

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ZBA 2003-26  
Petition of 13 Forest Street, LLC  
13 Forest Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 13, 2003 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of 13 FOREST STREET, LLC requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that the following alterations to the building at 13 FOREST STREET on a 20,643 square foot lot, in a Business A District, shall not be substantially more detrimental to the neighborhood than the existing structure and use:

1. Change of use from office space to residential space by conversion of the building to contain 5 condominiums, with related interior alteration and exterior changes including 5 new entrance/egress doors with adjoining access decks on the side and rear of the building, and a 16 foot by 10.5 foot enclosed egress stairway in the courtyard on the southern side of the building. Ten parking spaces shall be provided for tenant use.
2. Expansion of the existing nonconforming floor area ration from .54 to .56. The maximum floor area ratio allowed is .30.

On February 21, 2003, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Will Adams, representing 13 Forest Street, LLC. Mr. Adams was accompanied by David O'Sullivan, project architect and Paul Ayoub, project counsel of Nutter McLennan & Fish.

Prior to the presentation, for the record, Mr. Seegel stated that O'Sullivan Architects also represents other clients of his in other projects. He did not believe this was a conflict of interest, but wanted to disclose this information.

Mr. Adams said they propose to renovate the existing building containing 10,600 square feet of office space into five residential condominiums. There will be a small increase in the floor area ratio. The building is nonconforming in that it is 24.9 feet from Forest Street, 6.3 feet from Grant Avenue and 12.1 feet from the right side line. They will be reducing the existing impervious area covering 86% of the lot by 16%, by reducing the amount of parking and adding green space.

David O'Sullivan said the present site is mostly paved. The existing building has a large transformer and HVAC unit in the courtyard that will be removed. The number of parking spaces will be reduced

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resulting in removal of paving, and landscaping will be provided along the right side of the building to the property line.

The front steps will be roofed as will the side entrance. There will be three new steps down to a landscaped patio at grade. A two-story enclosed egress stair will be added on the Grant Avenue side, which will be common area. There will be two new side entrances from the on grade patios. The first floor will be about three feet above grade. All the outdoor space will be level at grade. None of the nonconforming setbacks will be increased.

The lowest floor of the building will become the lowest floor of three of the units. The first floor will contain the upper floor for these units. The second floor will contain two separate units. The first floor unit at the front utilizes the entrance from the courtyard; the middle unit utilizes a landing from the courtyard; and the unit at the rear also has a patio entrance.

Windows at the front of the building will be replaced. The courtyard on the left side will be fenced and gated. The HVAC units will be installed on the roof for the two second floor units. The other three will have individual units hidden in the bushes. The back of the building will be relatively unchanged.

There is a round catch basin on the left side of the site. Water will be channeled through the landscaped islands to this catch basin.

The Board asked where the termination point of the catch basin was located. Mr. O'Sullivan said they have not located any piping entering or exiting the catch basin. The Board requested submission of a letter from the project engineer describing the drainage path to and from the catch basin, and the final destination of storm water entering the catch basin.

The Board noted that on the Grant Avenue side, the walk stops before the walk leading to the building. Mr. O'Sullivan said the walk on the Grant Avenue side was not on their property, but on the right-of-way. The Board said that people would be walking through the parking lot in order to reach the building, and for safety reasons, would like the proposed walkway connected to the existing one on Grant Avenue.

The Board also noted the entrance to the proposed Unit C has a sloping roof above the entrance. Water from this roof enters the existing electrical room. Mr. O'Sullivan said they will place a gutter at that section of the roof to redirect the water.

The Board commented that the drainage will be improved with less impervious surface and more green space, and asked why the parking spaces in the rear have been reserved for Verizon. Considering the proximity of the abutting building, were the parking spaces replaced with green space, the rear portion of the lot would be significantly improved.

Mr. Adams said Verizon stated it needed the spaces to comply with a prior Zoning Board decision. They have signed a Parking Easement to Verizon as a condition of the purchase of the property for the four spaces.

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The Board stated this was not correct. New England Tel & Tel received a Special Permit many years ago for an expansion of its Laurel Avenue building. A condition of that permit was that 10 parking spaces were necessary for the expansion. The 10 parking spaces were leased from the owners of the Playhouse Square property. Verizon might have lost those spaces. They are not supposed to be parking any vehicles on Laurel Avenue, which is their current practice.

The Board stated that the 4 spaces in question are so far from the Laurel Avenue building that it is difficult to understand how Verizon could require them to satisfy the parking requirement. They do not appear to be within 600 feet of the Verizon property, as required by the Zoning Bylaw in order to apply for a Special Permit.

The Board expressed concern about the large paved area. The building is being converted to a residential use, but the parking would include an business use that is not permitted.

Mr. Adams asked that the Board not deny the Special Permit because of the parking situation. The Board asked if, in the event Verizon releases the petitioners from the easement, would they agree to making half of the space green space, while preserving half of the spaces for guest parking. Mr. Adams agreed to the condition.

The Board stated that a letter would be sent to Verizon stating that the use of the spaces, without the grant of a Special Permit by the Board, would be a violation of the Zoning Bylaw.

Anthony Topper, 32 Forest Street, asked to see the plans. After reviewing the plans, he said the project would be a great improvement over the current building.

#### Statement of Facts

The subject two-story 3,726 square foot building is located at 13 Forest Street, on a 20,643 square foot lot in a Business A District, bounded by a Business District to the north; Grant Avenue to the south; and a General Residence District at the rear. The existing nonconforming building has a minimum front setback of 24.9 feet from Forest Street; a minimum 6.3 foot front setback from Grant Avenue; and a minimum 12.1 foot setback from the right side property line. The property was previously owned by New England Tel & Tel (currently Verizon New England, Inc.), and used as office space. Twenty-one parking spaces ran along the northerly and westerly portions of the property.

The current owner, 13 Forest Street, LLC is requesting a Special Permit/Finding that the following alterations shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure:

1. Change of use from office space to residential space by the conversion of the building to contain five condominium units, with related interior alterations and exterior changes, including five new entrance/egress doors with adjoining access decks on the right side and rear of the building and a 16 foot by 10.5 foot enclosed egress stairway in the courtyard on the southern side of the building. Ten parking spaces shall be provided for tenant use. Ten spaces along the rear lot line are for Verizon use.

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2. Expansion of the existing nonconforming floor area ratio from .54 to .56, which will exceed the allowed maximum floor area of .30.

The following plans were submitted:

1. Plan of Land showing Existing Conditions, dated January 22, 2003, stamped by Peter M. Blaisdell, Jr., Registered Professional Engineer
2. Plan of Land showing Proposed Construction, dated January 22, 2003, stamped by Peter M. Blaisdell, Jr., Registered Professional Engineer
3. Plan of Land showing Proposed Landscaping, dated January 22, 2003, prepared by Hayes Engineering, Inc.
4. Existing Floor Plans (E-1-E-3) dated 1/29/03, prepared by O'Sullivan Architects
5. Proposed Floor Plans and Elevations (A1-A-7) dated 1/29/03, stamped by David H. O'Sullivan, Registered Architect.
6. Photographs were also submitted.

On March 11, 2003, the Planning Board reviewed the petition and had no objection to granting the request.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

This Authority makes the following findings:

1. The change of use of the structure from office space to residential space is in harmony with the general intent and purpose of the Zoning Bylaw, and will result in an improvement to the neighborhood.
2. The proposed exterior alterations and construction shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as the improvement shall neither intensify the existing nonconformance, nor create new nonconformity in regard to the footprint of the structure.
3. The increase in the nonconforming floor area ratio from .54 to .56 is de minimus and can be allowed without detriment to the neighborhood or derogating from the intent and purpose of the Zoning Bylaw.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the project as described in accordance with the submitted "Site Plan showing Proposed Construction" and the construction drawings A1-A7, subject to the following conditions:

1. Prior to the issuance of a building permit, the project engineer shall submit a letter to the office of the Board of Appeals describing the drainage path and final destination of storm water entering the existing catch basin.
2. The walkway along Grant Avenue shall be connected to the interior walkway in the rear tenant parking area.

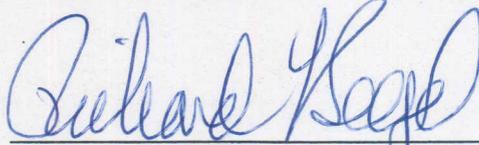
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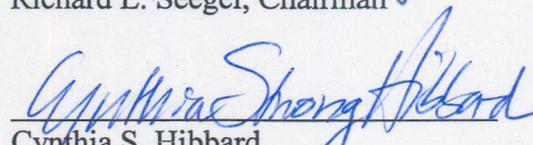
3. With respect to the parking spaces on which Verizon has an easement, if, at any future time, Verizon surrenders any or all of said spaces, at least fifty (50) percent of the released paved area shall be converted to green space.

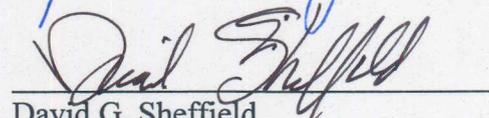
Subsequent to compliance with Condition 1, the Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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.

Cc: Planning Board  
Inspector of Buildings  
edg

  
Richard L. Seegel, Chairman

  
Cynthia S. Hibbard

  
David G. Sheffield

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# PLAN OF LAND IN WELLESLEY, MASS.

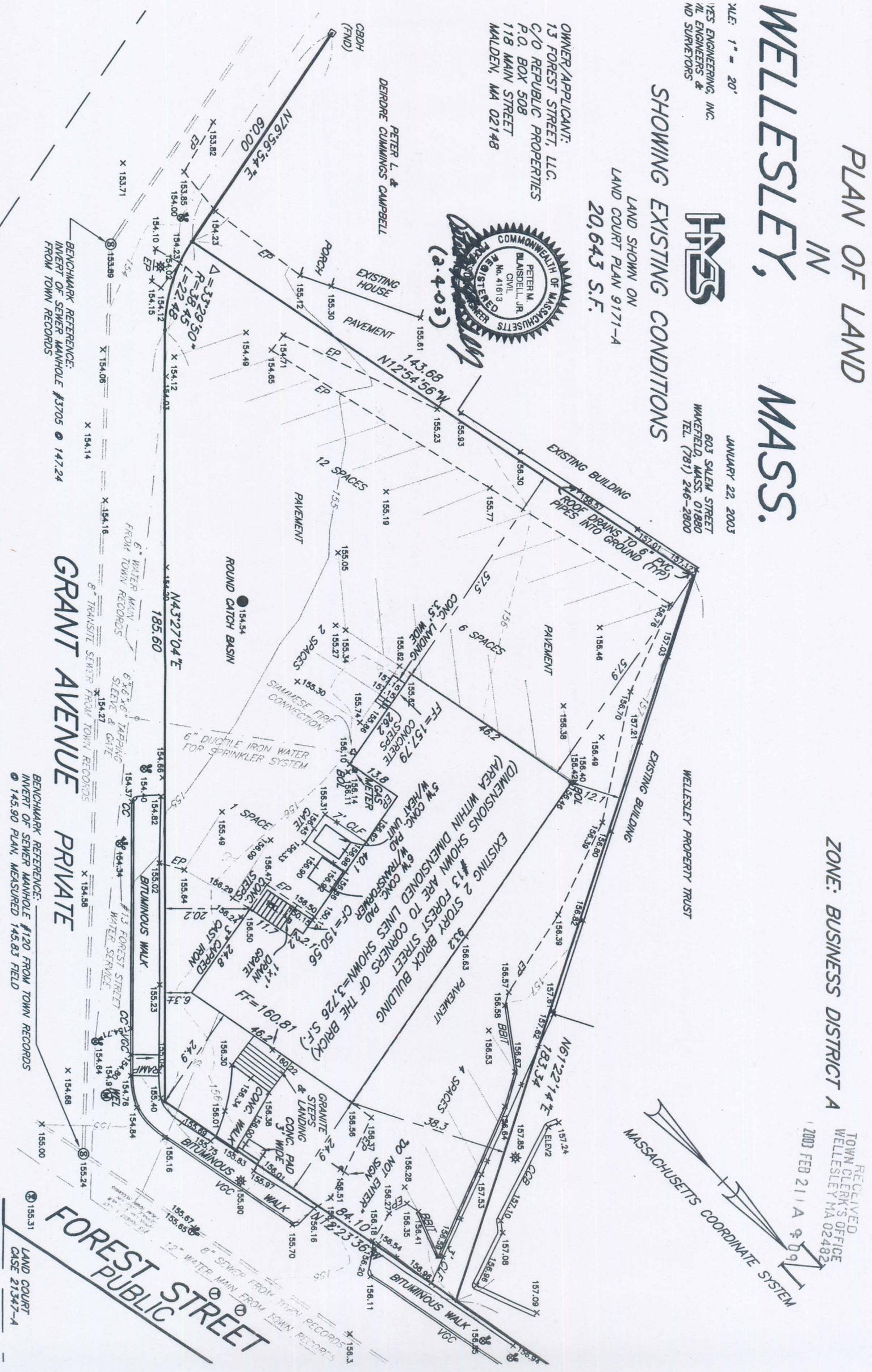
ZONE: BUSINESS DISTRICT A

SCALE: 1" = 20'  
 HES ENGINEERING, INC.  
 603 SALEM STREET  
 WAKEFIELD, MASS. 01880  
 TEL. (781) 246-2800  
 JANUARY 22, 2003

WELLESLEY PROPERTY TRUST

SHOWING EXISTING CONDITIONS  
 LAND SHOWN ON  
 LAND COURT PLAN 9171-A  
 20,643 S.F.

OWNER/APPLICANT:  
 13 FOREST STREET, LLC.  
 C/O REPUBLIC PROPERTIES  
 P.O. BOX 508  
 118 MAIN STREET  
 MALDEN, MA 02148



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