

**ZONING BOARD OF APPEALS**

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ZBA 2019-65
Petition of Robert Nascimento
15 River Glen Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 11, 2019 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Robert Nascimento requesting a Special Permit pursuant to the provisions of Section XXID and Section XXV of the Zoning Bylaw for installation of retaining walls in excess of four feet within 10 feet of the property line, at 15 River Glen Road, in a 10,000 square foot Single Residence District.

On June 10, 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.

On July 11, 2019, the Board voted unanimously to continue the hearing to September 12, 2019.

September 12, 2019**WITHDRAWN WITHOUT PREJUDICE**

Present at the public hearing was Robert Nascimento, who said that the request is for relief for a retaining wall system. He said that he came before the Board two years ago for a similar wall system. He said that after that, architectural designs were done to make it more aesthetically pleasing. He said that relief is requested for the height of the wall at more than four feet for the rear and one interior wall. He said that they need relief for less than required 10 foot setback.

Mr. Seegel said that a special permit was granted for the rear wall in 2017. He said that because it is close to expiring, Mr. Nascimento may want to request extension of the 2017 permit.

Mr. Seegel said that he looked at the site and what is proposed makes a lot of sense.

Mr. Becker said that one of the photographs that was submitted show a neighbor's retaining wall along the same lines as the wall on the east side. He said that the details in the drawing do not indicate how the wall on the east side sits with respect to the neighbor's wall. He said that the Board has to find that the wall is otherwise in compliance with the bylaw and does not adversely affect the adjacent property. He said that the Board needs to know that the wall will be safe. Mr. Nascimento said that the wall was put up while he was rendering his drawings. He said that the neighbor's wall is approximately 1.5 feet from the property line and his has been pushed in 1.5 feet, so there will be 3 feet between the two walls. Mr. Becker discussed terraced conditions in the bylaw with respect to the two walls. He said that it has to be considered as one wall. He said that it is the taller of the walls. He said that three feet between them is

not enough to make the walls terraced. He said that nothing was submitted that says that the lower wall is safe with the upper wall in place. He said that he was not sure how the Board can find that there is no impact to the neighbor.

Mr. Becker said that he was not sure from the materials that were submitted how the northeast corner will work, where the retaining wall turns the corner and goes parallel to the neighbor on the left hand side and where the pool is. He said that the top of walls that is shown on the drawings is not clear where things are stepping up and down. He said that it is not clear how it all fits together. He said that one of the original drawings that was submitted showed some Cultec systems that look like they are underneath the walls. He said that one of the plans that was submitted dealt with grading and drainage that showed Cultec reinjection into groundwater both on the upper and the lowest level. He said that it was not clear how the Cultec's on the lower level worked with the pool and with the retaining wall. He said that the architectural drawings show an impressive layout in the back.

Mr. Seegel said that Mr. Nascimento may want to retain the services of a civil engineer who can help the Board with some of its issues. Mr. Becker said that the drainage issue has a solution but the issue that he is most concerned with is the wall over wall because, in all likelihood the lower wall not designed with the idea that there would be an upper wall in place. He said that the Board does not know if the lower wall can withstand the fill and the new wall three feet away from it.

Mr. Seegel asked how the wall will be constructed. He asked if Mr. Nascimento will have to go onto his neighbor's property. Mr. Nascimento said that it will all be done on his side. Mr. Seegel said that the Board will need to know how that will be done. He said the Board should see more information about the wall itself and Mr. Nascimento should have an engineer help to put the plans together.

Mr. Becker said that the Board is not asking for a complete design but it needs enough information to be able to feel comfortable finding that there is no impact to the neighbors.

Mr. Seegel suggested that the petition be withdrawn without prejudice to give Mr. Nascimento time to retain an engineer to put together better plans to put before the Board.

Mr. Nascimento requested that the petition be allowed to be withdrawn without prejudice.

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