



ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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
PETER COVO

September 7, 2023

Remote

6:30 – Business Meeting

7:30 pm – Public Hearing

BUSINESS MEETING – opened at 6:30 pm

Zoning Board of Appeals Members Present: J. Randolph Becker
Robert W. Levy
David G. Sheffield
Walter B. Adams
Derek B. Redgate
Peter Covo

Present at the Business Meeting were J. Randolph Becker, Robert Levy, David Sheffield, Walter Adams, Derek Redgate and Peter Covo.

Mr. Becker welcomed new Board member, Peter Covo.

Mr. Becker said that the first order of business is the annual election of officers. Mr. Sheffield said that under Mr. Becker's leadership, he has done an excellent job.

Mr. Sheffield moved, Mr. Levy seconded, and the Board voted unanimously to elect Mr. Becker as Chair.

Mr. Redgate voted aye.
Mr. Covo voted aye.
Mr. Levy voted aye.
Mr. Sheffield voted aye.
Mr. Adams voted aye.
Mr. Becker voted aye.

Mr. Adams moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to elect Mr. Levy as Vice Chair.

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

Mr. Adams voted aye.

Mr. Becker voted aye.

Mr. Becker discussed the Zoning Board of Appeals' Rules & Regulations. He said that changes were made to the numbers to coordinate with the revised Zoning Bylaw numbers, from Roman numerals to Arabic numerals.

Mr. Adams asked if the Board institutionalized a deadline for submitting materials before a public hearing is held. Ms. Mahoney said that there is a deadline for the petitioners to submit materials. She said that the public can submit something right up to the public hearing. Mr. Adams said that the Board does not guarantee that it will take it into consideration. He said that if the Board has time, it will consider it.

Mr. Becker said that the intent here is to catch up to the changes that were made to the Zoning Bylaw. He said that the Board should have a discussion about whether it wants to put things in the Rules for things that the Board does not necessarily have guidance from the Planning Board on things that are in the Zoning Bylaw, and there are a lot of them.

Mr. Levy moved Mr. Adams seconded the motion, and the Board voted unanimously to approve the change to the numbers in the Zoning Board Rules & Regulations, subject to adding the date of revision on the last page.

Mr. Redgate voted aye.

Mr. Covo voted aye.

Mr. Levy voted aye.

Mr. Sheffield voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

Mr. Becker said that there have been several instances over the past year where there is not a lot of guidance about certain features of the Zoning Bylaw. He said that the best way to correct that is to get the Planning Board to change the bylaw to include something on those effects because the Zoning Board are not the arbiters of the Zoning Bylaw. He said that the Planning Board writes it. He said that in the last year, the Board reviewed two cases where the petitioner asked for after the fact approvals. He said that there really isn't any guidance in the Zoning Bylaw. He said that the Board members should think about subjects like that and then add something into the Rules & Regulations so that there is something somewhere written down so that people affected by those sorts of things could at least understand what the Board's thinking is on those issues.

Mr. Levy said that each of the instances are individual and the Board may not want to treat them in a uniform manner, based upon the facts. He said that if the Board boxes itself in too much, it might take away some of its discretion. He said that he was not sure whether the rule should say that the Board should take the cases or not take the cases.

Mr. Becker said that without guidance from the bylaw, any applicant could turn around and appeal that decision. He said that the Board is not in as strong a position as if the Zoning Bylaw had said something about whatever the subject is. Mr. Levy said that appeals are difficult from a Zoning Board. He said that he was not sure what the rule would say. He said that he was not sure that he would want the Planning Board to make one up. Mr. Adams agreed with Mr. Levy.

Mr. Levy said that he sat on one of the matters but not the other. He said that it was a difficult decision but he was not sure what direction the Planning Board would give this Board, unless it's a blanket prohibition, which could be unfair. He said that if a homeowner buys a house and is completely innocent of a violation,

the Board might want to help them, whereas, if someone did something intentionally where they knew better and were trying to get away with something, they Board might want to treat it differently.

Mr. Sheffield asked if it is possible to indicate that the Board will use its discretion in such matters and may or may not address the issue. Mr. Levy said that is what the Board currently does. Mr. Sheffield is the Board should codify and alert someone that the Board may or may not take up a matter, subject to its discretion.

Mr. Levy said that if it is not broken, don't fix it. He said that the Board has managed it and have not been appealed.

Mr. Becker said that he was trying to look at it from two different perspectives. He said that one was the Board's own. He said that discussion that the Board has had up to this point reflects that. He said that he was trying to look at it from the perspective of neighbors who have come forward with complaints or comments that weren't formally filed. He said that he thought of it in terms of letting the public know that these things are out there. He said that the challenge is in the language and getting the words right to let everyone know what the parameters are and allow the Board the maximum flexibility to apply it to the different cases that it sees. He said that most of the Board members have been here long enough to know that the cases that the Board gets are not the easy ones. He said that his sense from the Board is that it is something that the Board does not want to tackle at this time.

Mr. Levy said that the Zoning Board used to have a joint meeting with the Planning Board. He said that the Board has suggested it several times but it has not come to fruition. He said that if the Board codifies it, it gives someone the right to come in because it's in the rules. He said that the case that he sat on ended up being decided because of the economic waste involved and the fact that, had the petitioner come in timely, the Board probably would have granted relief. He said that the Building Department should have the ability to impose a fine or some other sanction to prevent people from building without getting appropriate permits. He said that is beyond the Board's purview.

Mr. Becker asked if the Board wanted to sit down and pick a small number of subjects to go to the Planning Board for a meeting.

Mr. Levy said that the Board has discussed amendment to the 500 Foot Rule to give the Board some discretion in that regard because it was meant for infill lots and there are not many infill lots in town anymore.

Mr. Becker said that there are things that the bylaw anticipated in the development of the town. He said that the town is now principally developed and is being redeveloped. He said that the requirements for redevelopment are not the same.

Mr. Becker suggested that the Board put together a list of three to five subjects.

Mr. Levy said that the bylaw is deficient in is for an appeal from the Planning Board for LHR. He said that it comes to the Zoning Board but there is no direction as to what the standard of review is. He said that he sat on one and his recollection is that the Board remanded it back to the Planning Board.

Mr. Becker said that he could propose five subjects to the Board and then have another business meeting to discuss them. He said that, based on results of the discussion, the Board can send something to the Planning Board that asks them to talk about it. He said that the Board members can send any ideas to the Executive Secretary.

Mr. Sheffield said that two houses on his street are being torn down and the developer of the one house that is being built on speculation said that he will set the new house further back from the street than the existing house. He said that the developer ran up against the Historical Commission because the house was built in the 1930's. He said that the Historical Commission prohibited the developer from setting the house back. He questioned where the Historical Commission's authority comes from. Mr. Levy said that he thought that the Historical Commission could only do a demolition delay. Mr. Adams said that is how they enforce those things. He said that they say that they will approve the project without the delay if they push it forward. Mr. Sheffield said that the developer's reason was to save trees and that the side lot lines are not parallel. He said that they widen as they go back further into the lot. He said that by having it further back from the street, the developer had a little bit more width to work with.

Mr. Redgate asked if the Historical Commission's decisions can be appealed. Mr. Levy said that there must be some mechanism. Mr. Adams said that he thinks that it goes to the State. Mr. Levy said that it is a local bylaw. Mr. Redgate said that he did not recall ever seeing one. He said that he has worked with Historic committees in other towns and communities and they all will typically step over their purview. Mr. Levy said that all that they can do is a delay. Mr. Redgate said that smart applicants know that they just have to wait whereas another applicant might take it as a hard no.

Mr. Levy said that the ZBA website says there is information about appeals. He discussed adding another bullet for appeal of Large House Review, citing the section of the Zoning Bylaw.

The Board discussed honoring Dick Seegel, who has served the town for many years. He said that it would be appropriate for the Board to have a celebration of his time with the Zoning Board.

Mr. Sheffield discussed his intention to retire from the Board. Mr. Levy said that Mr. Sheffield's term is up next year. Mr. Sheffield said that he will sit for as long as it takes to find another architect. Mr. Levy said that the Board has had some discussion but has had no luck yet. He said that Mr. Sheffield has been on the Board for a long time and the Board appreciates his guidance, help and expertise. Mr. Redgate said that there have been many times when Mr. Sheffield provided the applicant with some very cost effective professional advice. Mr. Sheffield said that this group is probably the most fun that he has had in his volunteerism for the town over the years. He said that a young architect ought to be given a chance.

The Board discussed logistics of a celebration and gift for Mr. Seegel.

Mr. Levy said that Mr. Adams has been on the lookout for an architect who lives in town as a possible replacement for Mr. Sheffield. Mr. Levy said that he got a name from Mike Grant. Board members asked that Mr. Adams take the lead in the search for an architect.

Mr. Redgate discussed giving specific times in the agendas such as 15 minutes for each item. He said that if something looks like it will take a long time, it would give the Board the opportunity to move on. Mr. Levy said that the Board typically continues those matters or puts them last on the agenda. Mr. Becker said that Mr. Redgate was referring to a case where the Board did not recognize that until it was into it and then it is hard to pull the plug. Mr. Levy said that the Board can tell the applicant that they will have to continue the matter. Mr. Sheffield said that the Board's process has been very forgiving for the public and the applicants, which has been a benefit for those who apply. He said that the Board has a solution in mind, not the timing. Mr. Becker said that is something the Board could do by amending the Rules & Regulations. Mr. Redgate said that the decision to keep going or not could be up to the discretion of the Chair. He said that the range of applicants range from professional down to someone who does not know the process. He said that is a wide range to deal with. Mr. Levy said that in the future the Board may want to take a little more discretion to shuffle things around. He said that the Board could take the simpler permits first. Mr. Becker said that the Board can start putting time limits on agenda items and rearrange them to get the quick ones out of the

way first. He said that if it turns out that something that the Board thought would be quick but was not, the Board has the option to continue it or put it at the end of the agenda.

