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ZBA 2005-27

Petition of Peter and Francesca Wier  
33-39A Oak Street

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 18, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PETER AND FRANCESCA WIER requesting Site Plan Approval pursuant to the provisions of Section XVIA and Section XXV of the Zoning Bylaw for a Major Construction Project, which shall involve construction of a 7,016 square foot 3-Unit Town House and Garages, at 33-39A OAK STREET, in a General Residence District. The proposed project will result in 11,436 gross square feet of living and garage space.

On March 9, 2005, the petitioners filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

The Board asked if all those who were present were representing the applicant. Joe Grignaffini said that he is the builder. Also present were George Giunta, engineer, and Susan Sicchitano, who resides at 33 Oak Street.

Presenting the case at the hearing was Peter Wier, who said that he and his wife, Francesca Wier, are the owners and developers.

Ms. Wier said that their intention is to raze an existing 75 year old dwelling at 39A Oak Street and build three condominium units further back, all of which will have first floor master bedrooms. The demographic that they are targeting are empty nesters and retirees who are looking to sell their larger homes in Wellesley and surrounding towns. The housing market for that particular demographic is sparse.

Mr. Wier said that the building that they are proposing will mirror the one that they built on the property a few years ago. They are currently living in the back unit, Ms. Sicchitano lives in the front unit. Their plan is to move into one of the new units.

The Board asked how many units are in the building that will be razed. Mr. Wier said that it is a single family dwelling which will be replaced by a three-car garage.

The Board said that most of its questions had to do with completeness of the submittal. The Board asked if the plans reflect the comments of the Design Review Board. Mr. Wier said that they do.

The Board said that the Department of Public Works commented that the plans needed to be stamped and signed by the architect. Mr. Grignaffini said that the large set of plans is stamped and signed.

The Board said that one of the comments of the Department Of Public Works had to do with benchmarks. Mr. Giunta said that he met with the Department Of Public Works last week and they had finalized everything. He received a letter from Joshua Van Houten of the Department Of Public Works saying that all of the outstanding issues had been resolved. Mr. Giunta said that the hydrant is one benchmark and the manholes are the others. Mr. Giunta indicated on the map where these were located. Mr. Giunta said that the Department Of Public Works accepted the manholes as benchmarks because they are existing fixed structures. The Board said that the benchmarks should be noted on the plan to satisfy the requirements.

The Board said that the distance from the proposed garage to the side lot line is not shown on the revised plans. Mr. Giunta said that it is 39.8 feet. Mr. Giunta said it is shown on the Drainage and Utilities Plan, which is also the Site Plan. The Board said that should be shown on the Site Plan that has the Zoning Table.

The Board asked about the area of each individual lot. Mr. Giunta said that the area of the Oak Avenue part was never shown. Without that, the areas of the other parcels would not add up. The Board confirmed that because it is a private way, the area can be counted.

The Board asked about erosion control during construction. Mr. Giunta said that it is shown on the Post Development Drainage and Utility Site Plan. He said that because the grade is so flat, haybales are not really needed.

The Board said that a plan was submitted showing the construction parking and staging areas. The plan did not show how they were going to fence the construction areas. The Board said that this is a school district and there will be children in the fields behind the project. This will be an attractive nuisance. Mr. Wier said that there is an existing chain link fence there. The Board asked if there are children living in the complex. Mr. Wier said that there are not, other than their own children. There are children in the neighborhood. Mr. Wier said that this is not used as a cut-through to the fields. The Board said that there should be fencing around the construction and it should be shown on the Construction Storage and Parking Plan, along with an explanation as to how it will be done.

The Board said that it typically asks for a Traffic Management Plan During Construction. This is not a large construction site. Because it is a school zone, it is of interest to the Board. Mr. Giunta said that they do not have a plan. Mr. Grignaffini said that it would be the same as when they built the construction at the front two years ago. The Board asked if there was a Construction Management Plan for that. Mr. Grignaffini said that there was not. The Board said that this time they have triggered Site Plan Approval and this is something that is required. Mr. Grignaffini asked what a Traffic Management Plan is. He said that the workers would get to the site between 7-7:30 a.m. and leave the site around 3:30 p.m. The Board asked about scheduled deliveries. Mr. Grignaffini said that there is always a construction supervisor on the site.

The Board asked about the lay down areas in the back corner. The Board asked if a forklift will be used. Mr. Grignaffini said that they will use a forklift.

The Board asked if large trucks will back in Oak Avenue. Mr. Grignaffini said that they will. He said that some of the trucks have cranes on them.

The Board said that the lay down area is in the low part of the site. It will get muddy. The Board asked if there were plans to gravel that area. Mr. Giunta said that they are going to strip the loam off.

The Board said that the Construction Storage Plan shows a line around an area which appears to be a boundary between grass and gravel. The Board asked what the line signifies. Mr. Grignaffini said that it signifies the area where they will be putting the construction materials. They will take a little at a time and use it. The Board confirmed that they will be storing materials on top of the grass.

The Board asked if there is a fence on the right side of the property. Mr. Wier said that there is not. Mr. Giunta said that they can put a fence along the side that they can open and close. They can tie it to the building. Ms. Wier asked if it could be a temporary fence. The Board said that it can be a temporary fence. The Board said that it would be there to provide safety during construction.

The Board asked how long construction would be going on. Mr. Grignaffini said that it would be going on for about eight months.

The Board said that a Traffic Management Plan is probably not appropriate for this project. The Board asked that something be worked out with the contractor to avoid bringing trucks through the area during peak school hours. Mr. Grignaffini said their deliveries will be small. They do not plan to store a lot of material. He said that the delivery trucks will arrive between 7-7:30 a.m. The only other ones will be concrete trucks. Ms. Wier said that there is not a lot of bus traffic, most of the traffic comes off of Route 9. The Board said that the trucks will have to pass through the school zone if they come off of Route 9. Mr. Grignaffini said that recently there were two single family homes built closer to the school and there were no problems with the concrete trucks coming in.

Ms. Sicchitano said that during the construction of the condominium that she lives in, her son, daughter-in-law and grandson lived on the property. There was never a problem with the trucks.

The Board said that the parking dimensions must be shown, as required in the bylaw. There are requirements for parking space dimensions, wheel stops, turning radii and curbing. Mr. Giunta said that the parking spaces are all full size. The Board said that they are required to show that.

The Board said that they might be subject to 521 CMR for handicapped requirements. The Board said that multiple dwellings in new construction consisting of three or more units shall comply with 521 CMR. The Board said that there are requirements that apply to walks, sidewalks, parking lots, garages, entrances, and corridors and stairways leading to the dwelling units. The Board said that could be of interest, given the demographic that they are building for. The Board said that they may be required to provide one handicapped parking space.

Ms. Wier said that each unit has an attached garage. The Board said that the regulations apply to public or common use spaces. Ms. Wier said that each unit has its own stairway. Mr. Giunta said that these are private, not multi-family public homes. Ms. Wier said that there are no common use spaces. The Board encouraged the applicants to determine applicability of 521 CMR.

The Board asked if information regarding estimated water consumption and sewage flows had been provided. Mr. Giunta said that he had covered that with the Department Of Public Works. The Board said that it should have that information for their records.

The Board asked about flow direction arrows on sewer and drain lines. The Board asked about the proposed 6 inch water main. Mr. Giunta said that has been moved and is shown on the plans. The Board asked if the leaching basin will be installed after construction. Mr. Giunta said it will be installed at the end of construction because they do not want to drive over it.

The Board said that there was some concern that there are no hooded catch basins or oil/water separators. Mr. Giunta said that there is no water leaving the site. He said that there is no drainage system out there. That is why they had to provide drainage on-site. The Board said that they are not over the threshold of 10,000 square feet of impervious area that is going to be contaminated.

The Board said that Department Of Public Works was asking for pre and post-development drainage calculations. Mr. Giunta said that there is an updated booklet that shows that the post development is less than the pre-development drainage. Mr. Giunta said that Department Of Public Works has a copy of that. The Board said that the Zoning Board would need to have a copy of that also.

The Board said that it looked like the runoff area that they used in their calculations is only 6,571 square feet. Mr. Giunta said that has been revised. The Board said that it wants to be sure that the calculations for the new impervious area are correct.

The Board asked about the drywells for the downspouts. The Board confirmed that roof runoff is not included. Mr. Giunta said that the roof runoff is separate. They have redone the whole drainage system and that is reflected in the new calculations.

The Board said that in the back area they show a large chamber. There is a catch basin that goes into it. Mr. Giunta said that area is grass and the runoff will percolate into it. He said that the downspouts are going into drywells. There will not be a lot of water. He has been involved with the site since the original project and he has never seen any standing water there.

The Board asked about the percolation tests. Mr. Giunta said that he has done them. They are in the drainage calculations.

The Board said that the Design Review Board had recommended some changes. Mr. Wier said that they are reflected on the new construction plans. The Board said that the Design Review Board submitted an additional comment concerning an egress door on the detached garage to meet building and fire codes. Mr. Wier said that they could add a hinged door on that garage.

The Board said that there is an electrical vault there. The Board asked who would be using the garages. Mr. Wier said that each unit will have one space. The Board asked where the logical place would be for the hinged door. Ms. Wier said that there will be separate bays in the garage. They would need three doors out of the back.

The Board asked about the location of air conditioning units. The Board said that Site Plan Approval requires that they are shown on the plans.

The Board asked about the Landscape Plan. The Board said there may be a conflict with the drywells. There is landscaping shown on the Landscape Plan in the same place as the drywells on the Post Development Drainage and Utility Site Plan. The Board asked about the Oak tree. There could be an issue if they are going to be running back and forth in that area with a forklift. They will need to protect the root structure of the tree if they want to save it.

The Board asked if the evergreens along Oak Avenue are already there. Mr. Grignaffini said that they are.

The Board said that the Locus Map, which is a requirement, is incorrect. It shows the wrong site. The Board said that a correct Locus Map must be submitted.

The Board asked about Oak Avenue. Mr. Giunta displayed on the plan where Oak Avenue ends. He said that there is gravel beyond the end.

The Board asked if Department Of Public Works had asked for a profile showing proposed utilities in relation to the ground surface. Mr. Giunta said that the Department of Public Works had not asked for that.

The Board said that the parking lot plans should include dimensions of parking spaces, maneuvering aisles, islands, turning radii, percentage of landscaped open space, percentage of interior landscaping, appropriate number of handicapped parking spaces, and directional flow arrows.

The Board said that the fields behind the project area used to be a landfill. They are proposing basements in the building. The Board recommended that a gas migration check be done.

The Board asked what had been done to adjust for the 35 foot side setback. Mr. Giunta said that they took two feet out of the garage. Mr. Wier said that there will be one garage door instead of two. He said that there were two dormers originally. They have reduced that to one dormer. The Board said that the window sills are different. Mr. Grignaffini said that they are at a different floor level, half a flight up.

The Board said that there were three lampposts listed in the Prospectus. The Board asked if they are shown on the plans. The Board is concerned with the lamppost on the Oak Avenue side. There are requirements to avoid light spillage onto adjoining properties. Mr. Grignaffini said that they do not need a fixture there because there will be lights on either side of the door. They can eliminate that one.

The Board asked if the lots had been formally joined and registered as a single lot in Land Court. Mr. Giunta said that had not been done. He said that he could do a Chapter 380 Plan and record that to combine them. The Board said that, given the zoning, he would need to do that.

The Board asked about Oak Avenue. Mr. Wier said that they would leave the end of Oak Avenue where it is currently. He said that the Town pushes snow to the end onto the gravel space. The Board asked if the catch basin is up-gradient from that area. Mr. Giunta said that the drywells are buried and the snow will not get to them. The catch basin is up-gradient from where the snow is going to be pushed. The Board asked about the groundwater elevation. Mr. Giunta said that it is down about four feet. The leaching basins are shallow. The flow will be away from the catch basin.

The Board asked about the two-car garage. The Board asked about accessibility to the empty space above the garage. Mr. Grignaffini said that there is access. The Board said that the Design Review Board had asked about that and the response was that there is too shallow a pitch for it to be useable space.

Mr. Wier said that they had to lower the ceiling height on the basement plan. He asked if it would be possible to make it a little higher. He said that he is 6'1" tall and he will not be able to walk in the basement. The Board said that the Building Code has guidelines for habitable space. Mr. Wier said that he thought that it was 7'2". Mr. Wier wanted to ask for 6'6". The Board said that it has to be officially uninhabitable. The height issue is something that they could speak to the Building Inspector about.

The Board said that the hearing would be continued. The Board would need to have the new materials at least one week ahead for review. The Board and the applicants mutually agreed to continue the hearing to May 18, 2005.

Ms. Wier said that Sue Knight was present at the hearing because she lives at 39A Oak Street, in the dwelling that is going to be razed. Ms. Wier said that it is her understanding that they are required to raze the building before they can begin the construction of the new project. She asked if there could be an exception made. They were hoping to be allowed to keep the house up. The Board said that issue came up for a single family house off of Weston Road. The owners wanted to live in the new house adjacent to the one being torn down. The petition was denied because there would be two dwelling units on one site. The Board said that this petition might be different. There would only be a net increase of two units. They are allowed up to 8.35 units on the site. As long as they do not exceed eight occupied units, the Board would not have a problem allowing it. Ms. Mahoney will confirm that would be allowable with the Building Inspector.

The Board asked if lot coverage would be exceeded with the existing house and the new garage. It does not appear to be an issue.

Ms. Sicchitano said that when she moved, there were only two condominiums available to her. She thinks that this would be a very worthwhile project for this neighborhood. She said that many people have come through her unit to get an idea of what the new units will be like. She said that there is a need for this type of dwelling. The Board agreed that there is a need for this type of project in Wellesley. The Board said that the project has an appropriate density and will fit architecturally in the neighborhood.

The Board asked if the footprints of the existing buildings are up to date. There is an entryway that sticks out towards the street on the two-unit building. Mr. Giunta said that he can show that on the Site Plan. He said that the Condominium Site Plan that they filed for that building has the correct footprint on it.

The Board asked if there are any bulkheads. There is a bulkhead that appears on the Landscape Plan that is not on the Site Plan. Mr. Giunta said that he will show everything on the new Site Plan.

The Board said that the applicants have done a nice job. The units are attractively presented and the work that Mr. Grignaffini has done in that area is well maintained.

The Board said that all of the drawings must be consistent.

The Board voted unanimously to continue the hearing to May 18, 2005 at 7:30 p.m.

May 18, 2005

The Board said that this petition had been continued from the April 28, 2005 public hearing.

Presenting the case at the hearing were Peter and Francesca Wier, George Giunta, and Joe Grignaffini.

The Board said that amended plans had been submitted showing air-conditioning units, benchmarks, corrected locus, construction fence and removal of the tree. A new Drainage Calculation Report was also submitted.

The Board said that it found the Drainage Report difficult to read. The introduction had not been updated. The Board asked where the test holes were dug. Mr. Giunta displayed where the test holes were dug on the Site Plan. The Board said that it would like to see a drawing showing where the test pits are. Mr. Giunta said that there is a drawing in the Drainage Report showing where the ties are.

The Board said that there is a chart in the Drainage Report that shows the pre and post-development runoff. It was difficult to locate the data that goes with that chart. Mr. Giunta said that it was set up that way because the hydrocad tried to do the whole site. With the size of the basins that they are putting in, there are surcharges and they do not work. They had to take them individually and then total them up. Mr. Giunta said that the water is going into different places. There are individual ones for the houses and the two big ones. The end result is that there will be much less post development runoff than pre-development runoff.

The Board said that there is a listing at the beginning of each section. The runs are based on the total impervious surface. The Board was unable to duplicate the table from the information in the report. It could not determine what was pre-development and what was post-development and find how the numbers in the table worked. Mr. Giunta said that the pre-development figures are for the whole area and everything that was leaving the site. Mr. Giunta located the pre-development figures in the Drainage Report.

The Board said that the surface area is much greater in the revised Drainage Report. Mr. Giunta said that originally they included only the new construction area. They revised the report to include the whole site. They also added the roof downspouts from the front buildings.

The Board said that they added the distance from the garage to the side line. The Board said that it would be helpful to show arrows at both ends of the line.

The Board asked if the 20 foot width shown is the right of way. Mr. Giunta said that it is. The Board asked if it is also the easement. Mr. Giunta said that it is 20 feet all the way down to the end. On the right hand side of the driveway it is not the right of way. It is 3 feet from the side line at the front and goes along the edge towards the back.

The Board asked if the pavement is 8 feet wide. It does not say anywhere on the plan what the actual width of the pavement is. Mr. Giunta said that the pavement is wider at Oak Street and gets narrower as it comes down. The Board said that it requires that dimensions be shown on the plan.

The Board said that the bylaw, Section XXI D says:

The width of a driveway for one-way traffic shall not be less than twelve (12) feet as measured at its narrowest point. The width of a driveway for two-way use shall be a minimum of eighteen (18) feet.....

Mr. Giunta said that along the left hand line there are trees that they would like to leave there. The pavement could be widened to 18 feet but they will lose a lot of trees. The Board said that it appears that the 18 feet goes right up to the property line.

The Board said that off street parking development standards do apply to this project. The Board considers it more important in this case to preserve the buffer.

The Board said that the Wellesley Fire Department has reviewed and approved the project.

The Board said that there will be little circulation area at the back. The Board asked if the roots of the Oak trees will be protected. The Board said that there is a 24 inch Oak. Mr. Grignaffini displayed on the plans which trees would probably have to be removed. Mr. Giunta said that any tree down to the catch basin will have to be removed.

The Board asked if there will be a gate at the back area. Mr. Grignaffini said that there will be a gate there and at the dumpster.

The Board asked about the first floor elevation. Mr. Giunta said that the 97 was on an assumed base. One of the things that the Engineering Department had Mr. Giunta do was to convert it to the Town of Wellesley sewer base. That one got missed. Mr. Giunta said that it is 151.2. The Board said that must be corrected on the plans.

The Board asked if they had submitted water consumption and sewer discharge analysis. Mr. Giunta said that it is 1,210 gallons a day for water consumption, which is 660 gallons a day additional over what is going there now. The numbers are based on 110 gallons per bedroom per day. The Board confirmed that the 660 gallons are for the new building.

The Board asked about long-term maintenance agreements. Mr. Giunta said that is usually handled by the condominium association. Ms. Wier said that is how it will be handled.

The Board asked if they had confirmed that handicapped access was not required. Mr. Giunta said that they had.

Mr. Giunta said that he will submit a new plan with the curb stops.

The Board asked if there are handrails at the entrances. Mr. Grignaffini said that they are there whenever there are more than three risers.

The Board said that conditions of approval would be re-submittal of the site plan showing the distance between the garage and the lot line with arrows, which trees will be removed, and the pavement width at various points along the length. The trees should also be shown on the Landscape Plan.

The Board said that the Drainage Maintenance Plan should be amended to say:

All above and below ground maintenance, including the Drainage Maintenance Plan, shall be maintained by the project developer until the project is completed, at which time the responsibility for maintenance passes to the condominium association.

The Board said that the project complies with Section XVI A of the Zoning Bylaws of the Town of Wellesley in that it protects the safety, convenience and welfare of the public, minimizes additional congestion in public and private ways, insures adequate provision for water, sewerage and drainage, insures compliance with the provisions of Section XVI. RESTRICTIONS AFFECTING ALL DISTRICTS., insures compliance with the provisions of SECTION XXI. OFF-STREET PARKING., and insures compliance with the provisions of SECTION XXII. DESIGN REVIEW.

#### Statement of Facts

The subject property is located at 33-39A Oak Street, in a General Residence District.

The petitioner is requesting Site Plan Approval to construct a 7,016 square foot 3-Unit Town House and garages in a General Residence District. The proposed project will result in 11,436 gross square feet of living and garage space.

On March 8, 2005, the Planning Board reviewed the petition and had no objection to granting the request.

The Design Review Board reviewed the project on April 27, 2005, 2004 and voted to approve the project.

On March 17, 2005, the Wellesley Fire Department reviewed and approved the project.

On April 20, 2005, Joshua Van Houten, Department of Public Works Engineering Division, stated in a memo that the Site Plan Approval Application and Project Plans were received at the Department of Public Works. Mr. Van Houten commented that architectural plans should be re-submitted to verify that they have been stamped, dated and signed by a Registered Architect in the Commonwealth of Massachusetts.

The following plans were submitted:

A-1	Elevations	3/31/05	John Staniunas	Registered Architect
A-2	Elevations	3/31/05	John Staniunas	Registered Architect
A-3	First Floor Plan	3/31/05	John Staniunas	Registered Architect
A-4	Second Floor Plan	3/31/05	John Staniunas	Registered Architect
A-5	Foundation Plan	3/31/05	John Staniunas	Registered Architect
A-6	Sections/Details	3/31/05	John Staniunas	Registered Architect
A-7	Sections/Details	3/31/05	John Staniunas	Registered Architect
F-1	First Floor Framing	3/31/05	John Staniunas	Registered Architect
F-2	Second Floor Framing	3/31/05	John Staniunas	Registered Architect
F-3	Roof Framing	3/31/05	John Staniunas	Registered Architect
L-1	Landscape Plan	5/2/05	Paula Coates	Registered Landscape Architect
Site Plan of Land		5/4/05	George Giunta	Professional Land Surveyor
Post Development Drainage and Utility Site Plan		5/4/05	George Giunta	Professional Land Surveyor

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Materials Staging Area Plan	4/30/05	George Giunta	Professional Land Surveyor
Details for Drainage Plan of Site	4/19/05	James Lynn	Professional Civil Engineer
Perimeter Plan, Plan Book 537, Plan #83 of 2005	5/9/05	George Giunta	Professional Land Surveyor

The following information was submitted:

1. Application for Site Plan Approval
  - a. Site Plan Approval Review – Plans and Submittal Checklist
  - b. Development Prospectus
  - c. Drainage Report

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

#### Decision

This Authority has made a careful study of the plans and materials submitted and the information presented at the hearing. Peter and Francesca Wier's proposal for a Major Construction Project, which shall involve construction of a 7,016 square foot 3-Unit Town House and garages, in a General Residence District. The project will result in 11,436 gross square feet of living and garage space.

It is the opinion of this Authority that the proposed plans listed in the foregoing Statement of Facts for the project at 33-39A Oak Street comply with Section XVI A of the Zoning Bylaws of the Town of Wellesley in that they protect the safety, convenience and welfare of the public, minimize additional congestion in public and private ways, insure adequate provision for water, sewerage and drainage, insure compliance with the provisions of Section XVI. RESTRICTIONS AFFECTING ALL DISTRICTS., insure compliance with the provisions of SECTION XXI. OFF-STREET PARKING., and insure compliance with the provisions of SECTION XXII. DESIGN REVIEW.

The Board approved the Site Plan Approval for ZBA 2005-27, 33-39A Oak Street, with the following conditions:

1. Submittal of a revised Site Plan showing the distance between the garage and the lot line with arrows, width of the pavement at various points along the length, and curb stops.
2. Submittal of a revised Landscape Plan showing which trees will be removed.
3. Submittal of an amended Drainage Maintenance Plan stating that:  
All above and below ground maintenance, including the Drainage Maintenance Plan, shall be maintained by the project developer until the project is completed, at which time the responsibility for maintenance passes to the condominium association.

Site Plan Approval for a 3-Unit Town House and garages at 33-39A is granted, as voted unanimously by this Authority at the Public Hearing.

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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.

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Cynthia S. Hibbard, Acting Chairman

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David G. Sheffield

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Robert A. Bastille

cc: Planning Board  
Inspector of Buildings  
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