

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2000-74

Petition of Town of Wellesley/Permanent Building Committee/School Committee
Katherine Lee Bates Elementary School
116 Elmwood Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 21, 2000 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of TOWN OF WELLESLEY/PERMANENT BUILDING COMMITTEE/SCHOOL COMMITTEE requesting Site Plan Approval pursuant to the provisions of Section XVIA, Section XIV-E, and Section XXV of the Zoning Bylaw for the construction of three one-story additions totaling 14,545 square feet of new footprint and floor area to contain 3 classrooms, (replacing the 4 existing modular classrooms), one kindergarten classroom, cafeteria, music room and support services, with a total of 82 parking spaces at the KATHERINE LEE BATES ELEMENTARY SCHOOL on a 399,860 square foot lot at 116 ELMWOOD ROAD, in a Single Residence District and a Water Supply Protection District.

HISTORY

On May 16, 2000, the Planning Board issued a Special Permit for a Project of Significant Impact (PSI 99-5) for this project.

On June 5, 2000, the Bates Neighborhood Association simultaneously filed an appeal to the Special Permit in the office of the Town Clerk and in Norfolk Superior Court.

On August 3, 2000, the Board of Appeals held a Public Meeting to decide and vote on whether or not to hear the petition of the Permanent Building Committee/School Committee for Site Plan Approval for the Bates School project as an appeal of the Special Permit for a Project of Significant Impact issued by the Planning Board was pending in Norfolk Superior Court. In the past, the Board of Appeals has viewed the bylaw process as best interpreted by requiring that any PSI matters be totally resolved before application for Site Plan Approval is made.

At the meeting, Town Counsel advised that if the Board should agree to hear the petition, it could do so with the proviso that approval would include a condition that the approval was based on and incorporated the Special Permit issued by the Planning Board. If, as a result of the court appeal, changes are made in the Special Permit, then the Board would be able to reconsider its decision and conditions. The Permanent Building Committee would be proceeding at risk in this situation.

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Mr. Robinson added that the neighborhood has agreed to hold the court case in abeyance if the Board of Appeals will hear the petition.

The Board expressed concern that the hearing of the petition under appeal in Superior Court would set an unfortunate precedent which could be used by the Town and private entities in the future. Mr. Robinson stated that by including in the record of the Site Plan Approval hearings that the appellant neighborhood association has assented to the hearing of the petition by the Board of Appeals; and with the conditions that the PBC recognizes and accepts the risk that it might have to return for a second Site Plan Approval, should any conditions in the PSI decision change, and that the Site Plan Approval is based on and incorporates the Special Permit issued by the Planning Board, the Board of Appeals has protected itself, as it would not have accepted the petition had all three conditions not been in place.

The Board voted unanimously to hear the aforesaid petition under the stated conditions.

On August 25, 2000, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Public Hearing – September 21, 2000

Presenting the case at the hearing was Michael Eby, Chairman of the Permanent Building Committee, who was accompanied by Pip Lewis, project architect from HMFH; Randy Sorenson, Project Landscape Architect from Carol Johnson Associates; Sandra Brock of Judith Nitsch Engineering; and Guy Busa, Traffic Consultant from Howard Stein Hudson.

Mr. Eby said that the project involved a proposed addition of approximately 14,525 square feet to the Bates School. The additions will be built in three areas: at the rear will be classrooms; to the side will be renovations; and at the front will be the cafeteria and music room, with alterations to the existing parking lot. When the additions are completed, there will be 396 students, which will be less than the present enrollment.

As part of the project, the existing 4 modular classrooms will be removed and that area reclaimed as a play area, a parking area, and space for overflow parking. The front of the building will be reconfigured in regard to the turnaround area, a bus lane will be added and the parking lot will be modified. The front of the building will have a new covered entrance between the cafeteria and the gymnasium.

Mr. Lewis said the school was built in 1952. The project includes building renovations as well as construction of three additions. Three new classrooms will be added to replace the four modular classrooms, reducing the number of classrooms from 19 to 18. The second addition will be for kindergarten space. The existing kindergarten room will be renovated for support space. The third addition will house a cafeteria, a warming kitchen and a music classroom. All the additions will be one story. The building will be upgraded in terms of mechanical systems, will be fully sprinklered, with new windows. The modulators will remain during the first phase of construction and then removed. The space will be used for a play area, parking lot and additional overflow parking.

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Using enlargements of the site plan, Randy Sorenson showed that parking for 82 vehicles plus 4 handicap spaces and one van space would be located on the side and rear of the building. Overflow parking in the play area could be utilized after school hours. Approaching east on Elmwood Road, there is a turnaround area providing space for an 8 car drop-off/pick-up area. There is a separate bus drop-off/pick-up zone, which could be used by queuing parents.

Mr. Lewis stated that he has received the comments from the various Town departments and submitted HMFH responses to the comments together with the requested drawings. Sandra Brock, project engineer, responded to the DPW comments.

The Board stated that no decision would be rendered until all documentation had been submitted and reviewed. The Board further noted the absence of permanent benchmarks on the plans.

The Board asked why the chain link fence must be 8 feet high. Mr. Lewis said they are recommending the height be increased to 18 feet to protect cars parked along the fence from damage due to the proximity of the softball field.

Mr. Lewis explained there is an outstanding issue with the Water & Sewer Department regarding the sump pumps. The two sump pumps in the building have to drain into the Town sanitary system because the drainage contains contaminants. There will be an additional pump in the areaway outside the building which will collect clean rain water, and will be connected to the stormwater drainage system. The stormwater will be contained in underground pipes below the parking area and will be let out at a measured pace into the wetlands and then into Boulder Brook.

Mr. Lewis said the Health Department had asked for a plan in the event contaminated soils were encountered in the area in which the underground storage tank has been removed. If this occurs, the contractor will follow DEP regulations and McPhail Associates will oversee the soil removal. A vapor barrier will be located beneath the slabs of all three additions.

Mr. Lewis said the Health Department also had concerns about the location of the dumpster beneath a classroom window. The Board asked if it could be relocated. Mr. Lewis said it could be relocated to the rear of the building.

The Board asked about the extent of the proposed blasting and pile driving. Mr. Lewis said there will be a handicap path installed from the upper to the lower play area, which may require some blasting. If blasting is necessary, a blasting plan will be filed with the Fire Department and a neighborhood survey and notification will be done by the contractor. The soils beneath the foundation area for the new additions are not good, and piles will be driven into the ground to a depth of firm soil to support the foundations.

The Board asked if additional fill would be used. Mr. Lewis said that fill will be removed for the new excavation and replaced. The Board requested that documentation be provided if any new fill was used that the fill was clean.

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The Board asked how far below the surface the underground detention system would be placed. Ms. Brock said the 36 inch pipes would be at elevation 159.5, 18 inches below the surface. The pipes are to hold the peak flow and would not be adding to the peak flow or creating additional impervious surface. The pipes could be cleaned by jet flow delivered from the manholes. Most of the sediment will be caught in the catch basins. The Board recommended that the pipes should be inspected in regard to sediment collection on a definite maintenance plan.

Ms. Brock explained the design of the stormceptor system for the removal of contaminants.

The Board commented that the Zoning Bylaw requires that the finished grade be at least 5 feet above the water table. Mr. Lewis said that although the existing basement is noncompliant, all the new grading is compliant.

The Board suggested that low sodium vapor lamps be used in all the light poles.

The Board asked about storage of materials on site. Mr. Lewis said excavated soils would be briefly stored on site before being replaced. An erosion control plan is in place. The building materials will be covered and placed on pallets.

The Board asked if there was a traffic management plan for the construction vehicles. Mr. Eby said there was not. Mr. Lewis said that construction would be ongoing throughout the school year. Teacher parking will be relocated during the construction period to provide space for parking construction vehicles. There is no plan for the parking of construction worker vehicles. The Board said that the decision would contain a condition that no parking of any construction vehicles would be allowed on Elmwood Road and requested that a traffic management plan be developed.

Guy Busa, traffic consultant, explained the parameters of the Traffic Report done for the PSI submission. The only intersections meeting the PSI criteria were the school drive and the Linwood/Elmwood Road intersection, which was at a Level of Service A and would remain so. Although the Weston/Elmwood Road intersection did not meet the PSI criteria, recommendations were made to improve the intersection and the site distance.

Mr. Busa said that in the morning, drop-off is not a problem because it is phased. However, in the afternoon, all children are picked up at the same time. There are 22 spaces for visitor parking in the lot and 34 spaces on Elmwood Road for queuing. This queuing often extends onto Westgate Road. In the future, there will be 82 spaces in the parking lot, of which 46 will be taken by permanent staff, and the remainder available for visitors. Teachers will park in the lower lot. The overflow lot will not be available for use during school hours.

The bus loop has been separated from the regular loop to allow it to be used for live queuing. The busses will be delayed by about 10 minutes to allow the bus area to be used for live queuing which will add 7 spaces. They anticipate there will be fewer cars queuing in the future because there will be fewer students.

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The Board expressed the opinion that the queuing situation is unacceptable, and asked what consideration had been given to widening Elmwood Road to provide queuing off the main roadway. Mr. Lewis said that several proposals had been made to the PBC regarding queuing. The PBC concluded that they would rather live with the queuing for 30 minutes a day and follow the proposed system than pave the whole front of the school. All the plans were presented to the neighbors who also preferred the PBC plan. The Board was of the opinion that this was the time to address the problem and wanted to see more of a solution to the traffic problem than what is being presented. Creation of another lane on Elmwood Road would result in a reduction of the queuing problem.

Mr. Eby said that while running three lanes down Elmwood Road sounds like a wonderful idea, there are safety problems, green space problems, buffer zones with the neighbors and utilization of the site by the school. The PBC decided that this is a 20-30 minute phenomenon in the afternoon. The proposed plan preserves the frontage, maintains the kindergarten play area and leaves green space.

The Board asked about the parking situation when the school had an evening function. Mr. Lewis said that in the evening, the overflow lot can be used, which results in a total of 114 spaces on site.

Amber Bock, Principal of the Bates School, presented a book of photos and information entitled "Bates Traffic Update – November, 1999" to each Board member. Ms. Bock said that there is traffic, which begins to appear about 2:45 p.m., is gone by 3:15 p.m. The arrival of the busses has been delayed by 10 minutes to allow use of the bus loop for queuing. She supported the proposed traffic plan.

The Board asked if, during the two critical periods, the speed limit was 20 mph on the upper end of Elmwood Road. Mr. Busa said it should be 20 mph from Linwood Road to Westgate Road.

The Board asked if the future occupancy figure is based on the use of the Sprague School. It appears that the occupancy at Bates will be over 400 students until the Sprague School opens. Mr. Lewis agreed.

Laura Whitley, School Committee Chairman, spoke in support of the project. She said the original plan for 6 new classrooms was reduced to 3 in response to neighbor concerns.

Arthur Kreiger, counsel for the Bates Neighborhood Association, said that the issues are the town's obligation to comply with the Zoning Bylaw, and the site itself. The neighbors' position is that the school expansion is being shoehorned into the site, and the expansion is not in compliance with the Zoning Bylaw.

Eight of the neighbors spoke in opposition to the project, citing general safety, traffic during the week and on weekends, seismic conditions, site distances, and specific traffic problems impacting their own properties.

George Bezkorovainy, neighborhood traffic consultant, was of the opinion that the expansion should not be allowed due to insufficient parking and traffic issues.

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Mr. Kreiger concluded that the proper comparison should be between the pre-modular condition in 1996 and the proposed condition, rather than between the existing and proposed conditions. He explained his position that the line between Kelly Field and the parking lot constitutes a lot line from which a five foot buffer zone is required between the lot line and the parking lot. The project is noncompliant in this regard, and may be noncompliant in meeting the required percentage of landscaped open space and interior landscaping for the parking area.

The Board voted unanimously to continue the Public Hearing to November 2, 2000.

Public Hearing – November 2, 2000

Michael Eby, Chairman of the Permanent Building Committee, outlined the sequence of the presentation and addressed the issues raised by members of the Bates Neighborhood Association, some of which were answered by Town Counsel in his letters of September 21st and November 2nd to the Board of Appeals.

Mr. Eby said the additions are designed to meet the earthquake standards of the State Building Code. The project also meets the staff and visitor parking requirements of the school.

The project meets the side yard requirements of the Zoning Bylaw, as addressed in Mr. Robinson's letter of September 21st, which supports the PBC position that the school property and Kelly Field, although under different Town Board jurisdictions, are to be treated as one lot.

The central issue appears to be the queuing which is well managed, efficient and safe and lasts for 30 minutes at most in the afternoon.

Terrence Cunningham, Chief of Police, supported Mr. Eby's position. In his opinion, the Bates School is a model for handling the queuing situation. On his visits, he did not see any problems relating to safety conditions or blocked driveways or hydrants.

The Board asked if the Police Department had sufficient manpower to have an officer at Linwood/Elmwood Roads for the half hour after school dismissal on a daily basis. Chief Cunningham said it would be virtually impossible to designate one officer for daily duty as officers have to replace crossing guards who are unavailable.

The Board questioned the eastbound traffic pattern on Elmwood Road and expressed concern about the safety of crossing situation. Chief Cunningham said that not all traffic is school related. Vehicles travel eastbound to access Westgate Road. He does not have enough crossing guards to post one at the crosswalk on a daily basis. Signage regarding the use of Elmwood Road during the dismissal period would be a decision of the Board of Selectmen.

Mr. Lewis addressed all of the comments in Doug Stewart's letter of September 15, 2000. In response to the request of the Health Department, the dumpster has been moved from the side to the rear of the building. He then reviewed the difference between pre-and post-construction parking conditions.

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Mr. Lewis distributed a Construction Parking Plan to the Board members. During construction, a portion of the loop road at the entry will be used for temporary parking for staff. The site will be divided into ribbons of land on the east and west sides of the building for use by the contractor. Space around each proposed addition and a long stream of space at the rear has been allocated for parking of 36-40 contractor employee vehicles. If additional space is required, the contractor is responsible for renting off site space and bussing workers to the site. Construction access will be on the west side of the school through the main entry. Recess will be in the courtyard. There will be 22 spaces on site reserved for staff.

The loop road will be left open for drop-off and pick-up. The Natural Resources Commission has allowed use of the gravelled area at the end of Kelly Field for parking of 12 staff cars. Ten spaces have been allocated at the Upham School lot. Three spaces have been donated by neighborhood residents. Visitors will park on neighboring streets.

Mr. Lewis distributed a landscaping plan with statistics to the Board. The Zoning Bylaw requires that 10% of the parking area, or 3,087 square feet, must be landscaped, and 5% of that figure, or 1,543 square feet, must be within the parking lot. The square footage of the landscaped islands and peninsulas encroaching into the parking area total 2,798 square feet, which more than meets the 5% requirement. The parking area totals 38,000 square feet, including the overflow area. The landscaped areas along the perimeter of the parking lot, the area in front of the building, the landscaped buffer along the building and the wetlands area at the rear more than meet the 10% requirement.

The Board asked if the disagreement with the Water & Sewer Department regarding the sump pump had been resolved. Mr. Lewis explained the problem again and said they were still working on resolution.

Guy Busa reviewed the traffic information presented at the prior hearing. He listed the thirteen recommended improvements which are incorporated in the Special Permit for the PSI issued by the Planning Board, including the posting of a crossing guard at Weston/Elmwood Roads in the morning and afternoon dismissal period.

In designing the site plan, they have gone from 66 spaces and 8 spaces in the bus loop to 82 permanent parking spaces with 7 spaces in the bus loop and 7 spaces in the bus turnaround for a total of 96 spaces. There will be an increase of between 13-15 pick-up spaces.

Amber Bock explained the traffic management plan currently in place. The Board expressed concern about the lack of safety officers, particularly at the crosswalk. Ms. Bock suggested setting out cones, shifting the crosswalk to an area between the two entrances and shifting the location of teacher monitors. She also suggested that the busses could be on permanent delay for arrival or arrival before dismissal in which case the queue would begin behind the busses.

Susan Newman, School Committee Member, spoke in support of the petition.

The Board asked if the School Committee could commit to providing a safety officer at Bates during the dismissal period.

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Laura Whitley, Chairman of the School Committee, said the crossing guards are under the jurisdiction of the Police Department and the Board of Selectmen. It is not a funding problem, but a manpower problem. The Board reiterated its position on having a permanent crossing person at the school during the dismissal period.

Mrs. Whitley said that although the neighborhood group involved in the law suit refer to themselves as the "Bates Neighborhood", this is not accurate as there are a large number of neighbors who support the project. Fifty-three neighbors who support the project identified themselves and their addresses.

Virginia Furco, 68 Martin Road, stated that if the parents felt their children were not safe, they would be complaining. The lack of complaints about safety indicates that parents are comfortable with the plan.

Anna Sereiko, 9 Wedgewood Road, spoke in support of the petition. She gave a slide presentation showing the interior condition of the school.

Steve Harris, 19 Elmwood Road, also spoke in favor of the project.

Arthur Kreiger, counsel for the Bates Neighborhood Association, reasserted his position that the project is not in compliance with the Zoning Bylaw, and stated that the Board could deny site plan approval for a project if it does not comply with the bylaw, or it presents intractable problems which admit to no reasonable solution. In his opinion, both circumstances are present.

Mr. Kreiger went on the address the Dover Amendment, parking in a residential district, the lot line issue, the landscaping percentages, and protection of the neighborhood from the traffic impact.

Brian Barron, Swarthmore Road, spoke in opposition to the project on the grounds of noncompliance with the Zoning Bylaw.

Al Robinson, Town Counsel, advised the Board that, in regard to parking in a Single Residence District, the table in Section XXIIA of the Zoning Bylaw does not have parking requirements for residential districts. In regard to Site Plan Approval, there is not a reported case in which Site Plan Approval has ever been denied. In regard to the Dover Amendment, educational uses are protected, and it is illegal for a town to unreasonably regulate an educational use, or to regulate for the purpose of limiting growth of an educational use.

The Board stated that Section II A 3 (g) of the Zoning Bylaw stated that when educational purposes are being utilized in a Single Residence District, "sufficient" off street parking is required, and questioned Mr. Robinson as to whether "sufficient" was a subjective judgment.

Mr. Robinson agreed that it was. If off street parking requirements apply, the parking must be designed to meet the impact of traffic for a 30 minute period every school day afternoon. Furthermore, even if some regulatory aspect were to apply, the Board must decide if the application would be "unreasonable", in that it would limit the growth of the educational use.

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Maura O'Brien, member of the Board of Selectmen, assured the Board of the Selectmen's commitment to the safety issues around the site now and in the future. If the Board requires additional safety personnel at the site as a condition of site plan approval, the Board of Selectmen will comply.

The Board voted unanimously to close the evidentiary portion of the hearing and discussed conditions to be imposed regarding parking of construction vehicles, submission of an On Site Safety Management Plan, the presence of a crossing guard, the relocation of the crosswalk, the widening of Elmwood Road, resolution of all water and drainage issues with the Department of Public Works and other conditions deemed necessary.

The Board voted unanimously to grant Site Plan Approval with necessary conditions.

STATEMENT OF FACTS

The subject property is located at 116 Elmwood Road, in a Single Residence District and a Water Supply Protection District, on an 8.91 acre lot, which is bounded by Elmwood Road on the south, a Single Residence District on the east, and the Boulder Brook Reservation on the north. For zoning purposes, Kelly Field, a 19,139 acre lot contiguous to Bates School on the west, under jurisdiction of the Natural Resources Commission, is to be considered part of the total parcel, as both lots are owned by the Town of Wellesley, albeit under different jurisdictions.

The petitioner is requesting Site Plan Approval for the construction of three one-story additions totaling 14,545 square feet to contain 3 classrooms replacing the existing 4 modular classrooms, one kindergarten classroom, a cafeteria, music room and support services, with a total of 82 parking spaces and associated landscaping.

The following plans were submitted:

Site Plans: Existing Site Survey (X.1) dated August 20, 1998, revised September 22, 1998, revised June 16, 2000, stamped by Robert G. Applegate, Registered Professional Land Surveyor; Site Development Plan (L-1), dated August 25, 2000, stamped by Randy G. Sorenson, Registered Landscape Architect and George R. Metzger, Registered Architect; Plot Plan (X-P) dated 6/27/00, stamped by Robert G. Applegate, Registered Professional Architect; Grading & Drainage Plan (L-2) dated 8/25/00, stamped by Sandra A. Brock, Civil Engineer and Randy G. Sorenson, Registered Landscape Architect; Site Utility Plan (C-1) dated 8/15/00, revised 10/16/00, stamped by Sandra A. Brock, Civil Engineer; Site Detail/Sheet 1 (C-2) dated 8/15/00, revised 10/16/00, stamped by Sandra A. Brock, Civil Engineer; Site Detail/Sheet 2 (C-3) dated 8/15/00, revised 10/16/00, stamped by Sandra A. Brock, Civil Engineer; Landscape Plan (L-3) dated 8/25/00, stamped by Randy G. Sorenson, Registered Landscape Architect; Subsurface Exploration Plan (X.2) dated 7/7/00, stamped by Paul R. Wadsworth, Registered Professional Engineer. A Construction Staging Plan dated 11/1/00 was also submitted at the November 2, 2000 Public Hearing.

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Architectural Plans: Basement Floor Plan/Part A (A2.1) dated 7/10/00; Basement Floor Plan/Part B (A2.2) dated 7/10/00; Ground Floor Plan/Part A (A2.3) dated 7/27/00; Ground Floor Plan/Part B (A2.4), dated 7/27/00; Elevations (A3.1) dated 7/27/00; Elevations/New Additions (A3.2) dated 7/27/00; Elevations/New Additions (A3.3) dated 7/27/00; and Building Sections (A4.1) dated 7/10/00. All architectural plans were stamped by George R. Metzger, Registered Architect, on August 25, 2000.

The following written materials were submitted: Application for Site Plan Review dated August 25, 2000, which contained the Official Development Prospectus and Supporting Appendices on Fire Protection, Surface Drainage, Geotechnical and Traffic; Application for Site Plan Review/Follow up dated October 24, 2000, prepared by Pip Lewis and a second Follow up dated November 2, 2000 from Pip Lewis which also contained calculations regarding the landscaping.

Letters dated October 13 and October 20, 2000 were received from Arthur Kreiger, counsel for the Bates Neighborhood Association.

In response to questions from the Board of Appeals, letters dated September 21, 2000 and November 2, 2000 were received from Albert S. Robinson, Town Counsel.

On December 9, 1999, the Wetlands Protection Committee issued an Order of Resource Area Delineation (DEP 324-301) for the Bates School site.

On July 27, 2000, the Wetlands Protection Committee issued an Order of Conditions (DEP 324-320) for the proposed activities at the Bates School.

As stated in the "Hearing" portion of this decision, on May 16, 2000, the Planning Board issued a Special Permit for a Project of Significant Impact (PSI 99-5) for the Bates School Addition, which was appealed to Norfolk Superior Court by the Bates Neighborhood Association on June 5, 2000.

On July 22, 1999, the Design Review Board held a Preliminary Review of the project, and a Final Review on February 10, 2000, at which the Board voted to approve the project as presented subject to the submission of revised plans showing the roof over the entrance to provide cover, the revised end roof of the gymnasium and a detailed landscaping plan. A Final Review of the Lighting Plan was held on March 23, 2000 at which approval was granted on the condition that a revised final plan incorporating the Board's recommendations be submitted.

All submission materials were also sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and the Fire Chief as required by Section XVIA of the Zoning Bylaw. Written responses from each of the above were received and are on file in the office of the Board of Appeals.

On September 19, 2000, the Planning Board reviewed the petition and offered no comment.

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DECISION

This Authority has made a careful study of the materials submitted and the information presented at the two Public Hearings. The petitioner's proposed three additions to the Bates School constitute a Major Construction Project pursuant to Section XVIA of the Zoning Bylaw because they include the construction of 2,500 of more square feet of gross floor area, and is also pursuant to Section XIVE because a portion of the parcel lies in a Water Supply Protection District.

This Authority makes the following findings:

1. Off street parking – Section XXI D 2 of the Zoning Bylaw states as follows:

“In all districts which require off-street parking in accordance with this Zoning Bylaw, off-street parking shall be provided for uses according to the following table. The table is intended to show the minimum number of parking spaces required for various uses in the zoning districts and is not intended to indicate the allowed uses in the districts.”

The only reference to a Single Residence District is in regard to a hotel, inn, lodging house or other eating place located in a Single Residence District A. This Authority finds that there is no required off street parking for schools in this table.

Section II A 3 g requires that “sufficient off-street parking shall be provided so that no vehicle will be required to park on any street”. Strict interpretation of this requirement would render all Wellesley elementary schools noncompliant in regard to this section of the Zoning Bylaw, as queuing lines are present at all elementary schools shortly before and after dismissal of students.

This Authority finds that the intent of the bylaw was to provide “sufficient” off street parking for staff and visitors during the daily operation of the school, and it would be unreasonable to expect “sufficient” off street parking to be provided for an additional 45-50 cars for a thirty minute period each day at the close of school. This Authority finds that the 82 space parking area will be “sufficient” for staff and visitors to the Bates School.

2. Modular Classrooms - This Authority finds that Site Plan Approval involves a comprehensive review by the Board of Appeals for a Major Construction project which results in an increase of 2,500 or more square feet of floor area. It does not involve a review of existing structures. There is no requirement in the Zoning Bylaw that comparisons between existing and proposed construction be made in this process.
3. Buffer Zone – This Authority finds that for zoning setback purposes, the western lot line of Kelly Field shall serve as the line from which the five foot buffer must be maintained. Both the Bates School parcel and the Kelly Field parcel are owned by the Town, are contiguous, and shall be viewed as one lot. This issue has arisen in regard to Site Plan Approval projects at the Wellesley Police Station, the Wellesley Public Library, and the Warren School. In all instances, the Board of Appeals has been consistent in its interpretation of lot lines for zoning purposes.

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4. Site Plan Approval – Site Plan Approval does not require the issuance of a Special Permit which can be granted or denied. The Board of Appeals is empowered to place conditions on Site Plan Approval, but not to deny approval without proof that the situation is so intractable as to offer no possibility of solution. This Authority finds that the situation is not so intractable as to offer no possibility of solution.

Furthermore, this Authority finds that it has undertaken the Site Plan Approval process for this petition, prior to the expiration of the 20 day appeal period and with a court action in progress, under the following conditions:

- a. The appellants have agreed to the hearing of this petition by the Board of Appeals.
 - b. The petitioners have recognized that they are at risk to the extent that any changes in the Special Permit issued by the Planning Board in regard to this project as a result of the court action would require either the request by the petitioners for an amendment of this decision or a new submission for Site Plan Approval depending on the outcome of the legal action and the determination of the Board of Appeals.
 - c. This Site Plan Approval is based on and incorporates the Special Permit issued by the Planning Board for a Project of Significant Impact at the Bates School.
5. Number of Classrooms – There are currently 19 classrooms including the modular units. This Authority finds that to require a reduction in the number of classrooms to less than the proposed 18 classrooms would be an illegal use of its regulatory power, as further reduction would constrain the growth of the educational use of the school in violation of the Dover Amendment. The proposed additions will result in the use of the Bates School as a modern and effective elementary school.
6. Landscaping – This Authority finds that petitioner has satisfied the landscaping requirements for parking lots pursuant to the Development Standards in Section XXI of the Zoning Bylaw.

It is the finding of this Authority that the proposed plans for the three additions at the Katherine Lee Bates Elementary School, as listed in the foregoing Statement of Facts, comply with the Zoning Bylaws of the Town, protect the safety, convenience and welfare of the public, minimize additional congestion in the public and private ways, insure adequate protection for water, sewerage and drainage and ensure compliance with Section XVI, Section XXI and Section XXII of the Zoning Bylaw.

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ZBA 2000-74
Petition of Town of Wellesley/Permanent Building Committee/School Committee
Katherine Lee Bates Elementary School
116 Elmwood Road

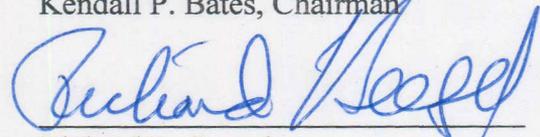
Site Plan Approval is hereby granted, as voted unanimously by this Authority at the November 2, 2000 Public Hearing, pursuant to Section XVIA and Section XIVE of the Zoning Bylaw, subject to the conditions attached hereto as Addendum A.

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.

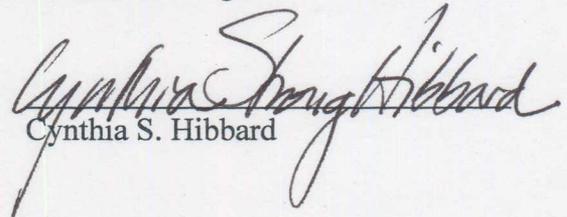
Cc: Planning Board
Inspector of Buildings
Design Review Board
Wetlands Protection Committee
Department of Public Works
Health Department
Board of Selectmen
School Department



Kendall P. Bates, Chairman



Richard L. Seegel



Cynthia S. Hibbard

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