



**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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WALTER B. ADAMS  
DEREK B. REDGATE  
RICHARD L. SEEGEL

February 3, 2022

7:30 pm

Juliani Meeting Room, Town Hall

Zoning Board of Appeals Members Present: Robert W. Levy  
Walter B. Adams  
Derek B. Redgate

PUBLIC HEARING

ZBA 2022-05, WELLESLEY PLACE, LLC, 978 WORCESTER STREET (DUNKIN)

Due to a potential conflict of interest for two of the Board members, the Board did not have a quorum to hear the matter.

Mr. Adams moved, Mr. Redgate seconded the motion, and the Board voted unanimously to continue the petition to March 3, 2022.

ZBA 2022-09 DARSHINI KUMARASENA, 30 YARMOUTH RD

Present at the public hearing was Darshini Kumarasena, the Petitioner, who said that she is a pediatrician whose residence is at 30 Yarmouth Road. She said that the request is to continue the special permit to allow her to see an occasional patient at her residence.

Mr. Levy said that the Board has renewed the special permit several times in the past. He asked if there have been any issues, concerns or objections from neighbors about parking or traffic. Dr. Kumarasena said that she has two driveways, so there is plenty of parking. She said that it is an occasional use for the convenience of her patients.

Mr. Levy asked how often Dr. Kumarasena sees patients at her home. Dr. Kumarasena said that occasionally there have been times when parents with a newborn are afraid to come to a medical office.

Mr. Adams said that Dr. Kumarasena's letter discussed concerns about her own young children and inviting others into their home. Dr. Kumarasena said that she also has concerns about becoming a contact for Covid.

Mr. Levy asked if any member of the public wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Adams moved, Mr. Redgate seconded the motion, and the Board voted unanimously to grant renewal of the special permit, subject to the same terms and conditions in effect.

ZBA 2022-10, CHRISTIAN REIMER, 82 WELLESLEY AVENUE

Present at the public hearing were Christian and Nadia Reimer, the Petitioner.

Mr. Reimer said that the plan is to extend a deck behind the house. He said that the property used to be split, so there are two houses on the lot, which is why the lot is undersized for Zoning purposes. He said that there is a shared driveway between the houses and parking is behind the house. He said that access from the kitchen opens onto a small staircase that goes down to the parking lot. He said that there is no convenient way to access the back yard. He said that access goes immediately onto the parking lot or the shared driveway. He said that the proposal is to extend the back deck behind the house so that the staircase can go down next to the parking lot, allowing for connection to the yard. He said that the proposed deck will be approximately 9 feet deep, which will provide some living space. He said that they discussed their plans with the neighbors. He said that because of the shared driveway, the existing deck is too close to the property line, as is the entire house. He said that the lot is undersized for the district. He said that the proposed deck will be behind the house and will not be more nonconforming.

Mr. Levy said that this matter is before the Board because the lot is just over 7,000 square feet in an SR 10 district and the setbacks do not meet the current Zoning requirements. He said that the petition requires a special permit and a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing conditions.

Mr. Levy said that the plans that were submitted are confusing. Mr. Reimer said that the plan is to make the deck look like it is seamlessly connected to the house. He said that they will paint it the same way as the house. He said that their concern is safety and that they have a fence able yard and small deck that they can use.

Mr. Levy said that the Board needs to see the dimensions from the proposed structures to the side property line. Mr. Reimer said that the deck will not extend further to the side.

Mr. Adams confirmed that there are two separate lots that share a driveway. He asked if an easement existed before the Reimers purchased the property. He asked if it is an irrevocable right of way. Mr. Reimer said that, as far as they know, that is the case. He said that the driveway is fully on the neighbor's property and the parking lot is on the Reimer's property. Mr. Adams said that it does not seem to be unreasonable to build the deck at the current distance from the property line. He said that the plot plan does not show the dimension of the right of way. He said that it did not appear that even with the deck at 2.1 feet from the property line, that there will be any inconvenience to the neighbor.

Mr. Levy said that the deck is currently 2.1 feet from the side lot line. He said that the proposed structure will be at the same setback. Mr. Redgate said that the lot line is not parallel to the house. He said that the setback will be less nonconforming. Mr. Adams said that the furthest rear extension of the deck will be 6.3 feet from the property line. He said that they will be pulling it back as far as they can while allowing access to the driveway.

Mr. Levy asked if the proposed deck will be similar to the existing deck. Mr. Reimer said that they want to build the deck with the same siding as the house. He said that it will be the same height. He said that underneath the deck will be for storage, with no foundation.

Mr. Levy asked if any member of the public wished to speak to the petition.

Kevin Coakley, 80 Wellesley Avenue, said that he and his wife are neighbors to the Reimers. He said that they do not object to this project. He said that it does not change the access, does not impede, and improves the Reimers' quality of life. Mr. Redgate confirmed that Mr. Coakley is the neighbor on the shared driveway side of the house.

Mr. Levy read the Planning Board recommendation.

Mr. Redgate moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve a special permit and make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, noting that the existing side yard setback on the west side is 2.6 feet and the deck will be 2.1 feet. Mr. Reimer said that the proposed will just connect with the existing deck and will not go deeper into the setback. Mr. Redgate said that the setback will change because the lot line is not straight.

ZBA 2022-11, TOWN OF WELLESLEY SCHOOL DEPARTMENT AND FACILITIES MAINTENANCE DEPARTMENT, 50 KINGSBURY STREET (WMS PARKING LOT)

Mr. Levy said that the Board will open the matter and continue it to March 3, 2022.

Mr. Adams moved, Mr. Redgate seconded the motion, and the Board voted unanimously to continue the petition to March 3, 2022.

ZBA 2022-12, WEI CHAO GUAN, 26 WOODRIDGE ROAD

Present at the public hearing was Wei Chao Guan, the Petitioner, who said that they bought the house last year. He said that the house had not been lived in for two years and there was a lot of damage to the house. He said that they decided to tear the house down and build a new house that will meet all setback requirements.

Mr. Levy said that the property is located in an SR 20 District and the lot is undersized at 12,000 square feet. He said that it is a corner lot and the left setback of the existing home is nonconforming. He said that the proposed house will meet the setback requirements, subject to the 500 Foot Rule. He said that the Board's analysis is whether the massing and size will be substantially more detrimental to the neighborhood than the current structure. He said that TLAG will be 5,278 square feet, which is under the threshold in a 20,000 square foot Single Residence District.

Mr. Adams said that the existing and proposed plot plans were at different scales. He said that it makes the larger house look smaller or at least the same size as the previous house. He said that it appears that one of the plans was cut off. He said that the way that the plot plans were presented minimizes the significant increase in the size of the house.

Mr. Adams said that he did not think that the design of the house presents well. He said that it has large flat facades. He said that it is a long and narrow house. He said that the front and the back present as big, wide, and imposing. He said that the design did not minimize the impact of the size of the house on others. He asked about the number of bedrooms. Mr. Guan said that there will be five bedrooms. He said that there will be no third floor.

Mr. Adams asked about the stairs that go up to an intermediate landing, as shown on Plan A2.2. He said that there appears to be a handrail on the second floor that blocks off part of the staircase to the right. Mr. Guan said that two sets of stairs go up to the landing and one set goes up to the second floor.

Mr. Levy asked if this will be a spec house. Mr. Guan said that they will try to move in. Mr. Adams confirmed that the Petitioner found that the existing house is not suitable for rehabilitation and that it is more efficient to build a new house. Mr. Guan said that he originally thought that he would fix the house but he found that there was a lot of damage. He submitted photographs.

Mr. Levy asked if the Historical Commission reviewed the project for Demolition Delay. He said that the Board would not be granting any relief for that.

Mr. Levy said that the plan shows that the driveway will be moved from Woodridge Road to Dewing Path. He said that there was no dimension shown for the distance from the driveway to the corner. He said that the town has regulations for how close a driveway can be to a corner. He said that the Petitioner will need a permit from the Department of Public Works. He said that the Board would not be granting any relief for that.

Mr. Adams said that the plot plan for the existing house shows an attached garage. Mr. Guan said that there is one garage at the front on the left side and one in the back. Mr. Redgate said that the garage at the back is under a porch. He said that there is no driveway. Mr. Adams confirmed that access is by driving on the grass.

Mr. Levy asked if there are any provisions for dealing with roof runoff. He said that it is not shown on the plans and this is a larger house. He said that the Board will need to see an engineered plan that shows how roof runoff will be handled. Mr. Redgate said that this is a unique site where runoff flows from Woodridge Road towards Dewing Path.

Mr. Redgate said that even though this project will not be subject to Large House Review (LHR), the impacts to this small lot warrant similar documents as LHR for the Board to review to prove that it will not be substantially more detrimental to the neighborhood. He said that, in addition to reviewing the architecture, there should be an engineered drainage plan that would minimize the size of the driveway and a landscaping plan. He said that the Board will need to see a better calculation of height to show that it meets Zoning. He said that a height from average grade calculation is required.

Mr. Levy said that the town bylaw has a 500 Foot Rule. He said that the Board will not be granting relief for that.

Mr. Levy asked if any member of the public wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Adams said that the gable on the right side seems out of place. He urged the Petitioner to have the architect consider other ways to break up the mass of the front. He said that it is a wide and narrow house where the front and the back present a big flat surface with not much variation, especially at the back. He asked that the Petitioner ask the land surveyor to produce existing and proposed plot plans using the same scale. Mr. Levy asked that the pages be printed in landscape rather than portrait.

Mr. Levy said that there are a number of issues that the Board would like to see addressed before it takes a vote on the matter. He said that the existing and proposed plot plans that were submitted are of different scales, which makes them hard to compare. He said that the Petitioner should look at the town's regulations for how close the driveway can be to the intersection and the 500 Foot Rule. He said that the Board would like to see revised architectural plans, a landscape plan and a drainage plan. He asked that the Petitioner consider building a smaller house. He said that the proposed house is too big for the lot. He said that it does fit under the TLAG threshold but it is a 12,000 square foot lot in an SR 20 District. He asked that the Petitioner consider scaling it back because the feeling of the Board is that the house is too big. Mr. Redgate

said that the Petitioner might consider a TLAG for an SR 15 District, as that might be more appropriate for the lot size.

Mr. Levy asked if the Petitioner spoke with the neighbors about the plans. Mr. Adams said that is something that the Board urges people to do.

Mr. Adams moved, Mr. Redgate seconded the motion, and the Board voted unanimously to continue the petition to April 7, 2022.

ZBA 2022-13, YU JIANG & MISI HUANG, 30 COMEAU STREET

Present at the public hearing were David Himmelberger, Esq., and Yu Jiang, the Petitioner.

Mr. Himmelberger said that the request is for a variance to construct an addition to a pre-existing nonconforming dwelling. He said that it is an unusually shaped lot in that it is almost a triangle that is situated between Comeau Street, Wellesley Avenue and the town's aqueduct. He said that the house is on a 9,225 square foot lot in an SR 15 District, with a left side yard setback of 20 feet that abuts the Sudbury Aqueduct and two front setbacks at 26.3 feet and 29.6 feet. He said that the proposed addition on the left side of the house will add 177 square feet into the left side yard setback, with a resulting setback of 10.3 feet from the Sudbury Aqueduct. He said that the home will retain its existing building height of 32.5 feet, TLAG will increase from 2,974 square feet to 3,519 square feet, and lot coverage will increase from 945 square feet, or 10.2 percent, to 1,173 square feet, or 12.7 percent. He said that the variance is requested due to the unusual triangular shape of the lot that has two front setbacks. He said that, according to the town's GIS Mapping, the Sudbury Aqueduct is approximately 92 feet wide with a walking path down the middle. He said that the nearest point from the path to the Petitioner's property line is 47 feet, and if permitted to build out an additional ten feet will result in a setback from the town trail of approximately 57 feet. He said that they believe that the requested 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. He said that the Planning Board had a critical comment about the location of exterior stairs that, as originally shown, further extend into the setback. He said that based on that comment, the stairs were flipped 90 degrees to the rear where they would not be substantially in the setback. He said that he submitted the alternate plans. He said that he did not submit a new plot plan because the 10.3 feet dimension was measured to the corner of the house, not the stairs. He said that the stairs will now not be within 10 feet of public land.

Mr. Levy said that is it an odd shaped lot but questioned if the shape of the lot causes the problem. He said that the rear of the lot is symmetrical. Mr. Himmelberger said that if it was a four sided lot, it could accommodate the structure.

Mr. Adams said that the lot is 9,225 square feet and is undersized for the district.

Mr. Levy asked if any member of the public wished to speak to the petition.

Mr. Levy read the Planning Board recommendation.

Mr. Levy said that the Board will need to see a revised plot plan showing the relocated staircase running from the left rear of the structure as facing from Comeau Street running toward Hunnewell Street at the rear of the home, and not within 10 feet of the aqueduct property. He said that the reference to the setback from town property is found in Article 19 C of the Zoning Bylaw. Mr. Himmelberger questioned whether stairs would be considered to be a structure. He said that the Building Inspector typically defines a structure as

something that is designed to provide protection or cover for humans or property. Mr. Adams said that a structure does not have to have a roof.

Mr. Levy asked if there is a fence between the lot and the aqueduct. Mr. Himmelberger said that there is no fence but the aqueduct is elevated.

Mr. Himmelberger said that the Petitioner is willing to accept a condition that no portion of the stairs will be closer than 10 feet to aqueduct property.

Mr. Adams moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve a variance, finding that 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 shape of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and 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, subject to conditions that a new plot plan be submitted showing the revised location of the stairs, that no portion of the stair structure shall be located within 10 feet of the property line at the Sudbury Aqueduct, the stairs shall be located at the rear of the house when viewed from Comeau Street, parallel to the east side of house, and revised elevation drawings shall be submitted.

ZBA 2022-14, 460 WESTON ROAD LLC, 460 WESTON ROAD

Present at the public hearing were David Himmelberger, Keith Miller, Architect, David Allen and Michael Rabb, 460 Weston Road, LLC, the Petitioner.

Mr. Himmelberger said that the request is for a special permit to raze and reconstruct a single family dwelling on an existing nonconforming lot. He said that the lot is oversized at 20,652 square feet in an SR10 District, and is a rear lot with less than required frontage on Weston Road. He said that the proposed house will be otherwise fully compliant with all Zoning and dimensional setbacks.

Mr. Levy said that it is a pork chop lot where the only issue is the frontage. He asked if the right of way is an easement. He said that the lot is landlocked. Mr. Himmelberger said that there is a deeded easement over the existing driveway, which is 18 feet wide.

Mr. Miller said that they tried to use the existing lot coverage and site conditions to provide privacy for the owners and the neighbors. He said that the intent of the project is to remove a nonconforming cape style structure, shed and detached garage and create a new modern style home on the existing, well screened 20,652 square foot lot. He said that they developed a plan to retain all mature growth trees and stay well clear of the wetlands buffer. He said that proposed plan exceeds the setback requirements, is approximately 200 feet from the street and 100 feet from the rear property line. He said that house is located behind another property at 458 Weston Road. He said that the primary public and window spaces will face west to the undeveloped woods and wetlands. He said that mature trees on the north and south will provide additional screening. He said that the driveway will be lined with trees. He said that the plans include an attached single story side facing garage to provide buffering and scale reduction between the proposed house and the existing home at 458 Weston Road. He said that they will reduce the overall driveway. He said that the modern style house allows them to keep the building shorter at 30'6". He said that the building reduces in size with each subsequent story, stepping down the volume and utilizing horizontal overhangs to provide further breakdown of massing. He said that they developed an earth tones palette to blend the structure with the surroundings. He said that some of the nearby houses on Weston and Mayo Roads are of comparable size and in one case, larger. He said that one of the houses currently under construction has approximately 5,700 square feet of TLAG. He said that Mr. Allen and Mr. Rabb spoke with some of the neighbors.

Mr. Miller said that there are evergreen and deciduous trees around the property. He said that it is hard to see the property, even in the winter. He said that the design of the house and the distance from the other houses will not be substantially more detrimental.

Mr. Adams asked if this will be a spec house. Mr. Miller said that it will be.

Mr. Adams said that he thought that the house is too large. He said that the architect did break up the façade and the flat roofs cut down the height. He asked about the materials on the exterior of the house. Mr. Miller said that it will be a combination of stone, board and batten and stucco. Mr. Adams said that it is behind another house and set back from the street but it seems like a lot of house.

Mr. Miller said that their vision was to have the bulk of the structure facing and open to the wetlands behind the house and keep the privacy by maintaining the back yard distance and leaving the existing screening.

Mr. Himmelberger said that the renderings show how the lines are stepped back and how it was designed to face the rear. He displayed a town GIS map that shows the distance to the neighboring homes.

Mr. Levy said that very few houses that the Board has seen have seven bedrooms. Mr. Miller said that it is an open plan where the height counts double for TLAG. He said that many people are currently using the bedroom space as home offices. He said that the TLAG is 5,880 square feet. He said that even though it is a 10,000 square foot zone, they used the threshold for the 20,000 square foot rule for Large House Review.

Mr. Levy asked if there is a proposed infiltration system. Mr. Miller said that civil engineer plan Sheet 3 of 4 shows some initial infiltrations systems.

Mr. Redgate confirmed that no Wetlands permitting was required.

Mr. Miller said that the project was reviewed by the Historical Commission.

Mr. Levy asked about the deed. Mr. Himmelberger said that the deed references that the premises were shown on a plan of land, dated April 1925, which may have pre-dated Zoning.

Mr. Levy asked if any member of the public wished to speak to the petition.

Charlie Crevo, 458 Weston Road, said that he represents the 458 Weston Road Realty Trust. He said that he supports construction of a new home at 460 Weston Road but has a problem with the proposed house. He said that it was represented that the house at the front would shield the house at the back. He said that the height of the ridge of the house at front is approximately 14 feet and clearly the proposed house will tower over it. He said that it is basically a three story house. He said that it does not set well with the houses around it and is not in character with houses in the neighborhood. He asked about plans for water, sewer, gas and electric utilities. He said that he believes that he owns the strip of land. He said that his recollection is that 458 Weston Road Realty Trust is the grantor for the easement.

Mr. Himmelberger said that the owner of an easement has the right to install subsurface utilities beneath the easement. Mr. Levy said that an easement is governed by the terms of the easement. Mr. Himmelberger said that they already have the existing connections.

Mr. Miller confirmed that the house is on septic. Mr. Allen said that the intent is to tie into the town system.

Mr. Crevo said that he believes that the whole has to be satisfied before a decision is made whether or not you can build a house. Mr. Himmelberger said that the Building Inspector determines whether it can be

built. Mr. Levy said that the town had a program to encourage people to get off of septic and hook up to sewer.

Mr. Levy said that Board has to consider access for utilities. He asked about the other utilities. Mr. Rabb said that the electric service will be above ground. Mr. Crevo said that the existing service will not provide enough amperage.

Mr. Adams confirmed that Mr. Crevo thought that the house was too big and the style was not consistent with the neighborhood. Mr. Crevo said that he has been a builder in town since 1985 and is sensitive to those issues.

Mr. Levy said that the legal standard that the Board has to consider is whether the proposed new structure will be substantially more detrimental to the neighborhood than the existing structure.

Mr. Rabb said that when they bought the house, they were told that within two years they were mandated to connect to the town sewer system. He said that he has been in contact with the town's engineering division and was told that the town has to do something on their end to prepare the connection. Mr. Levy said that the town cannot give rights over private property other than by eminent domain taking.

Mr. Levy read the Planning Board recommendation.

Mr. Adams said that the house is too big. He asked about taking the top floor off. Mr. Rabb said that the house backs up to two three story houses and cannot be seen from the street. Mr. Adams said that the Board has to be satisfied that the proposed structure will not be substantially more detrimental to the neighborhood. He said that the house is larger than it needs to be. He said that they are trying to get as much square footage in there as they can. He said that there was effort to scale it down as it went up.

Mr. Redgate said that the size of the home can be mitigated. He said that the Petitioner should have worked out issues with the easement with the neighbor. Mr. Rabb said that he sent a letter to Mr. Crevo, who responded that they can try to make it work. Mr. Crevo said that he responded that he wanted to see the plans. Mr. Levy said that the Board always encourages Petitioners to discuss the plans with their neighbors.

Mr. Levy confirmed that the house at the front is a bungalow with a ridge height of 14 feet. Mr. Miller said that Mr. Crevo's garage is between his house and the proposed house. He said that they positioned the garage to break down the scale at the front of the house so that the neighbor was not facing full massing. He said that they pushed it back as far as they could, given where the wetlands are.

Mr. Levy confirmed that 460 Weston Road LLC owns the house. He asked if there was a Title 5 Certificate. Mr. Rabb said that no one is currently living at the house.

Mr. Levy said that the sewer/septic issues will have to be resolved. He said that they need to have a legal right to go down the driveway.

Mr. Himmelberger said that the proposed infiltration system is shown on Civil Plan, Sheet 2 of 4.

Mr. Himmelberger asked for a 5 minute recess at 9:18 pm.

The hearing reconvened at 9:21 pm. Mr. Miller said that they can take some of the square footage out of the house and reduce the size.

Mr. Levy discussed allowing the petition to be withdrawn without prejudice versus continuing the matter.



Mr. Redgate moved, Mr. Adams seconded the motion, and the Board voted unanimously to continue the petition to April 7, 2022.

ZBA 2022-15, SILVA DEVELOPMENT, 36 SHERIDAN ROAD

Mr. Himmelberger requested that the petition be continued to April 7, 2022.

Mr. Redgate moved, Mr. Adams seconded the motion, and the Board voted unanimously to continue the hearing to April 7, 2022.

As there was no further business to come before the Board, the hearing was adjourned at 9:24 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary

Draft