



ZONING BOARD OF APPEALS

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ZBA 2014-59

Petition of Permanent Building Committee
45 Hastings Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 24, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of PERMANENT BUILDING COMMITTEE requesting a Variance pursuant to the provisions Section XXI, Subpart 3. SCREENING b. and Section XXIV D of the Zoning Bylaw for installation of shrub screening along Hastings Street, adjacent to the reconfigured front parking loop, two (2) to three (3) feet in height where five (5) feet is required. The proposed plant material and grade difference between the front parking loop and abutting residential properties achieves the intended spirit of the bylaw requirements for headlight screening. The property is located at 45 HASTINGS STREET, in a Single Residence & a Water Supply Protection District.

On June 17, 2014, 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 were Matt King, Chairman, Permanent Building Committee (PBC), Joel Seeley, Architect, SMMA, Mike Burton, Dore & Whittier, Steven Agostini, Construction Manager, Agostini Construction Co. Inc., Christopher Racine, Civil Engineer, SMMA, Jennifer Soucy, Project Architect, SMMA and Peter Lukacic, Landscape Architect, SMMA.

The Board said that the Planning Board recommended denial of the requested variance. The Board said that what was submitted fundamentally assumed that the screening requirements were for headlights. A Board member said that he believes that the real reason for screening requirements is to minimize the impact of a non-residential use on adjacent residences. He said that he would personally have a hard time voting for a variance if elevation and screening of headlights were the sole justification for it. He said that there were two other justifications in the application, one was safety and one was programmatic. He said that there was no definition as to what that meant. He said that there would have to be a better explanation.

Mr. Seeley said that there were several reasons for the variance request that were listed but not elaborated on in detail. He said that having a five foot continuous screen along the perimeter of the school site against the roadway is considered by the School Department to be a safety concern because, to be able to see out from the front of the building when the staff monitors traffic during pick up, having a continuous impediment to view what is happening along the roadway and providing the barrier that children could be behind or others could be behind waiting for children coming out might not be the intended circumstance. He said that the hedge facilitates that. He said that they requested the height at 2.5 feet to mitigate the

potential safety issue. The Board asked who is doing the viewing. Mr. Seeley said that during pick up school administration staff is outside controlling the traffic flow. He said that having a five foot high barrier along the property line reduces the staff's ability to see past the property line in case there are children who have gotten through and are hiding in the hedges or getting close to where traffic is or other people waiting for children who are not meant to be picking up children. He said that part of the reason for reducing the height was to have clear visibility. He said that they believe that providing a 2.5 foot high hedge will satisfy the intention of the bylaw. Mr. Lukacic said that they are asking for 2.5 feet to a maximum of 3.5 feet. He said that children could dart out and the supervising staff was concerned that they could not see the children. He said that there could be cars going too fast to get to the lower lot or turning around there. He said that it was purely a safety issue. He said that the combination of the 3 to 3.5 foot shrubbery and the topography will give an overall height of 5.5 feet.

Bridget Bettigole, 36 Hastings Street, said that the concern is that the shrubs are tailored to the context. She asked that the ZBA discussion be tabled to give the neighbors a chance to discuss options of no shrubs at all or putting the shrubs closer to the cars. She said that there is a lot of usage by neighbors and pedestrians of the green space there. She said that once the shrubs are put up, the area is blocked from the neighborhood. She said that she has never seen a child run out from the green space. She said that if there are "No Parking" signs, there will not be parents walking across to get to the school. She urged the ZBA to delay discussion on that until people are back. She said that the first official word that the neighbors got about this process was for the trees on June 26th. She said that the abutters received notice of this Public Hearing on July 10th. She said that people are out of town and there was not a lot of time to get their thoughts together and have some dialogue.

Liza Near, 3 Madison Road, questioned how the hedge and the trees will coexist. She said that the plant and tree maintenance has not been impressive on the Fiske grounds. She said that she would like information about who will be taking care of the landscaping and how it will be maintained. She said that they have had some work done at the entrance to the Town Forest a couple of years ago and the trees that were planted did not last a year.

August 19, 2014

Presenting the case at the hearing were Matt King, Joel Seeley, Mike Burton, Christopher Racine, Jennifer Soucy, John Hart, Senior Civil Engineer, SMMA and Samantha Farrell, Landscape Architect, SMMA.

Mr. Racine said that there had been concern about how new and existing plants will be cared for. He said that SMMA submitted a sample plan from Wellesley High School. He said that the specifications require that the awarded site contractor will provide a proposed plan that SMMA will review and ensure that it takes into account all of the needs of the new and existing plant materials. He said that once they have reviewed that and made recommendations, they can share the plan with ZBA. He said that they have specific plantings for the bioretention already designed. He said that the contractor will provide a document that says how those plantings will be maintained.

Mr. Seeley discussed the school's concerns about having a five foot hedge along Hastings Street. He said that the existing berm goes up quite a bit from the location where the cars are parked. He said that they tried to meet the intent of the bylaw while recognizing the strong safety and security concerns of the School Department. He said that you can still see people and vehicles on the other side of a three foot

hedge. He said that it allows the monitors, who are handling a large amount of vehicles and children in a short amount of time, to maintain visibility. He said that, with a five foot hedge, pedestrians are no longer visible and vehicles are barely visible. He said that it is important to the School that it maintains a safe environment for this activity that occurs twice a day.

The Board questioned whether the requirement for screening would be triggered since the parking lot will be essentially the same. Mr. Racine said that, as a result of the overall site scope, they are required to comply with the screening requirements in the parking bylaw.

The Board said that the bylaw requires the shrubs in front. The Board said that it heard from the neighbors that they prefer to leave the vegetation in the front of the building as it is now. The Board asked about seeking relief to eliminate the shrubs altogether, come up with a way for people to get through hedge or an easier way for the neighbors to walk around the barrier. Mr. Seeley said that, if ZBA allows the ability to not install the shrubs, the School Committee would not object.

The Board said that safety statistics regarding accidents were not included in the submittal package. The Board asked if there are any records. The Board said that there is an expressed concern based on a hypothesis and there should be data to back it up. Mr. King said that PBC has engaged with a security analysis firm for security in and around school buildings in Wellesley. He said that it is not a public report. He said that PBC is always mindful of who is viewing the school, who is arriving at the school and who may be passing by the school. He said that all of PBC's actions have taken into account lighting and line of sight. He said that beyond simple traffic and pedestrians, they also want to know who is out there.

The Board said that a memo says that there will be two staff plus the Principal at the sidewalk at the front of the building with their focus on the 10 to 15 children in six lines there. The person closest to the vegetated area is the crossing guard at Madison and Hastings and that will not change if there is some sort of screen there. Mr. King said that they were talking about more than just pick up and drop off hours. He said that they are moving Administration to the front of the building so that they have visual access to the street for the entire school day.

Laura Fragasso, 166 Oakland Street, said that she had discussions with other neighbors. She said that because everything is staying the same in the parking lots, the neighbors would like to see the park at the front stay the same as open space. She said that there is a question if the continuous hedge will survive under the trees. She said that the neighbors asked Cricket Vlass of the Park & Tree Department about that and she said that there is a question about the roots under the pignut hickory tree. Ms. Fragasso said that people do not want the hedges because they like the open space. The Board said that if the School Committee does not really feel like the screening will benefit the operations of the school and neighbors do not find themselves distressed by the headlights and the cars that the screening is supposed to mitigate, there may be another solution that can meet the standards of a variance.

Kyle Bettigole, 36 Hastings Street, said that he lives directly across from the school and the parking lot. He said that if the purpose of the shrubs is to accommodate the neighbors who may have an interest for better coverage from the parking lot and the lights at night, and if the neighbor directly across the street does not see the need for the shrubs and is happy with the current state, there is an argument to be had that it is a waste of the Town's resources to put shrubs in when the current setting works just fine. He said that

at a meeting at the school, the neighbors discussed having the shrubs at the front of the parking lot, not abutting Hastings Street and limiting the ability to cross Hastings Street to spend time in the park. He asked that more consideration be given to that because the shrubs will limit access to that area.

The Board said that it could support a variance for a lower hedge, based on topography. The Board questioned if there are adequate grounds to grant a variance to eliminate it. The Board asked if PBC had looked at the option of putting the shrubbery adjacent to the edge of the parking lot. Mr. Seeley said that they are open to that but have shown the hedges, as proposed, to show that they tried to meet the intent of the bylaw, which was closer to the street. The Board said that if the purpose of it is to be a screen, to do things that take away its function as a screen does not make sense, as it does not come close to the intent of the bylaw. The Board said that screening the vision of the vehicles and screening the headlights of the vehicles can all be accomplished with the shrubbery close to the parking lot. The Board said that the intent of the bylaw is to provide screening between a residential use and a parking lot. The Board said that it needs to understand the rationale for the request here.

The Board said that a strong case could be made that there are unique circumstances with respect to the shrubbery, due to the topography, for reduced height or possible relocation to the base of the berm so that sight lines would be improved and the neighbors would have access to the green space. The Board said that the berm is already there. A Board member said that he was not sure that he could find the necessary elements to totally eliminate the shrubbery. Mr. King said that they presented their request for 3.5 high shrubs for sight lines. He said that PBC would be content with approval of the request, as submitted.

Statement of Facts

The subject property is located at 45 Hastings Street, on an 8.50 acre lot in a 15,000 square foot Single Residence District and a Water Supply Protection District.

The Petitioner is requesting a variance pursuant to the provisions Section XXI, Subpart 3. SCREENING b. and Section XXIV D of the Zoning Bylaw for installation of shrub screening along Hastings Street, adjacent to the front parking loop, two (2) to three (3) feet in height where five (5) feet is required. The proposed plant material and grade difference between the front parking loop and abutting residential properties achieves the intended spirit of the bylaw requirements for headlight screening.

Application, dated 6/13/14, Site Plan Approval Review Plans and Submittal Checklist, dated 6/13/14, Development Prospectus, dated 6/13/14, Project Overview, Letter to Zoning Board of Appeals, dated 8/7/14, re: Response to ZBA Comments, from Christopher Racine, with attachments: Attachment 4 – Turf and Plantings Maintenance Guidelines (Sample) with Appended FMD & DPW Responsibilities, Attachment 6 – Photos with Shrub Screen Renderings including Shrub Screen – No Shrubs, Shrub Screen – 3 Ft Shrubs, Shrub Screen – 5 Ft Shrubs, Shrub Screen – No Shrubs, Shrub Screen – 3 Foot Shrubs, and

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
Title Page	Fiske Elementary School - Renovations	6/13/14	SMMA	
C-101	Existing Conditions	2/28/14	Darren J. Hardy,	

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C-102	Existing Conditions	6/13/14	John C. Hart, PE	
C-111	Site Plan Development	6/13/14	John C. Hart, PE	8/7/14, prepared by Michael F. Holland P.E.
C-112	Plot Plan	6/13/14	John C. Hart, PE	8/7/14, prepared by Michael F. Holland P.E.
C-141	Planting Plan	6/13/14	Peter Lukacic, R.L.A	7/24/14

were submitted.

On July 23, 2014, the Planning Board reviewed the petition and recommended that the variance be denied.

Decision

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

It is the opinion of this Authority that granting a variance from the Zoning Bylaw for installation of shrub screening along Hastings Street, adjacent to the front parking loop, two (2) to three (3) feet in height where five (5) feet is required, is appropriate as the literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner, owing to circumstances relating to the topography, especially affecting such land or structures but not generally affecting the zoning district in which it is located, that a hardship has been demonstrated that shrubs of 5 feet or more would create difficulties with properly monitoring the comings and goings of the school and the hardship is not self-created, and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

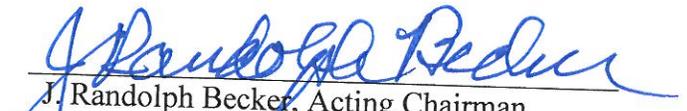
Therefore, the requested variance from the terms of Section XXI, Subpart 3. SCREENING b. is granted to allow for installation of shrub screening along Hastings Street, adjacent to the front parking loop, two (2) to three (3) feet in height where five (5) feet is required and the intent is that the shrubbery shall not be less than 3.5 feet in height. .

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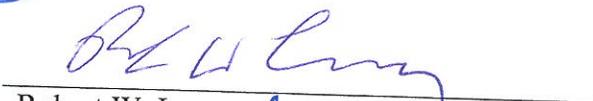
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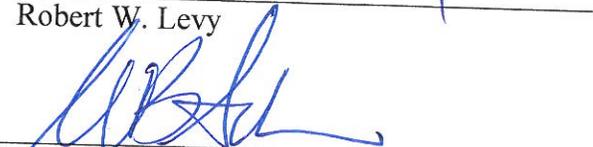
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



J. Randolph Becker, Acting Chairman



Robert W. Levy



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm