

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ZBA 2000-79

Petition of Wellesley College  
Paintshop Pond Redemption Project  
Wellesley College Campus

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 12, 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 WELLESLEY COLLEGE requesting the following relief in connection with the proposed remediation of upland, wetland and pond portions of PAINTSHOP POND on the WELLESLEY COLLEGE CAMPUS in an Educational District, a Water Supply Protection District, a Watershed Protection District and a Single Residence District:

- A. Site Plan Approval pursuant to the provisions of Section XVIA, Section XIVB, Section XIVE and Section XXV of the Zoning Bylaw for removal or disturbance of the existing vegetative cover over an area of 5,000 square feet as 7.4 acres will be restored for use as five playing fields within a 39 acre wetland, pond, and upland area which will also be remedied.
- B. Special Permit pursuant to the provisions of Section XIVB-E 2.b. and Section XXV of the Zoning Bylaw for the operation and maintenance of a dam and other water control devices including construction of an 8 foot by 12 foot temporary pump station for the temporary alteration of the water level for emergency purposes and construction of a pedestrian bridge across the restored wetland area.
- C. Special Permit pursuant to the provisions of Section XIVE-D 2.d. and Section XXV of the Zoning Bylaw to allow 7.4 acres within a Water Supply Protection District to be rendered impervious by the placement of an engineered cap over the area of consolidated treated soils and sediments.

On September 12, 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.

Presenting the case at the hearing was Barry Monahan, representing Wellesley College, who was accompanied by Mark Haley, project engineer, from Haley & Aldrich; Lisa Standley, wetlands project manager, from Vanasse Hangen Brustlin; Peter Jackson, project landscape architect, from Dufresne-Henry; and Peter Alpert, legal counsel from Ropes & Gray.

Using an enlarged photograph of the Paintshop Pond area on the Wellesley Campus, Mr. Monahan gave a brief history of the site on which Henry Woods built his paint factory which was in operation from 1848 until approximately 1926. The college purchased the property in 1932 to make certain that the industrial ZBA 2000-79

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As there were no structures involved in the Remediation Phase 1, the Design Review Board waived review until submission of Phase 3 Site Plan Approval. All submission materials were also sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and 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 ZBA office. A letter dated October 3, 2000 was received from the Planning Board stating that the Board had no objection to the grant of Site Plan Approval.

On October 19, 2000, the Wetlands Protection Committee voted to issue an Order of Conditions (DEP 324-330).

Subsequent to the hearing, a Memorandum dated October 19, 2000 was received from Peter Alpert, legal counsel, explaining the phasing of the proposed project and the activities included in each phase. A Memorandum dated October 23, 2000 was received from Lisa Standley of Vanasse Hangen Brustlin which itemized the activities of each phase of the project and the permits required for each activity. A letter dated October 24, 2000 was received from Mark Haley of Haley & Aldrich, outlining the work phases required by MCP in comparison to the phases outlined in this decision.

The ZBA office also received a copy of a letter to Stephen Fader, Town Engineer from George Allan, Senior Vice-President of Dufresne-Henry dated October 12, 2000, regarding the issue of the flow diversion proposed around Paintshop Pond. This letter was mentioned by Mr. Fader at the Public Hearing.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The petitioner's proposed removal or disturbance of existing vegetative cover over an area of more than 5,000 square feet on the Wellesley College Campus constitutes a major construction project pursuant to Section XVIA of the Zoning Bylaw, and is also pursuant to Section XIVB and Section XIVE because portions of the locus lie in a Water Supply Protection District and a Watershed Protection District.

A Special Permit pursuant to the provisions of Section XIVB-E 2.b. is also requested for the operation and maintenance of a dam and other water control devices including construction of an 8 foot by 12 foot temporary pump station for the temporary alteration of the water level for emergency purposes and the reconstruction of the Paintshop Pond dam.

It is the opinion of this Authority that the scope of this project must be divided into two phases in order to adequately permit this project: Phase 1 Remediation and Phase 3 Surface Finishes. The first phase of the project is not a traditional Site Plan Approval project, as it is conceptual in nature, particularly in regard to grades and elevations, and does not include construction of any permanent structures with the exception of the reconstruction of the Paintshop Pond dam. This Site Plan Approval is strictly limited to the activities undertaken pursuant to Phase 1 Remediation as described in the foregoing Statement of Facts.

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The activities to be undertaken in Phase 2 of the project do not require any approvals from the Board of Appeals.

The Surface Finishes phase of the project focuses on construction of an engineered cap over the consolidated contaminants, construction of four to six athletic fields and appurtenances, lighting, walkways, bridges, drainage and landscaping, which are the ingredients of a more traditional site plan approval request, which will be applied for by the petitioner at a later date.

It is the opinion of this Authority that the proposed plans submitted, as listed in the foregoing Statement of Fact, comply with the Zoning Bylaws of the Town, protect the safety, convenience and welfare of the public, minimize additional congestion in public and private ways and insure adequate protection for water, sewerage, and drainage. Furthermore, compliance with Section XVI of the Zoning Bylaw is ensured.

Therefore, Site Plan Approval for Phase 1 Remediation is hereby granted, as voted unanimously by this Authority at the Public Hearing, pursuant to Section XVIA, Section XIVB, and Section XIVE of the Zoning Bylaw, subject to the conditions attached hereto as Addendum A.

It is the opinion of this Authority that the Special Permit requested for the operation and maintenance of a dam and other water control devices including construction of a temporary 8 foot by 12 foot pump station for the temporary alteration of the water level for emergency purposes and reconstruction of the Paintshop Pond dam meets all the requirements of Section XIVB and the standards of Section XXVD of the Zoning Bylaw.

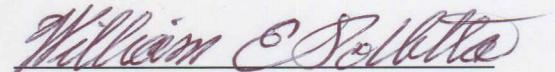
Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, subject to the same conditions contained in Addendum A.

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN  
THE OFFICE OF THE TOWN CLERK.

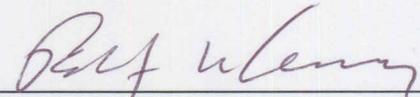
CC: Planning Board  
Inspector of Buildings  
Department of Public Works  
Wetlands Protection Committee



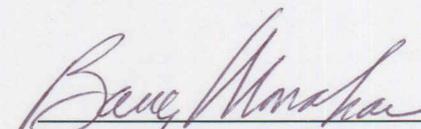
Kendall P. Bates, Chairman



William E. Polletta



Robert W. Levy



Barry Monahan for Wellesley College