

**ZONING BOARD OF APPEALS**

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web: [www.wellesleyma.gov](http://www.wellesleyma.gov)J. RANDOLPH BECKER, VICE CHAIRMAN  
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ZBA 2009-13  
Petition of Helbert Realty Trust  
153 Brook Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 5, 2009 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of HELBERT REALTY TRUST requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing 1,120 square foot structure and construction of a 2,703 square foot structure that will meet all Zoning requirements, on a 15,376 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 153 BROOK STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 17, 2009 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 Laurence Shind, Esq., who said that he was representing Helbert Realty Trust (the "Petitioner"). He said that present with him were Deborah Corliss Hollinger and Rick Oliss, principals of the trust and Ardi Rrapi, Engineer.

Mr. Shind said that Ms. Hollinger and Mr. Oliss have partnered in other renovation and new residential construction projects in Wellesley. He said that they most recently renovated a house at 18 Heckle Street.

Mr. Shind said that the current request is for a Special Permit/Finding for demolition of the existing structure and construction of a new home at 153 Brook Street. He said that the proposed structure will meet all Zoning dimensional requirements. He said that the lot is undersized for the district. He said that the existing house was built in 1940 with approximately 1280 square feet of living area. He said that the size, condition and layout of the house make it economically unfeasible to renovate or expand it.

Mr. Shind said that the proposed house will contain approximately 3200 square feet of living area on the first and second floors. He said that the total square footage of the house calculated under the provisions for Large House Review, including the walkout basement, would be 4300 square feet, which is below the 5900 square foot threshold for the district.

Mr. Shind said that the applicant had been before the Board with a prior proposal that was ultimately withdrawn without prejudice. He said that the applicant made a number of changes to the plans to address concerns that were expressed at the previous hearing by a number of neighbors.

Mr. Shind said that, based on discussions with the Building Inspector, the applicant came up with a preliminary plan with the hope of renovating and expanding the residence. He said that the plan would have followed the Building Department's long-standing rule that a Building Permit could issue as long as not more than 50 percent of the existing structure was removed. The applicant went ahead and removed some trees from the lot in anticipation of the renovation and expansion work. The applicant was not aware that a Building Permit should have been obtained prior to doing that work.

Mr. Shind said that the applicant is proposing to plant 20 new trees.

Mr. Shind said that, based on the recent Bjorklund case, which requires any substantial renovation to come before the Board, it was decided that it would not be economically feasible to renovate the existing house. He said that they have tried to site the proposed house so that it will be considerate of the neighbors' concerns. He said that it will be consistent with prevailing designs of existing homes in the neighborhood. He said that the applicant has discussed the new plans with the neighbors. The applicant met with a number of neighbors at the property. He said that the Board received a letter from the abutter at 3 Fuller Brook Road, which is the property to the left.

Mr. Shind said that the second floor bedroom has been relocated over the garage, in response to concerns about the height of the proposed structure. He said that the total height and bulk has been reduced. He said that the average height will be 27.8 feet.

Mr. Shind said that there are now three pre-cast concrete drywells proposed to address drainage issues that had been brought up at the previous hearing.

The Board said that the footprint of the proposed house is 2703 square feet. The prior proposal was for a footprint of 2577 square feet. Rick Oliss said that it is basically the same design. He said that the living room and the dining room were expanded by one foot. He said that there is an overall increase from East to West of two feet.

The Board asked about the proposed retaining walls. Mr. Rrapi said that the walls will follow the contours. He said that they will be four feet or less. Mr. Oliss said that it could be a stone wall on the exterior.

The Board said that on the elevation under the master suite there are no windows shown. Mr. Oliss said that he could add two single windows there. The Board said that the windows at the back could affect the scale of the building for the abutters.

The Board said that there is a house on Abbott Road that has so many windows that it lights up the neighborhood. The Board said that the rear elevation of the proposed structure is similar. Mr. Oliss said that the triple window in the family room is a focal point. He said that he would like to keep the triple window in the room below it, which will probably be used as a recreation room.

Mr. Oliss said that he could put a double window on the rear elevation in the master suite as well as in the room below it., which will probably be used as an exercise room.

Mr. Oliss said that there will be gun turret windows in the master suite on the left side, which would allow for a bed underneath. The Board said that it may be necessary to do a furniture layout to determine the window layout.

The Board said that consideration should be given to scale and impact to the neighborhood.

Mr. Oliss said that there will not be any windows in the vestibule on the side facing Brook Street. He said that the design is similar to the house that they did on Heckle Street.

The Board asked about the pair of doors shown on the right side elevation. Mr. Oliss said that is a zero clearance fireplace. He said that it will be clapboard on the outside.

Mr. Oliss said that the air conditioning system will be housed in the enclosed area or along the master suite area. He said that the units will not be under the deck.

Mr. Oliss said that there will be a two-car garage.

The Board said that it would need to see the calculations for average height from grade. The Board said that the height to the ridge is shown on Page 2 of the drawings as 27.8 feet and as 28.8 feet on Page 1 of the plans. Mr. Oliss said that the height is from the ground to the roof at the rear of the house is 36 feet.

Mr. Oliss said that there will be an eight foot finished ceiling on the first floor and a seven foot six inch ceiling on the second floor.

The Board said that the plans were labeled incorrectly.

The Board asked about the site plan and the landscaping. Mr. Oliss said that the 18 trees shown on the plan were placed there after discussions with the neighbors. He said that it was decided that the neighbors will decide the location of the trees.

The Board asked about the size of the proposed trees, the caliper at three feet off of the ground and the type of evergreen that would be planted. Ms. Hollinger said that they will be planting White Pine. The Board said that White Pine does not provide screening because the foliage is up at the top. The Board asked if any Hemlocks will be planted. Ms. Hollinger said that the neighbors specifically asked that no Hemlocks be planted. She said that the trees that were taken down were primarily Cedars and a White Pine that were very scrubby. The Board said that Colorado Blue Spruce has foliage all the way down to the bottom and provides better screening. The Board confirmed that the applicant will continue dialog with the neighbors with respect to the tree replacement.

Priscilla Hanks, 6 Wildon Road, said that she is the abutter at the back. She said that her first concern is the blaze of lights. She said that the whole back of the house will be lighted. She said that the property hovers over hers as the elevation is higher.

Ms. Hanks asked about the height of the structure at the rear. The Board said that it will be 24.5 feet at the corner to the top of the peak over the windows.

Ms. Hanks said that she was not considered an abutter when the Board discussed placement of the air conditioning units.

Ms. Hanks said that she was not aware of any conversation as to the type of trees that will be planted. She said that she looked at the plans that are on file and there is no indication of what type of trees will be planted. She said that she would prefer an evergreen that has foliage low to the ground, such as a Blue Spruce. She said that perhaps a few maples could be planted.

Gertrude Dobday, 12 Wildon Road, said that Mrs. Hanks will be more affected by the project than anyone else in the neighborhood. She said that at the last meeting the Board asked the applicant to come back with a new design. She said that the neighborhood is concerned with the back of the house. She said that will affect several houses. She said that the back of the house will be a long bank of windows. She said that she supports Mrs. Hanks.

Kathryn Venne, 7 Fuller Brook Road, said that she is an abutter. She said that she has met with the builders and feel that they have made some progress. She said that the trees continue to be a problem. She said that out of the 18 proposed trees, only six will affect her. She said with the trees removed she can now see the cars coming down Brook Street. She said that there will also be a cutout on the driveway where she does not want to have to look at parked cars. She said that more trees are needed. She said that it will be a big house. She said that the house that was on the lot was probably the appropriate size.

Ms. Venne said that Mr. Oliss and Ms. Hollinger have done a good job at meeting with the neighbors. She said that having five abutters is a lot. She said that so many people will be affected. She said that the property is also on a hill.

The Board said that the number of windows at the back will be reduced and windows will be added to the side. He said that the air conditioning units will have to be placed outside of the setback area, 30 feet from the front and 20 feet from the sides.

The Board asked if the air conditioning units could be placed in the space between the front door and the garage and screened.

Maria Marmarinos, 2 Wildon Road, said that she is an abutter. She said that she met with Ms. Hollinger and the realtor. She said that the people who attended the meeting got a good sense of the project. She said that her concerns have been addressed.

Ms. Marmarinos said that the orientation of the stairs is not shown on the plans. She said that after discussion with the applicant she was told that they were amenable to change the orientation to address Ms. Marmarinos concerns. She said that there should be an ongoing dialog between the applicant and the neighbors. She said that the property is currently unsightly. She said that the neighbors would like to see an appropriate home built that is shielded with vegetation. She said that she would prefer that there be specimen trees among the new plantings.

The Board said that the two areas of concern among the neighbors appear to be the plantings and placement of the air conditioning units.

The Board asked if the neighbors could reach a written agreement on the issue of the trees within 30 days. Ms. Marmarinos said that with the amount of snow on the ground that could be difficult. The Board said that the suggestion of 18 trees is a little sparse.

The Board said that it could insert a condition that no Building Permit will issue until there is an agreement on the number, species and size of trees to be planted. The Board said that there could be a condition that there no Occupancy Permit be issued until the landscaping has been completed and the neighbors have signed off on it.

Ms. Venne said that she has heard of plantings going in and then subsequent buyers taking all of it back out because they didn't like it. The Board said that would be a violation of the Special Permit. The Board said that the condition will not include the foundation plantings but only the major plantings that serve as a buffer to the other houses.

Ms. Dobday asked about the square footage of the house. Mr. Oliss said that there are two different ways of looking at a home. He said that if you are a realtor you look at the marketable space. He said that if you count the TLAG, the applicant will be charged for 4300 square feet. He said that they will be charged for approximately 1057 square feet of basement space. He said that there will be 3200 square feet of living space on the first and second floor.

The Board said that a condition will be that new drawings be submitted showing fewer windows at the rear and reconfiguration of the stairs.

Mr. Oliss asked for confirmation that there will be two single windows on the top and bottom on the left elevation of the rear portion of the proposed house. The Board asked that the size of the proposed windows be submitted. Mr. Oliss said that the gun turret windows on the left elevation of the rear portion of the proposed house for the master suite would be retained. He said that he would like to add two single windows on the left elevation for the room below the master suite. The Board said that the windows below should be work dimensionally with the gun turret windows.

Mr. Oliss said that there will not be a finished attic. He said that the windows shown on the plan are on the second floor.

The Board asked if there would be room under the stairs for the air conditioning units. Mr. Oliss said that there is room there for them. The Board said that if the units are put under the stairway there is only one way that the sound can go and that is to the left. The house could be insulated against the sound. The Board said that the location of the air conditioning units must be decided before the Building Permit is issued. The Board said that it would issue a condition that both units be located under the stairway from the deck. Mr. Oliss said that the units will be screened. The Board said that the air conditioning units should operate at less than the night time noise levels. The Board said that sound absorbing materials could be added.

Ms. Hanks said that she was not convinced that air conditioning units under the stairs would not affect her backyard and back windows. The Board said that there will be approximately 50 to 60 feet from the air conditioning units to Ms. Hanks' property line. The noise will be directed towards the house at 153 Brook Street. Ms. Hanks asked if a requirement can be that the units be insulated. The Board said that because the units will be up against the house, the occupants of the house will want to have some sort of insulation. Ms. Hanks will get the benefit of that.

#### Statement of Facts

The subject property is located at 153 Brook Street, on a 15,376 square foot lot in a district in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing 1,120 square foot structure and construction of a 2,703 square foot structure that will meet all Zoning requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 2/10/09, stamped by Elliot J. Paturzo, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 2/8/09, prepared by L. Hasselbeck Design, and photographs were submitted.

#### 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.

It is the finding of this Authority that demolition of an existing 1,120 square foot structure and construction of a 2,703 square foot structure that will meet all Zoning requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing 1,120 square foot structure and construction of a 2,703 square foot structure, subject to the following conditions:

1. Elevation drawings shall be submitted showing that two windows have been removed from the rear elevation at the master suite and the room below.
2. Two windows have been added to the space below the master suite on the left side elevation.
3. The stairs shall be reconfigured so that they are oriented East to West on the Northeast side of the house that faces Fuller Brook Road.
4. The Occupancy Permit shall not issue until a documented agreement with the neighbors as to the screening plantings with regard to the size, species and number of trees placed as a buffer and screening from the immediate abutters on all sides has been submitted.
5. There shall be a written agreement with the abutters as to placement of the air conditioning units prior to issuance of a Building Permit.

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.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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.

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Richard L. Seegel, Chairman

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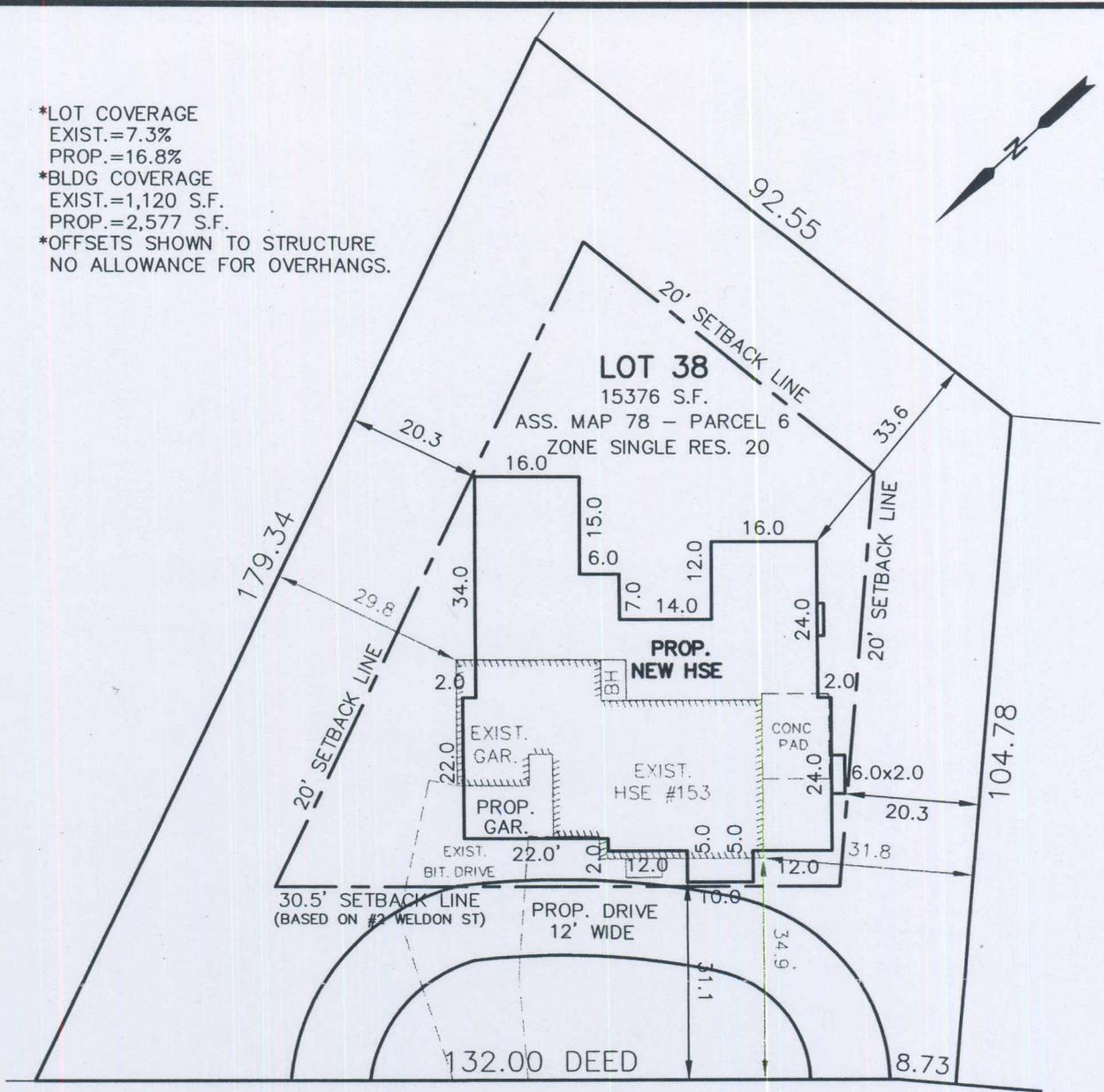
Cynthia S. Hibbard

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David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
lrm

\*LOT COVERAGE  
 EXIST.=7.3%  
 PROP.=16.8%  
 \*BLDG COVERAGE  
 EXIST.=1,120 S.F.  
 PROP.=2,577 S.F.  
 \*OFFSETS SHOWN TO STRUCTURE  
 NO ALLOWANCE FOR OVERHANGS.



BROOK

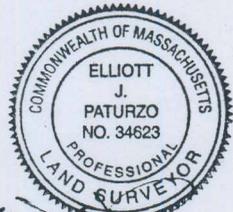
STREET

**PLOT PLAN  
 OF  
 PROPOSED NEW RESIDENCE  
 #153 BROOK ST.  
 IN**

**WELLESLEY, MASS.**

SCALE: 1IN=20FT  
 OCT. 10, 2008

CHENEY ENG. CO., INC.  
 DOVER, MASS.



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