

**ZONING BOARD OF APPEALS**

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ZBA 2008-07

Petition of 170 Pond Road Realty Trust,
Robert Bannish, Trustee
170 Pond Road

Petition of 170 POND ROAD REALTY TRUST, ROBERT G. BANNISH, TRUSTEE requesting Site Plan Approval pursuant to the provisions of Section XVIA and Section XXV of the Zoning Bylaw and a Special Permit pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw to increase impervious area from 19,675 square feet to 34,669 square feet, on a 130,726 square foot lot in a 40,000 square foot Single Residence District, in a Water Supply Protection District, at 170 Pond Road.

On December 17, 2007, 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 Attorney David Tobin, who said that he was representing the 170 Pond Road Realty Trust, Robert Bannish, Trustee (the "Petitioner"). He said that present with him were Eric Hill, Project Manager, Vona Construction, Joey Fonseca, MetroWest Engineering, and Rick Lamb, Landscape Architect.

Mr. Tobin reviewed corrections to the brief that he had submitted.

Mr. Tobin said that revisions had been made to the plans that were originally submitted to the Board. He said that the Board of Health asked that the septic tank relocation be shown on the plans. The septic system reserve area is now shown on the plans.

Mr. Tobin said that the property was originally developed in 1991 with a very substantial size house. On February 5, 1991, the owners were granted a Special Permit to render more than 10,000 square feet of impervious surface in a Water Supply Protection District.

Mr. Tobin displayed a plan of existing conditions including existing catch basins along the driveway and drains that service runoff from the roof of the house.

Mr. Tobin said that there are property restrictions for the vegetated buffer at the back of the property. There is a restriction for a 50-foot wide strip running along the Pond Road frontage from the south side of the lot to the north side of the lot. The proposed cisterns are located within the 50-foot setback.

Mr. Tobin said that there is a sharp incline from Pond Road to the back of the lot. There is ledge at the back of the lot.

Mr. Tobin said that the new owner plans to make minor changes to the house. He said that the existing entryway will be replaced with a smaller entryway, the kitchen will be expanded by 280 square feet, and additional patio work will be done at the back of the house.

Mr. Tobin said that the major changes proposed for the site include installation of an asphalt surface tennis court with a series of drains around it to catch stormwater. A parking court is proposed at the front of the house, constructed of granite block pavers. A catch basin with an oil/grease trap will be installed in the parking court. Walls will be constructed around the parking and tennis courts

Mr. Tobin said that the pool house will be located in Natick, not in Wellesley. The existing pool will be relocated. A gymnasium and greenhouse will be constructed on the north side of the property. The roof plans for the gymnasium have been changed from a flat roof to a gabled roof. The gymnasium building will be serviced with a drain that will join with the parking courtyard drain and eventually move down to a group of cisterns located on the northeast corner of the property.

Mr. Tobin said that a letter from Morgan Palmer, who holds the 50-foot vegetated buffer restriction from Pond Road, had been submitted to the Board. Mr. Palmer authorized the owner of 170 Pond Road to apply for Site Plan Approval and a Special Permit for installation of the drainage infiltration system within the setback area. Mr. Tobin said that documentation of Mr. Palmer's authorization will be recorded at the Registry of Deeds.

Mr. Tobin displayed landscape plans. He said that there will be a row of trees between the pool and tennis courts and the property boundary. He said that the fence around the swimming pool will be brought around to the house.

Mr. Tobin said that the amount of impervious surface will be almost doubled. The amount of water for a 100-year storm event on Pond Road will be reduced by 22 percent, according to the calculations from the engineers. Water will seep through cracks between the granite pavers. All water from the parking court will be disposed of on-site. The water going into the catch basin will be treated before recharge into the system. The two existing catch basins along the driveway will remain.

Mr. Tobin said that the Board of Health was concerned about trees being planted in the septic reserve area. Mr. Fonseca said that if the system were to be expanded or if it were to fail, Title V requires that there be a reserve area equal to the size of the existing system. Mr. Tobin said that trees can be removed if the reserve area is needed. The Board confirmed that there would be no compromise to the design or the structure due to the trees or their roots. Mr. Tobin said that there is an alternate plan available that does not include planting trees in that area.

The Board reviewed the Hydrological Analysis. Mr. Fonseca displayed on the plan where impervious surfaces would be reduced or increased. He said that the turnaround area at the garage will be reduced. Mr. Tobin said that the existing entry roof will be removed. Permeable surface will be added at either side of the entry.

The Board asked if the existing drainage system was tested for adequacy for a 100-year storm event. Mr. Fonseca said that it was not. The Board said that data for the proposed condition did not indicate whether the existing system is working or how efficiently it is operating. Mr. Tobin said that it was assumed that the existing system met the required standards when the Special Permit was granted in 1991.

Mr. Fonseca said that the infiltration calculations were based on soil properties. He said that he would try to locate the original report for the existing drainage system. The Board said that all available information on the existing system should be submitted. The existing system should be incorporated into the Operation and Maintenance Plan.

The Board confirmed that the engineers' assumption was that all of the runoff from the upper drive during a 100-year storm event would be collected in the existing catch basins.

Mr. Lamb said that the existing system will be cleaned out once the project gets underway.

The Board said that details of the berms along the drive and around the tennis court should be submitted.

The Board asked about oil/gas separators in the catch basins. Mr. Fonseca said that only the catch basin at the parking court will have a trap.

The Board asked about runoff from the tennis court. Mr. Fonseca said that the tennis court will be pitched higher in the middle so that flow will be to the four corners. The Board confirmed that the retaining wall will be watertight and that the water will flow to the drains.

Mr. Fonseca discussed the methodology for the percolation test. He said that the system was conservatively designed, according to the data. The Board confirmed that the engineers relied on data on soil from the test pits as much as the percolation tests.

The Board said that no calculations demonstrating that the proposed infiltration chambers will be properly sized had been submitted. Mr. Fonseca said that the computation section of the Hydrologic Analysis describes the relation of what is coming into the system, what is infiltrating, and storage capacity.

The Board said that there were no specification sheets for the infiltration chambers submitted. Mr. Fonseca said that each chamber is a 4 feet by 4 feet by 4 feet pre-cast concrete, approximately 64 cubic feet per chamber.

Mr. Fonseca said that there is an area at the rear of the property where all flow is going toward the house. He said that they will create a depression behind the house that will allow stormwater to infiltrate. The area will be excavated down four feet and then backfilled with double-washed stone with a filter fabric on top. They will install a leeching basin for overflow. Maximum storage will be 4,615 cubic feet. Mr. Fonseca said that the overflow and infiltration calculations for #9, Reservoir, Rear Depression, are listed in the Hydrologic Analysis, for the 2, 10 & 100-year storms.

The Board asked if a hooded catch basin could be installed below the driveway where it could treat all of the runoff. Mr. Fonseca said that manhole does not have a 4-foot sump. He said that it is more of a trough for water. He said that a stormceptor could be added but that area is close to the septic system and they would need to keep a distance between the pipes.

The Board said that the driveway is steep and winter maintenance could be significant. The compounds used for deicing will be limited to acetates as a condition of the decision. The Board said that the Operation and Maintenance Plan should be amended to say that no sodium chloride shall be used for deicing.

The Board asked about the sheet flow pre and post-development. Mr. Lamb said that removal of a large swale and the addition of the tennis court will change the flow around the house. The Board said that it is helpful that the tennis courts will be asphalt, not clay.

The Board said that, according the Best Management Practices of the Town's Stormwater Management Plan, 80% removal of suspended solids is required. Oil and grease are required to have no visible sheen and there must be less than 15 milligrams per liter of total petroleum hydrocarbons.

The Board asked about protection of the infiltration devices and solids removal. Mr. Fonseca said annual sweeping programs have worked for them in the past. He said that there will be overall maintenance on the system. He said that the Town Engineer has requested copies of the inspection reports.

The Board said that the report should include a detail of what the inspection consists of and when the existing and proposed system will be cleaned. The Board said that it is important to know what will trigger the cleanings. Mr. Fonseca said that the homeowner will hire a contractor for the inspections.

The Board asked about maintenance of the oil/water separators. Mr. Fonseca said that the measured depth of sediment method would be used. He said that the catch basins would be pumped out and the sediment removed.

The Board said that sediment depth should be measured during a major storm event to see that the system is working. The Operation and Maintenance Plan should describe what triggers various actions.

Mr. Tobin said that the existing septic system will be replaced. Mr. Fonseca said that the proposed retaining wall will be located on top of the existing septic tank. He said that the sewer pipe, as it exits the house, will be replaced with a new 4 inch pipe connected to the new septic tank. He said that the new septic tank will have two compartments. He said that the existing system to the leeching fields will remain.

The Board said that the proposed parking court, tennis court and pool will be built on relatively steep land. The Board asked where the fill materials will be coming from. Mr. Lamb said that the gymnasium and tennis court will be cut into the ground. He said that the soil on the site will probably be unusable. The Board said that the site is located in a Water Supply Protection District so it will be important to know what material will be brought onto the site. The Board said that certification of origin of materials delivered to the site should be submitted to the Building Inspector.

The Board said that it was concerned that the tennis court will be so close to the neighbor. Mr. Tobin said that the vegetation easement and slope of the land limited where things could be located on the site.

Mr. Tobin said that a letter was sent to the abutters describing the project. Mr. Lamb said that the abutter to the tennis court has cleared his own land almost to the property line for parking.

Mr. Lamb said that the homeowners have not requested lighting of the tennis courts at this time. He said that advanced technology in lighting allows for very little spillage. He said that there is only one tall light fixture on the driveway and that everything else is either security lighting on the house or 2 ½ foot site lighting.

The Board said that the same lighting standards for swimming pools, as described in Section XXIIB of the Zoning Bylaw, should be applied to the tennis court.

The Board said that three light fixtures at 20 feet were listed in the Development Prospectus. Mr. Lamb said that he listed them but may not put them in.

The Board asked about permits granted by Natick and Wellesley. Mr. Tobin said that only a building permit was required by Natick. He said that building permits had already been pulled in Wellesley for the main house. The building permit for the gymnasium could not be issued until a Special Permit was granted by the Zoning Board.

Mr. Tobin said that the gymnasium will not have any bathroom facilities, just a basketball court with lights and heat.

The Board asked if there had been any consideration given to using a material other than granite pavers. Mr. Tobin said that the homeowners really wanted to have the granite pavers. He said that they are in keeping with the design of the facility and there will be no detriment to the environment. He said that some of the water will seep through the cracks and more of the water will be treated. Mr. Lamb said that the driveway is too steep to use gravel.

The Board said that it would not impose a condition regulating the use of pesticides.

Submittals from the Petitioner

- Application for Site Plan Approval and Special Permit, dated 12/12/07
- Site Plan Approval Review – Plans and Submittal Checklist
- Development Prospectus
- Project Description
- Hydrologic Analysis, dated 12/07, prepared by MetroWest Engineering, Inc.
- Proposed Storm Water Calculation Sheet, dated 12/27/07
- Response letter addressing Department of Public Works comments, dated 1/8/08, prepared by Joey Fonseca, Project Engineer, MetroWest Engineering, Inc.

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- Response letter addressing Department of Public Works comments, dated 1/21/08, prepared by Joey Fonseca, Project Engineer, MetroWest Engineering, Inc.
- Operation and Maintenance Plan – 170 Pond Road Wellesley, MA, prepared by MetroWest Engineering, Inc.
- Authorization letter from Morgan Palmer, 110 Pond Road, dated 12/21/07

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
1 of 4	Locus Plan	11/26/07	MetroWest Engineering, Inc.	3/6/07 3/13/07 3/22/07 3/27/07 4/3/07 4/27/07
2 of 4	Existing Conditions Plan	11/26/07	MetroWest Engineering, Inc.	3/27/07 4/3/07 4/27/07
3 of 4	Proposed Site Plan	11/26/07	MetroWest Engineering, Inc.	3/27/07 4/3/07 4/27/07
4 of 4	Detail Sheet	11/26/07	MetroWest Engineering, Inc.	
1 of 5	Locus Plan	11/26/07	MetroWest Engineering, Inc.	12/27/07 1/21/08 stamped by Robert A. Gemma, Professional Engineer, 1/23/08
2 of 5	Existing Conditions Plan	11/26/07	MetroWest Engineering, Inc.	1/4/08 1/21/08 stamped by Robert A. Gemma, Professional Engineer, 1/23/08

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3 of 5	Proposed Site Plan	11/26/07	MetroWest Engineering, Inc.	12/27/07 1/21/08 stamped by Robert A. Gemma, Professional Engineer, 1/23/08
4 of 5	Drainage & Septic Profiles	11/26/07	MetroWest Engineering, Inc.	12/27/07 1/21/08 stamped by Robert A. Gemma, Professional Engineer, 1/23/08
5 of 5	Detail Sheet	11/26/07	MetroWest Engineering, Inc.	12/27/07 1/21/08 stamped by Robert A. Gemma, Professional Engineer, 1/23/08
LA S1	Master Site Plan	12/12/07	Albert R. Lamb III, Registered Landscape Architect	
LA S2	Planting Plan	12/12/07	Albert R. Lamb III, Registered Landscape Architect	
LA S3	Pavements, Walls and Fencing	12/12/07	Albert R. Lamb III, Registered Landscape Architect	
A6	East Elevation and West Elevation	11/30/07	Guy N. Grassi, Registered Architect	
A7	North and South Elevations and Building Sections	11/14/07	Guy N. Grassi, Registered Architect	
A8	Gym Guilding Floor Plan, Roof Plan and Section	12/5/07	Guy N. Grassi, Registered Architect	
A9	Gym Building Elevations	12/5/07	Guy N. Grassi, Registered Architect	
A15	Typical Wall Section and Exterior Details	11/19/07	Guy N. Grassi, Registered Architect	

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On January 7, 2008, the Planning Board reviewed the petition and opposed granting the request.

On January 23, 2008, the Design Review Board voted unanimously to

Recommend the ZBA approve the proposed special permit for the increase of impervious cover in the Water Supply Protection District based upon the drainage study, but recommend the applicant consider the use of permeable ground cover in all large areas of new impervious cover including the motor court and tennis court.

On January 17, 2008, the Wellesley Fire Department approved the application for 170 Pond Road.

On December 21, 2007, George Saraceno, Department of Public Works Engineering Division, reviewed the plans and provided comments to Robert A. Gemma, MetroWest Engineering, Inc.

On January 15, 2008, George Saraceno, Department of Public Works Engineering Division, reviewed the plans and provided comments to Lenore R. Mahoney, Executive Secretary, Zoning Board of Appeals, copied to Robert A. Gemma, MetroWest Engineering, Inc.

On January 24, 2008, Janet Bowser, Natural Resources Commission, reviewed the plans and stated that there are no wetlands resource areas on the property and the WPC has no formal regulatory jurisdiction over the site.

The Board found that the proposed Major Construction Project that consists of increasing impervious area from 19,674 square feet to 34,669 square feet, on a 130,726 square foot lot in a 40,000 square foot Single Residence District, in a Water Supply Protection District, is in harmony with the general purpose and intent of the Zoning Bylaw, subject to conditions listed below, in conjunction with the Special Permit and Site Plan Approval, and voted unanimously to grant Site Plan Approval.

The Board's approval of the Site Plan for the Project is premised on the Petitioner's and Project's compliance with the following conditions (the "Conditions"). All requirements imposed by the Conditions or this Site Plan Approval shall be applicable to the entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Petitioner, the responsible entity, or no entity as having responsibility for a particular condition. By accepting this Site Plan Approval, the Petitioner agrees to the terms, covenants, conditions, and agreements contained herein.

CONDITIONS

- Manufacturers' specification sheets for the forced infiltration structures shall be submitted, showing the dimensions and design, and demonstrating that what will be installed will meet design criteria.
- Lighting of the tennis court shall be subject to the criteria listed in Section XXIIB. SWIMMING POOLS. of the Zoning Bylaw.

- Operation and Maintenance procedures shall be revised to apply to the existing and the proposed system, shall be quantitative for data from inspections, and shall indicate what will trigger certain actions and what the actions will be.
- Written review of the existing system shall be submitted to determine whether the system was designed for the 100-year storm event. The Board of Appeals reserves the right to require additional conditions after reviewing that submittal.
- No more than 34,669 square feet of impervious surface shall be constructed on the Wellesley portion of the parcel.
- All construction shall be in conformance with the submitted drainage plans.
- Any fill material shall comply with Section XIVE of the Zoning Bylaw. A Certificate of Origin shall be submitted to the Building Inspector upon delivery of materials.
- Only acetate-based deicing compounds shall be used.
- Calculations showing that 80% suspended solids removal has been achieved shall be submitted.

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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.

J. Randolph Becker, Acting Chairman

Cynthia S. Hibbard

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm