



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

J. RANDOLPH BECKER, CHAIRMAN
ROBERT W. LEVY, VICE CHAIRMAN
DAVID G. SHEFFIELD

LENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 431-1019 EXT. 2208

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

February 4, 2021
7:30 pm
Remote Public Hearing

Zoning Board of Appeals Members Present: Robert W. Levy
David G. Sheffield
Derek B. Redgate

ZBA 2021-02, JORGELINA ABBATE-VAUGHN, 60 CEDAR STREET

Present at the public hearing was Scott Vaughn, representing Jorgelina Abbate-Vaughn, the Petitioner.

Mr. Vaughn said that the proposal is to build a rear addition for a garage at the basement level with living space above. He said that the proposed TLAG is below the threshold for the district and the setback and height dimensions are compliant.

Mr. Vaughn said that the petition was continued from a prior hearing so that information could be provided for the calculation of height above average grade, the TLAG calculations, and a water mitigation plan.

Mr. Vaughn said that the request is for a special permit to build an addition at the rear corner of the house. He said that the existing house has a nonconforming right side yard setback of 19.7 feet. He said that the proposed construction will be dimensionally compliant.

Mr. Redgate said that he was satisfied with the information that Mr. Vaughn provided. Mr. Sheffield said that the height from average grade is shown on the table on page 3. Mr. Levy said that the TLAG is under the threshold 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. Redgate moved, Mr. Sheffield seconded the motion and the Board voted unanimously to make a finding that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure and to approve a special permit.

Mr. Redgate voted aye.
Mr. Sheffield voted aye.

Mr. Levy voted eye.

ZBA 2021-02, BRIAN PICARIELLO, 17 PAINE STREET

Present at the public hearing were Laurence Shind, Esq., Brian Picariello, the Petitioner, and Paul Apkarian, Architect.

Mr. Shind said that the request is for a finding that the proposed expansion will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. He said that the lot is oversized at approximately 30,000 square feet in a 10,000 square foot Single Residence District and is long and narrow at 75 feet wide. He said that the existing house is a village colonial that was built in 1915 and has a TLAG of 2,100 square feet. He said that existing nonconformities are a right side yard of 15.6 on the house and a left side yard setback of 17 feet on the garage.

Mr. Shind said that proposed construction is an addition off the back right side that maintains the current nonconforming setback. He said that lot coverage will increase from six to seven percent, which is within the maximum area allowed. He said that TLAG will increase to just under 3,600 square feet. He said that building the addition at the rear of the house will preserve the look and feel of existing home from the street. He said that the plans were shared plans with the abutters and there were no objections.

Mr. Levy confirmed that the shed at the rear will be razed.

Mr. Levy read the Planning Board recommendation.

Mr. Sheffield discussed possibly adding an eyebrow roof over the rear steps as an architectural feature. He said that shrubs and trees will make the project less bland.

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

Richard Lee, 16 Paine Street, said that he previously rented the house at 17 Paine Street. He said that he understands some of the problems with the house and supports the project.

Mr. Redgate asked if the 25 inch tree to the right of the existing house can be maintained. Mr. Picariello said that it is a massive tree. He said that he had an arborist out and was told that the tree has some disease. He said that he would prefer to take it because it is huge and it is so close to the house. He said that he is concerned about it falling.

Mr. Sheffield asked about additional plans for landscaping. Mr. Picariello said that he spoke with Mr. Apkarian about maintaining a farm feel to the house. He said that he would like to add to the existing fruit trees on the property along the sides of the house towards the back.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and approve a special permit, subject to conditions that the shed at the rear be removed, and that landscaping and screening be provided along the north side of the property.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2021-08, 65 CREST ROAD LLC, 65 CREST ROAD

Present at the public hearing were Laurence Shind, Esq., and Steve Meyers, Architect, and principal of 65 Crest Road LLC, the Petitioner.

Mr. Shind said that the request is for a Special Permit/Finding that the proposed expansion of the existing nonconforming structure on the lot will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Shind said that it is an oversized lot at almost 20,000 square feet in a 10,000 square foot Single Residence District. He said that the unique village style Victorian was built in 1878 and what used to be a barn and is currently used as a garage was built at same time. He said that TLAG of the existing house is just shy of 2,400 square feet and it is nonconforming on the left side at 18 feet. He said that the garage is nonconforming on the right side at 6.5 feet.

Mr. Shind said that the proposal is for an addition, predominantly at the rear of the house. He said that existing lot coverage of 7 percent will increase to 12 percent, well within the percentage allowed. He said that TLAG will increase to 4,770 square feet, which is over the Large House Review (LHR) threshold of 3,600 square feet for the district. He said that the lot is almost double the size for the district and is well under the LHR threshold for a 20,000 square foot Zoning district.

Mr. Shind said that the Petitioner wants to put an addition on the house that will allow for what people are looking for in today's home. He said that with the addition off to the back, they will maintain the current look and feel of the house from the street. He said that the plans were shared with the immediate neighbors and all of them have expressed support.

Mr. Shind that there was a prior special permit that was approved by the Board in the late 1980's that allowed the garage to be used as an art studio. He said that the current proposal is to go back to using it as a garage.

Mr. Levy said that Town Meeting voted to base the LHR thresholds on zoning district criteria not on lot size. He said that even though this is a larger lot, the property is still subject to the threshold in a 10,000 square foot Single Residence District, which is 3,600 square feet.

Mr. Levy said that Mr. Shind stated that the side setback is just over 6.5 feet. He said that on the plot plan, it looks like the side yard setback on the west side is 5.8 from the garage. He said that the dimensional chart on the plan shows a proposed setback of 7.3 feet. He confirmed that the setback of 5.8 feet on the west side will remain. Mr. Sheffield said that there appears to be an extension of the garage towards Crest Road that steps back a bit. Mr. Meyers said that the surveyor showed a 5.8 foot setback at the right rear corner of the existing garage on the plot plan. He said that the 7.3 foot setback is foremost towards the street, where they are proposing the 3.5 foot extension to the front. He said that they are seeking relief for the extension to the front of the garage.

Mr. Levy read the Planning Board recommendation.

Mr. Levy said that the property is located in a Water Supply Protection District (WSPD). He said that there was no information before the Board that shows compliance with the bylaw. Mr. Meyers said that an

updated site plan shows two proposed subsurface drywell chambers connected to roof drains. He said that a note was added to the plan that stated that engineering was to be finalized. Mr. Redgate discussed inserting a condition that the drainage system gets approval by the Town's Engineering Division.

Mr. Redgate asked if materials for the addition will match the existing house. Mr. Meyers said that the front of the existing house is masonry and the barn is sidewall with shingles. He said that the addition will be wood siding clapboard. He said that he was looking for a contrast rather than blending in. Mr. Redgate said that the hand drawn elevations did not show as much detail as the Board typically sees. Mr. Meyers displayed updated elevation drawings.

Mr. Sheffield discussed concerns about the bulk of the addition that overwhelms the front portion of the house. He asked if there was a way to change the design of the two roofs to break up the scale so they would not overwhelm the existing building. Mr. Levy said that an interesting architectural feature will be obscured. He said that there is a lot happening on the front and the side elevation. Mr. Sheffield said that the architect is concerned about the streetscape but once you get to the side elevations, they are humungous in scale. Mr. Redgate asked if anything could be done to decrease the massing in the back and the sides. Mr. Sheffield said that the architect should look at the plans again to see if there are more mitigation that can be done in terms of the bulk.

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

Mr. Meyers said that it is large house. He said that he struggled to come up with something that had today's amenities and the size of things that he needs. He said that the front piece is 23 feet back from the existing house and in line with the barn. He said that both existing structures are extremely small and in poor condition due to age and dampness. He said that he will have to level the floors and repair the barn. He said that there is a significant amount of ledge in the basement. He said that he was trying to not dig into the ground to remove ledge. He said that he tried to create some space for mechanicals there and at the attic level. He said that from the street the tower is 32 feet and the ridge is 34.6 feet. He said that the new roof will almost not be visible to a pedestrian on the street. He said that the proposed will be only five feet above the existing ridge. He said that the existing, healthy maple tree in front closes the gap between the house and the barn. He said that he did not think that the proposed design would be offensive to the public or the historic nature of the two pre-existing buildings. He said that the intent was to keep the addition going into the back, eight feet across, 23 feet back from the front surface of the masonry structure and 53 feet from the street. He said that there is a lot of depth and dimension.

Mr. Levy said that the proposed construction will double the size of the house. Mr. Meyers said that the existing house is 1,200 square feet, with three tiny bedrooms and a kitchen and dining rooms that are not functional. He said that the house is raised up on ledge, so that increases what he has to include in TLAG calculations. He said that he counted TLAG for the two story barn structure.

Mr. Levy asked what is currently on the second floor of the barn. Mr. Meyers said that it is livable, heated space with no plumbing. He said that the proposal is to change it back to a functional garage with the usable space on top.

Mr. Meyers discussed TLAG calculations, topography and ledge. He said that both of the structures are historical and he has no intention of tearing them down. He said that the intention was to create a dining, family, and living rooms with bedrooms upstairs. He said that he had to include the TLAG of the lower

level. Mr. Levy said that this petition is exempt from LHR but the Board uses TLAG as a metric, not a criteria that needs to be complied with.

Mr. Levy said that the front of the structure looks somewhat out of sorts. Mr. Sheffield said that he was not very concerned about the garage. He said that the roofline compounds issues by being too big. He said that you probably will not see the bulk of the addition from the street but you may see it from the side or other vantage points. He asked if there is a way to deal with the roof structure to help reduce the scale without having to deal with the rest of the floor plan. Mr. Meyers confirmed that Mr. Sheffield was referring to both the gambrel and the hip roofs. Mr. Sheffield said that discussed the architectural clue at the top of the tower. He asked if there could be some sort of relationship between the architectural clue on the tower and the addition. He said that they currently seem unrelated. He said that the tower creates the character of the house from the street side.

Mr. Levy said that it looks like there is a six foot drop in elevation from the existing structure to the rear of the proposed structure. He asked about lowering the house in the back. He said that following the contour of the property may help with the massing. Mr. Meyers described space on the lower level as basement storage mechanical. He said that he was trying to create a foundation, a structure and some mechanical space. He said that the area in between the house and the barn is level but it is five feet up to the front lawn and five feet down to the back. He said that he tried to break up the mass with open porches, patio and roof projections.

Mr. Redgate discussed the basement issue and the oversized barn with a second floor affecting the TLAG calculation.

Mr. Sheffield said that from the eave line up, there seems to be a language that is missing as the addition meets the sky that is more compatible with the older portion of the house. He questioned if there was some way to relate the two better. He suggested that the architect look at it again to see what can be done to have a little bit more compatibility in the way of detail that would affect the massing. He said that it seems like there is too much of a standard roof configuration where a little more attention from the roof edge up to the gable ridge could make a big difference.

Mr. Levy discussed options to continue the hearing or allow the petition to be withdrawn without prejudice.

Mr. Meyers said that it is an extremely complicated roof line because there are gables and hips that run perpendicular and there is no attic space. He said that if it is just a question of reworking the roof lines, he would prefer to continue the hearing. He asked if the Board is okay with the expansion at the front of the garage and the repair of the roof and the shed dormer for the garage. Mr. Sheffield said that he was okay with the garage.

Mr. Shind ask for the petition to be continued.

Mr. Levy said that an engineer should provide a plan that addresses the drainage issue. He asked that it be submitted in advance of the continued hearing date to give the Board and DPW time to review it.

Mr. Redgate said that the Board received a memo from DPW that recommended looking at some erosion control issues at the back because of the slope. He asked that those comments also be addressed. The Executive Secretary said that she will forward DPW's comments to Mr. Shind.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the petition to March 4, 2021.

Mr. Redgate voted aye.
Mr. Sheffield voted aye.
Mr. Levy voted aye.

ZBA 2021, PAMELA & JAMES BOYER, 11 OX BOW ROAD

Present at the public hearing were Robert Williamson, Architect, Pamela & James Boyer, the Petitioner.

Mr. Williamson said that the proposal is for a one story bedroom suite addition off the rear corner of the house. He said that they are seeking relief for an undersized lot in a 20,000 square foot Single Residence District and a pre-existing nonconforming side yard setback on the north side of the house. He said that the existing garage on the north side of the house is approximately 10 feet from the property line. He said that all of the proposed work is on the southeast corner of the house, not in the nonconforming area. He said that the proposed addition will have a side yard setback of 21.3 feet. He said that the TLAG will be under the threshold.

Mr. Williamson said that the addition will be composed of a bedroom, closet, and bath area. He said that the design is intended to blend in with the existing house in terms of cladding materials, windows, color and overall rooflines. He said that the basis of the design is centered around the brick chimney and the den off the side of the house. He said that the rooflines match in terms of slope and style. He said that the proposed addition enhances the property and is not more detrimental to the neighborhood.

Mr. Levy asked if a height calculation was done from average grade. Mr. Williamson said that drawing A5.1 shows a ridge height of 25.5 for the existing house and the proposed ridge at 18.11 feet from average grade.

Mr. Levy read the Planning Board recommendation.

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

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and approve a special permit.

Mr. Redgate voted aye.
Mr. Sheffield voted aye.
Mr. Levy voted aye.

ZBA 2021-10, PATTI QUIGLEY, 76 FAIRBANKS AVENUE

Present at the public hearing were David Himmelberger, Esq., Patti Quigley, the Petitioner, and JB Clancy, Architect.

Mr. Himmelberger said that the request is for a special permit for a pre-existing nonconforming lot and structure, in a Water Supply Protection District (WSPD), with a nonconforming right side yard setback of 9 feet, a nonconforming left side yard setback of 15 feet, on a 14,108 square foot lot in a 15,000 square foot

Single Residence District. He said that the proposed will be fully compliant. He said that the building height will be 29.5 feet. He said that the TLAG threshold for the district is 4,300 square feet and the proposal is for eight percent greater than that at 4,677 square feet. He said a special permit is needed for the lot size. He said that there is support from the abutters for the project. He said that there is extensive screening at the rear and the stockade fence that rings the two rears and the back will remain, and some additional arbor vitae will be planted along the back left property line, along the entrance to the garage.

Mr. Clancy displayed plans and photographs for a zero energy house that will replace the existing building. He said that the building will make as much energy as it consumes. He said that the intent is to recycle and salvage as much of the existing building as possible. He said that they are putting together a plan for the house materials to be recycled and repurposed.

Mr. Clancy said that the existing house is a colonial revival that was built in 1931. He said that the existing height is 27.1 feet.

Mr. Clancy said that the proposed house will meet all dimensional requirements and has been reviewed by the Building Inspector. He said that the 500 Foot Rule was used to establish the front yard setback. He said that in addition to the existing hemlocks at the back, they will plant new arbor vitae. He said that the intent is to save the series of trees at the front. He said that there will be an underground recharge stormwater system to handle runoff from the roof and the driveway.

Mr. Clancy said that because the house will be using solar energy, it was oriented to face south where the windows become the heaters. He said that passive solar gain is an important component toward the zero energy building.

Mr. Clancy said that the garage was moved to the back due to the width of the lot and appearance from the street. He said that a side driveway has precedence in the neighborhood.

Mr. Clancy said that there will be solar array panels on the east-west axis of the roof.

Mr. Clancy said that they looked for a style that would be compatible with the neighborhood, which is composed of revival styles, colonial or tudor. He said that they settled on a Greek Revival style that has a good roof pitch for solar panels and helps to keep the ridge height down. He said that they looked at farm buildings in New England as a way to break the mass down. He said that created discreet volumes that connected to each other. He said that the side facing garage will meet the setbacks requirements. He displayed a streetscape plan to show how the proposed structure will fit in with the neighborhood.

Mr. Clancy discussed TLAG calculations.

Mr. Clancy said that the ridge height of the garage is 21.5 feet and the wing is 16.5 feet.

Mr. Clancy described the building materials.

Mr. Levy confirmed that this is a Table 1 lot. He said that the property is located in a WSPD. He asked that the Applicant address the design for that. Mr. Himmelberger said that there will be two recharge systems, one in the back part of the driveway and one on the right side. He said that they will take three inches of water. He said that the plans were submitted earlier today, in response to Planning Board comments. Mr.

Clancy said that they have been working with the manufacturer, StormTec to size the system. He said that it will have to be done by a licensed civil engineer.

Mr. Sheffield said that this is not a typical solution in Wellesley for this size house but he applauded the architects on what they have done about fitting the house into the neighborhood and with the design. He said that there was a letter, dated January 13, 2021, from the DPW that discussed backyard flooding. He said that he believes that the recharge chambers are meant to address that. He said that DPW asked that Utilities Plans be submitted for review prior to the project start. Mr. Himmelberger said that they would accept that as a condition.

Mr. Redgate asked about the material in the patio area. Mr. Clancy said that it will be blue stone.

Mr. Redgate asked if the patio is included in lot coverage. Mr. Clancy said that it is not. He said that the bulkhead is included. He said that with respect to stormwater, they will take all of the surfaces into account. Mr. Redgate said that the size and length of the driveway and the patio should be taken into consideration. Mr. Clancy said that the two chambers, one on the north and one on the south were designed to pick up runoff from two areas.

Mr. Levy read the Planning Board recommendation.

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

Mr. Levy discussed adding conditions for drainage and vegetative screening. Mr. Clancy said that the hemlocks at the back will be maintained. He said that screening on the north side is not expected to make it through construction in a healthy way, so they will put in new screening in that area. He said that the existing stockade fence that runs around three sides will be retained. Mr. Himmelberger said that the screening is shown on the plan submitted today that is responsive to the Planning Board's comments.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and grant a special permit, subject to a condition that the plans are reviewed and approved by DPW for drainage and stormwater.

Mr. Redgate said that the utility plan is required for the building permit, so it would not be a condition.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2021-11, KRASSEN DRAGANOV – 148 WALNUT STREET

Present at the public hearing were David Himmelberger, Esq., representing Krassen and Irina Draganov, the Petitioner. Mr. Himmelberger said that the Petitioner came before the Board last year for a project that is on a slope that drops 41 feet from the front to the back. He said that the existing home is pre-existing nonconforming due to an insufficient right side yard setback of 12.4 feet. He said that the Petitioner is seeking a special permit to build a new home that will improve the right side yard setback to 13.1 feet. He said that they are requesting a variance to create a new left side yard setback of 16.3 feet. He said that the Petitioner previously only asked for a special permit but the Board thought that a variance would be more

appropriate for the left side yard setback. He said that additionally, they had not finalized the agreements with the right side abutter with regard to certain retaining walls – worked with abutter Lyles – agreement to install retaining walls that will continue onto their property. He said that they worked closely with the right side abutter and have an agreement with them to install retaining walls from this property that will continue onto their property. He said that if the Board grants the requested Zoning relief, an easement will be granted from the abutters to his clients with respect to the retaining walls. He said that the easement is conditioned on the Applicant providing a formal written plan from a Civil Engineer, attesting to safe installation of the retaining walls and that they adequately address any drainage issues. He said that the Petitioners specifically request that the Board include that as a condition.

Mr. Himmelberger said that a variance is appropriate, given the topography and the unusual shape of the lot. He said that the footprint of the proposed structure will 2,284 square feet. He said that TLAG of 5,173 square feet is significant but is due in part to the drop of three stories to the back. He said that it presents at the front at 27 feet and is below grade to Walnut Street. He said that the proposed home will provide a better streetscape. He said that proposed design takes advantage of the slope by stepping back and down but in so doing, it creates some height and some additional TLAG in the basement area.

Mr. Himmelberger said that his reading of the plot plan is that the height from average finished grade will be 34.7 feet but the height from the original grade is 45 feet, so the Petitioner also need a variance for height, in accordance with the bylaw. He said that all of the homes to the left have had grading improvements to bring up the back yards. He said that in this case, they will bring it up a little bit but will start at a much lower level. He said that the abutter on the left side sent a letter of support and the abutters on the right side are supportive by virtue of the fact that they have agreed on the grading plan that will allow the house to be built while providing them with some benefit as well.

Mr. Himmelberger said that the property is located in a Water Supply Protection District and the Petitioner requested that the Board impose a condition that recharge is satisfactorily addressed in accordance with the bylaw.

Mr. Levy asked about the existing height. Mr. Draganov said that the existing two story structure is 22.6 feet high. Mr. Levy said that the proposed height is more than double. –

Mr. Levy discussed Board approval as conditions for documents that should have been submitted with the original application package. He said that the Board will need to see a drainage report. Mr. Himmelberger said that the variance request for the height was not advertised. Mr. Levy said that the Board would not be able to make a decision on that at this hearing. Mr. Himmelberger said that he wanted an opportunity to discuss the project tonight, recognizing that they would need to request a continuance so that it could be re-noticed a continued hearing. Mr. Levy suggested that the petition be withdrawn without prejudice so that the Petitioner has time to put together a full application. He confirmed that Mr. Himmelberger had seen the Planning Board comments.

Mr. Himmelberger said that the Petitioner has reached an agreement with the abutters that is subject to the Board's granting Zoning relief. He said that they will not grant the easement unless it is needed. He said that they have the agreement and a Memorandum of Understanding that is signed by the parties.

Mr. Himmelberger requested that the petition be allowed to be withdrawn without prejudice. He asked that the Board waive the new application fee. Mr. Levy said that he had no objection to that, other than no waiver of the publication fees.

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

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to allow the petition to be withdrawn without prejudice.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2021-12, MATHEW LACONTE, 40 PARK AVENUE

Present at the public hearing were David Himmelberger, Esq., David Silverstein, and Dustin Nolan, Architect, Alan Aukeman – landscape architect

Mr. Himmelberger said the request is for a special permit. He said that it is a nonconforming lot with 19,726 square feet in a 20,000 square foot Single Residence District. He said that the proposal is to raze the existing home and build a new home that is fully dimensionally compliant. He said that the TLAG for the new home is 5,874 square feet, which is under the threshold of 5,900 square foot threshold for the district. He said that lot coverage will be 18 percent lot coverage, building height will be 32.31 feet, and there will be two Cultecs for stormwater.

Mr. Himmelberger said that Mr. Silverstein is the builder who also lives on Park Avenue and has built two other homes there. He said that he had a lot of conversation with the abutters about this. He said that three abutters across and to the right fully support the project and provided emails. He said that abutters to the rear and the other to the left side with a Whiting Road address discussed and agreed to additional screening to be installed, specifically, two large canopy trees augmenting existing screening at the back two rear corners as well as significant evergreen screening along the back.

Mr. Himmelberger said that the Planning Board requested an existing 312 foot garage that is within the setback be removed. He said that they would like to retain it. He said that the abutter on the right side would like to have it retained because it provides screening from her deck. He said that the intent is to not use it as a garage but it could be repurposed as an outdoor dining pavilion.

Mr. Nolan displayed renderings and described the design of the proposed home. He discussed TLAG calculations. He said that 782 square feet on first floor is garage and 201 square feet are in the attic.

Mr. Sheffield asked about windows on the second floor. Mr. Nolan said that one window is in the bathroom dormer and one is in hall stair. Mr. Sheffield asked about the shingles around the perimeter. Mr. Nolan said that the flare detail will continue around.

Mr. Sheffield asked about keeping the existing garage as a dining pavilion. Mr. Nolan said that the intention is to repurpose it as covered eating with possible grill space at the back and entertaining space. He said that they do not have plans for that yet because they do not know if they will be able to keep it. Mr. Levy said that no pictures of the garage were submitted. Mr. Sheffield asked if the outdoor entertainment structure could be redone outside of the setback area. Mr. Levy said that he agreed and thought that this should start with a clean canvas. He discussed adding a condition that the structure be removed and any new amenity be built in compliance with the setbacks. Mr. Himmelberger said that would be acceptable. He said that they

will assure the abutter that they will replace the existing screening with comparable screening. Mr. Sheffield said that the birch grove could be extended up to the corner.

Mr. Redgate said that the homes on the other side of the street are in a different Zoning district. Mr. Himmelberger said that those homes precede Zoning and may be nonconforming for the district. He said that the 20,000 square foot Single Residence District is only the south side of Park Ave.

Mr. Redgate said that he would support either moving or removing the detached structure.

Mr. Levy said that the Board received a lot of emails about agreements, objections and withdrawal of objections. Mr. Himmelberger said that the abutter issues were resolved. He said that the only lingering issue was the garage. He said that the rear abutter did not want it continued in its present place.

Mr. Levy said that the Board received a planting plan that was attached to a letter from Pamela Brown. He asked if the planting plan should be part of the ZBA record. Mr. Himmelberger said that Mr. Silverstein made a commitment to the abutters to plant two large canopy trees and 10 to 12 foot tall arbor vitae screening. He said that the Applicant would accept a condition that requires those rear plantings.

Mr. Silverstein asked for some allowance regarding the landscaping around the house so that he can work that through with the client that he is building the house for. He said that the screening around the perimeter of the lot is set in stone but they would like to review the foundation plantings and some of the other plantings that would not affect the neighbors as much with the client. Mr. Sheffield said that he agreed with that.

Mr. Himmelberger suggested that the condition be that planting within the side and rear setback will be in accordance with the submitted plans. Mr. Levy asked if the agreement includes everything on the plant list that was submitted. Mr. Himmelberger said that the focus of the agreement with the two abutters at the rear and side rear was to the arbor vitae screening and the two tall canopy trees. Mr. Levy discussed inserting a condition that required the landscaping that is within the side and rear setbacks.

Mr. Levy asked if there is a private agreement with the abutter. Mr. Himmelberger said that gave his word to the abutters. He said that they have a letter from Attorney Brown withdrawing an objection from the rear abutter, based on the commitment to install the screening. He said that they suggested that the Board make it a condition so that the neighbors have assurance. Mr. Silverstein said that the abutter to the left just told him that he was fine with the plan.

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

Alberto Ramirez, 37 Whiting Road, said that he objected to construction of the nonconforming structure. He said that he agreed with the landscape plan. He said that the house will be so big. He questioned the need for more space. He said that it is not clear what kind of structure will be built so close to his property. He said that his property abuts at the rear of 40 Park Avenue. Mr. Levy confirmed that the structure that Mr. Ramirez was referring to is the existing garage. He said that the Board will add a condition that the garage be removed. Mr. Levy confirmed that Mr. Ramirez is satisfied with the condition that it is subject to the portion of the landscaping that is within the setback, as shown on the landscaping plan.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing

nonconforming structure and grant a special permit, subject to conditions that landscaping agreed upon and shown within the rear and side setbacks on a landscaping plan, dated January 25, 2021, is planted and that the existing detached garage structure is removed.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

Mr. Levy voted aye.

ZBA 2021-13, NADER MOKHTAR 3 MAPLE ROAD

Present at the public hearing was David Himmelberger, Esq., and Nasif Quadir.

Mr. Himmelberger said that the request is for a special permit and/or modification of a variance. He said that the request is to add a second story to an existing home with infill of an existing indentation on the front façade. He said that the lot is conforming but the home is pre-existing nonconforming because it is on a corner lot. He said that when it was originally constructed, it had a 10 foot rear setback. He said that, with the Zoning Bylaw change in 1959, corner lots no longer had rear yards but two front and two side yards, so the house became nonconforming. He said that in 1962, the owner petitioned to build a left side addition that would maintain the original but nonconforming 10 foot setback. He said that today that as a request for a special permit, it was construed as a variance in 1962. He said that the Board is confronted with this type of situation, it typically prefers to modify the existing variance rather than depart from it and call it a special permit, which is why the request for Zoning relief was in the alternative.

Mr. Himmelberger said that the height of the house is 28 feet with the second story. He said that TLAG will be less than 3,000 square feet. He said that it will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. He said that total TLAG will be 2,438 square feet in a district that allows 3,600 square feet as of right before triggering Large House Review.

Mr. Sheffield said that the elevations show that there will be a continuation of the brick. Mr. Himmelberger said that the second story will be clapboard.

Mr. Quadir said that the height of the structure will be 26, not 28 feet.

Mr. Levy asked about the tree in the back yard. Mr. Quadir said that they will not be taking it down but will trim a couple of the branches. He said that it is structurally stable. Mr. Levy asked if the tree that has fallen down in the front yard will be removed. Mr. Quadir said that a branch fell during a storm and was removed by the former owner of the property.

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 Town Engineer commented that the tree that may be impacted by the second floor addition.

Mr. Levy discussed moving forward procedurally. Mr. Himmelberger said that if the Board's preference is to go with a variance, it could go with the previous Board's determination or find the shape of the lot is narrow. He said that, alternatively, it truly is a special permit application. He said that they are seeking to

modify a pre-existing nonconforming structure. Mr. Levy said that if it is a pre-existing nonconforming structure, it would be easier for the Board to make a Section 6 finding. He said that the variance standard may have been different in 1962. Mr. Redgate and Mr. Sheffield agreed that the Board should make a Section finding.

Mr. Sheffield said that the existing elevations show a chimney and the proposed elevations do not. Mr. Quadir said that the base of the chimney is in the basement and is structurally unstable. He said that the proposal is to have no chimney.

Mr. Sheffield asked about the heating system. Mr. Quadir said that it will be gas service that vents through the roof. He said that it will be a four inch steel pipe.

Danielle Nixon, 8 Maple Road, asked to confirm that it will be a single family, not a multi-family home. Mr. Levy said that is the only Zoning that is permitted there and the Board is not granting relief for a change in use.

Ms. Nixon asked if the driveway will be moved. Mr. Quadir said that they will add a small eight foot section to the driveway to accommodate what will be a two car garage. Ms. Nixon said that her driveway is directly across from the front of the house and she was concerned about her children. Mr. Quadir said that it will be to the right of the house.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously that the Board make a Section 6 finding that the proposed structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and grant a special permit.

Mr. Sheffield voted aye.

Mr. Redgate voted aye.

Mr. Levy voted aye.

As there was no further business to come before the Board, the hearing was adjourned at 10:10 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary