



ZONING BOARD OF APPEALS

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WALTER B. ADAMS
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PETER COVO

June 1, 2023

Schuler Room, Tolles Parsons Center

7:30 pm

Zoning Board of Appeals Members Present: J. Randolph Becker
David G. Sheffield
Derek B. Redgate

BUSINESS MEETING

ZBA 2023-05, TOWN OF WELLESLEY MUNICIPAL LIGHT DEPARTMENT, 4-8 MUNICIPAL WAY

Mr. Becker said that the request is for determination of a minor modification. He said that the drawings are significantly different and should be amended.

Mr. Sheffield said that the changes are the size of the equipment within the fenced in area. He said that they are internal changes. He said that revised documents should be submitted.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to make a determination that the proposed changes are a minor modification that does not require opening a public hearing, subject to a condition that revised drawings be submitted.

ZBA 2022-67, TOWN OF WELLESLEY/SCHOOL DEPARTMENT, 293 WESTON ROAD (HARDY SCHOOL)

Mr. Becker said that the proposed changes are landscape changes for changes to species and arrangements. He said that there is no material difference from the approved plan.

The Board said that a revised drawing should be submitted.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to make a determination that the proposed changes are a minor modification that does not require opening a public hearing, subject to a condition that a revised drawing be submitted.

PUBLIC HEARING

ZBA 2023-27, SANDRA & JOSHUA SERIE, 43 FISKE ROAD

Mr. Becker said that the Board received a request to continue the petition to July 6, 2023.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the petition to July 6, 2023.

ZBA 2023-31, GAIL KELLEY, 28 LONGFELLOW ROAD (DiBELLA)

ZBA 2023-32, GAIL KELLEY, 28 LONGFELLOW ROAD (PRALL)

Mr. Becker said that this is an appeal of a decision of the Building Inspector and why it should be overturned. He said that the Board does not have any power to deal with issues concerning mental health and calling the police.

Present at the public hearing was Gail Kelley, the Appellant. Ms. Kelley said that she was appealing a decision of the Building Inspector regarding a business being conducted at 28 Longfellow Road by Kristen DiBella, in violation of Article 6b of the Zoning Bylaw (ZBL), concerning employees not resident on the premises. She said that she submitted documentation that shows that the business advertised for a full time position in January of 2022. She said that Kirstan Bernardelli started working at the business as an interior design assistant and is at the business from 9 am to 5 pm every day. She said that Ms. Bernardelli sometimes leaves with packages that are delivered to the house. She said that Ms. DiBella said that Ms. Bernardelli is the nanny but there are no children at the home between 9 am and 5 pm.

Ms. Kelley said that she had not seen the information that Ms. DiBella submitted to the Building Department until two weeks ago. She said that Ms. DiBella responded to Mr. Grant that she has a person who works part time for her in Sarasota Florida and that Ms. Bernardelli is her nanny, even though the kids are not in the house while Kirstan is there.

Mr. Grant said that during the course of his investigation, he asked Ms. DiBella and Mr. Prall to submit responses to the complaint. He said that he made numerous trips out to 28 Longfellow Road to look at traffic and deliveries. He said that over the course of three weeks, two to three times a day, he never witnessed any issues. He said that he asked the Police Department if they could substantiate the claims of traffic issues and they responded that they could not. He said that he sent all of the documents to Town Counsel for his opinion. He said that Town Counsel agreed with his position that, based off of the evidence that was provided, there was not a strong enough case that there was a violation of the ZBL

Mr. Sheffield said that he visited the site on a Sunday afternoon at 2 pm and observed the car mentioned in the complaint parked in front of the house. He said that the plate number matched.

Mr. Redgate asked Mr. Grant to describe his typical process for Zoning Enforcement. Mr. Grant said that when he gets a complaint, he visits the site to try to substantiate the claim. He said that in this case, the alleged violation was going on inside the home. He said that he asked for a response from the inhabitants of 28 Longfellow Road. He said that because he could not go inside the home, this request for enforcement had to be handled in a slightly different way. He said that he had to use what was visible from public property to collect as much data as he could. He said that the Complaint said that the Police were called. He said that he contacted the Police, which is unusual. He said that because this was not a typical enforcement, he ran it by Town Counsel.

Mr. Redgate asked Mr. Grant if he thought that the responses from Ms. DiBella and Mr. Prall were adequate. Mr. Grant said that he had no reason to think that they were not adequate. He said that Town Counsel concurred.

Mr. Becker discussed Ms. DiBella's response letter and her explanation related to deliveries. He said that the core of the complaints appears to be traffic, parking, and delivery of large packages. He said that, based on the documentation and emails that were submitted, there is no strong thread of evidence.

Mr. Becker said that the ZBL talks about an allowed use that is predicated on one business in the residence but there are two here. Mr. Grant said that Mr. Prall's business is listed with the Commonwealth with its address at 28 Longfellow Road. He said that does not mean that he is running the business out of the house. He said that Mr. Prall can drive a van home. He said that Mr. Prall's business is run out of a different location.

Mr. Redgate said that the Zoning Enforcement officer has a process to follow that was set up by the town. He said that a resident has the ability to ask for an enforcement from the Zoning Enforcement Officer. He said that the process did not go awry.

Mr. Becker said that there was no quantification in the complaint of things such as the size of the packages and how frequently they were delivered. He said that there was not enough evidence for the Board to figure out the intensity of the use.

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

James Creed, Jr., Esq., said that he was representing Ms. DiBella and Mr. Prall. He said that Ms. Bernardelli resides at 28 Longfellow Road. He said that she does a number of things for the homeowners. He said that the building was constructed in 1880. He said that his clients purchased the property several years ago and have been making renovations. He said that they pulled 22 building permits, one of which is still open. He said that during construction, a number of components of the project were delivered. He said that there may have been an increase in deliveries but they were in conjunction with valid building permits. He said that Mr. Grant didn't find overuse of traffic or deliveries.

Mr. Creed said that Mr. Prall is an electrician and his office is his truck. He said that Mr. Prall registered his home occupation with the Building Department because he does paperwork at home. He said that the predominant business at the home is Ms. DiBella's.

Mr. Redgate confirmed that the past history of traffic and deliveries was related to standard home renovation. Mr. Creed said that his clients were upgrading an older house that needed it. He said that they have copies of invoices for deliveries.

Ms. DiBella said that Ms. Bernardelli's job is significantly for the children but she also runs errands, cleans house, and makes food. She said that the family has a special needs child and a five year old and her mother living with them. She said that it is a big house. She said that Ms. Bernardelli occasionally does things for the business. She said that most of the deliveries related to the major renovation. She said that they did a significant amount of work that included an addition, a deck and a new driveway. She said that there were a lot of deliveries. She said that they recently were part of the kitchen tour and they have invoices to show for that. She said that it is difficult to have large things delivered to the house. She said that they use designer services in Woburn to accept furniture for their clients until they are ready for delivery to the sites. She said that 28 Longfellow Road is the billing address. She said that specialty items such as special paint might be delivered to the house.

Ms. DiBella said that they do not have a landscaper on a regular basis. She said that her husband is a master electrician and his workers do odd jobs at their house to fill in the hours when work is slow.

Craig Kelley, 6 St Gerard Terrace, Cambridge, said that he is a land use attorney. He said that he grew up at 29 Longfellow Road. He said that there is a traffic issue. He said that the driveway from 29 Longfellow Road dumps out across from 28 Longfellow Road. He said that there are challenges navigating in and out because of vehicles parked on both sides of the driveway. He said that it is dangerous. He said that for 55 years they did not have problems. He said that his 97 year old mother lives at 29 Longfellow Road. He said that the traffic at 28 Longfellow Road impacts the character of the neighborhood. He said that they should have reasonably easy egress to their property and do not due to activities at 28 Longfellow Road. He said that the activities have to stop because they are rude and impact the people in and out of 29 Longfellow Road.

Maureen Kelley, 105 Hancock Street, Auburndale, said that her parents have lived at 29 Longfellow Road for 60 years. She said that her 94 year old father moved out but her mother wanted to stay in the house. She said that her mother is an avid gardener. She said that the family held a meeting to discuss making the place safer for their mother. She said that the neighbors across the street are causing safety concerns. She said that her mother has every right to be safe. She said that on the home occupation applications, it is stated that there is not going to be an employee but there is one. She said that it is unclear if Mr. Grant got documentation of who Ms. Bernardelli is. She asked how he confirms it if he's told that Ms. Bernardelli is a nanny.

Ms. Kelley said that there are always cars coming and going to 28 Longfellow Road and small and large packages delivered. She said that she would want to see the license of the woman living there to look at the facts that can be discerned. She said that this is not just a neighborhood dispute. She said that a 97 year old woman can't get out of her driveway and others have to weave around traffic. She asked that the Board overturn the decision of the Building Inspector.

Mr. Sheffield said that there is sufficient additional parking at the semi-circle -in front of the house to park the cars on the property. He said that would alleviate a problem.

Mr. Becker said that what is before the Board is to affirm the appeal or deny it. He said that denial of the appeal upholds the decision of the Building Inspector.

Mr. Redgate said that there was nothing in the process that Mr. Grant followed where he did not do what he is charged to do.

Mr. Sheffield strongly suggested that vehicles not be parked opposite the neighbor's driveway. He said that there is a sight line problem at the crest of the hill and the situation can be dangerous. He asked that vehicles associated with 28 Longfellow Road try to not park on the street.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to deny the appeal and uphold the decision of the Zoning Enforcement Officer.

ZBA 2023-32, GAIL KELLEY, 28 LONGFELLOW ROAD (PRALL)

Present at the public was Gail Kelley, the Appellant.

Ms. Kelley said that in his response to the Zoning Enforcement Officer, Mr. Prall said that he parks his vehicle at 180 Worcester Street. She said that it is not just someone doing work at the house. She said that trucks and employees are regularly at the house. She said that employees park and get into Frank Prall trucks. She said that they regularly sit at the property waiting for deliveries. She said that employees are at

the house at 7 am loading trucks. She said that employees park in front of other houses on the street. She said that there is no other office. She said that two trucks go back and forth to the house every day.

Frank Prall said that he parks the business vans behind the Great Wok at 180 Worcester Street. He said that they sometimes goes to the house to eat lunch and use the bathroom. He said that he asked his employees to park on his side of the street. He said that he would rather work the issues out with the neighbor. He said that he will continue to do the best that he can to have people park on his side of the street but it is hard to monitor.

Maureen Kelley, 105 Hancock Street, Auburndale, said that she visits her mother once a week at 29 Longfellow Road. She said that it would be hard to get an ambulance there. She said that most times there are cars blocking the driveway. She said that often there are trucks there early in the morning. She said that all of the things going on are more than usual for a home occupation. She said that it is not an easy street with the hill. She said that with employees coming and going, there is a lot of activity and parking issues.

Mr. Redgate said that there is a process in place for Zoning Enforcement. He said that the enforcement request form was documented and Mr. Grant followed up on it. He said that Mr. Grant's response was adequate. He said that the Board can't police neighbor disputes.

Mr. Becker thanked the neighbors who submitted letters and emails to the Board. He said that there was support for both sides of the issues. He said that the Board's decision is based on the record. He said that the Board heard from Town Counsel that there was insufficient evidence to support the assertions in the record. He said that Mr. Grant said that the record does not support the appeal.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to deny the appeal and uphold the decision of the Zoning Enforcement Officer.

ZBA 2023-33, JEFFREY HIBBARD, 6 DUNEDIN ROAD

Present at the public hearing was Jeffrey Hibbard, who said that he recently purchased the property. He said that the request is for a special permit for existing nonconforming setbacks at the front and on the right side of the house. He said that plan is to gut the house and put an addition on the back.

Mr. Redgate asked about changes to the existing nonconformities. Mr. Hibbard said that the plan is to add a porch at the front that will extend further into the front yard setback and to extend the right side yard setback further back. He said that he plans to take the existing building down to the studs, re-side and re-roof. He said that he spoke with the Building Inspector about his plans.

Mr. Becker confirmed that Mr. Hibbard had not done TLAG calculations. He said that under the bylaw, the Board has to make a determination whether the proposed changes increase existing nonconformities or create new nonconformities. He said that a TLAG affidavit is something that the Board uses that to understand how the proposed house compares to other houses in the neighborhood. He said that if the TLAG threshold is 3,600 square feet for the district and the proposed structure will be 4,300 square feet, it implies that the house is too big for the neighborhood.

Mr. Redgate said that if the property is fully conforming, and proposed construction would put it over the TLAG threshold for the district, it would be subject to Large House Review. He said that at 1,200 to 1,300 square feet per floor, the house appears to be approximately 4,700 square feet.

Mr. Sheffield confirmed that this is a spec house. He confirmed that the architect visited the site. He said that the plumbing will be against the outside wall. He said that the proposed structure seems to be excessively large for the neighborhood. Mr. Hibbard said that he can change the window in the bathroom.

Mr. Redgate said that the Applicant may want to consider landscaping in his plans.

Mr. Hibbard said that the houses across the street are 5,000 square feet. Mr. Sheffield said that there are a lot of hills and some of the houses are below street level.

Mr. Becker read the Planning Board recommendation and their concerns about the mass and scale of surrounding homes. Mr. Redgate said that TLAG calculations would give the Board information that is similar to what the Planning Board was asking for.

Mr. Sheffield said that the floor plan is a rectangle. He said that the only elevation with texture is the front.

Mr. Becker discussed the options for moving forward with the petition. Mr. Hibbard requested that the Board allow the petition to be withdrawn without prejudice.

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

ZBA 2023-34, 868 WORCESTER ST CORP., (DENNIS DiSCHINO) 868 WORCESTER STREET

Present at the public hearing was Zhyldyz Eshminkanaova, who said that he is opening a new business, a day spa, at 868 Worcester Street. He said that the request is for approval of an internally illuminated sign that is consistent with the existing Domino's sign at the property. He said that an internally illuminated sign will give the business better visibility from Route 9. He said that the Design Review Board gave it a favorable recommendation.

Mr. Sheffield confirmed that it will be a white sign on a brown façade.

Mr. Becker said that the sign will be one of three on that building.

Mr. Sheffield confirmed that the new business will get the parking spaces that were allotted to Weston Kitchens.

Mr. Sheffield said that you can only see the building traveling west, not east. He said that for the few seconds of visibility, an internally lit sign has better shot at being seen.

Mr. Becker read the Planning Board recommendation

Mr. Sheffield said that Domino's and the Beauty House are different uses. Ms. Eshminkanaova described the services that the Saadat Beauty House will provide.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve a special permit for an internally illuminated wall sign.

ZBA 2023-35, RICHARD GOLOB & LUCIA LOVISON, 405 LINDEN STREET

Present at the public hearing was Shannon Scarlett, Architect, who said that the current request is a re-submission. She said that the project expanded to two separate structures on the property. She said that there were three applications, the first one for the main house, the second for the main house combined with the cottage, and then just the main house, as the original special permit had expired. She said that little has changed since the previous application. She said that the homeowners decided to add a carport to the back of

the house, modify the mudroom/stair entry for traffic flow, and expand the living room to take over part of the front porch. She discussed the original plans for the main house.

Mr. Becker said that the plans do not match. Ms. Scarlett said that the first floor plan is correct. She said that the rain garden and the paved area adjacent to the house are correct.

Mr. Sheffield said that counterclockwise circulation around the rain garden versus clockwise would make backing into the carport easier. Ms. Scarlett said that having the rain garden was client specific. She said that there is a puddle back there.

Ms. Scarlett said that she will submit a revised plot plan. She said that she can add the patio to the landscape.

Mr. Sheffield asked where the square footage was lost to achieve conforming lot coverage. Ms. Scarlett said that she revised a wall at the mudroom.

Mr. Becker read the Planning Board recommendation.

Mr. Sheffield moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve a special permit, subject to a condition that the plot plan and the building plans are coordinated so that they all agree.

As there was no further business to come before the Board, the hearing was adjourned at 9:29 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary