on a 13,991.7 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Civil Plan dated 1/23/25 and Existing Conditions Plan, dated 10/23/24, and Minimum Front Yard Depth Letter, dated 11/1/24, stamped by Christopher C Charlton, Professional Land Surveyor, #48649, Site Plan, Floor Plans and Elevation Drawings, dated 1/16/25, and TLAG Affidavit, dated 12/4/25, prepared by Sampson Architects, Property Card and photographs were submitted.

On January 24, 2025, the Historical Commission issued a Waiver Agreement for the Demolition Delay Bylaw.

On March 4, 2025, the Planning Board reviewed the petition and recommended that a special permit be approved.

Decision

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

The Board found that the Design and Operation Standards in Part F are adequately satisfied and not otherwise prohibited in Part D.1, of Section 3.8 of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition of an existing nonconforming structure with less than required right side yard setbacks, and construction of a new two-story structure that will meet setback requirements, on a 13,991.7 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet will not result in the intensification of existing nonconformities, will not result in additional nonconformities, and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure with less than required right side yard setbacks, and construction of a new two-story structure that will meet setback requirements, on a 13,991.7 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, subject to the following condition:

- A drainage plan that is stamped by an engineer shall be reviewed and approved by the Town's Department of Public Works.

The Building Inspector 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, this Special Permit shall expire two years after the date time stamped on this decision.

2025 MAR 20 PM 12:16

ZBA 2025-22  
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71 Fairbanks Avenue

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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.

Robert W. Levy (lrm)  
Robert W. Levy, Acting Chairman

David G. Sheffield (lrm)  
David G. Sheffield

Walter B. Adams (lrm)  
Walter B. Adams

ZBA                2025-22  
Applicant        71 Fairbanks Avenue LLC  
Address          71 Fairbanks Avenue

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.

Date:

Attest:

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

cc: Planning Board  
Inspector of Buildings  
lrm









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2025 MAR 20 PM 12:15

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71 Fairbanks Avenue

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CERTIFICATE OF TITLE 212439  
Property Address: 71 Fairbanks Avenue, Wellesley