

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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(781) 431-1019 EXT. 2208

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1001 SEP 11 2021
1:20

ZBA 2021-62
Petition of William Shribman
53 Martin Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 5, 2021 at 7:30 pm, in the Juliani Meeting Room, Town Hall, on the petition of William Shribman requesting a Variance pursuant to the provisions of Section 14E, Section 19 and Section 24 of the Zoning Bylaw to install two HVAC air handling units with less than required left side yard setbacks, at 53 Martin Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District.

On June 7, 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.

On July 13, 2021, the Petitioner requested that the hearing be continued to September 2, 2021.

August 5, 2021

Upon motion duly made and seconded, the Board voted unanimously to continue the petition to September 2, 2021.

September 2, 2021

Present on behalf of the petition was William Shribman, the Petitioner, who said that the houses on Martin Road are similar. He said that he has a small house that gets very hot and very cold. He said that the proposal is to put in HVAC. He said that the main challenge is that the area is tight to the neighbors and there are wetlands in the backyard. He said that he began the process in January when the project was reviewed by the Wetlands Protection Committee (WPC) and together with them, he explored a number of places where he could put the units, far enough back from the river and the neighbors. He said that the closest that they could come is the proposal before the Board. He said that the neighbor has an air handler on the other side of the fence. He said that the side of his house is the back of his neighbor's house.

A Board member confirmed that, even with an Order of Conditions, the WPC would not allow installation of the units in the no disturb zone. Mr. Shribman said that he discussed putting the units near the stream on risers but the WPC did not allow it. He said that the property is located in a Flood Zone and is subject to Wetlands setbacks. He said that he carries full FEMA flood insurance and has two sumps and a French drain. The Board said that the WPC's Negative Determination of Applicability was for location of the units where Wetlands rules are not applicable. The Board discussed the constraints of the 25 foot no disturb zone and soil conditions due to wetlands.

A Board member asked if the Petitioner discussed his plans with the neighbor on the side where the units are proposed to go. Mr. Shribman said that the neighbor has been away and he has not had a chance to speak to him.

The Board discussed concerns about manufacturer's specifications for a minimum of 70 decibels for the proposed units. The Chairman said that the product data was for a range of models, so he could not tell where the proposed units fell. He said that, according to the product data, the sound level will be as low as 70 decibels, which is in the loud band. He said that most of the units that the Board sees are in the next class down.

The Chairman said that the supplemental documentation lists the footprint as 28 square inches. Mr. Shribman said that the units will be 28 by 28. He said that the contractor suggested a range of units because the supply chain in the construction industry has been choppy. He said that even though he began the process last January, he probably will not be able to start the work until next year.

A Board member said that the purpose of the bylaw is noise mitigation. He asked if stand up heat pump units that are taller and more narrow were considered. Mr. Shribman said that heat pumps were considered but the contractor said that they would not work for the house. He said that there is a high fence and high shrubbery between the proposed location of the units on his property and the neighbor. He said that the combined HVAC will replace the existing heating system and provide a new cooling system.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 53 Martin Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with a minimum left side yard setback of 7.13 feet where 20 feet is required.

The Petitioner is requesting a Variance pursuant to the provisions of Section 14E, Section 19 and Section 24 of the Zoning Bylaw to install two HVAC air handling units with less than required left side yard setbacks, in a Water Supply Protection District.

Plan Showing AC Units, dated 4/29/21, stamped by Bradley J. Simonelli, Professional Land Surveyor, Supplemental Documentation, dated 6/2/21, from William Shribman & Marnie Millington, Product Date for Preferred Series 13 Air Conditioner, and Negative Determination of Applicability from Julie Meyer, Wetlands Administrator, Town of Wellesley, were submitted.

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On August 25, 2021, the Planning Board reviewed the petition and recommended that a variance be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

The Board found that the Design and Operation Standards in Part F are adequately satisfied and not otherwise prohibited in Part D.1, of Section 14E of the Zoning Bylaw for Water Supply Protection Districts.

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 soil conditions 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-D of the Zoning Bylaw is granted to allow installation of two HVAC air handling units with less than required left side yard setbacks, subject to the following condition:

- Noise propagation beyond the air handling units and/or sound attenuation screening around said units shall be limited to no more than 65 decibels.

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 SEP 16 P 1421
FEDERAL
CITY OF TORONTO
PLANNING
DEPARTMENT

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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
J. Randolph Becker, Chairman

Robert W. Levy
Robert W. Levy

Walter B. Adams
Walter B. Adams

2021 SEP 16 P 1:21

WELLESLEY TOWN CLERK
MASSACHUSETTS

ZBA 2021-62
Applicant William Shribman
Address 53 Martin Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

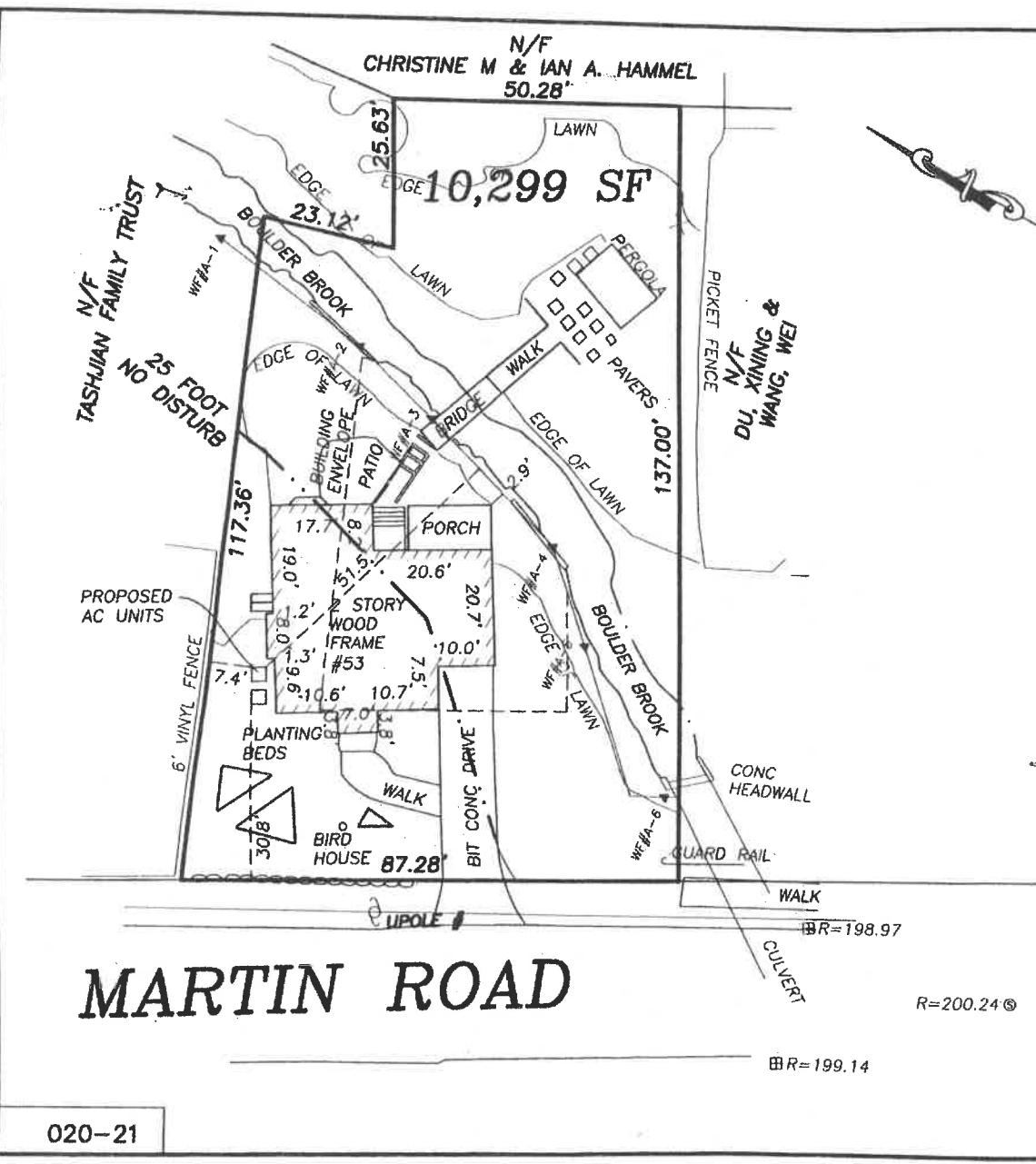
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)

MINIMUM LOT AREA	10,000 SF.
MINIMUM LOT FRONTAGE.....	60 FEET
MINIMUM FRONT SETBACK.....	30 FEET*
MINIMUM SIDE YARD.....	20 FEET
MINIMUM REAR YARD	10 FEET
MAXIMUM BUILDING COVERAGE.....	2500 SF
MAXIMUM BUILDING HEIGHT.....	36 FEET
MAXIMUM BUILDING HEIGHT.....	2 1/2 STORIES

*FRONT SETBACK DETERMINED BY 500 FOOT RULE



ZONING BOARD OF APPEALS
PLAN SHOWING AC UNITS
53 MARTIN ROAD
WELLESLEY, MASS

Field Resources, Inc.
LAND SURVEYORS

TOWN OF WELLESLEY, MASS.
MAP 120 PARCEL 120

NORFOLK COUNTY
REGISTRY OF DEEDS
BOOK 17259 PAGE 481
PLAN BOOK 587 PLAN 1937

APRIL 29, 2021

SCALE 1"=20'

281 CHESTNUT ST.
NEEDHAM, MA

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OWNER/APPLICANT
WILLIAM SHRIEBMAN

020-21