

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • 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  
RICHARD L. SEEDEL

ZBA 2021-36

Petition of Paragon Investments  
6 Hastings Street

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, May 6, 2021 at 7:30 pm, on the petition of Paragon Investments requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to allow for a 15 foot rear yard setback at 6 Hastings Street, on a 7,000 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, that abuts the side yard at 7 Hunnewell Street. The request is in connection with a previously approved Special Permit, ZBA 2020-72.

On February 24, 2021, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

April 1, 2021

2021  
MAY 20  
P

The Board opened the public hearing and voted unanimously to continue the petition to May 6, 2021.

May 6, 2021

Present on behalf of the petition were David Himmelberger, Esq. and Ryan Lenhart, Manager, Paragon Investments, LLC.

Mr. Himmelberger said that the request is for a variance for a rear setback of 15 feet as previously approved by the Zoning Board in a special permit application that was submitted. He said that a special permit was granted to raze and reconstruct a new home with insufficient lot area of 7,000 square feet in a 15,000 Single Residence District (SRD). He said that the existing home, that has come down, had a nonconforming front yard setback of 18 feet, a nonconforming right side yard setback of 17.5 feet, and a nonconforming detached garage.

Mr. Himmelberger said that the immediate stretch of five homes on the west side of Hastings Street all have front yard setbacks that are less than 20 feet. He said that the Applicant set the front setback at 23.3 to the new house and 18.3 feet to the porch. He said that the existing right side yard nonconformity and the nonconforming garage were eliminated. He said that the Applicant sought a special permit for a home with conforming side and rear yard setbacks, consistent with homes in the 15,000 SRD.

Mr. Himmelberger said that a building permit application was rejected because of an unapproved setback violation where the rear yard abuts the side yard of 7 Hunnewell Street. He said that the Zoning Bylaw was amended in 2000 for 10,000 and 15,000 square foot districts to require a minimum side yard setback for rear yards abutting side yards. He said that what was presented at town meeting and what was voted

was an amendment to address corner lots. He said that no consideration was given to potential unintended consequences that as the bylaw is written could be construed to also impact homes not otherwise located on a corner lot.

Mr. Himmelberger said that, as the nonconforming rear setback on the detached garage could not be used for a special permit application, the only available Zoning relief is for a variance. He said that the requested relief is for a total of 50 square feet within the impacted area of the additional five feet. He said that the request is for a variance to allow the reduced setback of 15 feet, with a determination of hardship due to the topography, as the rear of the lot slopes up eight feet in a distance of 10 feet. He said that the abutting house at 7 Hunnewell Street sits 10 feet higher and forward of the proposed home.

Mr. Himmelberger said that the Application previously went through a lengthy review process with the Historical Commission for a waiver and the Zoning Board for a special permit, only to be stymied by application of the Zoning amendment that was created to address corner lots. He said that the desired relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

The Board the setback issue was not caught when the Board granted the special permit because the survey did not show the lots on abutting streets.

David Levine, 8 Hastings Street, said that he is in full agreement that a variance should be allowed. He said that the side yard that abuts 6 Hastings Street is well above what will be the roof line of the proposed home. He said that he has been watching an empty space next to his home for a number of months. He said that he worked closely with the Lenharts, who worked hard to create a home that is in keeping with the historical homes along the street. He asked that the Board allow this to move forward.

Zahira Ammarguellat, 7 Hunnewell Street, said that she had not been contacted about the special permit. The Chairman said that notices were sent to abutters and abutters to abutters within 300 feet, according to the Assessor's data base. He said that notice of the hearing for the petition was published at Town Hall and in the Wellesley Townsman.

#### Statement of Facts

The subject property is located at 6 Hastings Street, on a 7,000 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, with a previously existing minimum front yard setback of 18 feet where 30 feet is required, and a minimum right side yard setback of 17.5 feet where 20 feet is required. The previously existing nonconforming detached garage had a minimum left side yard setback of 10.1 feet and a minimum rear yard setback of 10 feet where 20 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to allow for a 15 foot rear yard setback, on a 7,000 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, that abuts the side yard at 7 Hunnewell Street. The request is in connection with a previously approved Special Permit, ZBA 2020-72.

ZBA 2021-36  
Petition of Paragon Investments  
6 Hastings Street

---

Letter to Zoning Board of Appeals, dated 2/20/21, from David J. Himmelberger, Esq., Site Plan of Land, dated 10/7/20, revised 10/8/20, 10/12/20, 10/23/20, 2/22/21, stamped by Bradley J. Simonelli, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 9/25/20, prepared by Apkarian Architects, LLC, and photographs were submitted.

On May 6, 2021, the Planning Board reviewed the petition and recommended that a variance 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 literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the topography of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 19 and pursuant to the provisions of Section 24 of the Zoning Bylaw is granted for a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to allow for a 15 foot rear yard setback, on a 7,000 square foot lot in a Single Residence District in which the minimum lot size is 15,000 square feet, in a Water Supply Protection District, that abuts the side yard at 7 Hunnewell Street, in accordance with the submitted plot plan and construction drawings.

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 Variance shall expire one year after the date time stamped on this decision.

2021 MAY 20 P 11:11 AM  
ZONING BOARD OF APPEALS  
CITY OF BOSTON

ZBA 2021-36  
Petition of Paragon Investments  
6 Hastings Street

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.

*Robert W. Levy (lrm.)*  
Robert W. Levy, Acting Chairman

*Richard L. Seegel (lrm.)*  
Richard L. Seegel

*Derek B. Redgate (lrm.)*  
Derek B. Redgate

2021 MAY 20 P 1:36  
WELLESLEY TOWN CLERK'S OFFICE

ZBA 2021-36  
Applicant Paragon Investments  
Address 6 Hastings Street

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



**EXISTING SITE**

ZONING INFORMATION: SINGLE RESIDENCE 15 (SR15)

	REQUIRED	ACTUAL	PROPOSED
MINIMUM LOT AREA .....	15,000 SF	7,000 SF	7,000 SF
MINIMUM LOT FRONTAGE.....	60 FEET	70.00 FEET	70.00 FEET
MINIMUM FRONT SETBACK.....	30* FEET	18.0 FEET	18.3 FEET (TO PORCH) 23.3 FEET (TO HOUSE)
MINIMUM SIDE YARD.....	20 FEET	17.5 FEET 27.9 FEET	20.1 FEET 20.1 FEET
MINIMUM REAR YARD**.....	20 FEET	43.3 FEET	17.5 FEET(15.1 TO AC)
MAXIMUM BUILDING COVERAGE.....	25%	15.7%(1100 SF)	25.0%(1741 SF)
MAXIMUM BUILDING HEIGHT.....	.36 FEET		.35.7 FEET**
MAXIMUM BUILDING HEIGHT.....	2 1/2 STY	2 1/2 STY	2 1/2 STY

\*FRONT SETBACK DETERMINED BY 500 FOOT RU

\*\*PER SECTION XX OF THE WELLESLEY ZONING BYLAW, ALL BUILDING HEIGHTS ARE  
MEASURED TO AVERAGE FINISHED OR ORIGINAL GRADE WHICHEVER IS LOWER.

MEASURED TO AVERAGE FINISHED OR ORIGINAL GRADE WHICHEVER IS LOWER  
\*\*\*REAR YARD SET TO 20 FEET DUE TO ABUTTING SIDE YARD OF #7 HUNNEWELL STREET

\*\*\*REAR YARD SET TO 20 FEET DUE TO ABUTTING SIDE YARD OF #7 HUNNEWELL STREET

057-20



**PROPOSED SITE**

$$1^{\circ} = 30$$

A graphic scale with markings at 30, 0, 15, 30, and 60. The scale is marked with a series of vertical tick marks. The first tick mark is labeled '30' to its left. The second tick mark is labeled '0' to its left. The third tick mark is labeled '15' to its left. The fourth tick mark is labeled '30' to its left. The fifth tick mark is labeled '60' to its left. The scale is labeled 'GRAPHIC SCALE' at the top.

REVISED: FEBRUARY 22, 2021  
REVISED: OCTOBER 23, 2020  
REVISED: OCTOBER 12, 2020  
REVISED: OCTOBER 8, 2020

REF: ZBA DECISION 2020-72  
ZONING BOARD OF APPEALS  
SITE PLAN OF LAND  
6 HASTINGS STREET  
WELLESLEY, MASS.

# Field Resources, Inc.

## LAND SURVEYORS

OCTOBER 7, 2020

P.O. BOX 324

AUBURN, MA

508 832 4332

500 552 1002

SCALE 1"=30'

281 CHESTNUT ST.  
NEEDHAM, MA.

781 444 5936

fieldresources@hotmail.com