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ZBA 2004-37

Petition of Natural Resources Commission/Friends of the Wellesley Community Bandstand
Simons Park

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 27, 2004 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of NATURAL RESOURCES COMMISSION/FRIENDS OF THE WELLESLEY COMMUNITY BANDSTAND, requesting a Special Permit pursuant to the provisions of Section II A 8 (1) and Section XXV of the Zoning Bylaw to allow a portion of the premises at SIMONS PARK, in a Single Residence District, to be used as the site for an octagonal bandstand with a diameter of 128 feet and a height of 25 feet, a use not allowed by right in a Single Residence District.

May 10, 2004, the petitioners 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 Stanley Brooks, Counsel for the Friends of the Wellesley Community Bandstand, Inc., John Staniunas, Project Architect, Brian Beisel, Transportation Engineer, and Brion Koning, of Cavanaugh Tocci Associates, Consultants in Acoustics.

Mr. Brooks said that the area in which the bandstand is proposed to be constructed is abutted to the west by the Wellesley Free Library; to the north by Washington Street and the Town Hall across the street; and to the east by Brook Street and Wellesley Avenue. He said this is a busy traffic area.

A Garden Club in town originated the idea for a bandstand about eight years ago. They envisioned a structure that would be a venue for civic events. The Recreation Department has written to the Board stating that the Concerts on the Green would remain in their current location. The Wellesley Public Schools are interested in using the bandstand to showcase talent.

The Bandstand Committee originally filed for a Special Permit in 2003. That petition was withdrawn without prejudice on September 18, 2003. The concerns of the Board fell into five categories: noise, traffic, parking, trash/litter and maintenance. All of the items are addressed in the current application.

The anticipated use of the bandstand would be from April through September. There would be approximately six to ten "major" performances drawing 200-250 people during the course of the year. The only noise that will be generated from the bandstand will be during performances.

John Staniunas: The Committee hopes to erect a "traditional" bandstand. Around 1762, a pagoda style octagonal bandstand was developed in England for outdoor entertainment. Every town in the area has a similar traditional bandstand.

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Petition of Natural Resources Commission/Friends of the Wellesley Community Bandstand
Simons Park

The site that was selected by the Natural Resources Commission (NRC) was Simons Park. The location for the bandstand on the site was selected with the aid of a landscape architect. The bandstand would be visible from a common area but set back far enough to accommodate people sitting around it. It would be located approximately 60 feet from the Library and 200 feet from Washington Street. Simons Park is split in half by Cold Spring Brook. None of the tree areas or the brook would be affected.

Stanley Brooks: The bandstand would be located about 360 feet from the apartments to the south and about 360 feet from the closest house, which is 12 Brook Street.

Mr. Brooks submitted photographs taken from 12 Brook Street to show what the residents would see from that location. The bandstand would be surrounded by a bank of trees and would not be visible from Brook Street.

The Planning Board has been conducting studies of the downtown area. The recommendation of the Planning Board is that the bandstand not be sited in Simons Park but at Post Office Square or in the Town Hall bowl.

Heidi Gross, past Chair of the Natural Resources Commission: There have been many changes since the bandstand proposal first came to the NRC, among them that the new Library has been built. The NRC feels that the bandstand would be complementary to the Library, rather than distracting.

The NRC is the steward of all open spaces in the town, which includes parks and conservation land. Parkland is for the people and can be used for both active and passive activities. All permitting on parkland is issued by the NRC.

Town Meeting debated the bandstand issue and decided that the Town would be well served by a bandstand. Morton Field was the first proposed location for the bandstand but it is used by St. Paul's School for recreation and is too close to the public housing project.

In 2001, the NRC told the Bandstand Committee that it would wait until the Library was completed before making any decision on the bandstand location. On January 22, 2002, the NRC voted to allow the bandstand to be erected in the proposed Simons Park location.

Stanley Brooks: As a result of a letter from the Zoning Board of Appeals (ZBA) to the NRC, the Town's Open Space Plan was reviewed to determine whether or not siting the bandstand in Simons Park would be in compliance with that plan. The NRC concluded that the proposal would be in full compliance, have no negative impact on the parkland, and would, in fact, enhance the park.

The presentation will address the bandstand's compliance with the conditions of Section XXV-D of the Zoning Bylaw.

Brian Beisel, Traffic Consultant: A traffic study was conducted throughout the winter and early spring of this year. Traffic counts were done on February 26, 2004 and April 13, 2004, during the weekday peak hours between 4:00 p.m. and 7:00 p.m. The volumes were adjusted for the peak summer months of July and August. The adjusted count found 1,750 vehicles traveling along Washington Street, passing through Cameron Street. Natick, Needham and Lexington were contacted regarding their bandstand statistics. The three towns said that their average high was 200-250 people per performance. It was assumed that

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people would arrive at a count of 1.2 people per vehicle, which would require 160 parking spaces per event; 111 showing up during the weekday evening peak hours.

An LOS analysis was performed at the intersection of Washington and Cameron Streets, Cameron Street at the Town Parking Lot, and at the Library. The LOS, in the existing condition, is a Level B and will continue to be at Level B in a future condition.

It was assumed that vehicles will park in the Library parking lot, the Cameron lot and at 40 Grove Street. There was no expected increase in vehicle circulation problems or accidents at the intersection of Cameron and Washington Streets, which is a signalized intersection. Driveways are all existing and are not within 50 feet of any intersections. Vehicle queuing along Washington and Cameron Streets was watched. There would be an addition of about 10 feet, which is half a car length, due to the project. Pedestrian safety can be accommodated through the existing crosswalks and pedestrian signals that were installed for the Library.

It was not assumed that anyone would park on Brook Street. They have found that people do not park on the street when off street parking is available. The off street parking is located closer to the bandstand than Brook Street. There are 280 off street parking spaces in the Library, Cameron and 40 Grove Street lots, which is more than sufficient to accommodate the need. The Board said that it should be assumed that the Library will be open and spaces in that lot will not be available.

The accident study was done before the Library was opened. It is standard procedure to receive data from the last three years. It was not assumed that the Library would be creating more accidents because of the volume along Washington Street.

Stanley Brooks: 40 Grove Street is owned by Arnold Haynes. He has offered to allow the use of about 140 parking spaces there for people attending events at the bandstand. The Cameron Street lot contains between 152 and 158 spaces. The total of the two lots is about 300, which far exceeds the number of vehicles anticipated. People will be encouraged not to park on the street. There is no parking on one side of Brook Street.

The bandstand will encourage people to use Simons Park, which is presently underutilized. According to John Staniunas, the footprint of the bandstand will be 541 square feet. The footprint of Simons Park is 159,800 square feet. After the bandstand is built, there will be 99.997 percent of Simons Park open to anyone who wants to use it.

Under Section XVI A and B of the Zoning Bylaw, no offensive odors would be generated, there would be no chemical use or vapors that would adversely affect the town.

The Board could find that use of the bandstand would generate noise or vibrations. The Committee is anticipating that there will be six to eight major events taking place. The other uses will be fairly noninvasive. The NRC has decided that any use of the bandstand during the hours of operation of the Library would require a permit from the NRC. The Library Trustees could determine if the planned use would interfere with Library use prior to issuance of the permit. The Library, in its letter to the Board, recognized that there are events that could take place during Library hours that would not have a negative effect on Library users.

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The six to eight major events would probably take place on Fridays after 6:00 p.m. or Saturday evenings, or Sunday afternoons.

Other provisions of Section XVI A concern uses that would be offensive, obnoxious or dangerous to the public health or safety. He would suggest that nothing that would occur at the bandstand would fall under those categories.

Brion Koning: He was asked to evaluate sound, which he has done in the two reports submitted in the information package. The first is his company report, dated May 3, 2004. The second is a response to the Save Simons Park letter.

His report is basically a miniature environmental impact statement, which requires quantification of the existing environment, and separately, the quantification of the proposed changes to that environment, and together, a comparison between the two.

The first issue has been addressed by measuring background sound around the project perimeter. The sites chosen were principally at the nearest residential properties, which are identified as locations 1-4 on the plan. The sound level changes every minute of the day. When they refer to background sound level in the report, they are talking about the minimum sound level measured during a period of time. They also recorded the average background sound level. They compared the bandstand sound levels with the minimum sound level.

They also evaluated post event activities. They measured jazz music, symphonic music and a range of sound that would occur. They projected these levels on a computer model and these are summarized in Table 1 of the report. The fundamental conclusion was that there will be sound produced, and with different types of music, there will be different sound levels.

They are proposing a venue for traditional music using acoustic instruments, possibly multiple instruments with singing. There will not be amplification.

The final part of the report is the comparison of the projected sound levels with the minimum sound levels measured. On occasion, sound levels will be audible but it is important to point out that "audibility" is not the sole criteria for annoyance. There are many acoustic guidelines throughout the world, the State, towns, etc. The Study concludes that the projected sound levels in comparison with the existing sound levels would not result in annoyance.

The proposed bandstand is designed to have one microphone and two loudspeakers. These are for voice enhancement only. Acoustic bands typically play at a reasonable level in which all instruments are on the same sound level.

The Table deals with the sound levels of the six to eight major events. Most of the other events would have sound levels far below those of the major events. The size of the bandstand limits the acoustical output for natural acoustic instruments. The bandstand would be too small for a symphony orchestra.

Mr. Koning said that he would address the issues brought up in the Save Simons Park letter. The first paragraph under Noxious Uses – Noise, indicates that "the sound study shows background level at 12 Brook Street on a Sunday afternoon to be 45 dBA, but the average symphonic levels of only 43 dBA.

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This is confusing since, presumably, the dBA should increase when the sound intensity of an orchestra is added to the of the background noise.”

Decibels do not add arithmetically. This is not a mistake in the Report.

Stanley Brooks: Taking the most conservative approach, the background levels were taken on a Sunday afternoon. He wished to clarify that “natural acoustic” includes electric guitars.

There will be no employees except for someone from the Municipal Light Plant (MLP) to turn on the electricity, which will be billed to the NRC at municipal rates. The single microphone and speakers will be installed in a northerly direction. Every attempt has been made to minimize the sound going toward the Library and the neighborhood.

There may be some solid waste produced by people attending bandstand events. The Bandstand Committee and the NRC have worked out an arrangement with the Department of Public Works (DPW) whereby they will be notified prior to an event. They will place trash receptacles prior to and retrieve them after an event. The DPW has approved the short and long-term maintenance plans.

The bandstand will be constructed and maintained by private funds. It is proposed that there will be a \$100,000 maintenance endowment created, generated by donations. Mr. Brooks said that the NRC would be the custodian of the endowment fund.

The NRC and the Bandstand Committee have tried to address the concerns raised by citizens. This project is supported by the NRC, the School Department and the Wellesley Choral Society.

Board Questions:

The Board asked about the handicapped accessible stone path to the bandstand. It was not shown on the plan. Mr. Brooks said that it comes out of the parking lot. There will be lights on the interior of the bandstand that should illuminate an area of about 40 feet in diameter around the bandstand. The existing lights at the Library parking lot throw light into Simons Park. Together, they should illuminate the stone path.

The Board asked about storm drainage getting past the stone path. There is a six foot difference in elevation. Thomas Paine, 2 Cushing Road, Landscape Architect, said that stone dust is a very user friendly material that allows for full permeability of a reasonable amount of precipitation. The Board asked about stormwater runoff from the top of the hill that will be cut off by the stone path. Mr. Paine said that any sheeting taking place on the grass surface will not be impeded by a stone dust surface.

The Board asked how wheelchairs would be accommodated at the steep embankment at Simons Park. Mr. Paine said that the alignment of the path would be designed to be as level as possible and would be within ADA guidelines.

The Board asked about restroom facilities. The distance to the facilities offered by the Haynes Management Group at 40 Grove Street is substantial. Mr. Brooks said that the Library is a public facility, portions of which are available when the body of the Library is closed, such as the Wakelin Room. The restrooms are located in the same area. The Library Trustees have expressed a desire that their facility not

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be used. As a public facility, it should be open to the public. The Board asked if portable toilets had been discussed.

The Board asked about scheduling of events. Documents state that the events will occur only when the Library is closed. The School and Music Departments are not in session during the summer. Mr. Brooks had stated that the facility would be used from April through October. The Board asked about the days and hours of operation that were incorporated in Exhibit 18A. Mr. Brooks said that evening hours shall extend to sundown or 9:00 p.m. Events which shall involve amplification of sound will not be allowed during the hours of operation of the Library.

The Board noted that documents stated that amplification would not be used. Mr. Brooks said that amplification would apply only to an electric guitar which cannot be heard without a small amplifier.

Tim Davidson, Chair of Library Trustees: The Board of Trustees has twice stipulated that bandstand events should not be scheduled during the normal operating hours of the Wellesley Free Library. They stated this position in a letter to the ZBA on August 5, 2003. The Trustees feel that they are responsible to the Town to provide an environment that is conducive to quiet reading and study. The Library parking lot is frequently filled with patrons.

The Library is closed at 6:00 p.m. on Friday, 1:00 p.m. on Saturday and all day Sunday during July and August. More empirical data is needed on the impact of bandstand events on Library patrons before the Trustees' position is modified.

Their most recent letter to the ZBA states that, on occasion, Library Directors, Trustees or staff may monitor the noise and distraction level within the Library when a variety of bandstand events take place during the hours when the Library is closed during its first year of operation. They will use this hard empirical data when considering their position on the bandstand at a future meeting.

If the ZBA should issue a permit, the Library Trustees have several points that they would like the Board to consider in their deliberations.

Duane Batista, Library Trustee: In the event that the ZBA decides to issue a permit, the Library Trustees would respectfully request that four conditions be attached to the permit.

1. There shall be no operation of the bandstand while the Library is open to the public, subject to the Library Trustees having the right to make exceptions to this condition after empirical measurement of the impact of similar events.

The issue here is protecting Library patrons from parking problems while not foreclosing any bandstand uses while the Library is open that would not be noisy or create parking problems. In a letter to the Board, Stanley Brooks indicated that a rule prohibiting amplification while the Library is open might suffice. The problem is that there is no possible way to know what kinds and qualities of sounds will have an unreasonable impact on particular areas of the Library until the bandstand is built and real tests can be conducted.

Mr. Brooks suggested that a rule might be enacted that prohibits bandstand patrons from parking in the Library lot while the Library is open. The Library Trustees feel that any such rule would be

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unenforceable. The Library lot is closest to the bandstand, and given the absence of a police officer, bandstand patrons would park in the lot.

2. Whoever has responsibility for trash pickup at Simons Park after a bandstand event, should also have responsibility for trash pickup on the Library parking lot and other Library property.

The Library parking lot is presently cleaned once a week pursuant to a contract with a private contractor. Unless this condition is granted, the Library faces the dilemma of a littered parking lot for up to a week or expending extra Town funds out of its budget to employ its contractor for special cleanup.

The Director of DPW states in Exhibit 15C that the DPW will clean up after bandstand events. Since the DPW crew will be cleaning up Simons Park after an event, it would be more efficient for them to clean up any new litter on the Library property.

In Mr. Brooks' letter to Mr. Davidson, he suggested that it may be inappropriate to place this responsibility on the DPW. Trash or debris may not have been generated by users of the bandstand.

The DPW Director stated in his letter that the DPW will carry out its duties during its regularly scheduled working hours. The Library Trustees would like clarification as to what those hours are. There is a concern that Simons Park could be littered with trash barrels all weekend.

3. The Bandstand Committee, Natural Resources Commission and the Board of Library Trustees should mutually agree on the location, size and nature of any path between the Library parking lot and the bandstand.

There has been a substantial investment by the Town for attractive plantings between the Library and Simons Park. The Trustees would like to have more information on the stone dust path. It is not clear on the plot plan what kind of path is contemplated between the parking lot and Simons Park, its location and if it will be sufficient to accommodate patrons as well as DPW cleanup crews.

4. A sign shall be placed on the bandstand that essentially states: For information regarding the Bandstand, please call the Natural Resources Commission at the NRC phone number.

Many Town residents are not aware that the NRC has jurisdiction over Simons Park. Without the sign, residents may call Town Hall, Hunnewell School, the Recreation Department, the Police Department or the Library with questions.

Board Questions:

The Board asked about nonmusical school events taking place in the evening while the Library is open. Mr. Batista said that Mary Ann Cluggish conducted a test in April and concluded that not only was some of the music so loud it would interfere with Library patrons, voices were also very loud.

The Board asked what control the Library Trustees would have over a group meeting in Simons Park, making noise in the middle of the day. Mr. Batista said that there is no control but that the bandstand would be a different situation.

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Simons Park

The Board asked about use of the restroom facilities in the common area of the Library during major events that may be scheduled at the bandstand. Mr. Batista said that a major issue would be cost. When the Wakelin Room is used after the Library is closed, a custodian and additional supplies are required.

Mary Ann Cluggish, Library Trustee: The Bandstand Committee conducted the one decibel test in October of 2003. There were five to six members of the High School Band. She went into the quiet areas of the Library and found that the noise level was very loud. She could feel the drums coming up through the floor and could also hear the band instructor. The Trustees would need to look at data from tests done during actual performances.

The Library budget is very tight. The Trustees would rather spend any extra money on Library materials rather than on restrooms. There are also very valuable paintings in the common area.

Stanley Brooks: The ZBA has placed a one year of operation condition on other permits. Funds for the restrooms may be available from the endowment fund.

He has spoken with the Director of the Natural Resources Commission about a sign at the bandstand and was told that it would not be an issue.

The Board voted unanimously to continue the hearing until June 17, 2004.

On Thursday, June 17, 2004, the Permit Granting Authority and the Special Permit Granting Authority held a Public Hearing at 7:30 p.m., in the Great Hall, at the Town Hall, 525 Washington Street, Wellesley on the following petition:

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ZBA 2004-37. Petition of Natural Resources Commission/Friends of the Wellesley Community Bandstand requesting a Special Permit pursuant to the provisions of Section II A 8 (1) of the Zoning Bylaw to allow a portion of the premises at Simons Park, in a Single Residence District, to be used as the site for an octagonal bandstand with a diameter of 28 feet and a height of 25 feet, a use not allowed by right in a Single Residence District.

Owen Dugan, Board of Public Works: He would like to clarify the comments made about the capability of the DPW to maintain Simons Park. The DPW has no budgetary constraints regarding trash removal anywhere in Town. Mr. Dugan read into the record a letter attesting to this issue from the Director of Public Works to Stanley Brooks on May 5, 2004. The letter states that prior to each bandstand event, the DPW will make arrangements to provide trash receptacles, as well as remove the trash containers after the events are held. The DPW will carry out its cleanup work during its regularly scheduled work hours.

The DPW cleans trash receptacles in the downtown business area every day. On weekends, cleaning is done twice a day. A stop at Simons Park would not present problems or additional costs. The DPW sweeps the street twice a week from Weston Road to the Hills. The streets adjacent to Simons Park could be added to the list. The DPW currently maintains 255 acres of active recreation: 16 playgrounds, 1 all purpose field, 24 softball fields, 5 regulation soccer fields, 3 baseball fields, 14 practice fields, etc. The DPW has the experience and capability to maintain Simons Park. From the time the snow melts in March until snowfall in December, thousands of children play on those fields, which are maintained in pristine condition. The same effort will be applied to Simons Park.

Gerry Murphy, School Committee: Mr. Murphy said that he was speaking on behalf of himself. The bandstand would be available from April through October. May and June would be the two months that the schools would use the bandstand. The groups using the bandstand during May and June would be chamber groups with a maximum of three to six students. There is also a chamber orchestra of up to 16 students, a small jazz combo of no more than six students, two high school choral groups, each with less than 20 singers. The number of concerts by students would be between one and five.

“Noise” has a negative connotation. They are discussing “musical sounds”. The student performers are selected for their musical talent. This is an opportunity to showcase the talents of Wellesley Public School students.

Mary Ann Cluggish, Library Trustee: On June 7, 2004, the Library Trustees voted that the bandstand in its proposed Simons Park location is incompatible with the use and enjoyment of the Wellesley Free Library.

In 1999, the Library Trustees first voted, “Should the NRC decide to construct the bandstand on Simons Park adjacent to the WFL Main Library, the Trustees urge the NRC to stipulate that bandstand activities not be scheduled during times when the WFL Main Library is open to the public.” A letter was sent to the NRC in June 1999 expressing the Library Trustees’ position with a copy of the entire motion attached. In August, 2003, we wrote to the ZBA expressing the same request as voted by the current Board of Library Trustees.

In our May 19, 2004 letter, the newly constituted Board of Library Trustees expressed several concerns. The letter speaks extensively about the current heavy use of the Library parking lot. The outdoor lot of 87 spaces is often full or has only three to four spaces available. On any afternoon, cars circle the parking lot looking for a place to park.

Ms. Cluggish said that she would clarify the conditions that Mr. Batista spoke about at the previous hearing. The first condition is that there be no operation of the bandstand while the Library is open to the public, subject to the Board of Library Trustees having the right to make exceptions to this condition after empirical measurement of the impact of similar events. The Library has its quietest study areas on the east and southeast corners of the building. The proposed bandstand is 30 yards away from this quiet study area. The one live test with a sound engineer from the Berklee School of Music using decibel testing equipment within the building demonstrated that five high school band members playing was very loud and unacceptable within the Library.

The Library patrons’ parking demands are as great an issue as the potential noise within the Library.

Condition Two: Whoever has responsibility for trash pickup at Simons Park after a bandstand event should also have responsibility for trash pickup of the Library parking lot and other Library property.

There is currently no litter problem on the Library grounds. The Library currently does not have a contract with the DPW to clean up the Library grounds. They would need to know if the Library site will be picked up by the DPW following an event held on a weekend.

Only large events were addressed at the previous hearing. The Bandstand Committee's submission to the ZBA also contemplates private events such as picnics, wedding photos and the sale of food. These types of events will use paper napkins, cups and plates, plastic eating utensils, etc. that will inevitably cause litter. The Library Trustees have questions regarding regulations for private events and enforcement.

Condition Three: The Bandstand Committee, NRC and the Board Library Trustees should mutually agree on the location, size and nature of any path between the Library parking lot and the bandstand.

We are concerned about the trampling of the Library's new and expensive landscaping by patrons going to and from the bandstand because we are pleased to offer our parking lot when the Library is not open. This condition should actually read, "the NRC and the Library Trustees", eliminating the Bandstand Committee, as that entity has no jurisdiction.

The Library construction project has not yet been closed out by the Permanent Building Committee (PBC). The landscape architect contracted for the project is still supervising the plantings on the Library grounds. We expect the landscape plan for the ADA compliant access path would be created by the bandstand's landscape architect, working in conjunction with the PBC's landscape architect for the Library.

The Library Trustees feel strongly that the Town's landscape architect should advise and consult on land owned by the Town. It is appropriate that any new plans for public land created by the two private landscape architects be created in consultation with the Town's landscape architect. We request that this be at no cost to the Library.

At a meeting with the NRC on the plan to provide an ADA compliant access path, contemplation was given to the loss of one or more parking spaces in the Library parking lot. The Library applied for and was awarded a 3.1 million dollar State Construction Grant by the Massachusetts Board of Library Commissioners, in 2001. The Town is in the process of receiving the distribution of those funds. The grant had numerous requirements, one of which was the ratio of parking spaces per square footage. The dollar amount of the grant was awarded, based not only on the cost of construction, but on the number of criteria that were met, including the number of parking spaces. We cannot jeopardize that 3.1 million dollar grant. Therefore, no parking spaces can be lost.

Condition Four: We have agreed with the NRC upon a sign directing people to call NRC.

On June 7, 2000, the Library Trustees voted to request one more condition: that no truck or van deliveries of any kind for the bandstand be allowed from the Library parking lot during Library hours.

When the Library is open, there are senior citizens, children, and parents with strollers and toddlers walking in the Library parking lot. The issue is one of safety and lack of space.

During the Library's Project of Significant Impact (PSI) process in 2001, there were extensive discussions before the ZBA concerning the configuration of the Library parking lot, traffic flow within the parking lot and pedestrian safety. The result is in the Library's own Order of Conditions from the ZBA that no trash pickups take place after 9:00 a.m., or only when the Library is not open. The ZBA made it clear that all small van deliveries could take place only at the Library loading dock.

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At the previous hearing there were questions about opening the bathrooms when the Library is closed. The Trustees are unanimous in that we do not plan to open the lobby and bathrooms for bandstand concerts when the Library is closed.

The Library Trustees have not taken a position in opposition to the concept of a bandstand. It is this proposed location that is of concern.

David Himmelberger, Board of Selectmen: He would like to point out the issue with the Bandstand Committee's Counsel purporting to represent the NRC. Town Bylaw 25.5 specifically precludes such representation of the NRC by an attorney other than Town Counsel, absent the vote of Town Meeting or the Board of Selectmen.

At the last Board of Selectmen meeting, concerned citizens came to address the Board at Citizen Speak. The primary concern that they raised dealt with traffic issues and pedestrian safety at the proposed site of the bandstand. They brought to our attention the fact that the traffic study that had been conducted for the bandstand used data received from Mass. Highway rather than from the Wellesley Police Department. It was represented to the Selectmen that the data grossly under represented the true nature of the traffic and safety issues, which included traffic accidents numbered in the twenties, as opposed to six cited, as well as a pedestrian fatality.

Following this meeting, the Board of Selectmen voted to send a letter to the ZBA. Mr. Himmelberger read portions of the letter dated June 8, 2004 into the record.

“The Board wanted to let you know that the opponents to the Bandstand raised several safety issues related to the location. Perhaps, the most prevalent issue was safety concerns involving traffic and parking. We know you have made past use of the Town’s Traffic Engineer, BETA Group, to review proposals and their input on this issue may be valuable. The Board wants you to know that you are welcome to ask BETA for its advice if you want to.”

“The Board has concerns that Town Meeting has weighed in on this issue in the past and support locating the Bandstand at Morton Park. A copy of the Town Meeting voted dated March 30, 1998 is enclosed for your information. Perhaps, Town Meeting should once again weigh in on an appropriate location. Further, under statute, the Board of Selectmen would need to accept this gift to the Town of Wellesley.”

“The Board has yet to be asked by the NRC to accept the gift, although the Board understands that the NRC will be doing so. Our role in the finalizing of the proffered gift might be recognized in any decision your Board makes on the Special Permit application.”

The traffic issues are of great concern to the Board of Selectmen, particularly given the potential exposure to the Town in the event of a serious accident.

It is the consensus of the Board of Selectmen that acceptance of any gift for the construction of the bandstand at this location by the Board of Selectmen would be conditioned on Town Meeting approval.

The Board of Selectmen is aware of the concerns that have been raised about the bandstand’s incompatibility with Simons Park. The Board has no opposition to the concept of a bandstand, but does have concerns as he has just set forth.

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Bob Broder, Design Review Board: The last time the Friends of the Bandstand came before the Design Review Board (DRB) was 13 months ago, at which time we looked at the design of the bandstand. We found that there was a lack of context to the buildings to which it was adjacent or proximate, such as the Library, the Town Hall, and the Church. The DRB, on a 4-1 vote, felt that it was inappropriate to sacrifice the land of Simons Park.

When we did the site planning analysis, we felt that the concept of the bandstand, as outlined by Mr. Staniunas at the prior meeting, is a Victorian concept, which did not address what people do with their time on a hot summer night. The number of performances that we had heard about keeps diminishing. We had started with many, and tonight it is down to 5-6 per year. We do not see valid design intent to place this bandstand on Simons Park, and feel it would be detrimental to the park.

The traditional bandstand is normally sited in the midst of an urban environment with substantial paving around it for people who will be walking by. The issue of restrooms has not been resolved to our satisfaction. We are also very concerned that vandalism will be an issue.

The handicap issue is a third issue of design that we are concerned about. The proposed handicap accessible walkway is designed to be placed at the back of the bandstand. The actual area downhill from the bandstand is grass, and if it has rained in the last 48 hours, it will be difficult to take a person in a wheelchair up and down a grassy slope. We seem to have solved the problem of handicap access to the bandstand itself, but not handicap access for the spectators. Mitigation would involve flattening and paving the surrounding area.

One of the elements of design is the design and location of "street furniture", such as barrels. We suspect that there would not be permanent trash receptacles in this area. They would be placed there before an event and collected after the event. What then happens to people having lunch at the bandstand?

The DRB is opposed to the request and suggest that the Board deny the Special Permit.

Ingrid Carls, Wellesley Conservation Council: The mission of the Council is to preserve and protect Wellesley's natural environment for future generations. The Board opposes the placement of the bandstand structure at Simons Park. Simons Park is a wonderful open green space. In fact, it is the only open green space surrounding the Library. It is important to keep this space open and uncluttered. Simons Park acts as a beautiful green buffer to the Library. The proposed bandstand structure would not be in harmony with the Library.

Gerry Murphy, School Committee: I want to correct what I said about the number of concerts. There would be less than five concerts per season performed by school musical groups.

Board Questions:

The letter from Mr. Dugan to the Board was specific about placing and removing barrels, but is silent about picking up trash that is not in the barrels, and is silent about removing litter from the Library parking lot.

Mr. Dugan said the DPW will maintain Simons Park the way they do now. The addition of the Library parking lot has occurred in the last few days. The Board of Public Works has not discussed it.

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General Public Comments:

Susan Miao, 7 Midland Road: She is speaking as President of the Council of Wellesley Garden Clubs, composed of six garden clubs totaling 250 members. They have voted to put money toward the Bandstand. The Council is in favor of the Bandstand. One of the clubs has money in reserve for the bandstand. The idea is to set up a fund for future maintenance.

Felix Juliani, 6 Sylvester Terrace: After giving the Board his curriculum vitae, he stated that the bandstand would be an architectural addition to the Town amenities, adding immeasurably to the community spirit as well as cultural enjoyment. The proposed location provides an attractive approach to Wellesley. The garden clubs have worked for more than ten years to make this available to the Town, setting aside more than \$350,000. Simons Park would not be ruined by a structure that would occupy less than 1% of the park area, and used only during good weather. There is a sound barrier from Brook Street created by the many trees.

Simons Park is town parkland, and not a private park for the abutters. Parkland belongs to all of us. If there are any problems in the future, they can be worked out.

Bob Connor, 12 Brook Street, representing "Save Simons Park": Read into the record the attached memorandum.

Mr. Connor referred to the noise level at Brook Street as 56 DbA. He asked if that was the sum of background plus the forecast for loud latin music.

Brion Koning: It does include background sound level.

Stanley Brooks: The level would be 56, which would be in excess of 10 decibels higher. Mr. Koning also pointed out that there was no acoustic test or decibel readings taken on a Friday evening. When we did the tests, we took the most conservative approach possible, which is why we selected Sunday afternoon, which is the quietest time. That is why there is a greater than 10 decibel discrepancy, and is not reflective of what the discrepancy could be on a Friday evening or a Saturday evening when these concerts would take place.

Heidi Gross, Natural Resources Commission: At a recent meeting, the NRC agreed to all five conditions requested by the Library Trustees. The NRC has had three public hearings on the bandstand during the last 3 years. The NRC has done traffic studies. There will be no costs to the Town due to the bandstand. The NRC felt that Simons Park is not a private place. The NRC is of the opinion that the bandstand would be totally compatible with the surroundings and with the performances that could be scheduled.

Robert Abrahamson, 8 Dexter Road: The site is irregular. It slopes toward Washington Street and away from the Library. It is not a really good site for musical events. The representation of the bandstand is shown as sitting on a flat site with granite steps. He would question how the Bandstand Committee proposes to have handicapped children from the Wellesley Schools go up 2-3 feet of granite steps to the performance platform.

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Petition of Natural Resources Commission/Friends of the Wellesley Community Bandstand
Simons Park

The crushed stone path would have to be at a grade not less than 1 foot to 22 feet. This path could be as long as 120 feet. Otherwise, a ramp with railings on the both sides would have to be constructed. The ramp has to be at least 4 feet wide, and with a slope no greater than 1:22.

Mary Snow, Morton Park Apartments: Citizens do not need the noise and confusion. Please leave the park alone.

Margo Connor, 12 Brook Street: I would like to speak to Section XXV-D with regard to pedestrian safety and compatibility with surroundings. Pedestrian safety will be at risk. People will park on Washington Street and cross over to the Simons Park bandstand. They will not go out of their way to cross at the

Cameron Street crosswalk or at Brook Street and Wellesley Avenue unless they are parked close to those crosswalks. Small children can dart away from their parents into the traffic and be hurt. The local accident statistics previously stated confirm this.

A bandstand in Simons Park will be an attractive nuisance. We already find elements of trash along Cold Stream Brook.

The Natick Bandstand is often cited by the proponents as an example to emulate. Using photographs, Mrs. Connor showed pictures of a musical group playing on the lawn instead of in the bandstand. The picture shows trash adjacent to the trash barrel near the steps. The bottom of the stair rail had to be reinforced due to vandalism. I saw broken beer bottles that have not been swept up during a visit to the site, and there was graffiti on the bandstand.

Maintenance issues can be costly. It is important to have a bandstand agenda, the funds to manage it, and the expertise of the people who will operate it known and confirmed ahead of time.

Seating would be difficult due to the sloping nature of Simons Park.

We urge you to deny the granting of a Special Permit to construct a bandstand at Simons Park.

Mary Rich, 59 Pleasant Street: I am a present member of the Historic District Commission, but I am speaking for myself. I oppose the granting of the Special Permit in order to save Simons Park as open space.

John Chaley, 64 Brook Street: The bandstand would be incompatible with the Library and with the parkland. Prior NRC Boards were strongly opposed to this proposal. If this position has been changed, it should be brought to Town Meeting. I am concerned that we are not using Town processes in dealing with this issue. As I recall, the motion that passed was to support the bandstand at Morton Park. I do not recall mention of other locations.

Jim Meade, 428 Washington Street: I think the application could be granted with conditions. The bandstand would only be used five to six times a year, but would add to the culture of the Town. The NRC has granted approval to build the bandstand on this piece of Town Parkland, and the Board must vote according to what has been presented.

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Sandra Nicolucci, Wellesley Director of Fine Arts: We represent hundreds of children in the public schools. I would like to define "play" a little more broadly. The children play instruments, sing, and perform. We are trying to get the Fine Arts Department to reach out to the community as much as possible. We perform for Kiwanis, the Historical Society, the Senior Citizens, and Rotary Club. We performed at the Library in March. We would like to offer these programs to the community outside during the spring months. I urge you to support this project.

Mary Henderson, 171 Edmunds Road: Traffic issues have not changed in 50 years. We feel that the bandstand would add pleasure to the whole town. As far as incompatibility with the Library, the Library is not compatible with the Town Hall. The modern lines of the Library have not detracted from the Town Hall, and the bandstand would not detract from the Library.

Eleanor Ottobriani, 27 Tanglewood Road, Chairman of the Bandstand Committee: Our whole purpose was to give a venue for the arts. I do not understand why the Library does not see what an addition the bandstand would be to their own venue there. They could have children's programs at the bandstand; sell books, have authors lecture there.

I would like to refute several points brought up tonight. We do not intend to sell food at the bandstand. The Recreation Department does not want a bandstand in the Town Hall bowl. There are 340 parking spaces available along Cameron Street; 40 Grove Street has 115; the Hunnewell School has many spaces which would be available. With this parking availability, people do not have to go to Brook Street or Wellesley Avenue.

Stanley Hodges, 10 Pickerel Terrace: We heard a lot about the advantages of the bandstand. What concerns me is the safety aspect of it. If you have families there, you will have children running around. The site has a stream on one side, and two very active streets. Traffic is very heavy in the daytime. At night, it eases up, but travels faster. I am opposed to the petition.

Meredith Roy, 80 Livingston Road: I strongly oppose the location of the bandstand. My main issue is that bathrooms are not available. My toddler is not going to walk ¼ mile. The Library was not built for public bathrooms for a concert for 250 people, but for quiet, serene space for Library patrons. I feel that the bandstand breaks up the space. It is beautiful the way it is. I think that there are other sites in town that would be more suitable.

Frances Antonelli, Wellesley Avenue: I am addressing the hazardous location of Simons Park, and the nature of children. I am a mother of two children. Although they are very well behaved, it is their nature to explore and run about. At best, I could not keep them still for two hours. How do you expect parents to keep their children out of the dangerous ravine and water hazard? I ask that you do not grant a Special Permit for the bandstand at Simons Park.

Elaine Fitzpatrick, 3 Sunset Road: It seems to me that the Natural Resources Commission has a mandate, and that mandate is to protect open space. Once it is gone, it is gone forever.

John Sullivan, 7 Dexter Road: The use of the Library is for thought, reflection and ease. The purpose of the bandstand is perfectly wonderful, but is not compatible with the Library. The space is on a slope and should not be disturbed. The area would have to be leveled in order to construct the bandstand. I am opposed to the petition.

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Jeff Stoneberg, 31 Brook Street: We live at the corner of Brook Street and Hamden Street, close to the Brook Path. In the last year or so, during the drop-off and pick-up of children at the Hunnewell School, many SUVs have been parking on the street or on the grass, partially blocking the lanes. Approving this use in this location might open the Town up to unintended consequences. It might be better for it not to be located here.

What is definitely more rare is the availability of parkland in this area. If we build here now, it would be irreversible.

Tom Paine, 2 Cushing Road: I am the landscape architect on the Wellesley Design Review Board. I am speaking on behalf of the bandstand at Simons Park. I have written a book about bandstands on greens. I invite you to look at the cover, which shows a beautiful bandstand on a sloping site. Simons Park is the

best available site. Simons Park is meant to be a public park to benefit the entire community, not a private neighborhood park. I urge the ZBA to approve this project with reasonable conditions.

Mark Stanton, 6 Wiswall Circle: I have a background in public safety and planning, and I urge you to vote no. The greatest concern is the kids falling into the brook. All of the concerns that have been mentioned are mine also.

Ruth Nuwayser, Ingraham Road: I am the President of the Wellesley Choral Society. In my letter to the Bandstand Committee last summer, I stated that we think that the bandstand would be a wonderful way to develop an audience. At the last ZBA meeting, there was a statement that the Wellesley Choral Society was in favor of locating the bandstand at Simons Park. I want to clarify that our enthusiasm for a bandstand should not be interpreted as an endorsement for any particular site.

Margo Borgo, 5 Solon Street: I am speaking as a taxpayer. I want the Bandstand Committee to guarantee the bandstand. I want them to make a contract, not only for the putting up the bandstand, and guaranteeing that it is paid for, but afterwards, for all the maintenance. They would have to be responsible for any problems that come up. I do not want the bandstand in the park, and I do not want to pay taxes on something I did not want in the first place.

Joseph Fleming, 1 Sunset Road: I am the Director of the Wellesley Symphony Orchestra, and have the same opinion as the Wellesley Choral Society.

Sheila Nugent, 21 Wellesley Avenue: I have lived in Wellesley for 65 years. I am not averse to having a bandstand, but I do think we need to think carefully if Simons Park is the appropriate place for it. For many years, my mother was in a wheelchair, and I was bringing her to different places. I'm having a difficult time figuring out how I would ever have been able to bring her to anything that was going on at Simons Park, unless they were to install a ramp area for the handicapped. If we are going to build something, we have to make sure, before it is built, that we have everything available to all of the residents of Wellesley.

I support a bandstand but have real reservations about having it in Simons Park.

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Clifford Bryant, Sheridan Circle: I think the town deserves to have this bandstand. It is an architectural and cultural addition to the Town. I would hope that the Library Board would look at it as an extension of their activities.

The intent of the bandstand is not to operate in competition with the Library. I see it as a way of supplementing the cultural activities of the town.

Barbara Horan, 91 Brook Street: I was really very surprised that people are so adamant to put this bandstand in Simons Park. It is not easy to get in and out of Brook Street in that particular area. It is an issue of safety, and accessibility for both children and the elderly. I urge you not to consider locating this bandstand in Simons Park.

Mark Sciarchi: My dad is a big fan of bandstands, and every summer we go to Chatham for the band concert. We make sure the children go to the bathroom before we leave the house, and it has never been an issue. My children enjoy a lot of the open space of parks in Wellesley. My four children perform in the arts: my daughter is in the band, and my son will be playing the clarinet. I hope that some day, my

dad can come to town and visit a bandstand where my children have an opportunity to perform. The bandstand would add to the culture and the community, and would be an enhancement to the Town.

Arshag Merguerian, Pine Tree Road: I have been a member of the Design Review Board for eight years. The open space in this town has been slowly diminishing over time. The only green space left around the entire square is Simons Park. I request that you give much broader consideration to this major issue.

Stanley Brooks: The application speaks for itself with regard to compliance with the Zoning Bylaw, but there are a few points to be addressed.

Mr. Himmelberger, speaking for the Selectmen, made several points in regard to Town Meeting. I would like to submit to you the July 31, 2002 letter from Town Counsel to Janet Bowser, NRC Director.

I would like to ask you if you would like some further information about accident data.

Board Response:

The sense of the Board is that we would ask you to give us an extension beyond the time allowed after we close this Public Hearing. We will ask the BETA Engineering Group to give us a traffic study, including counts at other intersections. Mr. Brooks has asked if they will have an opportunity to respond to BETA's study. They will not. They have submitted their study, and the Board will get its own.

Brian Beisel: On-street parking on Brook Street is not closer to the bandstand than off-street parking at 40 Grove Street or the Cameron lot. Cameron Street at Washington Street is closer than Wellesley Avenue at Washington Street.

The accident data we received from Mass. Highway is not deficient. It is more detailed than what we received from the Wellesley Police. In fact, we said that there were six accidents at Washington Street/Cameron Street alone in 2002. The data from the Police Station said there were 11 from 502

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Washington Street to 550 Washington Street. From the ice cream parlor to St. Paul's Church, more than half of the accidents occurred at the intersection that we gave detailed data on.

Brion Koning: I noted that one of the women commented that sound is sound and noise is noise. Noise, by definition, is annoying sound. The difference is whether you are predisposed to enjoy it.

The decibel concept is confusing. Decibels are added logarithmically not arithmetically, so that 40 plus 40 is not 80, but 43. I made a comment about the background levels being added to the bandstand sound. That comment was accurate.

The issue of sound levels incident on houses can easily be demonstrated by the fact that we are at the intersection of two state highways. The residences on Brook Street are between 30 and 40 feet from two busy roads. The sounds on the street by roadway traffic transmitted to these residences are significantly higher than the proposed bandstand sounds levels that will be transmitted to these houses. There will be only two loudspeakers and one microphone.

The simplest concept in acoustics is called "line of sight". In Roman amphitheaters, people sat around a semicircular, sloped area looking down on a stage. The reason for that was to maximize the line of sight for the most people. The fact that the bandstand in this location would be elevated, and that the attendees would be lower than the bandstand, does not change the fact that they would have line of sight to the bandstand. The comments that acoustics would be poor are unfounded.

Outdoor acoustics need not be perfect. This is not a concert hall. It is a bandstand. The venue is not seeking acoustic perfection.

Stanley Brooks: The bandstand committee is in agreement with the conditions received from the Library Trustees and supported by the NRC. There are issues about parking and the proximity of parking at 40 Grove Street, and site compatibility.

Board Questions:

The Board asked if the Bandstand Committee would agree to an extension to October 31, 2004 in order to receive a traffic analysis from BETA Engineering Group. Mr. Brooks agreed to the extension.

On Thursday, September 30, 2004, the Permit Granting Authority and the Special Permit Granting Authority held an Open Meeting, at 7:30 p.m., at the Great Hall, Town Hall, Wellesley to allow the ZBA to comment on its review of a traffic study conducted after the June 17, 2004 Public Hearing was closed.

Present on behalf of the Natural Resources Commission was Heidi Gross, Vice Chair.

The Board stated that the requested traffic study, *Traffic Impact Study – Peer Review*, conducted by BETA Group, Inc., Norwood, MA, was not responsive to the ZBA's questions. The Board asked Ms. Gross if the Natural Resources Commission would be willing to grant an extension to March 31, 2005 for the ZBA to make its decision. The Board would request that a new traffic study be completed by BETA Group, Inc. by the end of December, 2004.

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The Board stated that it was prepared to make its decision in the absence of a satisfactory traffic study.

Ms. Gross stated that, on behalf of the Natural Resources Commission, she was willing to grant an extension to March 31, 2005.

On Thursday, February 24, 2005, the Permit Granting Authority and the Special Permit Granting Authority held an Open Meeting, at 7:30 p.m., at the Great Hall, Town Hall, Wellesley to allow the ZBA to comment on its review of a traffic study conducted after the September 30, 2004 Open Meeting was closed.

The Board said that this Special Permit application concerns a use in a Single Residence District.

The Board read from Section XXV of the Zoning Bylaw, "This Zoning Bylaw provides for specific types of uses which shall only be permitted in specified districts upon the granting of a special permit, as provided herein. Special permits may be granted only for uses which are in harmony with the general purpose and intent of this Zoning Bylaw, and shall be subject to general or specific provisions as set forth herein, and such permits may also impose conditions, safeguards, and limitations on time or use, in order to further the objectives of this Zoning Bylaw." Section XXV (4) states that, "The Special Permit

Granting Authority may grant special permits subject to any conditions or limitations as specifically provided in this Zoning Bylaw."

The Board said that the standards that must be applied are in Subsection D of Section XXV. Those standards involve vehicular circulation, vehicle queuing lanes, compatibility with surroundings, pedestrian safety, noxious uses, intensity of use, or anything that might fall within those uses.

The Board is not looking at alternative sites for the bandstand.

The Board said that the Library Trustees and the Bandstand Committee seem to be in complete opposition with regard to this petition. The fact that the Library will not make restrooms available and will have a veto power over events that would take place during Library hours is a major problem.

The Board said that the Library Trustees will not allow trucks carrying instruments or setup materials of any kind in the parking lot.

The closest restroom facilities that have been offered are located at 40 Grove Street, which is a substantial distance from the proposed bandstand site.

The Board considered vehicular circulation and traffic, including the responses received from BETA. The second consideration was noise, and the third consideration was intensity of use.

The responses received from BETA filled in what was missing from the traffic study that was submitted with the application. Other routes to the bandstand were looked at in addition to Washington Street. The report showed that there would be traffic impacts that were not shown in the proponent's traffic study.

Zoning Bylaw, Section XVI refers to noxious uses. The noise study did the best that it could at forecasting the noise at the Library. The Board found that the noise levels would be significant. The

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levels were measured and forecasted from places that are not as close to the bandstand as the nearest point on the Library. In that respect, the noise impacts may have been underestimated.

The Board discussed use of the parkland. The Board must consider the implications of attracting a gathering of people from time to time. The potential hazard of Cold Spring Stream was discussed at the Public Hearing. Because the bandstand would be located so close to the stream, there is the potential for legal action against the Town.

The Board discussed the proposed stone dust path that would run from the Library parking lot to the bandstand. There is no alternative place that could run from. Access would be available to the bandstand only and not to the grass areas surrounding it.

The Board said that it is concerned with pedestrian safety on the site and on the streets after any events. The site is not topographically friendly, particularly to children. It is, for the most part, unlit. The lighting around the whole area is poor except around the Library and the Library parking lot. People will be crossing the streets after the events in the dark, even in the summer.

The Board said that the proposed site for the bandstand would be highly visible. It would be more important to have something that is functionally useable and not lacking in flexibility of scheduling. The use of the bandstand has been tempered to pacify the neighbors and the Library Trustees.

The Board read from the Zoning Bylaw, "The Special Permit Granting Authority may issue a special permit only if it finds that, in addition to all of the conditions which may otherwise be required under this Zoning Bylaw, all of the following conditions are met," listing vehicular circulation, driveways, vehicle queuing lanes, compatibility with surroundings, pedestrian safety, noxious uses, and intensity of use. The Board finds that not all of these conditions have been met.

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Statement of Facts

The subject property is located at Simons Park, in a Single Residence District.

The petitioner is requesting a Special Permit to allow a portion of the premises to be used as a site for an octagonal bandstand with a diameter of 28 feet and a height of 25 feet, a use not allowed by right in a Single Residence District.

The following attachments and exhibits were submitted:

1. Introduction and Background
2. Letter from Town of Wellesley Zoning Board of Appeals (ZBA) dated 8/15/03 requesting information to be submitted in conjunction with a subsequent Special Use Permit Application
3. Site plans of Simons Park and Proposed Bandstand, dated 4/23/03, Town of Wellesley, Department of Public Works, Engineering Division
4. Construction Plans and Elevations Drawings, dated 2/25/03, prepared by John Staniunas, Architect.

5. Letter of Support for Community Bandstand Special Permit Application #2003-58, dated 8/15/03, from Natural Resources Commission.
6. Letter regarding Bandstand Relationship to Town's Open Space and Recreation Plan, dated 9/8/03, from Natural Resources Commission.
7. Determination of Applicability, dated 4/23/03, from Wetlands Protection Committee.
8. Design Review Board Minutes regarding Bandstand Committee: Architectural Review, dated 10/23/97.
9. Design Review Board Record and Recommendations, dated 5/20/03.
10. Special Use Permit Narrative, Compliance with Provisions of Section XXV (D) of the Zoning Bylaw.
11. Memorandum regarding Dana Hall Related Traffic, dated 4/30/04, from Brian J. Beisel Conley Associates.
12. Traffic Impact Study, dated 4/04, prepared by Conley Associates.
13. Letter of Offer of Services at 40 Grove Street, dated 5/3/04, from Jonathan A. Haynes, Haynes Management Inc.
14. Sound System Proposal, dated 4/30/04, prepared by Audio Associates.
15. Sound Study, Proposed Wellesley Bandstand, dated 5/3/05, prepared by Cavanaugh Tocci Associates, Inc.
16. Exhibit 15A – Proposed Maintenance Plan for The Wellesley Community Bandstand.
17. Endowment Model Wellesley Community Bandstand.
18. Statement of Fundraising Efforts Regarding Maintenance Endowment, from John Jeffries, Director of Fundraising, The Friends of the Wellesley Community Bandstand, Inc.
19. Exhibit 18 (a) – Park and Conservation Lands – General Regulations.
20. Letter regarding NRC to Issue Permits for Community Bandstand Events in Simon's Park, dated 5/3/04, from Natural Resources Commission.
21. Exhibit 20 (a) – Letter of support from Superintendent of Schools, dated 4/30/04.
22. Citizens Petition, signed by 261 registered voters in the Town of Wellesley, in favor of the resolution for a Community Bandstand.

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Decision

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

It is the finding of this Authority that the use of the site for an octagonal bandstand with a diameter of 28 feet and a height of 25 feet would add to traffic congestion or accident potential on the site or in the surrounding area, modification of the premises resulting from the proposed use is not compatible with the existing natural and man-made features of the site and with the characteristics of the surrounding area, and the proposed use is not consistent with the provisions of Paragraph A. of Section XVI.

Therefore, a Special Permit is denied, as voted unanimously by this Authority.

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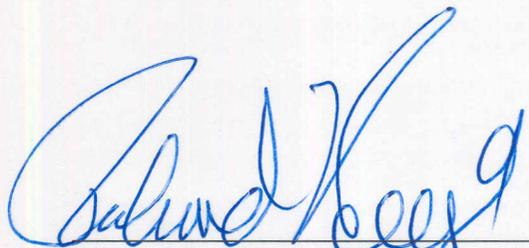
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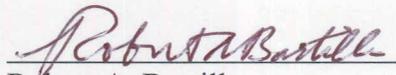
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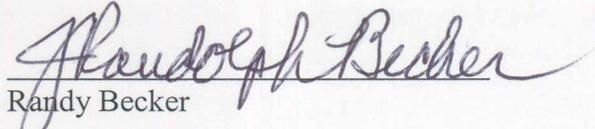
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

Cc: Planning Board
Inspector of Buildings
lrm


Richard L. Seegel, Chairman


Robert A. Bastille


Randy Becker