ZBA 2023-17 199 WORCESTER ST LLC, 199 WORCESTER STREET

Present at the Business Meeting was David Himmelberger, Esq., who said that he previously came before the Board representing 199 Worcester St LLC, which is the record owner of a gas station that was seeking a special permit for selling used cars. He said that following the granting of zoning relief, Mr. Aharonian, manager of the LLC, came to him for assistance with submitting the necessary paperwork to the Select Board for a license to sell used cars. He said that as part of that process, one of the requirements is to provide evidence of a Workers Compensation Bond. He said that the Workers Compensation insurance is in the name of B and P Auto Service Inc. He said that Mr. Aharonian told him that when he first began with the gas station, he was a tenant who operated as B and P Auto Service Inc. He said that he later purchased the property and at the suggestion of his attorney at the time, he created a different business entity, 199 Worcester St LLC. He said that because B and P Auto Service Inc. is the business doing the work, his client is requesting a minor modification to either add B and P Auto Service Inc. as an additional party to the decision or to substitute B and P Auto Service Inc. in whole for 199 Worcester St LLC. He said that both entities are controlled by Mr. Aharonian.

Mr. Becker asked if there are any contractual relationships between the two entities or is the consistency between the corporations simply Mr. Aharonian. Mr. Himmelberger said that Mr. Aharonian is the manager of the LLC. He said that he is the President, CEO and Treasurer of B and P Auto Service Inc. He said that he is every corporate officer, as shown on the Secretary of State's paperwork that was submitted.

Mr. Sheffield asked about a dba. Mr. Himmelberger said that 199 Worcester St LLC owns the property that is the gas station and the land but B and P Auto Service Inc. is the business that operates out of it.

Mr. Adams said that he would be inclined to substitute B and P Auto Service Inc. on the decision. Mr. Himmelberger said that is his client's preferred option.

Mr. Adams confirmed that the Petitioner is requesting a minor modification to switch the name on the decision from 199 Worcester St LLC to B and P Auto Service Inc.

Mr. Adams moved, Mr. Becker seconded the motion, and the Board voted unanimously to accept the change of name on the decision and make a determination that the change is a minor modification that does not require a public hearing.

Mr. Adams voted aye.

Mr. Covo voted aye.

Mr. Becker voted aye.

PUBLIC HEARING – opened at 7:30 pm

Zoning Board of Appeals Members Present:

J. Randolph Becker
David G. Sheffield
Robert W. Levy
Walter B. Adams
Derek B. Redgate
Peter Covo

ZBA 2023-41 TENACRE COUNTRY DAY SCHOOL, 78 BENVENUE STREET

Mr. Becker said that the Board kept the petition open and circulated a draft decision.

Mr. Levy said that the last correspondence he had seen was from the Municipal Light Plant. Mr. Himmelberger said that he reached out to Mr. Saraceno in the Engineering Department today to ask if he had a chance to review the project. He said that Mr. Saraceno said that he responded to the ZBA and Bohler that the only outstanding issue that DPW is aware of is for providing revised phosphorus calculations and a copy of the revised drainage plan. He said that he asked Mr. Saraceno if he would be satisfied with a conditional approval for the satisfaction of those two items and he indicated that he would be, so long as Engineering is able to offer comments based on the revised drainage plan and calculations. He said that Mr. Saraceno said that he believed that the phosphorus calculations are very close to the new requirements, so it might involve a new infiltration units placed on site and DPW would want to review those locations on site.

Mr. Adams said that the Board could build Mr. Saraceno's comments into the decision.

Mr. Becker said that the draft decision has a Use Conditions for stormwater drainage and runoff that is more from an O & M perspective but it doesn't really talk about the design. He discussed adding a condition to the Construction Conditions. He said that the Board could draft a condition now or approve the decision, conditioned upon the things that Mr. Saraceno talked about. Mr. Adams said that the Board should approve the decision with a condition that uses Mr. Saraceno's language. Mr. Himmelberger suggested language that approval is subject to satisfaction of the Engineering Division with the drainage plan and phosphorus calculations that are done in accordance with DPW requirements. Mr. Becker said to add that to the decision as Condition #12.

Mr. Levy said that Spell Check shows some mistakes that should be fixed in the draft decision.

Mr. Levy moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve Site Plan Approval with the additional condition and minor clean ups.

Mr. Levy voted aye.

Mr. Adams voted aye.

Mr. Becker voted aye.

ZBA 2008-43, JILL MURPHY, 48 PARKER ROAD

Present at the public hearing were Laurence Shind, Esq., Jill Murphy, the Petitioner, David Himmelberger, Esq., and Deya Corzo, 50 Parker Road.

Mr. Becker said that the Board received correspondence from the Petitioner and the neighbor.

Mr. Shind said that, at the Board's request, they asked their landscaper to go back to the property to investigate the possibility of planting live plants between the tennis backboard and the property line. He said that he submitted a letter to the Board from Douglas Arbeely, Belmont Landscape & Tree Company, who determined that since there is drainage in that area and because of the slope and the constrained area, there is no ability to reasonably install any live plantings that would have a screening effect. He said that he asked Mr. Himmelberger to get back to him to discuss whether Mr. Himmelberger's client had any interest in putting up faux planting, finishing or painting the back of the backboard. He said that he did not hear back on either the issues. He said that his client asked the sport court installer, John Campbell, to come up with information as to what would best screen the backboard. He said that Ms. Murphy determined that the faux planting was for too large an area and there were concerns about the appearance and upkeep. He said that

they focused on finishing and painting the backboard. He said that Mr. Campbell said that the backboard can be finished with the same material as the front on the back, painted any color that seems best. He said that he heard from Mr. Himmelberger yesterday that Dr. Corzo wanted the Murphys to move the shed that is adjacent to the fence on her side to line up with the backboard, at the Murphy's expense, and to plant arbor vitae between the shed and the backboard. He said that Ms. Murphy is not willing to do that due to the expense and the fact that it was not previously raised as an issue. He said that Ms. Murphy has no interest or ability to do work on the neighbor's property. He asked the Board to approve the request to modify the special permit to include finishing the backboard with the same plywood material that is on the front, painting it, planting six 8 to 10 foot high evergreen screening trees along the boundary, running from the end of the driveway to the sport court, removal of the outdoor speaker system, and redirected the light fixture at the rear of the property downwards.

Mr. Adams said that he visited the property today. He said that it would be easy to just relocate the entire backboard to the same spot on the far side of the basketball court, closest to the batting cage, running the screening from the batting cage to the side of the basketball court on the side furthest away from Dr. Corzo's property. He said that it should be relatively inexpensive to do and will provide close to 100 feet of separation from the Corzos' property. He said that the 7 foot netting would remain at the edge of the property. He said that would be in addition to the trees, removal of the sound system and re-positioning of the light fixture.

Mr. Himmelberger said that he provided additional materials to the Board. He said that they have an arborist present at the hearing. He said that the request from his client was for more trees along the common property line, which would require moving an 8 by 10 shed further to the rear of the property. He said that Dr. Corzo did not like the faux planting but does want the screening to be more effective of the backboard. He said that having the backboard at the opposite end would go a long way to address Dr. Corzo's concerns. He asked if the lights will be on a timer and not be permitted after a certain hour. He said that another suggestion was to place large planters with trees in them between the backboard and the property line. He said that his concern is that they will require a lot of attention and irrigation. He said that flipping the location of the backboard, in addition to the trees, might be a good solution.

Ms. Corzo said that relocation of the wall, in addition to the trees, is acceptable. She said that the proposed trees will not cover the tennis wall.

Mr. Shind said that Ms. Murphy has some insight as to whether the backboard can be moved to the other side. He said that he wanted to correct the height of the backboard that was discussed. He said that the backboard is 10 feet high. Mr. Adams said that is higher than what is allowed for a fence.

Ms. Murphy said that the tennis wall is built with a bracing system with specific holes and certain measurements and distances that are not congruent on the other side. She said that they would have to redo the two ends of the court and the Corzos will still see it. She said that it how they came back to trying to screen it.

Mr. Adams said that his previous suggestion would have the tennis wall backing up to the batting case. He said that his current suggestion is to relocate the backboard to the other side. He said that they might have to get another piece of edging to accept the backboard. Ms. Murphy said that they would have to redo the entire fencing on that side. Mr. Adams questioned why they could not move the entire board and fencing to the other side.

Mr. Becker said that at the previous hearing, the Board looked at various technical solutions to minimize the screening while getting it in the right place to block things that were an issue. He said that documentation that was submitted since the last meeting shows that there is no resolution between the parties at 48 and 50 Parker Road with respect to the technical solutions. He said that Mr. Adams suggestion of a solution that the

Board had not heard before complicates things. He said that he believes that it is feasible to put the wall at the other end of the basketball court on the Perrin Park walkway side. He said that the Board does not have the same level of technical information that it has for the solutions that were discussed at the previous hearing. He said that the Board does not have complete pricing for Mr. Adams' suggestion. He said that the Board needs to have an idea of the cost.

Mr. Covo said that two issues that Dr. Corzo raised were sound and screening. He said that Dr. Corzo submitted pictures of the view from her second floor. He said that you would see the backboard more if it is moved to the far end. He said that sound off the backboard is more off the front than the back, it resonates out. He said that he read the letter from the sport court company about finishing the back with the same plywood and painting it. He said that would muffle the sound. He said that he was not convinced that moving it will solve it. He said that it is more of a screening issue.

Mr. Adams said that Dr. Corzo said that she would accept it if the backboard was moved. He said that it is doable. He said that the Board would need evidence that it is not feasible or is cost exorbitant. He said that if someone had come to the Zoning Board or the Building Inspector before everything was installed, the Board would not be trying to come up with a band aid solution. He said that he was not blaming the Murphys for not knowing. He said that the original owner got approval to build the property with conditions. He said that property owners own a problem from a legal point of view. He said that he has been trying to come up with a solution that is the least costly to the Murphys and the most benefit to the Corzos.

Mr. Becker said that what is before the Board is a request for a modification of the conditions on an existing permit. He said that it is a permit amendment. He said that the permit covers removal of one tree on the property with the rest of the trees to remain. He said that if the request for removal of the trees had come to the Board timely, the Board would have gone through a different analysis. He said that the Board is trying to decide if it would have approved what is on the table if it had come to the Board timely. He said that the Board probably would have thought about balancing things and getting the least cost on the 48 side and the most benefit on the 50 side if this had come to them initially.

Mr. Becker asked the Board members what additional information is needed for the Board to decide whether the permit amendment is something they can support or not.

Mr. Adams asked if the installer is the manufacturer of the equipment. He said that it is a system. He said that the basketball surface appears to be some sort of plastic or semi-plastic tiles. He said that it would be good to have a knowledgeable professional provide information about what the difficulties would be in moving the backboard to the other side. He said that the Murphys have agreed to pay for additional trees. He said that he did not expect them to move the backboard if it would incur significant costs. He said that he would like to see documentation of what would be involved in the process and the cost of it.

Mr. Becker said that while the Board is gathering that information, it can begin drafting conditions of the permit amendment. He said that there are two things happening here, one is the Zoning Board of Appeals' public hearing and the other is negotiation between two neighbors. He said that one possible outcome is that the neighbors come to an agreement and the other one will happen if the first one does not. He said that he would like to see the impact of the costs to get the wall put at the other end of the basketball court. He said that if the Board cannot come to the decision that it would have allowed the tree removal if it had come to the Board timely, then it is a completely different case that is much more complex.

Mr. Adams asked that the Murphys provide the Board with information about who the manufacturer of the court system is and who the contractor who installed the system is. He said that it would be great if they would come before the Board. He said that if that is not possible, he would be willing to speak with them.

Mr. Shind said that they will ask the installer for the information that the Board asked for and work up a quote with the details on what it would entail. He said that he would like to be in a position to come back to the Board with the quote and the details. He said that he was reluctant to have the Board get in touch with the installer. He said that he was not sure what a conversation with the manufacturer would gain or why that would necessarily be relevant. He said that it is up to the installer, who is in the business of doing the sport courts. He said that the installer can give all of the information that is needed. He said that he preferred that the information funnel through his client and himself. He said that he could not recollect a time when the Board quizzed a professional directly. He said that they can ask if the installer can come to the next hearing but he would like to avoid off-line conversations. Mr. Adams said that if he knew who the manufacturer was, he could go to their website and see what the system is and do his own sleuthing without speaking to anyone about it to see how feasible it is. He said that it looks like it is an assembled system that may not be fully integrated. He said that it looked like the system gave customers a number of options for putting screening, fencing and a tennis backboard with a basketball court.

Mr. Becker said that when the Board looks at the proposals for trees, it should consider other changes that might impact the number and spacing of some of the trees. He said that the Board has not discussed the heights of the trees. He said that needs to look at things that take care of the underlying problems while minimizing the cost and effort. Mr. Adams said that the proposal was to plant 8 to 10 foot trees.

Mr. Himmelberger getting information from the installer about moving the backboard would be helpful. He said that the backboard seems to have metal supports that go into a base. He said that it may be that there can be a base on the other side with similar supports. He said that it might be helpful to know the cost of the whole system because it might give some context to evaluating the cost of the relocation from one side to the other.

Mr. Becker discussed continuing the hearing until the Board gets the information that it requested.

Mr. Adams moved, Mr. Covo seconded the motion, and the Board voted unanimously to continue the petition to October 5, 2023.

Mr. Covo voted aye.
Mr. Adams voted aye.
Mr. Becker voted aye.

Mr. Becker said that in the past, the public hearings were typically chaired by the Chair or the Vice-Chair. He said that since neither were scheduled for the regular agenda for tonight, the Board members should select a chair. Mr. Covo said that Mr. Sheffield should be the chair. Mr. Redgate said that he agreed. He said that Mr. Sheffield has substituted for the chair in the past.

ZBA 2023-46, BCSP PARK 9 PROPERTY LLC, 96 WORCESTER STREET

Present at the public hearing was Raymond Yu, Pandamonium, representing BCSP Park 9 Property LLC, the Petitioner. Mr. Yu said that Pandamonium has been working with Sun Life since 2001 on their rebranding projects. He said that Sun Life just completed a complete renovation/construction project at 96 Worcester Street, making it the new corporate headquarters. He said that there is a new entrance on Level 1, as opposed to Building 3 on the campus. He said that the petition is for a new front entrance sign, as detailed in the sign package.

Mr. Yu said that the proposed sign is 64 square feet and the allowable size is 75 square feet. He said that the capital letter height is 26 inches whereas the maximum allowable letter height is 18 inches. He said that the request is for a special permit to allow the size of the letters on the front entrance sign.

Mr. Redgate confirmed that the request is for relief for letter height.

Mr. Covo asked if the sign will be mounted on a board. Mr. Yu said that it will be mounted on a steel fabricated grid to accommodate the spikes of the Sun Life logo. He said that it will be mounted directly to the building surface. He said that the awning that is shown on Page 1 is only 16 inches deep, so they do not have much space to work with. He said that the most secure method of mounting is to have the logo on a metal rail grid that will be installed into the building façade.

Mr. Sheffield asked about lighting. Mr. Yu said that there is no internal illumination of the sign. He said that it will have feature lighting for nighttime use, as shown on Page 5 of the plans that were submitted. Mr. Sheffield confirmed that the sign will be externally illuminated.

Mr. Covo said that Mr. Yu included some examples in pictures of Park 9 and 96 Worcester Street on Page 7 of the plans that were submitted. He asked if the letters are the same size. Mr. Yu said that they are not the same size. He said that the photographs are descriptive of the area of the campus but do not reflect the actual size. He said that the best way to represent the size is on Page 2, Page 3 and Page 4. He said that those plans give a sense of scale of the sign and its location. Mr. Sheffield said that Page 2 shows a good representation of the sign. He said that Page 3 shows the relationship of a human being and the size of the opening there.

Mr. Redgate asked if the current sign at 96 Worcester Street received a sign variance permit at the time. Mr. Yu said that it did. He said that the awning was built by the previous property owner. He said that when Sun Life took it over, it was demolished for the new sign. He said that photograph on the upper left side of Page 7 shows the current condition. Mr. Redgate asked if the previous owner got the same relief for letter height. Mr. Yu said that he was not involved in that process and did not have that information. He said that the property owner, Jones, Lang, LaSalle, have always been very stringent about following the letter of the law. He said that he could not imagine them having the sign constructed without going through the proper channels.

Mr. Redgate said that the building is angled toward Route 9. He said that there is probably not one house in Wellesley that will be able to see the sign. He said that it will only be visible from Route 9 eastbound and from the parking lot next door.

Mr. Sheffield read the Planning Board recommendation.

Mr. Sheffield said that it is an attractive sign, is set back from the road and from a distance, its relationship to the size to the building is appropriate.

Mr. Covo moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve the letter height for the Sun Life building from a special permit from 18 inches to 26 inches.

Mr. Covo voted aye.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

ZBA 2023-47 MATTHEW & ABBY FISCHER, 6 WOODLAWN AVE

Present at the public hearing were Gene Carrazza and Ted Toran, MEC, Matthew and Abby Fischer, the Petitioner.

Mr. Toran said that the proposal is to do an attic remodel that involves removing the roof and adding a dormer off the back. He said that Plan L-1 shows an area at the back right corner of the house that is existing nonconforming. He said that Plan L-1' shows the topographical elevations and the setback lines on the plot

plan. He said that Plan A-3 shows a gable dormer at 31 feet 10 inches. He said that on either side of the gable dormer there is a two foot section of roof that has to be removed to accommodate a change in the pitch of the roof. He said that those areas will not be dormered. Mr. Sheffield confirmed that the dormer will be set back from the sides. Mr. Toran said that it is also reflected in Plan A-4.

Mr. Sheffield said that Plan L-1' shows that the gable dormer will meet the 20 foot side yard setback requirement. Mr. Toran said that the project had to come to the Zoning Board because they will be reframing the two foot section of roof that is inside of the 20 foot side yard setback. He said that you will not be able to see much of a difference in appearance of that area. He said that pictures of the existing structure at the back are shown on Plan A-12. He said that the gable dormer will set at the approximate location of the existing downspout at the back.

Mr. Redgate asked if the front façade of the house will change so that it becomes two stories with a very large dormer. Mr. Toran said that the rear of the house gets the dormer. He said that they will change the pitch of the entire roof from a 10 pitch to a 12 pitch. Mr. Redgate confirmed that Plan A-6 shows an accurate depiction of the front elevation. Mr. Toran said that the ridgeline will be raised from 26 feet to 30 feet. Mr. Redgate said that the ridgeline will still be within the allowable height.

Mr. Sheffield said that when he visited the site, after looking at the side elevations with the dormers and the amount of roofline shown, it seemed to be a bit heavy at the top. He said that when he looked at the rest of the neighborhood he saw that many of the houses almost as much roof surface as what is proposed at 6 Woodlawn Avenue.

Mr. Redgate said that the project is very close to being as of right. He said that two feet is what triggered the need for Zoning relief.

Mr. Sheffield read the Planning Board recommendation.

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

Mr. Covo voted aye.

Mr. Redgate voted aye.

Mr. Sheffield voted aye.

ZBA 2023-48 WBA LINDEN, LLC 141 LINDEN STREET

Present at the public hearing was Michael Lake, Signarama, who said that he was representing the Applicant.

Mr. Sheffield said that the Board recently approved the Site Plan Review for the revised site plan, parking lot and circulation at this site. He said that the proposed sign is at the new entrance to the Goddard School.

Mr. Lake said that the requested relief is for maximum letter height and height above grade. He said that proposed height above grade is 22 feet 8 ½ inches where the maximum allowed by right is 20 feet. Mr. Sheffield said that it does not appear to be measured from the flat surface. Mr. Lake said that it was measured looking at it from the parking lot level. He said that you do have to go down underneath to the front entrance.

Mr. Sheffield asked if the registration mark after the school name is part of the sign. Mr. Lake said that it is a registered mark that the Goddard School uses for its branding.

Mr. Sheffield asked if the existing #141 on the building will remain. Mr. Lake said that as best as he knows, the #141 is going away from the back of the building. He said that is not within Signarama's scope of work and does not show on their plans.

Mr. Sheffield said that there are other buildings that relate to that area that have numbers with the same font and size. He said that the existing #141 can remain if it is not changed. He said that if it is taken away, they may need another approval. Mr. Lake confirmed that Mr. Sheffield was discussing the number facing the parking area. Mr. Covo said that the number is on the front side of the building.

Mr. Sheffield read the Planning Board recommendation.

Mr. Covo moved, Mr. Redgate seconded the motion, and the Board voted unanimously to approve a special permit for the installation of a wall sign at a height above grade that will exceed the maximum allowed by right and for a logo and letter height that will exceed the letter height that is allowed by right in an Industrial District.

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

ZBA 2023-49 BRIAN & KRISTEN FISHMAN, 5 SYLVESTER TERRACE

Present at the public hearing were David Himmelberger, Esq., Brian and Kristen Fishman, the Petitioner. Mr. Himmelberger said that, while he represents the Fishmans on this petition, he is also their neighbor. He said that letters of support were submitted by neighbors.

Mr. Himmelberger said that the request is to raze and rebuild a pre-existing nonconforming detached one car garage on a lot that also contains a pre-existing nonconforming home. He said that the Petitioners seek to raze the garage that is of limited use, given its eight foot wide door opening and rotting condition. He said that they are seeking to rebuild it slightly wider and longer. He said that the existing garage is 12.5 feet by 16.7 feet, with a side yard setback from the Juliani's property of 17.3 feet. He said that the proposed garage will be 14.5 feet by 28.5 feet, with a 16.4 foot side yard setback, which is slightly less than a foot worse in the side yard setback. He said that although the garage will be wider than before, the additional width will be added on the right side on the interior of the lot. He said that the garage is parallel to the house but because the side line is angled, it results in a slight reduction of the side yard setback. He said that the proposed height of the garage is 17.2 feet, which is approximately four feet taller than the existing height of – 13.4 feet. He said that the left side of the property line is well screened with existing trees and bushes, as shown in the submitted photographs. He said that the Applicants have agreed to replace the existing fence and to add further arbor vitae screening between the left side neighbors. Mr. Himmelberger said that he is the abutter on the right side and supports the project.

Mr. Himmelberger said that the hope is that the Board concludes that the proposed structure will not be substantially more detrimental than the existing nonconformities, and grant the requested relief.

Mr. Covo asked about the age of the garage. Mr. Himmelberger said that the garage is at least 65 years old and is in horrible condition. He said that it was clearly designed for cars of a different era.

Mr. Redgate confirmed that this will remain a one car garage. Mr. Himmelberger said that it will be deeper for storage.

Mr. Redgate asked about design constraints that prevented maintaining the current side setback of 17.3 feet. Mr. Himmelberger said that the garage will be pulled forward a little bit. He said that there is an existing

pool structure with a concrete deck around it. He said that the existing garage is 10.8 feet from the pool and the new garage will be 8.7 feet to the pool. He said that he thought that the de minimis increase in the nonconformity would be acceptable.

Mr. Redgate asked why the request was for a special permit versus a variance. Mr. Himmelberger said that it is a pre-existing nonconforming structure and they are seeking to increase or alter the nonconformity. He said that if the existing structure was conforming, it would be a variance. He said that the proposal is to change an existing nonconformity.

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

Mr. Sheffield read the Planning Board recommendation for approval, subject to a condition that the Applicant consider rebuilding the garage such that the left side yard setback remains at 17.3 feet from the property line. He said that Mr. Himmelberger discussed why the Applicants preferred to not do that because of the constraints of the location of the existing pool.

Mr. Redgate moved, Mr. Covo seconded the motion, and the Board voted unanimously to approve a special permit and make a finding that replacement and expansion of the garage will not be substantially more detrimental to the neighborhood.

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

ZBA 2023-50. FR LINDEN SQUARE INC. 180 LINDEN STREET (OATH PIZZA)

Present at the public hearing was William Ebben, Operations Manager, Oath Pizza, who said that he was representing his father, who is the owner of Oath Pizza.

Mr. Ebben said that the request is for a variance for a sign that they want to install at the back of the restaurant. He said that the sign will face the Roche Bros parking lot above the back entrance door, which is where the majority of their customers come in. He said that the sign will be 1.5 feet. He said that the letter height will be 1.4 feet, which is 2 inches over the maximum allowed by right.

Mr. Ebben said that the sign got written approval from the Design Review Board. He said that the owners of the building, Federal Realty, submitted a letter.

Mr. Covo asked about lighting. Mr. Ebben said that there will be a back light to light up the lettering.

Mr. Covo asked about the door by the transformer. Mr. Ebben said that the sign will be above the glass door to the right of the trash area.

Mr. Covo asked about the size of letters compared to the signs at Terrazza and The Shade Store. Mr. Ebben said that he did not have that information.

Mr. Redgate said that there is an existing sign permit from 2022. He asked about the change from that permit. Mr. Ebben said that he believes that permit was for the sign on the front side of the building facing Linden Street. He said that the signs are the same size.

Mr. Redgate asked if the proposed sign at the rear identically matches the sign in the front. Mr. Ebben said that the word, "pizza" is horizontal to better fit the requirements. He said that the original sign says, "pizza," underneath it. He said that is what the DRB asked for.

Mr. Redgate said that the Board went through a process with Federal Realty for site wide signage so that the signs would all match. He asked why the sign will not match what is already approved for the Linden Square. Mr. Ebben said that the sign will be the same height as Terraza and The Shade Store on the back of the building.

Mr. Sheffield asked about the door with the sign above it. He said that there is an entrance around the corner. Mr. Ebben said that a door goes out to the patio. Mr. Sheffield said that is a corner lobby space. Mr. Ebben said that you walk in the door to the POS system. He said that is where you want to start to make your order. He said that is where 90 percent of the customers typically enter. He said that the door to the side is now fenced because they got a liquor license. He said that they cannot use the side door anymore. He said that people have to use the back door and the front door. Mr. Sheffield said that this will be the primary secondary door from the Roche Bros side and the wall surface is needing something to identify the store. Mr. Ebben said that it is not very inviting. He said that they want to let people know that they can come in that way.

Mr. Sheffield asked about lighting at the entry door. Mr. Ebben said that he did not believe that there is a light on the outside. He said that there may be a lamp post on the sidewalk. Mr. Sheffield said that it looks like the sign needs illumination to identify the entrance. He said that the sign is high on the building.

Mr. Redgate said that his recollection is that a business can only have one sign, not two. He said that there may have been an agreement between the Board and Federal Realty for that whole strip because it is accessed from both sides. He discussed inserting a condition that two signs for one business is allowed by right and does not need relief. He said that should be confirmed by the Building Inspector.

Mr. Redgate moved, Mr. Covo seconded the motion, and the Board voted unanimously to approve a special permit, subject to a condition that the Building Inspector shall confirm that two signs for one business is allowed by right and does not need relief.

Mr. Sheffield read the Planning Board recommendation.

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

ZBA 2023-51 NOAH GEUPEL, 175 WALNUT STREET

Present at the public hearing were Noah and Sarah Geupel, the Petitioner, who said that the request is to add a dormer to the second floor of an existing nonconforming side yard setback on the east side of the property at 175 Walnut Street.

Mr. Geupel displayed plans on the screen. He said that the existing house has a cape style. He said that the roof comes down and there is existing usable space on the second floor. He said that the proposal is to bring the roof up on the eastern wall but not increase the overall height or footprint of the building. He said that the request is for a special permit for expansion of an existing nonconformity. He said that they received a letter of support from the neighbor on the east side at 167 Walnut Street.

Mr. Sheffield asked when the house was built. Mr. Geupel said that he believes that it was built in the 1870's. Ms. Geupel said that one of the records shows a date of 1927. Mr. Geupel said that he has sets of plans that show alterations in the 1940's and the 1950's. Ms. Geupel said that they were told that their lot and the neighbor's lot used to be one lot. She said that the previous owner of their house divided the lot to give a portion to her sister.

Mr. Redgate confirmed that there will be no addition outside of the existing footprint. Mr. Geupel said that there will be no new square footage outside of the existing footprint and no additional height. He said that the peak will remain the same.

Mr. Covo confirmed that the people who wrote the letter of support are the ones who will face the new addition. Mr. Covo confirmed that there will be a walk out basement underneath. Mr. Geupel said that it is a very short door, approximately four foot high.

Mr. Sheffield said that Walnut Street has recently been rediscovered. He said that there are a lot of things happening there. Mr. Redgate said that they are making Walnut Street more narrow to slow people down.

Mr. Redgate said that the site plan shows screening. Mr. Geupel said that the existing arbor vitae will remain.

Mr. Covo asked about a chimney on the house. Mr. Geupel said that it is not shown on the drawings. He said that he will add it to the Building Department plans. He said that the chimney is on the other side of the roof and is not used.

Mr. Sheffield said that it is a good solution.

Mr. Sheffield read the Planning Board recommendation.

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

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

Mr. Redgate moved, Mr. Covo second the motion, and the Board voted unanimously to authorize the Executive Secretary to sign the decisions on behalf of the Board members.

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

As there was no further business to come before the Board, the hearing was adjourned at 9:35 pm.

Respectfully submitted,

Lenore R. Mahoney
Executive Secretary