



## ZONING BOARD OF APPEALS

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ROBERT W. LEVY, VICE CHAIRMAN  
WALTER B. ADAMS  
DEREK B. REDGATE

September 10, 2019

7:30 pm

Juliani Meeting Room

Town Hall

Zoning Board of Appeals Members Present: Robert W. Levy  
David G. Sheffield  
Walter B. Adams  
Derek B. Redgate

ZBA 2019-71 EDWARD HUSSEY, 25 ATWOOD STREET

Present at the public hearing were David Himmelberger, Esq. and Edward Hussey, the Petitioner.

Mr. Himmelberger said that the request is for a special permit for a pre-existing nonconforming lot and a pre-existing nonconforming garage that they seek to rebuild to make it more functional. He said that the matter was previously before the Board on August 8, 2019, at which time the Board expressed some concerns about the continued proximity to the left property line and asked if the Applicant would explore moving the garage inward or other changes. He said that they submitted revised plans. He said that the revised plot plan shows the structured moved in another foot to a setback of 12.5 feet. He said that a question was raised at the previous hearing about moving the garage to a compliant location. He said that the revised plot plan shows a curved line that marks the approach to the right side bay. He said that one can see that the further the garage is moved over, the more difficult it is to get into the bay, due to the fact that it is now behind the house. He said that they are hopeful that moving it an additional foot and reducing the height by a foot will be seen as significant. He said that he looked at the immediate neighborhood and was struck by the uniformity of the existing garage side yard setbacks. He said that all of the garages on Atwood Street and the abutting side on Aberdeen Road range from 2 feet to 11.5 feet, according the Town's GIS map. He said that this is by no means an aberration. He said that it is in a neighborhood in which the garages were situated in very close proximity to the side yard setback. He said that they are trying to improve the vehicular access and note that, activities at Whole Foods and St. Paul's will further impact Atwood Street, which is heavily trafficked, is used as a cut through, and is extremely difficult to back out of. He said that the Applicant also submitted a landscape plan detailing the extensive arbor vitae screening to be planted at the rear of the garage. He said that they submitted letters from the abutting neighbors, all of whom are supportive of the project, including the immediate abutter to the left of the garage at 27 Atwood Street. He said that when considering that the height of the garage was reduced by a foot and it was moved further inward to a 12.5 foot setback, which is consistent or better than garages in the immediate vicinity, they are hopeful that the Board will deem this not significantly more detrimental to the existing neighborhood.

Mr. Himmelberger said that currently the garage sits under 11 feet from the property line. He said that using 11 feet as the starting point and moving it 1.5 feet, they are bettering the setback for an area of 24 feet long by 1.5 feet, or 36 feet, which makes it a wash. He said that there is no increase in area in the setback and they will be moving the garage further from the side lot line. He said that, based on that and the support of the neighbors, they believe that a compelling case exists for a determination that this will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure.

Mr. Levy said that they will still be going up about 4 feet higher. Mr. Himmelberger said that the height was reduced from the prior proposal. He said that the peak of the roof was reduced.

Mr. Himmelberger said that it will be a net wash of additional area within the space and consistent with all of the other homes in the immediate neighborhood, the Board could conclude that it will not be substantially more detrimental to the neighborhood.

Mr. Levy asked if the Applicant spoke with any of the neighbors on the abutting lots on Aberdeen. Mr. Hussey said that they have not met the neighbors who live behind yet. He said that they had just moved in at the time of the previous hearing.

Mr. Adams said that the Board has reviewed some cases with larger garages that were in compliance but the Board asked that the petitioner try to reduce them. He said that he is troubled by the notion that smaller garages replaced by larger garages because they create too much bulk on the property even though they are detached. He said that this is not a nonconforming lot but is a nonconforming structure on the lot. He said that they could have put the garage in a place where they do not want a garage because they want to be able to make better use of the rear yard. He said that over time the Board will have to wrestle with whether it makes sense to continue to allow people to take advantage of a nonconforming structure that is completely removed and is replaced with another nonconforming structure. He said that the Board does that with buildings on nonconforming lots. Mr. Levy said that tear-downs have to be replaced with houses that meet setback requirements. Mr. Adams said that the Board treats that as a special permit, not a variance.

Mr. Adams said that currently at the back of the garage it is only about six feet to the ridge line. He said that the back ridge line will be another four or five feet higher. Mr. Hussey said that it will be two feet higher and the front will be slightly lower now.

Mr. Adams said that the Planting Plan should be a condition of the decision. He said that the plan that was submitted does have the address of the property but does not have a date on it or anything that the Board could reference. Mr. Himmelberger said that he would sign and date the Planting Plan to make it part of the record.

Mr. Redgate referred to Mr. Himmelberger's informal inventory of detached garages on Atwood Street. He asked how many are one-car versus two-car garages. Mr. Himmelberger displayed a map of the inventory. Mr. Redgate said that there are a very few small single garages.

Mr. Adams said that it is good that the neighbors support the project. He said that the Board will continue urge applicants to think about serving their own needs while making things less nonconforming than it was. He said that the footprint of the garage that will be in the setback will be reduced slightly.

Mr. Himmelberger submitted signed and dated landscape plans.

Mr. Adams said that the original garage was a salt box and they will be maintaining that style, which has a lower rear closer to the property line.

Mr. Redgate asked if the garage will be a factory constructed design. Mr. Hussey said that portions of it will be. He said that 75 percent of the garage has been upgraded to match the house. He said that they tried to minimize disruption to the neighborhood over a long period of time. Mr. Adams confirmed that the garage will not be hauled in on a large flatbed truck.

Mr. Levy asked if there was anyone present who wished to speak to the petition.

Mr. Adams asked if the height was measured from the grade or the top of the foundation. Mr. Himmelberger said that it was measured from the top of the foundation. Mr. Adams said that the existing garage is on a grade level foundation. He said that a good design will raise the garage off of the grade.

Mr. Levy confirmed that the Board would be granting a special permit, not modification of a variance.

Mr. Redgate moved, Mr. Adams seconded the motion, and the Board voted unanimously to approve a special permit, subject to a condition that the landscaping plan, dated September 10, 2019, be incorporated into the decision.

#### ZBA 2019-61, SEB WELLESLEY, LLC, 136-140 WORCESTER STREET

Present on behalf of the Town of Wellesley were Christopher Heep, Town Counsel, and Robert Nagi, VHB, Traffic Consultant.

Present at the public hearing were Geoff Engler, SEB Wellesley, LLC, Bill Bergeron, Hayes Engineering, and Matt Mrva, Bohler Engineering, Landscape Architect.

Mr. Engler said that his plan was to focus on what has changed on the plans that were submitted for the June public hearing. He said that they received Mr. Nagi's review yesterday and have already begun to review and respond to it. He said that he has reached out to the Town Engineer but has been unsuccessful in getting him to review some of the recent materials.

Mr. Bergeron said that since the last hearing they met with the Fire Department and they approved the access and turning movements that were on the original drawing. He said that the Fire Department said that the hydrant should be located on the island in front of the building. He said that the criteria for measuring around the backside of the building was within required standards.

Mr. Bergeron discussed modifications to the crosswalk and link to the sidewalk. He discussed turning movements for parking spaces. He said that they made some compact spaces to widen the aisle in the garage. Mr. Engler said that every unit will be assigned one space.

Mr. Redgate asked that Mr. Bergeron further discuss fire turning movements. Mr. Bergeron discussed access for pumper trucks, rubbish trucks, mail and delivery trucks and location of the loading dock.

Mr. Bergeron discussed the reconfiguration of the sanitary sewer that the DPW had requested. He said that there will be a gas trap for the garage floor. He said that they have tried four times to meet with DPW but have not heard back from them.

Mr. Redgate asked if a layout of the site that would allow access around the building was considered. Mr. Engler said that it was not feasible because it would bring the building too close to the street. He said that there are resource areas behind the building. Mr. Heep asked about the resource area that is closest to Echo Road. Mr. Jordan said that it is an isolated wetland that is not under State jurisdiction. He said that it is historically altered and sparsely vegetated. He said that the plan is to restore it. He said that it is disturbed area that used to be a wetland.

Mr. Levy asked if the Applicant will be seeking any waivers. Mr. Engler said that there will be some waivers from the local Wetlands Protection Committee (WPC) bylaws. He said that they will be required to file a Notice of Intent (NOI).

Mr. Nagi discussed his review of transportation and traffic issues. He said that his letter to the town focused on two elements, the traffic study and transportation related elements of the site plan. He discussed peak hour trips and impacts along Route 9. He said that they focused on operations and safety in making sure that the site was well designed. He asked that the Applicant clarify the number of parking spaces. He said that the Traffic Study discussed 60 spaces and there are 63 spaces shown on the plan. He said that in either case, it is in excess of what they would like to see. He discussed traffic congestion in the morning, speeds, sight distance of the driveway, ability to maintain sight lines, and trimming overgrowth. He said that Route 9 is under State jurisdiction. He said that the Applicant will have to go to MassDOT to file for a highway access permit for the driveway.

Mr. Nagi recommended that the Board get a letter from the Fire Department confirming that they are comfortable with the plans.

Mr. Nagi asked about electric vehicle (EV) charging stations, where they will be located, how many there will be, and the level of charging.

Mr. Nagi said that he would like to see a truck turning movement that shows how a typical loading vehicle will come onto the site and how it will move into the loading area. He said that he would like to see a narrative from the Applicant on how move in conditions will be managed so that there are no issues with multiple moving vehicles coming to site on the same day as garbage operations and causing a backup onto Route 9.

Mr. Nagi said that the Applicant discussed access to the two parking spaces at the end of the garage. He asked that the Applicant provide information about backing out of the spaces. He said that if adjustments need to be made, they should show what they will look like on the overall site plan.

Mr. Nagi discussed the Construction Management Plan (CMP). He said that it is a small site plan where a lot of work will be happening. He asked about contractor parking and staging areas, which should not be in the neighborhoods.

Mr. Nagi said that the sidewalk at the front is good. He asked about future plans to connect it to the closest pedestrian sidewalk.

Mr. Nagi said that all of the signs on the site should be compliant.

Mr. Levy asked about traffic signals to help mitigate traffic entering on or off of Route 9 or a deceleration lane. Mr. Nagi said that they looked at the site and the streets around it. He said that Route 9 is a MassDOT roadway. He said that any plan to get into or out of the development will have to go through MassDOT review process.

Mr. Redgate said that cars are coming downhill and go fast here. He asked about additional safety measures such as one-way circulation. Mr. Nagi said that is why sight lines are important.

Mr. Sheffield asked Mr. Nagi if he was comfortable with the width of the curb cut openings. Mr. Nagi said that the western most driveway is two way and should be at least 24 feet wide and the eastern most driveway is one way and should be at least 20 feet wide. Mr. Bergeron said that Alpine Street has larger radii on both sides that help larger vehicles make turns.

Mr. Levy asked if Mr. Nagi foresees an impediment with MassDOT and the curbs. Mr. Nagi said that he did not see any issues with the design. He said that MassDOT is looking to reduce stormwater coming from the site onto Route 9. He discussed having a condition that the Board will review any revision to the design of the curb cuts that result from the MassDOT permitting process.

Mr. Levy said that the entrance is a paper street. Mr. Nagi said that does not change how the driveway will get laid out. He said that if the town seeks to make it a roadway, he would be interested to see how that modifies the site plan. Mr. Engler said that the town will not do anything with the paper street. He said that they specifically designed the entrance and egress for that anticipated condition.

Mr. Levy asked if there will be any safety issues with the three orphan spaces on the west side of the entrance. Mr. Nagi said that he would like to see a crosswalk along both of the driveways because there is a sidewalk running along the front edge of the street and this could potentially be a public roadway. He said that as long as there is a clear and accessible path between the three orphan spaces and the building, he would be comfortable with their location.

Mr. Levy asked about the plan for those spaces. Mr. Engler said that they will be used for guest parking. Mr. Levy asked about other guest parking. Mr. Engler said that they will have 63 parking spaces. Mr. Nagi said that he would like to see at least 40 spaces for residents and 10 for visitors.

Mr. Levy asked about snow storage. Mr. Bergeron displayed the location of snow storage on the site plan. Mr. Nagi said that he did not look at snow storage. He suggested that Dave Hickey, Town Engineer take a look.

Mr. Levy asked Mr. Nagi about the compact parking spaces. Mr. Nagi recommended that it somehow be worked into the lease agreement that any tenant who owns a compact car be assigned to a compact parking space. He said that the spaces should be clearly marked compact only. Mr. Engler discussed scattering the guest spaces to allow for flexibility to reassign parking spaces for replacement tenants with larger vehicles.

Mr. Heep asked Mr. Nagi about any concerns about vehicles exiting the three orphan spaces, making a left hand turn and then a right hand turn onto Route 9 or cutting across the front driveway while cars are making a right turn off of Route 9. Mr. Nagi said that because the cars will be coming into a residential area, they should be coming in at reasonable speed. He said that he is comfortable as long as there are decent sight lines.

Mr. Heep asked Mr. Nagi if the ratio of 22 compact out of a total of 63 spaces is reasonable ratio. Mr. Nagi said that it is a little high but it is a flexible site that will allow for moving the spaces around.

Mr. Heep said that Mr. Nagi made a recommendation for an assessment by the Applicant of the Route 9/Cedar Street intersection. Mr. Nagi said that vehicles coming from the east will have to reverse direction to get to the site by using that intersection. He said that he would like to see a qualitative, not necessarily a quantitative assessment of the intersection to tell him how traffic will move to get back to the site. Mr. Redgate said that the Sun Life property can accommodate a u-turn for east to west or traffic can go to the cloverleaf. Mr. Nagi said that you can take a left at Sun Life to go west on Route 9.

Mr. Levy said that his understanding is that the entrance on the west side is both an entrance and an exit and the one on the east side is just an exit. He asked if there should be special curbing to direct vehicles. Mr. Nagi said that was something that he would defer to the site engineer to be sure that it works with drainage.

Mr. Engler said that he will prepare a memo and update the plans. He said that his Traffic Engineer can be present at the next public hearing.

Mr. Sheffield asked about the demographics of the renters. Mr. Engler said that it will be 55+ primarily but not age restricted. He discussed the location of the school bus stop.

Mr. Engler said that there will be a mix of 14 one bedroom, 21 two bedroom and five 3 bedroom units. Mr. Sheffield asked if two wage earners are expected as tenants. Mr. Engler said that is typical. He said that some of the tenants may work from home. He said that people will take into consideration that it is an isolated location.

Mr. Levy asked about a lane to stop for the bus stop. Mr. Bergeron said that there is a breakdown lane.

Mr. Mrva said that they looked at the architecture of the building and set it into the site to create renderings of how they intend to treat the ground plane, provide buffering and ornamental features at the front of the site. He said that buffer planting along Route 9 will consist of low level ornamentals plus some trees such as dogwoods or flowering cherries on the islands along the parking in the front. He said that they will break up the massing and provide buffering to the parking in that area. He said that there will be plantings along the base of the building, with varying heights around the garage to create interest and provide screening. He said that they will get into more detailed design when the site gets more nailed down. He displayed a potential planting pallet with a variety of deciduous and evergreen materials from pin oaks, pears, river birch, dogwoods, lower scale ornamental trees along the buffer and upright evergreens to screen the garage. He said that they will try to provide color and seasonal interest.

Mr. Sheffield asked if a raised bed had been considered along the front edge since it is pretty much a blank wall with parking at grade. Mr. Mrva said that was a good idea that they will look at. Mr. Bergeron discussed limitations with the grade and maintaining ADA compliance.

Mr. Redgate asked about existing trees that can be saved. Mr. Mrvra said that there are existing trees along the perimeter at the side and the rear. He said that the building was set into a wooded area at the rear. He said that the plan shows some of the trees that they intend to keep to the left and right of the main entrances as you approach the site.

Mr. Sheffield asked about resources for outdoor social space. Mr. Mvra said that they will work with the wetlands scientists to come up with a planting palette in the resource area. He said that there is a small space at the back of the building that could accommodate a grilling courtyard. He said that amenity spaces for the residents will be small garden sized.

Mr. Redgate asked that the Applicant review the town's Tree Protection Bylaw and compare it to what is proposed to be done here.

Mr. Levy discussed concerns about using a paper street as an entrance where access is an implied easement. He discussed overburdening the easement. Mr. Engler said that he passed Mr. Levy's concerns along to counsel and they were comfortable with it. He asked if there was anything further that Mr. Levy or Mr. Heep would like to see. Mr. Levy said that he was raising the issue because if the Board concludes that the Applicant does not have legal access to the full width of Alpine Street, that could result in denying the permit. He discussed ownership of the paper street. Mr. Engler said that the road is never going to be used because it is all wetlands behind the site. He discussed the possibility of the town abandoning it. He said that he will continue looking into it.

Mr. Redgate said that it is important for the Board to get feedback from the Fire Department.

Mr. Levy asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Engler said that they will work on responses to Mr. Nagi's comments. He said that his understanding is that the Board hopes to have architectural peer review before the next public hearing. He said that he will continue to look at the title. He said that Mr. Bergeron will do some minor tweaks to the plans.

Mr. Levy asked about sewer on Route 9. Mr. Bergeron said that they will tie into it.

The Board discussed continuing the hearing. Mr. Levy said that it would be helpful to have the Town Engineer present.

Mr. Redgate moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to continue the hearing to October 15, 2019.

As there was no further business to come before the Board, the hearing was adjourned at 9:10 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary

DRAFT