

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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2021 SEP 16 P 1:22

WELLESLEY  
TOWN HALL

ZBA 2021-65

Petition of Nicolas Escallon  
12 Bryn Mawr 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, 525 Washington Street, Wellesley, on the petition of Nicolas Escallon requesting a Variance and/or a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw for installation of a wall mounted air conditioning unit with less than required rear yard and right side yard setbacks, on an existing nonconforming structure with less than required right side yard and rear yard setbacks, on a 5,000 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 12 Bryn Mawr Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 30, 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.

Present on behalf of the petition was Nicolas Escallon, who said that he and his wife grew up in Wellesley and recently moved back. He said that they have two children and he has been working from home during the pandemic in the spare room that they had planned to use as a nursery. He said that after exploring options that would allow for a work environment at home, they decided to convert the nonconforming detached garage to office space. He said that the project is permitted and underway. He said that the request is for a variance and or a special permit/finding to install an external ac unit/heat pump, mounted to the wall of the garage. He said that installation of the ac unit would intensify the nonconformity.

Mr. Escallon said that the ac unit will not be visible from the street or any abutting properties. He said that due to the small lot sizes in the neighborhood, it is not uncommon to have lots with less than required side and rear yard setbacks.

Mr. Escallon said that the ac unit will operate at a noise level of 57.5 decibels, which is just under what the CDC considers to be the level of a normal conversation. He said that since the space will primarily be

used as an office, the unit will typically operate only between the hours of 9 am to 5pm, Monday to Friday. He said that they recently installed a solid fence that should provide some acoustic coverage. He said that the unit will be mounted lower than the height of the fence.

A Board member asked if Mr. Escallon spoke with the neighbor on the other side of the fence. Mr. Escallon said that he spoke with the neighbors on the eastern side of the property but have yet to speak to the neighbors on the northern side. He said that the neighbors on the eastern side were supportive.

The Board discussed the criteria for granting a variance. The Board said that putting the ac unit at the back would require a variance and this probably does not qualify for a variance because the shape of the lot, topography or soil condition do not appear to be an issue here.

The Board asked about moving the unit next to the door where it can be screened or on the front side of the garage. The Chairman said that if the unit is located next to the door, it will be close to conforming because the rear yard setback requirement is 10 feet. He said that the existing nonconforming setback could be improved and approved with a special permit. The Board discussed continuing the petition to allow time for the Applicant to submit an amended plot plan with dimensions that shows the ac unit next to the door or on the front side.

The Board voted unanimously to continue the petition to September 2, 2021.

September 2, 2021

Mr. Escallon said that at the August 5, 2021 hearing, the Board requested that Mr. Escallon put together a plan that shows the unit in a location that would not require changing the existing setbacks. The Board said the revised location of the ac unit eliminates the nonconformity with the side yard setback. The Chairman said that the existing rear face of the garage is nonconforming.

The Chairman said that the decibel level is approximately 58, which is considered to be moderate. A Board member said that there is a fence behind the unit.

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

Statement of Facts

The subject property is located at 12 Bryn Mawr Road, on a 5,000 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, with a minimum front yard setback of 20.5 feet where 30 feet is required, a minimum left side yard setback of 9.9 feet and a minimum right side yard setback of 14.3 feet where 20 feet is required. The existing nonconforming garage structure has a minimum right side yard setback of 6.7 feet where 20 feet is required and a minimum rear yard setback of 3.5 feet where 10 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw for installation of a wall mounted air conditioning unit with less than required rear yard setbacks, on an existing nonconforming structure with less than required right side yard and rear yard setbacks, on a 5,000 square foot lot in a Single Residence District in which the

minimum lot size is 10,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 6/30/21, revised on 8/19/21, stamped by William E. Tirrell, Professional Land Surveyor, Manufacturer Specifications for Senville SENA-18HF/Z, 18,000 BTU Ductless Mini Split Air Conditioner and Heat Pump, and photographs were submitted.

On August 4, 2021, the Planning Board reviewed the petition and recommended that the petition be amended to place the air conditioning condenser/heat pump outside of the rear or right-side setbacks.

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.

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 installation of a wall mounted air conditioning unit with less than required rear yard setbacks, on an existing nonconforming structure with less than required right side yard and rear yard setbacks will result in the intensification of existing nonconformities, will not result in additional nonconformities, and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for installation of a wall mounted air conditioning unit with less than required rear yard setbacks, on an existing nonconforming structure with less than required right side yard and rear yard setbacks, subject to the following condition:

- Placement of the ac unit on the wall of the garage shall be as shown on the submitted plot plan dated June 30, 2021, revised on August 19, 2021.

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 Special Permit shall expire two years after the date time stamped on this decision.

2021-EP-16 P 1:22  
RECEIVED  
CITY OF NEW YORK  
DEPARTMENT OF PLANNING  
PLANNING  
DIVISION  
JULY 16 2021

ZBA 2021-65

Petition of Nicolas Escallon  
12 Bryn Mawr Road

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

*Richard L. Seegel*

Richard L. Seegel

2021 SEP 16 P 1:22

Wellesley, Massachusetts  
Town Clerk's Office  
100 Main Street  
Wellesley, MA 02481

ZBA 2021-65  
Applicant Nicolas Escallon  
Address 12 Bryn Mawr 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:

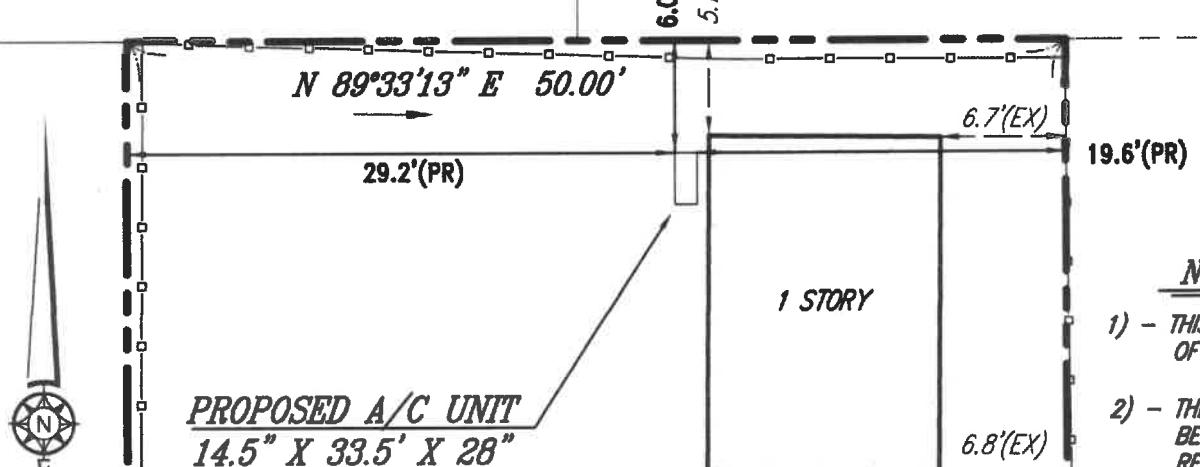
Attest:

Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm

Now or Formerly  
**ANABELA PEROZEK**  
Parcel ID: 190-13

Now or Formerly  
**MICHAEL PUTTERMAN**  
Parcel ID: 190-12

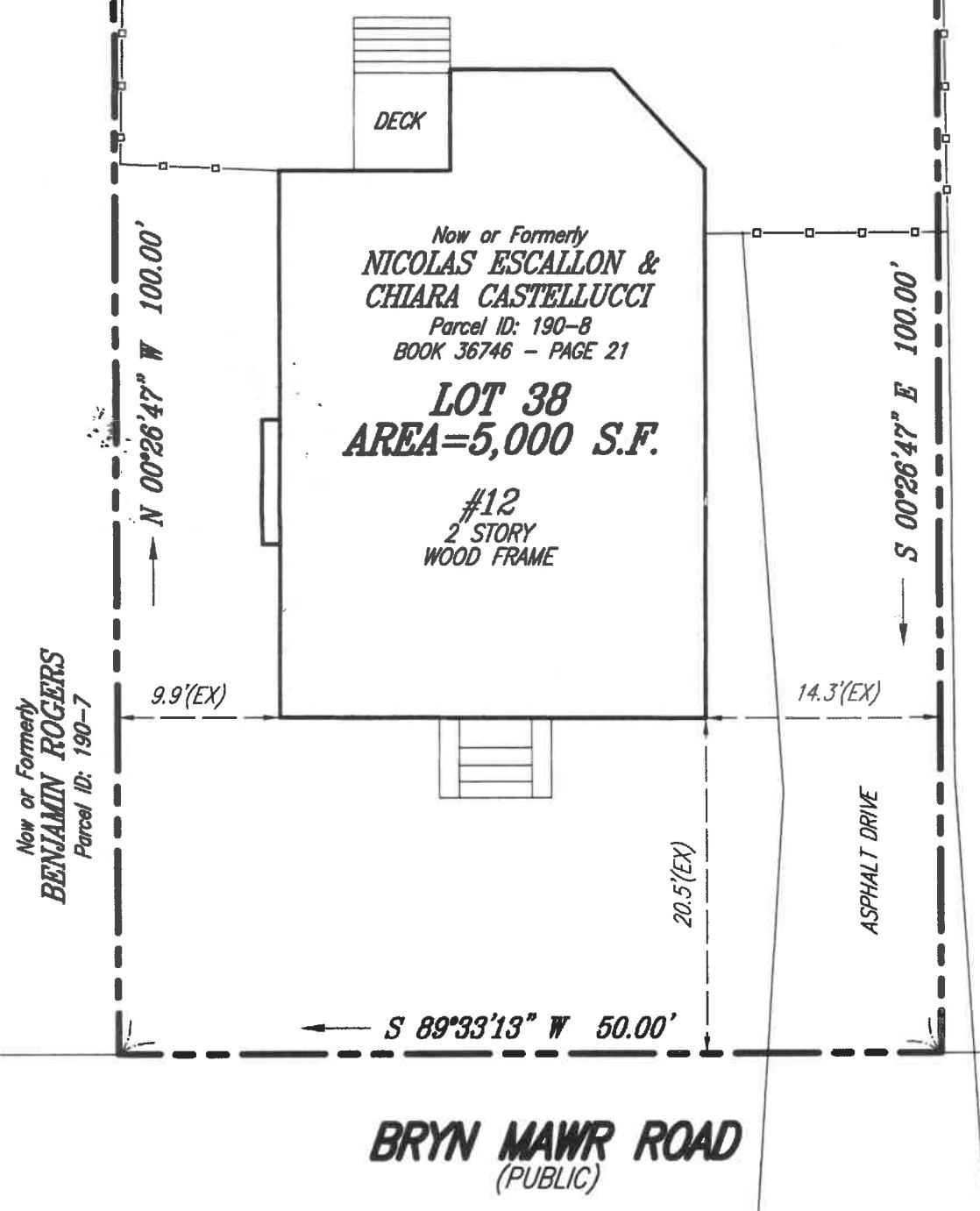


NOTES

- 1) - THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
- 2) - THE PROPERTY WAS CREATED BY ROBERT B. BELLAMY, C.E. RECORDED IN NORFOLK COUNTY REGISTRY OF DEEDS IN BOOK 1542, PAGE 31, ENTITLED "PLAN OF SUNNY ACRES, WELLESLEY, MASS., PROPERTY OF WALTER M. MEIER", DATED DECEMBER 4, 1922.

LEGEND

(EX) - EXISTING OFFSET  
(PR) - PROPOSED OFFSET



ZONING: SR-10

Now or Formerly  
**VICTORIA FAZEN**  
Parcel ID: 190-9

Now or Formerly  
**BENJAMIN ROGERS**  
Parcel ID: 190-7



I CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY, PLANS AND DEEDS OF RECORD.

WILLIAM E. TIRRELL, PLS (MA# 49930)

8/19/21  
DATE

1	AUGUST 18, 2021	ZONING BOARD COMMENTS
	<b>PLAN FOR PROPOSED AC UNIT 12 BRYN MAWR ROAD WELLESLEY, MASSACHUSETTS</b>	
<b>FRAMINGHAM SURVEY CONSULTANTS INC.</b> P.O. BOX 1190 FRAMINGHAM, MA 01701 PH: 508-628-1444 FAX: 508-879-9292 <a href="http://WWW.FRAMINGHAMSURVEY.COM">WWW.FRAMINGHAMSURVEY.COM</a>		
SCALE: DATE:	1'-10' JUNE 30, 2021	DRAWN BY: RDN
		DWG: 4166_21 PPPFR
	CHECKED BY: WET	JOB NO: 4166_21
GRAPHIC SCALE (IN FEET)		