

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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DEREK B. REDGATE

ZBA 2017-52  
Petition of Patricia DeAngelis  
6 Marigold Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 1, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Patricia DeAngelis requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, on a 7,500 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 6 Marigold Avenue, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 28, 2017, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Laurence Shind, Esq., representing Patricia DeAngelis, the Petitioner. He said that the request is for a special permit to demolish the current residence on an undersized lot and replace it with a new house that will comply with dimensional and setback requirements. He said that the lot size is 7,500 square feet in a district requiring a 10,000 square foot minimum. He said that the house was built in 1940 and is an outdated colonial that is in bad shape. He said that it has about 2,500 square feet of living area. He said that existing lot coverage is 18 percent and proposed lot coverage will be 24.9 percent. He said that Total Living Area plus Garage (TLAG) will be 3,337 square feet, which is within the 3,600 square foot threshold for TLAG in this district. He said that a number of smaller homes in the vicinity have been replaced with larger new homes.

A Board member asked how the attic will be constructed. He said that he saw some windows but did not see any stairs going up there. He asked if it will be a full story. Mr. Shind said that it does not look like a full story on the plans. The Board said that the plans show the stair on the second floor going down. The Board said that the TLAG plan shows a small area in attic. A Board member asked if there will be a pull down ladder or attic stairs to use the attic for storage. He said that the Board would probably make that a condition. He said that it is usually shown on the plans.

The Chairman said that this is a narrow one lane street. He said that this lot is one to two feet above the street. He said that they will be putting in a large bituminous driveway. He asked how they will keep the water on the driveway from running onto Marigold Avenue. He said that there is no drainage on Marigold Avenue. Mr. Shind said that the Board can insert a condition to address that. The Chairman said that there should be an open grate that goes into a drywell at the end of the driveway that goes for its full

width. The Board said that it should also collect rainwater from the gutters. The Board said that they will have to make sure that there are drywells to collect roof runoff.

The Board asked if the shed will be removed as part of this project. Mr. Shind said that it will be. The Board said that the new plot plan does not identify that as being the case.

A Board member said that the proposed house will be tight to the setbacks. He said that the contractor will have to be careful about placing the foundation accurately.

Linda Borer, 2 Marigold Avenue, said that she lives next to 6 Marigold Avenue. She said that the numbering on the street goes from 2 to 6 to 4, with #2 on the corner. She said that her concern is water. She said that her house was built up before she moved in there. She said that when there was a lot of water in 2012, all of the houses around her had severe water problems. She said that they have severe water problems on Manor Avenue. She said that she does not oppose the house but does oppose the grade of it. She said that she would like to see the house and the grade up higher. She said that her house is up higher and she does not want to have water problems. The Chairman said that he did not think that Ms. Borer will have water problems with the conditions that the Board is proposing. He said that if the house is raised, there will be bigger water problems with the more water flowing off of the property. He said that with the Building Code being what it is, they will have to provide for water around the foundation for drainage so that the water does not go into the house. Ms. Borer said that there is nowhere on Marigold Avenue for the water to go. The Chairman said that the ground will absorb some water. He said that the Board will be requiring that drywells be built so that all of the roof runoff will go to a drywell and not roll off of the property anywhere. He said that there is nothing in the town records that indicates that there is a wet property problem over there. He said that Ms. Borer may know that it is but the Board can only look at what the town records show.

The Board said that the new construction will be an improvement over the existing because they will take the roof runoff and put it directly into the ground. The Chairman said that material that has been excavated for a project on the street appears to be material that would drain water well. Ms. Borer said that the existing house does not have basement that goes down. The Chairman said that if the builder ends up with a wet basement, that will be a problem that he will have to solve. Ms. Borer said that she is still concerned about the project and opposes it.

Amy Novick, 15 Marigold Avenue, said that she submitted a letter to the Board that discussed a number of issues. She said that she supports the Planning Board recommendation. She said that because it is an unaccepted way, there is usually a review of adequacy that goes before the Planning Board before the building permit is issued. She asked for an explanation about the water going into a drywell and the driveway.

Victor Panak, Town Planner, said that there will be a review of adequacy for this project. He said that anytime a new house is being constructed, whether there was an existing house beforehand, a vacant lot, or if a structure's lot coverage is being increased by more than 50 percent, there is a review of adequacy.

The Chairman said that he reviewed Ms. Novick's letter. He said that the Board is only dealing with this lot and the plans before it. He said that the house that they are asking to build will comply with all of the setback regulations of the Zoning Bylaw. He said that the only nonconformity is the size of the lot. He

said that, according to the plans that have been submitted, the attic is not a third floor with living space. He said that they can make the house any shape that they want.

Ms. Novick asked if the Tree Preservation Bylaw applies to this project. The Chairman said that to the extent that it does apply, the Building Inspector will enforce it.

The Chairman said that the shed will be removed.

The Chairman said that the Board cannot require a landscaping plan for a single family home of this size. He said that the builder will probably put in landscaping to sell the house.

Ms. Novick said that there are usually conditions for the water with adequacy of the way. The Chairman said that the Board will be inserting conditions to address water issues. He said that there is no drainage on Marigold Avenue. He said that the Board will make every effort to ensure that no water goes off of the lot onto the street. Ms. Novick said that at 79 Manor Avenue, they built a deeper basement that caused a lot of water that was underground to come into the house. She said that she lives next to 11 Marigold Avenue and it is dry there but that does not mean that there is no underwater spring there. The Board said that Mr. Shind should make the contractor aware of potential water issues in neighborhood and take them into consideration to ensure that it does not get into the basement or cause damage to abutting properties.

#### Statement of Facts

The subject property is located at 6 Marigold Avenue, on a 7,500 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, with a minimum front yard setback of 21.2 feet and a minimum left side yard 13.4 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, on a 7,500 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

An Existing Conditions Plan and a Proposed Conditions Plan, dated 3/24/17, stamped by Alfred M. Berry, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 3/27/17, prepared by Jeffrey Yates Architects LLC, and photographs were submitted.

On May 16, 2017, the Planning Board reviewed the petition and recommended that Special Permit be denied.

#### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, on a 7,500 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, on a 7,500 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, subject to the following conditions:

1. The project shall provide adequate drainage for the roof, including a drywell to capture the roof drainage.
2. There shall be a landscape drain that will not increase the existing condition so that there is no additional drainage running onto Marigold Avenue
3. The driveway shall be graded to catch the majority of the runoff from the driveway.
4. There shall be no formal stair to the attic and no living space in the attic.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

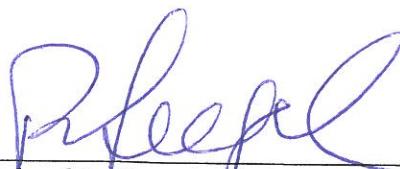
12003 JUN 15 P 12 49  
RECEIVED  
BUILDINGS PERMIT  
DEPARTMENT OF PLANNING  
CITY OF NEW YORK

ZBA 2017-52  
Petition of Patricia DeAngelis  
6 Marigold Avenue

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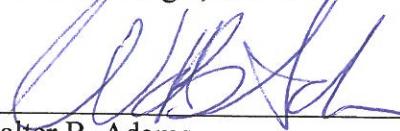
Planning Board  
Walter B. Adams  
Derek B. Redgate  
Richard L. Seegel, Chairman

APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.



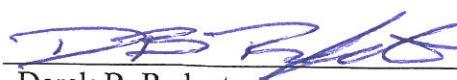
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Richard L. Seegel, Chairman



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Walter B. Adams



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Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm

REGISTRY INFO:  
NORFOLK COUNTY REGISTRY OF DEEDS  
DEED: B.6262 P.91  
PLAN: PLB.69 PL.3324

#4 MARIGOLD  
MAP 198 PCL 30  
N/F  
WILLIAM JAMES  
K COLEMAN

#25 EVERGREEN  
MAP 198 PCL 26  
N/F  
JOSEPH & MARY  
DILIBERTO

Hand-drawn map of a property with the following details:

- Property ID: 202
- Lot dimensions: 29.4' wide by 125.6' deep.
- Lot number: LOTS 254
- Parcel ID: 198-29
- Total area: 7,500 S.F.
- Zoning: EXIST. DWELLING TO BE RAZED
- TOC: 503.34
- Deck area indicated by a box.

#76 MANOR AVE  
MAP 198 PCL 27  
N/F  
RICHARD & KAREN  
SMITH

*ZONING TABLE  
DISTRICT - SR10*

AREA	REQUIRED	EXISTING
	10,000 S.F.	7,500 S.F.
FRONTAGE	75.00'	75.00'
F. SETBACK*	30.00'	29.4'
S. SETBACK	20.00'	13.4'
R. SETBACK	10.00'	21.2'
MAX COVERAGE	25% 1,875 S.F.	18% 1,349 S.F.

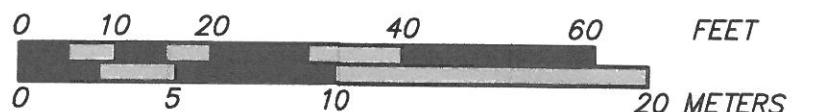
\*500' RULE  
THE CLOSEST FRONT OFFSET DWELLING WITHIN 500' IS  
#2 MARIGOLD AT 15.2'; THE REQUIRED FRONT  
SETBACK FOR THE PROPOSED DWELLING IS 30.0'

A circular seal with a serrated outer edge. The words "COMMONWEALTH OF MASSACHUSETTS" are at the top, and "PROFESSIONAL LAND SURVEYOR" are at the bottom. In the center, it says "ALFRED M. BERRY" above "No. 36857" and "REGISTERED" below it.

Alfred M. Berry

### *GRAPHIC SCALE*

SCALE: 1"=20'



<b>Markey &amp; Rubin</b> CIVIL ENGINEERING		<b>APPLICANT/AGENT:</b> <b>HI-POINT</b> <b>REALTY TRUST</b> 291 LINDEN ST WELLESLEY, MA 02462	<b>SCALE: 1"=20'</b>       <b>DATE: 3/24/17</b> <b>FILE NO. 5178</b>
360 MASSACHUSETTS AVE, SUITE 202 ACTON, MASSACHUSETTS 01720 P(978) 264-4600 F(978) 263-0447 <a href="http://www.MarkeyAndRubin.com">www.MarkeyAndRubin.com</a>	<b>EXISTING</b> <b>CONDITIONS</b> <b>PLAN</b> 6 MARIGOLD AVE WELLESLEY, MASSACHUSETTS		

REGISTRY INFO:  
NORFOLK COUNTY REGISTRY OF DEEDS  
DEED: B.6262 P.91  
PLAN: PLB.69 PL.3324

#4 MARIGOLD  
MAP 198 PCL 30  
N/F  
WILLIAM JAMES  
K COLEMAN

#25 EVERGREEN  
MAP 198 PCL 26  
N/F  
JOSEPH & MARY  
DILIBERTO

PROPOSED  
DWELLING  
TOC=503.0  
FFF=504.0  
SLAB=495.0

FOUNDATION WALL  
EXTERIOR WALL OVERHANG  
ROOF OVERHANG

LOTS 254-256  
PARCEL ID. 198-29  
TOTAL AREA=7,500 S.F.  
PROPOSED LOT COVERAGE=1,868.5 S.F.  
PROPOSED LOT COVERAGE=24.9%

#76 MANOR AVE  
MAP 198 PCL 27  
N/F  
RICHARD & KAREN  
SMITH

#2 MARIGOLD  
MAP 198 PCL 28  
N/F  
LINDA BORER

ZONING TABLE  
DISTRICT - SR10

	REQUIRED	PROPOSED
AREA	10,000 S.F.	7,500 S.F.
FRONTAGE	75.00'	75.00'
F. SETBACK*	30.00'	30.2'
S. SETBACK	20.00'	20.1'
R. SETBACK	10.00'	17.3'
MAX COVERAGE	25% 1,875 S.F.	24.9% 1,868.5 S.F.

\*500' RULE

THE CLOSEST FRONT OFFSET DWELLING WITHIN 500' IS #2 MARIGOLD AT 15.2'; THE REQUIRED FRONT SETBACK FOR THE PROPOSED DWELLING IS 30.0'

SCALE: 1"=20'
DATE: 03/24/17
FILE NO. 5168

APPLICANT/AGENT:  
**HI-POINT  
REALTY TRUST**  
291 LINDEN ST  
WELLESLEY, MA 02462

**PROPOSED  
CONDITIONS  
PLAN**

6 MARIGOLD AVE.  
WELLESLEY, MASSACHUSETTS

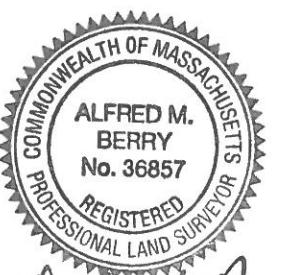
20 METERS

GRAPHIC SCALE  
SCALE: 1"=20'



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**Markey & Rubin**  
CIVIL ENGINEERING



Alfred M. Berry  
No. 36857