

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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ZBA 2019-54

Petition of Hyman Feldman Family Trust  
and Daniel Karp, M.D.  
170-184 Worcester Street & 7 Burke Lane

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 16, 2019, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Hyman Feldman Family Trust and Daniel Karp, M.D. requesting Site Plan Approval pursuant to the provisions of Sections III, XI, XVIA, XVIC, XXI, XXII, & XXV of the Zoning Bylaw for a major construction project that consists of expansion and resurfacing of an existing parking lot. The property is located at 170-184 Worcester Street, in a Business District and at 7 Burke Lane, in a Single Residence A District.

On April 22, 2019, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing were Dennis Dischino, Property Manager, Hyman Feldman Family Trust, and John Federico, Civil Engineer, Guerriere & Halnon, Inc.

Mr. Dischino said that the Hyman Feldman Family Trust owns the property at 170 to 184 Worcester Street and the adjacent abutting lot at 7 Burke Lane. He said that 7 Burke Lane was rezoned last year at Town Meeting as a Residence A District to allow commercial parking. He said that 20 years ago an eminent domain taking out front greatly reduced parking on the site. He said that parallel parking at the front of 170 to 184 Worcester Street will be removed and replaced with landscaping and existing angled parking on the east side of the building will be removed and replaced with three parallel spaces in an area of one-way circulation. He said that a sidewalk along Burke Lane will connect 7 Burke Lane to 170 Worcester Street and Route 9, where currently there is no sidewalk.

Mr. Dischino said that parking plans were revised in response to Planning Board comments to include landscaping along the southern, western, and eastern borders, and extension of the five foot sidewalk. He said that they eliminated a parking spot in the middle to create an access point for pedestrians to the walkway.

Mr. Federico said that there are 46 existing spaces, with two to three handicapped stalls, and 85 proposed parking spaces, with three handicapped stalls. He said that the plans will be revised to show the location of the handicapped spaces.

A Board member suggested removing the three parallel parking spaces on the east side of the building and increasing the depth of the buffer along Burke Lane, which is the entrance to a residential area.

The Chairman asked that a legend for the symbols be added to the plans so the Board can figure out what is underground and what is marked on the pavement.

Mr. Dischino said that a proposed sidewalk along the east side will run the length of the building and bring the circulation from the parking lot to the front of the building. He said that the Planning Department staff recommended that a sidewalk on the back side of the building be extended all the way to the west for easy access to the sidewalk at 170 Worcester Street. A Board member said that the sidewalk does not appear to be a wide enough to provide a reasonable path for people to come and go from the restaurant.

A Board member said that signage is needed to help drivers figure out where they are supposed to go to park. He said that there will be two way circulation on the west side of the building and one way circulation from west to east on the front of and east of the buildings.

A Board member said that there was no information about the retaining walls, what they will look like, how they will sit in relation to the lot lines, how they will be constructed, or the construction process.

Mr. Federico said that the parking lot is designed to accommodate 100 year storm events. The Chairman said that the Board will need to see a plan that shows how stormwater overflow will be dealt with and how oil, grease and salt will be trapped to keep them from getting to the groundwater.

The Board said it received comments from neighbors who said that the property has not been fully maintained. A Board member said that trash and unkempt areas on the property are of heightened concern with permeable paving. Mr. Dishcino said that the existing conditions on the outside of the building have been left in their present state because it was a long process to acquire the additional land and go through Town Meeting to get it rezoned. He said that the landlord wants to improve the curb appeal so that he can finish out the leasing. He said that having additional parking is key to the project. He said that there will be a big investment in the hardscape around the property. Mr. Dischino said that he owns the residential property next door and understands that the neighbors are concerned about overflow parking on Burke Lane and making the entrance onto Burke Lane look better. He said that issues with tidiness of the property should change with the new restaurant owners. A Board member suggested that Mr. Dischino discuss the plans with the neighbors.

A Board member questioned whether parking spaces 80 to 85 will work well once they are constrained by a sidewalk on the south side. He said that it was also not clear if the sidewalk and travel lane on the high side of the retaining wall will work together safely.

Mr. Dischino said that the dumpsters will remain at the back of the 170 Worcester Street building, behind the restaurant, away from the residences. He said that they may add landscaping and fencing. He said that currently there is enough room for the trash truck to back up to the dumpsters.

Mr. Federico said the hatched area on the plans at the lower southwest corner will be used for snow storage. He said that the hatched area by parking spaces 70 to 80 is pavement that can be used for additional striping or landscaping.

A Board member discussed light spillover onto neighboring residential properties. Mr. Dischino said that there will be a six foot fence, a retaining wall and landscaping, with more landscaping on the back side of the fence to buffer the residences.

Gary Miller, 192 Worcester Street and 150 Cedar Street, said that he is the abutter on the western side. He asked how far parking spaces 30, 29, 28, 27 will be from the property line and if the grade will stay the same. He said that a driveway that goes uphill parallel to the parking spaces will be 42 inches higher than the corner of the parking space. Mr. Federico said that the new parking lot will be approximately two feet higher than the existing lot. He said that there will be a one foot thick, four foot high concrete retaining wall that will make up the vertical difference between the existing and proposed grades. Mr. Miller said that the existing guardrail stops at the boundary stone and it could be a very hazardous condition there in the winter if it is icy.

Mr. Miller asked about the location of the light pole and illumination of the parking lot at night. Mr. Federico said that the light pole will be brought 3.5 feet further away from the driveway and closer to the parking spaces. The Board said that lighting is typically limited to business hours and will not be allowed to stay on all night.

Mr. Miller asked what will happen to the porous pavement if the ground is frozen underneath. Mr. Federico said that he will further discuss that with the contractor and a professional engineer.

Mr. Miller asked about the area parallel to Worcester Street that is labeled "Proposed Landscaping Area". Mr. Federico said that they are working with the State for the area that is located in the right of way.

Brita Heimark, 24 Burke Lane, asked about traffic circulation coming off of the ramp to Worcester Street. The Chairman said that the Board asked for signs or pavement markings to direct traffic. Ms. Heimark said that it is important to indicate that exiting onto Route 9 is possible, otherwise it looks like all of the traffic will go out onto Burke Lane. She said that the Developer purchased the land next door at 3 Burke Lane and between the two projects there will be a lot of traffic coming out onto a very small area of Burke Lane, which is a curved road with no sidewalks, or onto the busy ramp to Route 9. Mr. Federico said that a traffic study was done for the project at 3 Burke Lane. The Chairman said that the proposal before the Board is not for a change of use but repaving of the parking lot, so there will be no additional traffic beyond what the building is allowed. Ms. Heimark said that she understands that the owner wants to have parking for the building but having so much additional traffic in a difficult zone needs to be taken into consideration.

Ms. Heimark asked about moving the left hand turn from the site further up to a place where vehicles can make a legal left turn onto the ramp. The Chairman said that the ramp is under the jurisdiction of MassDOT. The Board discussed not allowing right hand turns from the parking lot onto Burke Lane.

Present at the public hearing were Dennis Dischino and Dan Hazen, Guerriere & Halnon Engineering, Inc.

Mr. Dischino said that the Board's comments were incorporated in an updated plan. He said that there will be 82 parking spaces where 77 to 79 spaces are required. He discussed the proposal to move the curb cut on the ramp to the west, pedestrian circulation, new landscaping, directional arrows added, and details on the retaining walls.

The Board discussed the possibility of eliminating parking spaces 45 and 26 and marking the space for pedestrian access.

The Chairman discussed porous pavement and stormwater management. Mr. Hazen said that all of the water on the pavement will infiltrate into two feet of storage under the pavement. He said that this site lends itself to porous pavement technology because of the type of soil at the site. He said that he spoke with an Engineer at DPW and was told that the technology has been used in other areas in town and has worked well. He said that a lot less salt is needed in the winter because there is not as much melting and refreezing. He said that as the snow melts, it goes into the pavement rather than running off. He said that because of the depth of the system, it will not freeze. He said that the sidewalks will not be pervious and will have to be salted.

A Board member said that the Construction Management Plan (CMP) will need more information about the paving contractor, trucks hauling subsoil off of the site and paving trucks, how things will be controlled, construction worker parking, monitoring contractors and subcontractors to not go onto Burke Lane, and the sequence of construction. Mr. Dischino said that all of the construction vehicles will initially park on the existing lot and then shift to the new lot. He said that the restaurant is being sold and will probably close for a while for renovations.

The Chairman asked about runoff from the roof. Mr. Hazen said that runoff will go from gutters onto the pavement. Mr. Dischino said that they will run gutters under the sidewalks or in the stone.

The Board asked about proposed signage. Mr. Dischino said that there will be signage on the façade of the building at 184 Worcester Street and on the restaurant façade. He said that there is existing signage on the front façade of the two story office building at 170 Worcester Street and a sign on Burke Lane at the entryway. He said that a one way directional sign is proposed in front of 184 Worcester Street.

A Board member said that there will be a four foot elevation change in the area of the planting strip and the public sidewalk on the Burke Lane side of the property. Mr. Hazen said that there will be a timber type guardrail at the top to delineate the area so that people see that they cannot just drive across.

Joseph Zani, 19 Burke Lane, said that many times people will park cars at the corner near the hydrant, which makes for a blind turn where you cannot see cars coming out of Burke Lane. He said that school buses come down the right lane and move to the left to make the turn onto Route 9. He said that visibility is important for people coming down the ramp.

Mr. Zani asked where snow will be dumped. The Chairman said that there will either be on-site snow storage or the operator of the site will be responsible for removing snow from the site.

Mr. Zani said that he is concerned about safety for elderly people and children. He said that there are no sidewalks on Burke Lane. He said that it is not a straight road where you can see from one end to the other.

Mr. Dischino said that they will not be building a new building and will not expand the size of the existing building. He said that people generally leave the site by exiting onto Route 9. He said that an issue in the past was overflow parking onto Burke Lane when the building was fully leased. He said that this project will correct that.

**June 27, 2019**

Present at the public hearing were Dennis Dischino and John Federico.

Mr. Federico said that spaces 26 to 45 were removed to make the corners more rounded and to allow for a pedestrian pass to the sidewalk. He said that they removed one space to provide approximately 6.5 feet on each end of the parking row that is now labeled as spaces 26 to 44. He said that they were able to connect that to the sidewalk that was proposed at the back side for full pedestrian access. He said that they will keep the five foot access area in the center of the spaces and that will add a third point of access.

Mr. Federico said that they spoke with the Town Engineer about other sites in Wellesley that have used porous pavement. He said that the Town Engineer did not notice any significant reduction in storage volume but recommended that the cleanings be increased from two to three times a year to deal with a small amount of silt buildup. He said that design life of porous pavement is typically 20 to 25 years, depending on the upkeep.

Mr. Federico said that they added a no right turn sign at the exit from 7 Burke Lane. He said that fire lanes have been increased from 18 to 20 feet wide. He said that as part of the 3 Burke Lane project, the Fire Department asked that the access be kept open to allow for as much flow as possible in the event that they have to get multiple trucks onto the property.

Mr. Federico said that the full length sidewalk parallel to Route 9 will be no less than five feet, wider in some places and ADA compliant. He said that they added handicapped symbols and the plans were updated in accordance with Wellesley parking code and MA State Law. The Board said that the markings for the pedestrian crosswalk at the west side of the lot should be continued up to the building. Mr. Federico said that the plans will be updated to match porous pavement details.

The Chairman discussed potential issues with the drainage system at the bottom of the retaining wall.

The Chairman asked about oil and grease coming off of vehicles onto the porous pavement. Mr. Federico said that there will be a choker course beneath the initial four inches of the pavement that should help to keep things suspended. He said that he will follow up to see if there are any measures to prevent spills infiltrating into the ground.

Mr. Dischino said that they met with MassDOT, along with the Zoning Board Chairman last week. He said that they will submit an application next week to move the curb cut on the ramp further west. He said that they asked the State to extend the two-way on the ramp to Route 9 to include the new curb cut so that traffic from 170-184 Worcester Street would have an option to go west using the ramp.

Mr. Federico said that MassDOT's initial concerns involved the potential for vehicles on Route 9 to make a U-turn to get onto the ramp. He said that they will extend the bull nose island as far as they can. He said that a rumble strip was replaced with a striped chevron area when it was resurfaced about six to eight months ago and that was not part of the original design. He said that they will work with MassDOT to install a guard rail to discourage vehicles from making U-turns there. Mr. Dischino said that the topography prevents people traveling east on Route 9 from turning onto the ramp.

Mr. Federico said that MassDOT voiced concerns about the grade change and curb cuts where there are existing sidewalks. He said that as long as the sidewalks are flush, MassDOT would not have any issues with moving the curb cut. He said that because there will be extra storage, the site should be able to handle any runoff that may come onto the site from the ramp without backflow onto Route 9 or Burke Lane.

The Chairman discussed the interplay between the use of the site during construction and the construction activities. Mr. Dischino said that currently the property is over 50 percent vacant. He said that the plan is to build the rear parking lot first, using the access on the left side of the existing parking lot and then move to the main building with parking for the tenants shifting to the new lot at the back. A Board member said that it will be important to have clear and protected ways for tenants and customers to get across the work area. He confirmed that the plan is to have all construction parking on site.

August 13, 2019

The Chairman discussed conditions based on the plans that it had received, balancing issues that people had raised with what the Board has jurisdiction over. He said that the conditions for construction are longer than usual because the Board typically relies on the CMP. He said that Mr. Dischino responded that just a telephone number should be sufficient, as a six to eight week project does not justify establishing a website.

A Board member said he could not distinguish the layout of the building and where parking will be because of overlays on the plans that were most recently submitted. He said that the plan still shows parking on the Burke Lane side of the 170 Worcester Street building at the pass through aisle where the spaces were to be removed. He said that the Applicant had agreed to provide a reasonable path to the existing buildings. He said that the plans show the sidewalk at 3.5 feet where five feet is needed to make a positive connection.

A Board member said that the landscape plan was abandoned because of changes that the Fire Department requested. He said that the Board does not have a set of plans that it can reference.

Brian Germani, 22 Willow Park, said that he had been unable to attend the previous hearings but was able to watch the videos that are online. He asked if the CMP will be posted on the website. A Board member gave a description of the CMP, which is currently a two paragraph statement.

Mr. Germani said that he reviewed the June 11, 2019 plans and the Stormwater Report. He said that his understanding of the report is that the porous pavement will make water absorption and runoff better than what it is today. He said that he initially thought that going from unpaved to paved surface would create more runoff, which is a concern because his property is located down slope on the other side of Burke Lane. He said that it seems that the porous pavement will create a better condition if the Applicant complies with all of the technical details. He said that the Operation & Maintenance Plan seems onerous and asked how it can be enforced. The Chairman said that will be a condition of approval.

Mr. Germani confirmed that the Applicant is working with MassDOT to explore the possibility of making the Cedar Street on ramp to Route 9 two way to accommodate traffic out of this complex. He confirmed that the no right turn restriction from the parking lot to Burke Lane is not limited to certain times of the day. He said that unless and until MassDOT accepts the change to the ramp, any traffic exiting the site onto Burke Lane will turn left up to the stop sign on Route 9 and turn right.

Mr. Germani discussed traffic and safety concerns with respect to the location of his property and the intersection. He said that putting in physical barriers would help mitigate risks associated with increased traffic from this project and the project at 3 Burke Lane up to the entrance to the highway, especially with no right turn on the Burke Lane side. He said that he was unable to engage MassDOT since the last meeting but did get a response from Alice Peisch's office, who suggested that he continue to advocate with the town and the developer to make the extension of the guard rail on the corner a part of the design. He said that he has been told that is outside of the town's control.

Mr. Germani said that his concerns about drainage and runoff, given the slope there, seem to be adequately addressed in the report on porous pavement but his concerns about safety and traffic have not been adequately addressed.

Joseph Zani, 19 Burke Lane, asked for clarification about traffic leaving Burke Lane toward Route 9. He said that the number of residents and cars on the street could be harmed by the no right turn requirement.

Mr. Zani said that he has observed cars making a right turn onto Burke Lane from Route 9, which was not possible to do prior to the highway re-paving when the rumble strip was paved over. He asked why a crosswalk will be added at that corner. He said that he previously had issues with the property owner about the amount of parking on Burke Lane, and who was responsible for the curb cut on Burke Lane. He said that the snow removal truck would come out of the curb cut to push snow across to the fence. He said that snow that would not go past the fence would stay on Route 9 and he would have to call the town to come down to clear it. He discussed safety concerns with people flying down the off ramp and making a right turn onto Burke Lane. The Chairman said that there is a sign on the ramp that says no right turn, so vehicles turning there are making an illegal turn.

Mr. Zani asked about adding police details or a traffic light to regulate traffic that goes down McLean Street to get onto Cedar Street and Route 9. The Chairman said that Mr. Zani would have to ask the

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Board of Selectmen about that, as traffic signals or stop signs are not under the jurisdiction of the Zoning Board.

**September 12, 2019**

Present at the public hearing were Dennis Dischino and John Federico, P.E.

Mr. Dischino said that they met with the Board of Health and will put in a concrete pad where the dumpsters are located. He said that they will put a drain in front so that the dumpsters can be washed down from time to time. He said that they will install a six foot vinyl fence across the back of the 184 Worcester Street building.

**Submittals from the Applicant**

- Table of Contents
- Application for Site Plan Approval
- Site Plan Approval Review Plans and Submittal Checklist
- Development Prospectus
- Stormwater Report, dated February 25, 2019, prepared by Guerriere & Halnon, Inc., revised May 31, 2019
- ZBA Exhibit (Denotes landscape areas in green and new sidewalks in yellow)
- Construction Management Plan, undated, submitted by Dennis M. DiSchino, Property Manager, Hyman Feldman Family Trust
- Email to Lenore Mahoney, dated June 26, 2019, from Dennis DiSchino, with Construction Management Plan attached, undated, submitted by Dennis M. DiSchino, Property Manager, Hyman Feldman Family Trust

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Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
C1.00	Cover Sheet – with Locus Map	2/27/19	Dale MacKinnon, P.E.,	5/15/19, 5/29/19, 6/11/19, 8/20/19
Sheet 2 of 6	Existing Site Features Plan	2/27/19	Ronald N. Tubman, PLS	5/15/19, 6/5/19 by Dale MacKinnon, P.E., 5/29/19, 7/2/19
Sheet 3 of 6	Site Development & Grading Plan	2/27/19	Dale MacKinnon, P.E.	5/15/19, 5/29/19, 6/5/19, 6/7/29, 6/11/19, 7/2/19, 7/30/19, 8/20/19
Sheet 4 of 6	Details	2/27/19	Dale MacKinnon, P.E.	5/15/19, 5/29/19, 6/5/19, 7/2/19

Sheet 5 of 6	Site Plan	2/27/19	Lawrence C. Greene, Jr.	5/15/19, 8/20/19
Sheet 6 of 6	Site Plan	2/27/19	Lawrence C. Greene, Jr.	

On April 29, 2019, David Allen, Supervisory Electrical Engineer, Municipal Light Plant, reviewed the project and submitted comments.

On May 7, 2019, Deputy Chief Mortarelli, Wellesley Fire Department, reviewed the project and approved the plans.

On May 8, 2019, George Saraceno, Senior Civil Engineer, Town of Wellesley, Department of Public Works, Engineering Division, reviewed the project and submitted comments.

On May 10, 2019, the Planning Board reviewed the project and submitted a recommendation.

On May 29, 2019, the Design Review Board reviewed the project and voted to approve the project with recommendations.

## DECISION

The Board voted unanimously to approve the Site Plan Approval, subject to the conditions listed below. The Board's approval of the Site Plan for the Project is premised on the Applicant's and Project's compliance with the following conditions (the "Conditions"). All requirements imposed by the Conditions or this Site Plan Approval shall be applicable to the entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Applicant, the responsible entity, or no entity as having responsibility for a particular condition. By accepting this Site Plan Approval, the Applicant agrees to the terms, covenants, conditions, and agreements contained herein.

The Board's approval of the Site Plan for the Project is premised on the Applicant's and Project's compliance with the following conditions (the "Conditions"). All requirements imposed by the Conditions or this Site Plan Approval shall be applicable to the entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Applicant, the responsible entity, or no entity as having responsibility for a particular condition. By accepting this Site Plan Approval, the Applicant agrees to the terms, covenants, conditions, and agreements contained herein.

## CONDITIONS

### General Conditions

1. This Site Plan Approval shall expire two years from the date hereof unless construction has begun by that date. The Applicant may apply to the Board for reasonable extensions to this Site Plan Approval for good and sufficient reason.
2. Except for the relief granted by the Board as listed in these Conditions, the Applicant shall comply with all provisions of the Zoning Bylaw and general bylaws generally applicable to a project approved on September 24, 2019.
3. The Project shall be designed and constructed materially in compliance with the drawings and data submitted with the Approved Plans.
4. Contract documents, including working drawings and specifications for the Project shall undergo the usual and customary review and approvals of the Building Inspector, the Town Engineer, or any other applicable ~~legal~~ inspector or board.
5. (Reserved).
6. The Applicant shall establish a telephone number for receiving ~~and~~ responding to questions or concerns expressed by residents of the Town concerning the construction activities or compliance with the Conditions of the Site Plan Approval. The number will be provided to Town officials, posted at the Site in a conspicuous location visible to the public from Worcester Street, and published once in the Townsman prior to or concurrent with the start of construction.

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### Design Conditions

7. Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the requirements of the Massachusetts State Building Code (780 CMR) and the Massachusetts Architectural Access Board (521 CMR). The Project shall be designed and constructed on the Site in accordance with the Approved Plans, except as provided in this Site Plan Approval, including these Conditions. Any requirement of consistency with the Approved Plans means as those plans are modified by the Conditions.
8. The Board recognizes that a state highway access permit is required from MassDOT outside of the site plan approval process. In making the

application to MassDOT for the state highway access permit, the Applicant will design the driveway and propose changes to the intersection of the driveway and the access ramp to Route 9 to encourage MassDOT to allow a left turn from the driveway to allow south-, west- and north-bound traffic to exit the Site toward Cedar Street.

### **Construction Conditions**

9. The Applicant shall implement its “Construction Management Plan – 170-184 Worcester Street and 7 Burke Lane” as specified in its submittal dated May, 2019, as modified or clarified by these Conditions.
10. During the period of construction, all construction equipment and material deliveries shall utilize: (1) Route 128/I-95 to Route 9 to Cedar Street to the Site entrance; or (2) any other such route as the Applicant shall agree with the Wellesley Police Department prior to its use, provided that the construction entrance shall be on Worcester Street with secondary access from Burke Lane in the event that the primary entrance is temporarily unavailable.
11. Insofar as is reasonably practicable, the Applicant will cause the deliveries of equipment and material and/or the removal of material to be consolidated and coordinated such that the total time for such traffic during any day is minimized, and such that the total number of days during the construction process for such traffic is also minimized.
12. The Applicant will install and use the truck wheel wash detailed on the Approved Plans to prevent traffic from importing materials into the Site as well as to prevent materials on-site from being carried off-site.
13. During the period of construction, on-site parking for construction workers and for construction equipment is specifically permitted on the Site, and no vehicles of construction supervisors or workers and no construction equipment shall be parked or staged on Worcester Street, Burke Lane, or any other public way of the Town, or in any public parking lot. The Applicant may park vehicles of employees and construction vehicles on-site in the areas shown on its drawings incorporated into its Construction Management Plan. Trucks and construction vehicles on-site shall shut off engines when not in use, or when idling time exceeds five minutes in accordance with M.G.L. c.90, §16A.
14. During the period of construction, all deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 a.m. and no later than 6:00 p.m. Construction work may be performed on the Site Monday through Friday commencing not earlier than 7:00 a.m.

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and completing not later than 6:00 p.m. The Applicant may perform construction work on Saturday between the hours of 8:00 a.m. and 4:00 p.m. If in exceptional circumstances or, due to delays resulting from inclement weather the Applicant determines that construction work is required to be completed outside the above stated hours, such work may be performed after three day prior notice to the Inspector of Buildings and the Wellesley Police Department provided that no such work will exceed the noise levels specified in DEP's noise regulations at 310 CMR 7.10. No work shall be permitted either on Sunday or on a legal holiday in the Town of Wellesley.

15. (Reserved)

16. Insofar as practicable, refueling of construction equipment on the Site shall be prohibited. In the event that on-site refueling cannot be avoided, such refueling shall be performed with due consideration to spill prevention and control measures that should reasonably be applied in a Single Residence District.

17. During the period of construction, all construction vehicular traffic exiting the Site shall exit through the Worcester Street driveway and shall turn right to exit to Route 9 east-bound in the event that MassDOT has not approved a left turn from the driveway, or may turn right or left in the event that MassDOT has approved left turning movements. In no event shall construction vehicular traffic use Burke Lane to enter or exit the Site.

18. Erosion control shall be employed on the Site to stop erosion during construction and prevent sedimentation from entering the abutting public ways.

19. During construction, the Site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner.

20. The Applicant shall regularly remove construction trash and debris from the Site in accordance with good construction practice.

21. All potential safety hazards that may exist on the Site from time to time during the period of construction shall be adequately secured prior to the end of each workday.

22. The Applicant shall implement measures to ensure that noise from Project construction activities does not exceed permissible regulatory levels, including without limitation, DEP's noise regulations at 310 CMR 7.10 and noise pollution policy interpretation.

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23. The Applicant shall be permitted to remove and/or replace earth from the Site incidental to the construction or renovation of the parking lot, the construction of the drainage and underground infiltration system and the construction of the roadway and utility infrastructure as shown on the Approved Plans.
24. The Applicant may locate trailers on the Site during construction activity only. During construction all trailers, dumpsters, and portable restrooms shall be placed within the Site so as to not adversely impact the residential abutters.
25. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's dust regulations at 310 CMR 7.09, as amended, as directed by the Building Inspector. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.
26. Upon completion of the Project, soil material used as backfill for pipes, access drives, infiltration beds, and other underground drainage structures shall be certified by the Engineer of Record to the Building Inspector as meeting design specifications.
27. The work shown on the Approved Plans may be completed in stages selected by the Applicant. Specifically, the construction of the new parking lot at 7 Burke Lane may be completed prior to the renovation of the existing parking lot at 170-184 Worcester Street. The use of the new parking lot at 7 Burke Lane prior to the completion of renovations to the parking lot at 170-184 Worcester Street and prior to the completion of the landscaping shown on the Approved Plans is specifically authorized, provided that (1) the Building Inspector finds that such use is safe; (2) the sidewalk along the eastern boundary is completed; and (3) a plan for completion of the landscaping is in place.

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### Use Conditions

28. The stormwater run-off and drainage system shall be operated and maintained in accordance with the Operations and Maintenance Plan submitted by the Applicant. Operation and maintenance of the stormwater run-off and drainage system shall comply with the requirements of the Town's "Municipal Stormwater Drainage System Rules and Regulations" in effect at the time of this Site Plan Approval, insofar as such regulations may be applicable to the porous pavement included in the Approved Plans.

29. Landscaping shall be in conformance with the Landscaping Plan and shall be maintained, repaired, or replaced as needed by the Applicant. For the plantings along the northerly and easterly boundaries, in the event that construction activities cause any of the existing trees to die within two years of the completion of construction, the Applicant will replace the failed tree(s) with the tree in the Plant Schedule shown on the Approved Plans that is closest in species and closest in size to the tree that died. In the event that any new plantings die within two years of the completion of the construction, the Applicant will replace the failed plantings with like species and size as that shown in the Plant Schedule.

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TOWN CLERK'S OFFICE  
WELLESLEY MA 02481  
2019 OCT 11 A 9:54

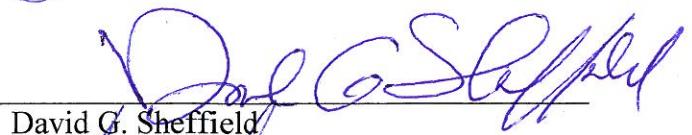
ZBA 2019-54

Petition of Hyman Feldman Family Trust  
and Daniel Karp, M.D.  
170-184 Worcester Street & 7 Burke Lane

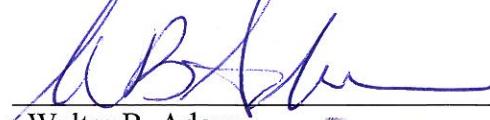
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.



J. Randolph Becker, Chairman



David G. Sheffield



Walter B. Adams

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WELLESLEY MA 02482

2019 OCT 11 A 9:54

ZBA 2019-54  
Applicant Hyman Feldman Family Trust and Daniel Karp, M.D.  
Address 170-184 Worcester Street & 7 Burke Lane

**NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK**

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm