

From: [Jop, Meghan](#)
To: [Downey, Brad](#)
Subject: FW: 592 Washington Concerns
Date: Tuesday, February 3, 2026 10:02:54 AM

Comments from a resident regarding 592.

Meghan C. Jop
Executive Director
Town of Wellesley
mjop@wellesleyma.gov
www.wellesleyma.gov
781.431.1019 x 2200

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From: Liz Fahey [REDACTED]
Sent: Sunday, February 1, 2026 11:10 PM
To: Jop, Meghan <mjop@wellesleyma.gov>
Cc: Colette Aufranc <caufranc@wellesleyma.gov>
Subject: Re: 592 Washington Concerns

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Hi Meghan,

Thank you so much for your prompt and helpful response. I'd be happy for you to share my email (typos and all) with the Planning Board or anyone else working on this project.

The beeping solution feels distressing. I am certain for anyone living nearby this will be very annoying. If the little driveway in front of Will's condo at 53 Grove Street is any indication, cars turn in and out of there and use it as a way to make a u-turn so they can find parking ALL

the time. While it's annoying, I can't imagine having beepers going off day and night too. I guess why should all the residents be burdened so Dean can get 25% more? I know I have no clue about this, but I can't help but feel he should be forced to create a way for the traffic to go in and out and if that means using the 25% he wants to go over to make a circular drive, that feels fair. Why should his desire to go beyond the capacity (and make more money) be a penalty for everyone else?

For the retaining wall and the "controlled construction" who hires the structural engineer or architect? Dean or the Town of Wellesley? Does this mean the town keeps on this and monitors? Again, I have had no personal experience with Dean, but that letter David and many stories I've heard leave me with little confidence or trust that who he hires would be honest or ethical. I've shared your helpful feedback with others at Belclare and I do think we likely will need to retain an attorney and perhaps engineer of our own.

While I now realize the town can not deny development based on a contractor, does the town need to approve an exception for 25% more based on his history? I guess why "reward" someone who has already manipulated the system many times. I'm not suggesting the project gets denied, but the 25% more is creating the traffic flow/safety problems. The loading zone space is helpful, receiving confirmation on this would be helpful. I'm just really struggling thinking about

the reality of 44 vehicles on top of Amazon, grocery delivery, a resident who may use the Catch Connect, the landscapers, etc.. turn around and get out once they pull in.

I'm going to put my voice out there and then back down and trust the process. I trust you, I trust the town will do the right thing and just wanted to get my comments out there and so appreciate you listening....

Go Patriots! Hope to see you around soon.

Best,
Liz Fahey

On Fri, Jan 30, 2026 at 11:26 AM Jop, Meghan <mjop@wellesleyma.gov> wrote:

Liz,

Thanks for reaching out. If you would like, I can share your concerns with the Planning Board who are the permit granting authority on the PSI portion of the project. For the driveway- they will delineate the crosswalk and have a beeping sound if someone is coming out of the parking lot/driveway at 592 Washington. This was newly raised to and agreed to by the Planning Board at their last meeting. The retaining wall will be required to be constructed under what is deemed "controlled construction" and it will necessitate a structural engineer or architect to remain on site during the installation to verify construction according to plan. This certainly does not alleviate your concerns, but it is the maximum requirement for oversight allowed in the building code. The Town cannot deny development based on the owner/contractor. For the deliveries etc., Dean actually reached out to see if Traffic Committee would recommend to the SB making a parking space a loading zone for a period of time - which would resolve some of the conflicts/concerns raised at the Select Board meeting. I am happy to walk through the plans any time!

Meghan C. Jop
Executive Director
Town of Wellesley
mjop@wellesleyma.gov

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-----Original Message-----

From: Liz Fahey <[REDACTED]>

Sent: Thursday, January 29, 2026 11:02 PM

To: Colette Aufranc <caufranc@wellesleyma.gov>; Jop, Meghan <mjop@wellesleyma.gov>

Subject: 592 Washington Concerns

[EXTERNAL EMAIL : This message originated outside of the TOWN OF WELLESLEY mail system. DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hello Colette and Meghan!

Hope you are both doing well. I'm embarrassed I've not reached out sooner to thank you once again for your willingness to make the accessible train a reality. Will was elated to ride in and back to work and even shared those trips with a co-worker. We are forever grateful to both of you.

I am late learning about 592 Washington and am reaching out as I'm very worried about how this may impact Will's safety. I have 2 key concerns:

1. the integrity of retaining wall right behind Will's 1st floor bedroom window. Will sleeps no more than a few feet from this wall. If that were to ever crumble or flood it could be catastrophic.

2. His safety wheeling around in front of 580 Washington (his friend Natalie lives at 594 and sometimes he rolls over there on his chair). Based on the plans in now seeing I'd probably have to restrict Will's access to the front of 580 for his safety. With a busy driveway that has no crosswalk or lights and will undoubtedly have trucks and vehicles backing up based on the current width and no turn around this feels very scary.

I'd welcome the chance to speak with either or both of you if you can make the time. I realize there is a lot I don't know about this project and am sorry I've missed these initial meetings.

In all honestly, I felt like this was inevitable and people have the right to develop

properties. I also figured while that large underground excavation would be loud and annoying, the team building it would be qualified and vetted by the town. When I heard the developer was Dean Behrend my feelings quickly changed. I've lived in Wellesley for 30 years and have never once heard anything good about that man's business practices. While I have never met him or been impacted I have literally heard story after story from many different sources of shady, deceptive and awful quality. Then I read the email from David Himmelberger and my heart sank and I'm truly scared.

I trust both of you, a lot. I'm praying the town is paying very careful attention here.

I hope you are both OK with me reaching out. I'll t try to get more involved. Will is actually now on the Board at Belclare. When Haley moved the seat was open for a Grove Street resident and he ran and won.

Stay safe in the next storm and thank you for reading my message.

Warm regards,

Liz Fahey



From: [Maura Howley](#)
To: [Planning Department](#)
Cc: [Anne Jackowitz](#); [JOANNE MCKENNA](#)
Subject: Jan 12 Meeting Agenda #5 (592 Washington Street)
Date: Sunday, January 11, 2026 11:21:24 PM

Some people who received this message don't often get email from [REDACTED]. [Learn why this is important](#)

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Dear Members of the Planning Board,

Thank you for the thorough communication and detailed information you have shared regarding the proposed development at 592 Washington Street. The Trustees of the 594 Washington Condominium Association respectfully request the opportunity to read the following letter at tomorrow's meeting on January 12 during the discussion regarding the development being planned at 592 Washington.

+++++

Trustees of 594 Washington Condominium Association

[594 Washington Street](#)
[Wellesley, MA](#)

January 11, 2026

Wellesley Planning Board
[525 Washington Street](#)
Wellesley, MA

Dear Members of the Planning Board,

We are writing on behalf of the Trustees of the 594 Washington Condominium Association regarding the proposed development being discussed at 592 Washington Street.

Our Association consists of two historic buildings located at 594 Washington Street, constructed in 1869. Last week during the Design Review Board meeting, our property was referred to as "just a parking lot," so we wanted to properly introduce ourselves. We are a well-established residential community of nine individually owned, owner-occupied units. Many of our residents have lived here for more than thirty years and have deep roots in both the neighborhood and the Town of Wellesley.

The property includes two buildings, a brick courtyard, and an expansive front and side lawn that contribute meaningfully to the character of the streetscape and surrounding area. We value our neighborhood and greatly appreciate the proximity to the town center. While we welcome thoughtful new development and understand the need for growth, we are concerned that the current proposal appears to maximize the use of every inch of the lot, with limited consideration for the impact on adjacent properties and the need for green space.

We respectfully request that the developer be required to give special attention to landscaping, lighting, and building placement to ensure that the space between properties is appropriately scaled and provides adequate privacy, buffering, and respect for existing residents. These elements are critical to maintaining the livability and character of the area for all parties involved.

Additionally, we ask that the Planning Board take into consideration the historic nature of our buildings when evaluating the proposed development. Construction adjacent to structures of this age carries inherent risk, and we believe it is essential that appropriate safeguards be put in place. To that end, we respectfully request that an insurance walk-through and comprehensive condition documentation of our buildings be completed prior

to the start of construction. This will help ensure that any damage resulting from construction activities can be properly identified, documented, and addressed.

Thank you for your time and consideration. We appreciate the Planning Board's thoughtful approach to development in Wellesley and welcome continued dialogue as this process moves forward.

Sincerely,

The Trustees

594 Washington Condominium Association

From: [S Howlett](#)
To: [Planning Department](#)
Subject: Abutter letter for 592 Washington Street meeting 1/12/26
Date: Monday, January 12, 2026 1:13:24 AM

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To the Planning Committee:

Can you please share the below letter and attachments with the Planning Board and Design Review Committee prior to the 1/12/26 meeting.

Thank you -

Sally Howett

To the Planning Board and Design Review Committee:

Regarding the proposed plans for 592 Washington Street:

I live at [REDACTED] directly to the north of 592 Washington Street. Our community includes the building at [REDACTED] and the 2 buildings on the eastern edge of the property that front Grove Street ("Grove Street Buildings"). I appreciate that the developer Mr. Behrend, per his November 24, 2025 letter to the Planning Board, is attempting to have his large addition "fit seamlessly within the surrounding neighborhood" and is prioritizing "respectful integration with abutting properties". Utilizing the existing building on the west side of the property demonstrates an intent to "fit". However, requesting to exceed our zoning code density requirements by 25% places an undue burden on neighbors. Additionally while Mr. Behrend suggests the property will be landscaped to provide a "privacy buffer" and be "well-screened", the landscape plans appear to be inadequate in certain areas in this regard.

25% more Density places a Burden on Neighbors at 580 Washington and Grove Street Buildings as well as the Wellesley community

- 25% more cars **dangerously crossing an already busy pedestrian sidewalk** used by many owners in our community, neighbors, and patrons of local businesses
- 25% reduction in **privacy** from the additional windows directly facing neighboring buildings
- 25% more square footage creating **more shadows for neighbors on lower floors**
- 25% more **noise** from large roof deck on 2nd floor rooftop for neighbors
- 25% more **noise** from AC units on 3rd floor rooftop for neighbors
- 25% more **noise and vibrations** from cars and trash collection for neighbors
- 25% more **noise** from outside patios and balconies for neighbors
- 25% more **headlights** shining into Smith & Wollensky restaurant in the evenings

The Planning Board and Design Review Committee should require the developer to follow the existing zoning code density requirements.

Inadequate Landscape Screening

(A) More Screening needed along Northern fence/property line

- the landscape plan shows a lawn above the garage entrance with no screening along the northern fence line - the grass runs directly into the fence
- the plan reflects the removal of multiple existing 40'+ trees along the existing fence line that currently provide privacy, shade, and screening for 580 Washington and the Grove Street Buildings
- there are only 2 trees in the plans for the entire northern fence line farther to the east - a dogwood (a small tree, under 15') and an "AB" tree (species not identified on the plans, height unknown)
- Mr. Behrend in his letter assures the Planning Board that there is "landscaping" and a "privacy buffer" and the property will be "well-screened", this does not appear to be the case along the northern property line
- see attached landscape plan and the additional plantings requested to increase privacy and assist with noise reduction
- can Mr. Behrend add 8 Green Giant Arborvitae 8-10' along the fence in the lawn area to provide screening for 580 Washington?
- can Mr. Behrend plant 3 large Oak or Maple trees with a 4-5" or larger caliper to provide screening for 580 Washington and the Grove Street Buildings? 2 would be in the lawn area and the third would replace the "AB" tree
- can Mr. Behrend replace the 8 rhododendrons with either junipers (ES) or arborvitae (DA or GG) to provide screening for the Grove Street Buildings?

(B) Large Beech tree by driveway - removed? replaced?

- the existing large Beech tree by the driveway provides shade and privacy for 580 Washington
- the root flare of the existing large Beech tree extends into the the current driveway (see photos and landscape plan)
- the renderings show an excavated driveway and a retaining wall around 4' tall in the spot where the root flare of the existing Beech tree is located which suggests the tree is going to be removed (see photos)
- the renderings and landscape plan appear to show a different large tree approximately 6-8' from the location of the current Beech tree
- can Mr. Behrend explain whether the current Beech tree is to remain? if the tree is to remain, how will it survive the removal of a significant portion of the root flare as well as the removal of 50% of its roots (most of which are likely less than 12" deep) that currently extend under the existing asphalt drive?
- with the current plan and renderings, if the tree remained and had 50% of the roots removed plus a portion of root flare, could it become unstable, esp in wind and ice storms, and be a risk to both buildings and human life?
- if Mr. Behrend intends to remove the Beech tree, what multiple mature replacement large caliper trees will he be required to plant in this area to replace the "privacy buffer" and ensure that the property is "well-screened"? large caliper mature

Oaks and Maples?

- the Beech tree is along a public road and also given its size may be a protected tree and as such the Town of Wellesley should take steps to either protect its existence and health or ensure that, if it must be removed for safety reasons, adequate multiple replacement trees are planted that are of a significant size

Respectfully submitted,
Sally Howlett

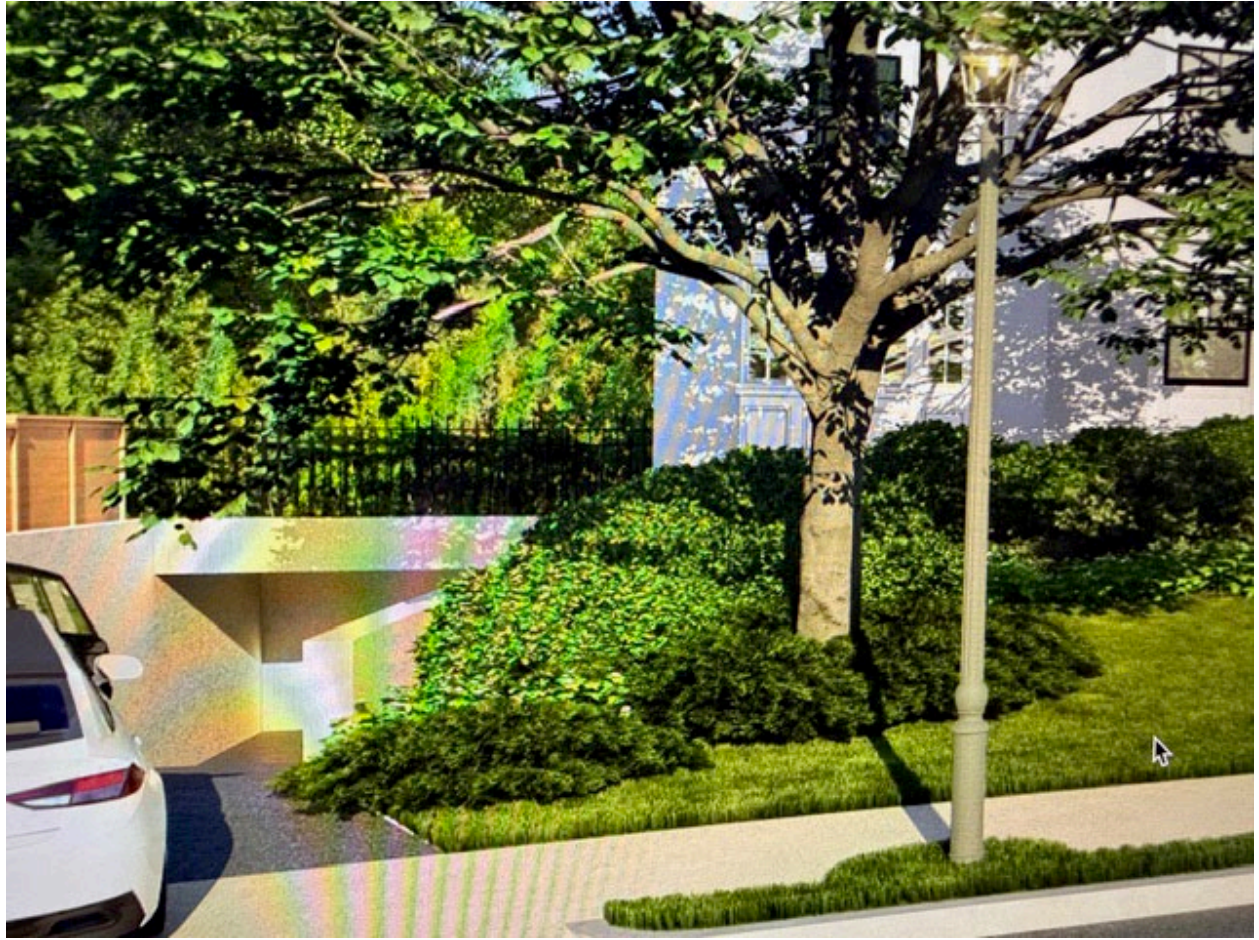
[REDACTED]

Wellesley, MA 02482









LAW OFFICE OF DAVID J. HIMMELBERGER

One Hollis Street, Suite 400
Wellesley, Massachusetts 02482

Fax: (781) 235-8242
Telephone: (781) 237-8180

David J. Himmelberger

Email: [REDACTED]

January 23, 2026

Marc Charney, Chair
Wellesley Planning Board
888 Worcester Street
Wellesley, MA 02482

Re: 592 Washington Street

Dear Mr. Charney:

I represent the interests of the Wellesley Green Condominium Association of 65, 75 and 85 Grove Street, in connection with the PSI hearing and proposed project at 592 Washington Street. As an abutter to the proposed project, my client has concerns regarding the proposed project and its potential for negative impacts on the Wellesley Green properties.

The Developer's lengthy history of illegal conduct and activities in violations of the State Building Code and Town of Wellesley Bylaws are of paramount concern.

Illegal Disposal of Asbestos

The project's developer is 592 Washington LLC, for which Dean Behrend is the Manager. Foremost in my client's concern is the fact that Mr. Behrend has a long and well documented history of violations of statutory law and zoning bylaws. It is understood that the rear building at the development site will be razed, along with the back section of the existing main building in the front. Both of these structures are quite old, and it is presumed that they contain asbestos.

In May, 2018, Mr. Behrend was discovered to have illegally buried a formerly above-ground oil tank at property he was developing at 6 Overlook Knoll Road, Mashpee. When the Commonwealth's Department of Environmental Protection (DEP) went to the property to investigate, they discovered that not only had Mr. Behrend illegally buried the oil tank, but that he was improperly disposing of asbestos pipe wrapping in an open dumpster. The inspectors found dry friable asbestos which the local DEP director noted "is a serious public health risk because fibers can readily become airborne and can result in potentially life-threatening illnesses if inhaled".

Further investigation revealed that Mr. Behrend had falsely claimed in submitted paperwork that the existing home was asbestos free. As a consequence of this investigation, Mr. Behrend was fined \$42,000 and was suspended by MassHousing from any further participation in MassHousing's Chapter 40B site approval process.

Illegal participation in MassHousing Chapter 40B project in Wellesley

On May 8, 2018, Mr. Behrend had submitted an application, pursuant to MGL Ch 40B, on behalf of Riverview Crossing, LLC for Project Eligibility/Site approval for a project located at 136 and 140 Worcester Street, Wellesley. Mr. Behrend listed an entity known as SEB as his 40B Consultant. On December 14, 2018, MassHousing denied the application due to Mr. Behrend's "lack of candor and forthrightness". On February 13, 2019 SEB submitted a new 40B application for the same project and asserted that Riverview Crossing, LLC – Dean Behrend, Principal, had no membership or financial interest in the project. The Town of Wellesley granted a Comprehensive Permit to SEB for the project after MassHousing had issued a Project Eligibility Letter (PEL) to SEB, that specifically was conditioned upon Mr. Behrend having no membership, financial interest, or involvement in the project.

In fact, Mr. Behrend, schemed with SEB to hide Mr. Behrend's continuing financial interest in the project in an attempt to deceive both the Town of Wellesley and MassHousing. The fraudulent deceit was discovered by Wellesley's Town Counsel upon the filing of a lawsuit in Norfolk County Superior Court by SEB against Mr. Behrend for unpaid fees arising out of the 40B project. With this discovery, MassHousing revoked the PEL and the Wellesley ZBA revoked the Comprehensive Permit for the Worcester Street project.

Illegal violations of Town of Wellesley Zoning Bylaws

Mr. Behrend's Worcester Street project was also the locus for another in a long series of zoning violations by Mr. Behrend. In 1990, Mr Behrend obtained a Variance to construct a garage at 136 Worcester Street for the propagation of plants and flowers, and advised he would occasionally would have small piles of materials for planting and potting. Mr. Behrend assured the ZBA that all of his landscaping equipment was housed in Natick, and he would never hold any of it on the Worcester Street property, which would only be used as for nursery stock. The ZBA's Decision explicitly forbade outside storage or trucks or heavy equipment, and no outside storage of loam, or fertilizer. However, in 2005, the Building Inspector found that Mr. Behrend was violating the terms of the Variance by housing four large pieces of equipment on site, all bearing the name Behrend Landscaping on the vehicles. A cease-and-desist order was given by the building Inspector and upheld on appeal by the ZBA.

Thereafter, in 2018, finding that Mr. Behrend was continuing to violate the terms of the ZBA Variance, the Building Inspector issued 14 non-criminal citations for \$300 each to Mr. Behrend, who paid them. In February 2019, the Building Inspector again observed heavy equipment being parked at the premises and issued a total of 23 citations, which were not paid. As a result of the repeated and flagrant history of violations, the Town was constrained to file suit against Mr. Behrend which resulted in a permanent injunction being issued against Mr. Behrend.

Violation of State Building Code resulting in wall/hillside collapse and landslide onto abutting down slope property.

In 2018, Mr. Behrend was again cited by the Building Inspector for defective work being performed by Mr. Behrend in the construction of a new home at 16 Mountview Road. After an April 2018 rainstorm, this Building Inspector received a complaint concerning the Property; specifically, that a retaining wall and other portions of the Property became critically unstable, resulting in a landslide on sloping land on the Property ("Slope") that threatened the abutting property located at 41 Suffolk Road. On April 18, 2018, the Building Inspector visited the Property and inspected the complained-of conditions. As a result of his investigation, he determined that Mr. Behrend's construction and/or alteration of retaining walls and other construction related activities on sloped portions of the Property violated several sections of the Massachusetts State Building Code, 8th Edition, and the Town of Wellesley Zoning Bylaws, and his investigation further concluded that one or more of those violations created unsafe conditions on the Property that placed the public's safety at risk, and a Stop Work Order was issued. The Suffolk Road neighbors were constrained to file suit against Mr. Behrend for their damages.

Mr. Behrend's development work in Wellesley and elsewhere has frequently been the subject of numerous building code violations and violations of the Tree Protection Bylaw and Wetlands Protection Bylaws for which a hallmark has been a history of flagrant disregard for the laws, bylaws, and the truth. Wellesley Green is rightfully concerned that Mr. Behrend's development will subject them to similar issues.

Other concerns relate to the proposed retaining wall, stormwater runoff, negative impact on bordering trees and compliance with the Town's Noise Bylaw, and removal of hazardous materials from the site.

In addition to my client's concern regarding Mr. Behrend's long history of illegal conduct and zoning violations, Wellesley Green is also concerned that while the project as a whole might be able to demonstrate that less stormwater is flowing from the property, that this reduction in stormwater may not include runoff at the back of the property, where Wellesley Green abuts. All of the underground infiltration systems appear to be currently located at the front of the property, and not at the rear where the land slopes down to Wellesley Green.

The project plans that have been submitted show a proposed retaining wall at the rear of the property without detail as to its size or materials. Wellesley Green is concerned, given Mr. Behrend's past history, that this proposed wall may also pose a risk.

Wellesley Green has concerns regarding the impact on its mature trees that currently provide screening between the two properties, as a result of the construction project and requests that an arborist detail how these trees will be protected.

Wellesley Green has concerns regarding the safe removal of hazardous materials from the site during the razing of the existing buildings, and requests that this Board make clear the

applicant's compliance with the Town's Noise Bylaw is a specific condition of any project approval.

No doubt, Wellesley Green will have additional concerns as it learns more about the specifics of the project, but the developer's history gives them scant to no hope that the project will not have significant negative impact upon the residents of Wellesley Green and requests that this Board scrupulously examine the pending application and representations made during its pendency by Mr. Behrend.

Thank you for your attention to this matter.

Very truly yours,



David J. Himmelberger

Enclosures

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
C.A. No.

1.0
RECEIVED & FILED
2019 APR -4 PM 4:28
CLERK OF THE COURTS
NORFOLK COUNTY

BUILDING INSPECTOR OF WELLESLEY,

Plaintiff,

v.

DEAN BEHREND, Individually and as Trustee of
WORCESTER ROAD REALTY TRUST,

Defendants.

19

0445

COMPLAINT

Introduction

This is a complaint pursuant to G.L. c. 40A, § 7 by the Plaintiff Building Inspector of the Town of Wellesley who seeks enforcement of compliance with the Town of Wellesley's Zoning Bylaw and Decision 90-17 of the Wellesley Zoning Board of Appeals against the defendant Dean Behrend, in his individual capacity and as Trustee of defendant Worcester Road Realty Trust.

Parties

1. Plaintiff Michael Grant is the Building Inspector of the Town of Wellesley and has held this position since 2003.

2. Defendant Dean Behrend resides at 96 Hampshire Road, Wellesley, MA. He is a Trustee and manager of Worcester Road Realty Trust.

3. Defendant Worcester Road Realty Trust is the owner of 136 Worcester Road, Wellesley, MA registered pursuant to Certificate 131768 in the Norfolk Registry of Deeds.

Facts

4. The property known and numbered as 136 Worcester Road, Wellesley, MA (the "Property"), is a 19,370 square foot lot, more or less, improved with a single-family residence and located in a single residence zoning district.

3. In 1990, defendant Behrend filed a petition with the Wellesley Zoning Board of Appeals for a variance to construct an oversized 1 ½ story garage on the Property.

4. Section II A 7 of the Wellesley Zoning Bylaw permitted construction of accessory uses to a single residence, including a private garage.

5. The oversized garage that was sought to be constructed was deemed by the Zoning Board of Appeals to be larger than the accessory use permitted as of right pursuant to Section II A 7 of the Wellesley Zoning Bylaw.

6. At the time of the petition and thereafter, defendant Behrend operated a landscaping construction business.

7. As part of the presentation to the Zoning Board of Appeals in support of the petition for a variance, defendant Behrend represented that no landscaping equipment would ever be stored on the Property.

8. The Zoning Board of Appeals issued a conditional approval of the petition for a variance per Decision 90-17 dated April 6, 1990. A copy of Decision 90-17 is attached as Exhibit A.

9. Two of the four conditions of approval in Decision 90-17 are as follows:

1. That there shall be no outside storage of trucks or heavy equipment on the property.
2. That no equipment or vehicles used in the petitioner's landscaping business shall be kept at the subject location at any time.

10. In 2005, the Building Inspector investigated complaints that defendant Behrend was storing landscaping construction vehicles on the Property, operating his landscaping business at the Property, and storing mulch outside on the Property, all in violation of the Wellesley Zoning Bylaw and Decision 90-17.

11. The Building Inspector issued a Cease and Desist Order against defendant Behrend for the violations.

12. Defendant Behrend appealed the Cease and Desist Order to the Zoning Board of Appeals.

13. The Zoning Board of Appeals found that defendant Behrend was storing landscaping equipment and bulk landscaping materials in violation of the Zoning Bylaw and three of the conditions of Decision 90-17 and dismissed the appeal. A copy of the Zoning Board of Appeal's Decision 2005-47 is attached as Exhibit B.

14. The Building Inspector observed further violations of the Zoning Bylaw and Decision 90-17 in May 2018.

15. Between May 2 and 11, 2018, the Building Inspector issued 14 non-criminal citations for \$300 each, the maximum fine permitted by the Zoning Bylaw. A copy of these 14 citations are attached as Exhibit C.

16. Defendant Behrend paid the May 2018 citations.

17. In February, 2019, the Building Inspector again noticed heavy landscaping equipment parked on the Property. A photograph taken by the Building Inspector of a backhoe parked on the Property on February 25, 2019, is attached as Exhibit D.

18. The Building Inspector has been issuing daily non-criminal citations in the amount of \$300 for each day since February 19, 2019 that he has observed heavy equipment parked on the Property. A copy of 23 citations issued since February 19, 2019 is attached as Exhibit E.

19. Neither defendant Behrend nor defendant Worcester Street Realty Trust has paid the 2019 citations.

20. As of the date of this Complaint, the citations total \$6,900 (Six Thousand Nine Hundred Dollars).

COUNT I
ENFORCEMENT OF ZONING BYLAW AND VARIANCE DECISION 90-17
(Both Defendants)

21. Plaintiff repeats his assertions contained in paragraphs 1-20 as if set forth in full.

22. Defendants have repeatedly and willfully disregarded the requirements of the Zoning Bylaw and Decision 90-17 of the Zoning Board of Appeals.

23. By defendants' repeated disregard of the law and Decision 90-17, it is clear that they have no interest in changing their behavior.

24. The defendants appear to have calculated that the daily fines are a price they are willing to pay to flout the Zoning Bylaw and Decision 90-17.

25. Defendants' continued violations have a serious detrimental effect on the residential character of the single residence district in which the Property lies.

26. The monetary citations have proven to be insufficient to cause defendants to comply permanently with the requirements of the Zoning Bylaw and Decision 90-17.

27. It is only by issuance of a preliminary and permanent injunction that the defendants will be motivated to comply with the law.

WHEREFORE, Plaintiff, pursuant to G.L. c. 40A, § 7, respectfully requests the following relief:


1. Issuance of an injunction enjoining the defendants from storing construction vehicles on their property;
2. Entry of an Order requiring payment of all accrued citations for violation of the Wellesley Zoning Bylaw and Decision 90-17;
3. Entry of an Order directing the defendants to pay the plaintiff's costs incurred in filing this Complaint; and
4. Order such other and further relief as this Court deems appropriate.

Dated: April 4, 2019

Respectfully submitted,
BUILDING INSPECTOR OF
WELLESLEY
By his attorney,



Thomas J. Harrington
BBO No. 556741
Donna M. Brewer
BBO No. 545254
MIYARES AND HARRINGTON LLP
40 Grove Street, Suite 190
Wellesley, MA 02482





TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019

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RECEIVED
TOWN BOARD
WELLESLEY
WELLESLEY, MA 02181

ZBA 90-17
Petition of Dean Behrend
136 Worcester Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing on Thursday, March 22, 1990 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley, on the petition of DEAN BEHREND requesting a variance from the terms of Section II A 7 and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw to allow construction of an oversized one and 1/2 story garage, approximately 40 feet by 25 feet for the dual uses of horticulture and automobile storage at 136 WORCESTER STREET, in a Single Residence District. The size of said garage is larger than a garage which is accessory to a single family use, much less customary or incidental to such use.

On March 5, 1990, the petitioner requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Dean Behrend, who presented photographs of the area and of the existing house, which will be his residence when the remodeling has been completed. Mr. Behrend said that annuals and perennials would be grown inside the garage and that the extra length is needed to store soils and trays necessary for potting the plants before moving them to the greenhouse. Using the plans submitted, Mr. Behrend showed that the transfer of the plants from the garage to the greenhouse would be an internally contained process. The garage would also be used to store two automobiles.

Mr. Behrend stated that all of the equipment used in his landscaping construction business is held on his site in Natick, and none of it would ever be held on the subject property. The subject property would be used for holding plants, trees and shrubs. Large plants acquired would be temporarily planted for use at another site in the future. The subject site might also be used as a nursery, but no customers would come to the site. The additional 8,859 square foot lot would be used as a holding area for nursery stock.

Rose Cioppa, 114 Worcester Street, was concerned that fertilizer would be stockpiled on the property and that trucks would be coming through Dearborn Street. She was afraid that the property would not be well maintained as there had been problems on the site in the past.

Mr. Behrend said that the property has already been cleaned up and will be maintained in an orderly manner.

ZBA 90-17
Petition of Dean Behrend
136 Worcester Street

APR 6 9 49 AM '90

Statement of Fact

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The subject property is located at 136 Worcester Street, in a Single Residence District, on a 19,370 square foot lot on which a conforming single family residence is located. The petitioner also owns an 8,859 square foot lot fronting on Worcester Street, which abuts the subject property on the easterly lot line.

The petitioner is requesting a variance to construct an oversized garage, approximately 40 feet by 28 feet which will be attached to a proposed greenhouse. The garage will be used for the storage of two automobiles as well as storage of plant and potting materials and the assembling of plant trays to be used in the greenhouse. The size of the garage is larger than that which can properly be said to be accessory to a single family use or customary or incidental to such use as required in Section II A 7 of the Zoning Bylaw which states:

"Such accessory uses as are customary in connection with the uses enumerated in clauses 1, 2, 3, 4, 5, or 6, and are incidental thereto, including a private garage and a private stable."

A Plot Plan dated February 12, 1990, drawn by John J. McDonnell, Registered Land Surveyor; construction drawings and elevations dated 2/5/90, revised 2/14/90; and photographs were submitted.

The Planning Board, on March 13, 1990, reviewed the petition and were unsure whether the proposed construction is allowed by right in the district. If the use was to be determined as prohibited, the Board would oppose granting a variance.

Decision

This Authority has made a careful study of the evidence presented. The oversized garage is larger than a garage constructed as a customary accessory use for a single family dwelling.

It is the opinion of this Authority that in this particular instance, both of the proposed uses for which the garage will be constructed are allowed under Section II of the Zoning Bylaw. Section II 5 states:

"Agriculture, horticulture, floriculture, including the use of the premises for the sale of natural products raised thereon..."

is a use allowed by right in a Single Residence District. Accessory uses customary to this use, as well as private garages are allowed by right in a Single Residence District, as stated in Section II A 7 of the Zoning Bylaw and quoted in the foregoing Statement of Facts.

It is the opinion of this Authority that the combination of the two allowed uses which necessitates the size of the garage being larger than customary can be allowed in this particular instance.

ZBA 90-17
Petition of Dean Behrend
136 Worcester Street

It is the further opinion of this Authority that a literal enforcement of the provisions of Section II of the Zoning Bylaw would involve a substantial hardship to the petitioner and that desirable relief may be granted without substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested variance is granted to construct a garage in accordance with the Plot Plan and construction drawings submitted as noted in the foregoing Statement of Facts subject to the following conditions:

1. That there shall be no outside storage of trucks or heavy equipment on the property.
2. That no equipment or vehicles used in the petitioner's landscaping business shall be kept at the subject location at any time.
3. That there shall be no outside storage of loam, fertilizer, seed or any other materials related to any horticultural activity on the property.
4. That all conditions imposed by the Wetlands Protections Committee shall be met.

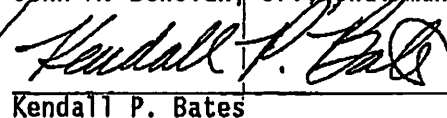
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon his receipt and approval of a building application and construction plans.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, they shall lapse and may be re-established only after notice and a new hearing pursuant to Section XXIV-D of the Zoning Bylaw.

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.

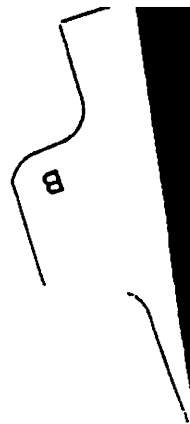
cc: Planning Board
Inspector of Buildings
edg


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert R. Cunningham

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JUN 8 9 49 AM '90



TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ROBERT A. BASTILLE
J. RANDOLPH BECKER
ROBERT W. LEVY

ZBA 2005-47
Appeal of Dean Behrend
136 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 9, 2005 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the appeal of DEAN BEHREND pursuant to the provisions of Section XXIV-C of the Zoning Bylaw of the decision of the Inspector of Buildings ordering the use of 136 WORCESTER STREET for operation of a landscaping business to cease and desist.

On May 23, 2005, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Dean Behrend.

The Board asked Mr. Behrend if he resides at 136 Worcester Street. Mr. Behrend said that he does reside at 136 Worcester Street.

Mr. Behrend said that he has owned that property since 1987. He said that he was granted a Variance to construct a two-door garage, 25 feet by 40 feet, for the propagation of plants and flowers. He said that he has occasionally had piles there to do planting and potting. Mr. Behrend said that he has occasionally had some equipment there to do repairs inside the garage. He said that he has another location outside of town where he houses the majority, if not all, of his equipment.

The Building Inspector said that prior to March, 2005 he received an anonymous complaint over the telephone that there was a business operating at 136 Worcester Street. The Building Inspector said that when he conducted an investigation at the property, there was a small pile of mulch out near the roadway. There were approximately three or four large trucks on the property. There was equipment on the right side of the property.

The Building Inspector said that a Variance was granted by the Zoning Board of Appeals in 1990 for construction of an oversized garage. The Variance was granted with four conditions.

1. That there shall be no outside storage of trucks or heavy equipment on the property.

The Building Inspector said that when he visited the property there were four large pieces of equipment with the words, "Behrend Landscaping" on them, which is in violation of Condition 1.

2. That no equipment or vehicles used in the petitioner's landscaping business shall be kept at the subject location at any time.

ZBA 2005-47
Appeal of Dean Behrend
136 Worcester Street

The Building Inspector said that the trucks had the words, "Behrend Landscaping" on them.

3. That there shall be no outside storage of loam, fertilizer, seed or any other materials related to any horticultural activity on the property.

The Building Inspector said that when he visited the property there was a small pile of bark mulch out near the roadway.

The Building Inspector said that the left side of the property is cleared and there is no equipment stored there. He surmised that there is probably bulk storage there based on the leftover pile.

The Building Inspector said that he sent a letter to Mr. Behrend via certified and regular mail. The certified letter was never picked up. Mr. Behrend did come into the Building Inspector's office and talked with him. Mr. Behrend stated to the Building Inspector that he resides at 136 Worcester Street. The Building Inspector said that he disagrees with that assertion. The Building Inspector said that he believes that Mr. Behrend resides at 70 Old Town Road or at 96 Hampshire Road. Mr. Behrend owns several properties in town.

The Building Inspector said that Mr. Behrend disagreed with the opinion that he is in violation of zoning.

The Building Inspector said that when he drove by the property on June 9, 2005 there was one truck parked behind the garage and the material was still on the left side of the property, although the small pile of bark mulch was removed.

The Building Inspector said that he believes that Mr. Behrend is running a business in a residential neighborhood, which is a zoning violation, and that should cease and desist.

The Board asked what the zoning is at that location. The Building Inspector said that it is a 10,000 square foot Single Residence District.

One member of the Zoning Board said that when he drove by the property, he counted seven trucks.

Another member of the Zoning Board said that he drives by the property every day on his way to his office. He said that every day, no matter what season, there are trucks parked there, materials are stored there, and there are huge concrete barriers sitting out there, all of which are in violation of the bylaw. The Board said that the property needs to be cleaned up so that it looks like a single family residence.

A third member of the Board said that he went to the property on June 9, 2005 and day or two prior to that. He said that on the left hand side there was a pile of tree logs. At the front of the property, there were piles of tree stumps. There was a pile of six or eight jersey barriers. There were at least four trucks there. There was one truck that was backed in under the trees that has vines growing all over it. There were two pieces of heavy equipment and a flatbed trailer. There were four cars there, which he assumed belonged to workers.

The Board questioned whether anyone lives in the house. Every shade in the house was fully drawn. Other than a green garden hose, there were no signs of occupancy there.

ZBA 2005-47
Appeal of Dean Behrend
136 Worcester Street

The Board said that it will urge the Building Inspector to impose a daily fine to the maximum permitted if Mr. Behrend does not clean the property up.

Dean Cartwright, 140 Worcester Street, asked to speak to the Board. He said that Mr. Behrend does live at 136 Worcester Street and is a good neighbor.

John Lin, 3 Dearborn Street, said that his property is next to 136 Worcester Street. He said that he bought his house about 2 ½ years ago. At the time he asked the builder at Sun Life what the house at 136 Worcester Street was used for. He was told that it was used by someone running a landscaping business. Mr. Lin said that he was surprised to learn that it is in a residential district. He said that he spoke with Mr. Behrend a few months ago when someone hit his fence. He said that Mr. Behrend indicated to him that he is running a business there, not necessarily landscaping next door, but that he does run a landscaping business. Mr. Behrend put in a few trees for Mr. Lin.

The Board said that regardless of whether Mr. Behrend does reside at 136 Worcester Street, he is still in violation of the conditions of the Variance.

Statement of Facts

The subject property is located at 136 Worcester Street, in a 15,000 square foot Single Residence District.

On April 6, 1990 the Permit Granting Authority granted a Variance to allow construction of an oversized 1 ½ story garage, approximately 40 feet by 25 feet for the dual uses of horticulture and automobile storage. The size of said garage is larger than a garage which is accessory to a single family use. The Variance was granted subject to four conditions:

1. That there shall be no outside storage of trucks or heavy equipment on the property
2. That no equipment or vehicles used in the petitioner's landscaping business shall be kept at the subject location at any time.
3. That there shall be no outside storage of loam, fertilizer, seed or any other materials related to any horticultural activity on the property.
4. That all conditions imposed by the Wetlands Protections Committee shall be met.

On June 9, 2005, the Board of Appeals heard the Appeal of Dean Behrend, filed on May 23, 2005, of the March 21, 2005 decision of the Building Inspector ordering operation of a landscaping business, storing of equipment and storing of bulk-landscaping materials to cease and desist at 136 Worcester Street.

The following information was submitted by the Inspector of Buildings pursuant to Section XXIV-C.3 of the Zoning Bylaw:

1. Letter to Dean Behrend from Michael Grant, Building Inspector, dated March 21, 2005, regarding Zoning Violation – 136 Worcester Street.

**ZBA 2005-47
Appeal of Dean Behrend
136 Worcester Street**

On June 7, 2005, the Planning Board reviewed the petition and stated:

The Board is aware that this property has apparently been in violation of the Zoning Bylaw and the 1990 decision of the Zoning Board of Appeals for an extended period of time. This decision specifically prohibits the storing of equipment and the storing of bulk-landscaping materials on the premises.

In addition to the violations referenced in the March 21, 2005 letter of the Inspector of Buildings, it is noted that during the winter months snow, presumably containing road salt, has been disposed of at the site such that the piles are above the roof level of the buildings. This is right at the edge of the Town Conservation District wetlands.

The Planning Board strongly supports the action of the Inspector of Buildings and recommends that the appeal be dismissed.

On June 9, 2005, the Board considered whether the March 21, 2005 decision of the Inspector of Buildings ordering operation of a landscaping business, storing of equipment and storing of bulk-landscaping materials to cease and desist at 136 Worcester Street was in violation of the Town of Wellesley Zoning Bylaws and conditions 1, 2 and 3 of the Zoning Board of Appeals' decision, 90-17.

The Board found that storage of landscaping equipment and bulk landscaping materials is in violation of the Town of Wellesley Zoning Bylaws and conditions 1, 2 and 3 of the Zoning Board of Appeals' decision, 90-17.

The Board voted unanimously to uphold the decision of the Inspector of Buildings and to recommend that the appeal be denied.

Decision

This Authority has made a careful study of all the materials submitted and the information provided by all parties at the public hearing.

The appeal is denied.

ZBA 2005-47
Appeal of Dean Behrend
136 Worcester Street

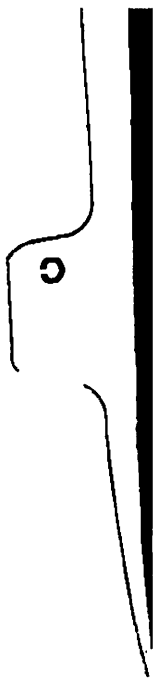
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

cc: Planning Board
Inspector of Buildings
lrm

Richard L. Seegel, Chairman

Robert A. Bastille

Robert W. Levy



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CAPE COD TIMES

STATE

Mashpee homeowner fined over asbestos removal

Wellesley man to pay \$42K for failure to report test results before demolition

Doug Fraser dfraser@capecodonline.com

June 1, 2018, 6:35 p.m. ET

MASHPEE — A Wellesley man has agreed to pay \$42,500 in fines to the state Department of Environmental Protection for improper removal and disposal of asbestos in his New Seabury home.

Department spokesman Joseph Ferson said the agency had received a tip that an above-ground oil storage tank was illegally buried at the home of Dean Behrend at 6 Overlook Knoll Road in Mashpee. Department inspectors, accompanied by Mashpee Fire Department personnel, went to that property in May 2016 and found the oil tank had been buried illegally, he said.

While there, department inspectors also noticed what they thought was pipe wrapping containing asbestos in dumpsters on the property. They notified the trash hauler not to pick up the dumpsters and to return a third one that already had been moved. The material was tested and found to contain chrysotile asbestos. The material was dry and crumbly.

“Dry, friable asbestos is a serious public health risk because the fibers can readily become airborne and can result in potentially life-threatening illnesses if inhaled,” Millie Garcia-Serrano, director of the department's Southeast Regional Office in Lakeville, said in a statement Friday.

The existing single-family residence was demolished to build a new house in 2016. To obtain a demolition permit, Behrend submitted the results of an asbestos

inspection to the town that showed the existing house was asbestos-free in 23 tested areas. According to Ferson, Behrend did not submit the report for the pipe insulation wrapping that had tested positive for asbestos.

Asbestos removal is done by licensed contractors who seal the area to contain fibers released during the work and wear protective clothing and respirators. After being notified by the department, Behrend arranged for a certified asbestos-removal contractor to dispose of it properly, Ferson said. The area was wipe-tested afterward to make sure fibers had been removed, he said.

On May 9, Behrend signed an agreement with the department to pay the fine over the next 270 days, according to the statement from the department. The Mashpee house is assessed at \$877,000. Behrend could not be reached for comment.

— *Follow Doug Fraser on Twitter: @dougfrasercct.*

MASSDEP DETERMINES DEMOLITION OF MASHPEE RESIDENCE VIOLATED NUMEROUS ASBESTOS REGULATIONS; PENALIZES INDIVIDUAL \$42,500 FOR WORK DONE DESPITE KNOWLEDGE OF ASBESTOS

Jun 1,
2018

MASSDEP DETERMINES DEMOLITION OF MASHPEE RESIDENCE VIOLATED NUMEROUS ASBESTOS REGULATIONS; PENALIZES INDIVIDUAL \$42,500 FOR WORK DONE DESPITE KNOWLEDGE OF ASBESTOS

BOSTON MA (6/1/2018) – The Massachusetts Department of Environmental Protection (MassDEP) penalized Wellesley resident Dean Behrend \$42,500 for violations of Massachusetts air pollution regulations. Behrend demolished a

single-family residence at 6 Overlook Knoll Road in Mashpee in May 2016, despite knowing that the basement contained friable asbestos-containing material (ACM) attached to pipes.

Behrend did not remove the ACM prior to building demolition activities as is required by law, and improperly disposed of the ACM. MassDEP conducted a joint inspection with the Mashpee Fire Department and discovered the ACM on top of demolition debris in a roll-off container.

Testing the material confirmed the presence of ACM in the on-site dumpster, as well as in demolition debris waste from one other dumpster brought back to the site, which contained 70 and 85 percent chrysotile asbestos. An asbestos abatement work plan has been prepared by Behrend's asbestos consultant to properly address the contamination and remove of all the asbestos-containing waste materials in a safe manner. Behrend will pay the full \$42,500 penalty over 270 days.

"Dry, friable asbestos is a serious public health risk because the fibers can readily become airborne and can result in potentially life-threatening illnesses when inhaled," said Millie Garcia-Serrano, director of MassDEP's Southeast Regional Office in Lakeville. "Negligent disregard of the regulations by individuals conducting demolitions or renovations will not be tolerated."

MassDEP is responsible for ensuring clean air and water, safe management and recycling of solid and hazardous wastes, timely cleanup of hazardous waste sites and spills and the preservation of wetlands and coastal resources.

CONTACT: Joe Ferson 617-654-6523

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One Beacon Street, Boston, MA 02108

Tel: 617.854.1000
Fax: 617.854.1091 | www.masshousing.com
Videophone: 857.366.4157 or Relay: 711

December 10, 2021

VIA EMAIL: [REDACTED]
AND FEDERAL EXPRESS

Mr. Geoffrey Engler
SEB Wellesley, LLC
257 Hillside Avenue
Needham, MA 02494

Re: 136-140 Worcester Street, Wellesley
Project Eligibility/Site Approval
MassHousing ID No. 1025

Dear Mr. Engler:

I write regarding the Application for Chapter 40B Project Eligibility/Site Approval for MassHousing-Financed and New England Fund ("NEF") Rental Projects (the "Application") that you submitted on behalf of SEB Wellesley, LLC ("SEB") to the Massachusetts Housing Finance Agency ("MassHousing") in connection with your proposal to build 64 rental units at 136 & 140 Worcester Street in Wellesley, Massachusetts (the "Application," "Project," and "Property," respectively). For the reasons set forth herein, MassHousing hereby revokes the Project Eligibility Letter (the "PEL") for the Project and concludes that the Project is not eligible for MassHousing's final written approval pursuant to 760 Code Mass. Regs. 56.04(7) ("Final Approval").

Massachusetts General Laws c. 40B, §§ 20-23 ("Chapter 40B"), promotes responsible housing growth by creating a streamlined permitting process for eligible projects that utilize subsidized financing to meaningfully accommodate lower-income residents. As the Supreme Judicial Court has recognized, Chapter 40B was enacted to address an acute shortage of decent, safe, low and moderate cost housing throughout the Commonwealth. The success of Chapter 40B projects is of critical importance to the Commonwealth of Massachusetts as it has, since its enactment, supported the vast majority of affordable housing construction in Massachusetts outside of our

largest cities.

MassHousing is an independent, quasi-public agency charged with providing financing for safe, affordable housing in Massachusetts. MassHousing takes its mission very seriously, and integrity is among the core values that guide our culture. Indeed, some of the functions that MassHousing performs with respect to the Chapter 40B process are designed to prevent fraud and ensure compliance with the complex regulations governing Chapter 40B projects. Chapter 40B developers must strictly comply with the statute and applicable regulations, including adherence to affordability restrictions and limitations on profits and dividends. Accordingly, MassHousing must be able to rely on developers to be truthful and forthright throughout the process.

On May 8, 2018, Dean Behrend submitted an application on behalf of Riverview Crossing, LLC for Project Eligibility/Site Approval for the Project. The application listed you as the “Secondary Contact” and indicated Mr. Behrend had retained you as a “40B Consultant” for the Project. On December 14, 2018, MassHousing denied Mr. Behrend’s application. MassHousing based its denial on Mr. Behrend’s lack of candor and forthrightness that MassHousing expects and requires from applicants for Chapter 40B Project Eligibility.

On February 13, 2019, two months after MassHousing denied Mr. Behrend’s application, you submitted an application for Project Eligibility/Site Approval on behalf of SEB for the same Project and Property (the “Application”).¹⁷ Prior to submitting the Application, you and Mr. Behrend executed (1) a Purchase & Sale Agreement that transferred interest in the Trust Parcel to SEB (the “P&S”), and (2) an Assignment that transferred Behrend Construction’s interest in the Cartwright P&S to SEB (the “Assignment”). You supplied these documents to MassHousing to establish site control of the Property.

In your cover letter submitted to MassHousing along with the Application, you represented that:

The previous applicant (Riverview Crossings, LLC — Dean Behrend, Principal) does not have any membership or financial interest in SEB Wellesley, LLC and is no longer involved in the development process. (Emphasis added).

¹⁷ The Property consists of two parcels: (1) 136 Worcester Street (the “Trust Parcel”); and (2) 140, 140R and 142 Worcester Street (the “Cartwright Parcel”). At the time of his application on behalf of Riverview Crossing, LLC, Dean Behrend controlled the Trust Parcel as trustee for the Worcester Road Realty Trust (the “Trust”) which owned it. As to the Cartwright Parcel, Mr. Behrend executed a Purchase and Sale agreement, on behalf of Behrend Construction, LLC (“Behrend Construction”), with the current owner (Mr. Cartwright) pursuant to which the deed would be delivered to Behrend Construction after Mr. Behrend obtained all permits required to construct the Project (the “Cartwright P&S”).

However, on March 11, 2019, you, on behalf of SEB, and Mr. Behrend, on behalf of himself, the Trust, and Behrend Construction, executed a Development Agreement with respect to the Project which was, pursuant to its terms, effective February 11, 2019 (two days prior to the date of the Application and the date the Assignment was executed). The Development Agreement reveals that, despite your representation to the contrary, Mr. Behrend was still involved in the development process for the Project. You did not, however, disclose the Development Agreement or Mr. Behrend's involvement to MassHousing.^{2/}

The Development Agreement provides, among other things, that:

- "Owners [which are defined to include Mr. Behrend, on behalf of himself, the Trust, and Behrend Construction] are desirous of obtaining a so-called comprehensive permit (the "Permit")... in order to allow Behrend Construction to construct... the [Project]."
- "SEB is willing to undertake the permitting process and the Owners are willing to allow SEB to do so, under the terms and conditions of this Agreement."
- "SEB will diligently pursue the Permit, as well as all other permits and approvals up to and through the issuance of the Comprehensive Permit, and specifically excluding any post Comprehensive Permit obligations and responsibilities including but not limited to any final approval by MassHousing (the "Entitlements")... ."
- "SEB will consult with the Owners and the Owners will participate in design decisions and other matters that may arise during obtaining the Entitlements."
- "The Owners shall pay all of SEB's fees... as well as reasonable third-party expenses in connection with the Entitlements including, without limitation, architectural design, civil design, traffic study and any and all consultative services required as well as any legal services and any cost of defending or prosecuting an appeal."
- Mr. Behrend retained the right to "abandon the Development"; "elect not to proceed with the Development"; and "direct SEB to cease the Permit Process".
- The Owners, specifically Behrend Construction, would "review and approve" proposals from two engineering firms for "all necessary site planning and civil engineering related work" and "all necessary landscape architecture and site planning related work," as well as "review and consider all other proposals for other disciplines (e.g. architectural, environmental, etc.) recommended by SEB."

^{2/} Counsel for the Town of Wellesley provided a copy of the Development Agreement to MassHousing after the Town discovered it in and attached to a lawsuit filed by SEB Wellesley against Mr. Behrend over unpaid fees, allegedly due under the Development Agreement. See *SEB Wellesley LLC vs. Behrend, Dean F. et al.* Norfolk Superior Court, 2182CV00687.

- Upon receipt of the Comprehensive Permit, SEB agreed to “transfer all of SEB’s right, title and interest in and to the Permit to Behrend Construction or an entity to be designated by Behrend Construction.”
- SEB and Mr. Behrend agreed to cancel and reassign the P&S and Assignment used to establish site control if (a) the Comprehensive Permit issued, or (b) if the ZBA denied Comprehensive Permit and such denial was affirmed on appeal.

Your statement that “the previous applicant (Riverview Crossings, LLC — Dean Behrend, Principal) ... is no longer involved in the development process,” is inconsistent with the terms of the Development Agreement. In short, pursuant to your Development Agreement, SEB agreed to pursue a Comprehensive Permit for Mr. Behrend and entities that Mr. Behrend controlled to allow Behrend Construction to construct the Project, and you agreed to cancel the P&S and Assignment through which you established site control if the Comprehensive Permit issued, and to transfer the Comprehensive Permit to Behrend Construction or an entity to be designated by Behrend Construction. Mr. Behrend further retained the right to participate in design decisions and “other matters that may arise during obtaining the Entitlements” and review and consider proposals for architectural and environmental work. Mr. Behrend also agreed to pay, “directly,” fees of Project consultants. None of these rights and duties are consistent with your representation that “the previous applicant (Riverview Crossings, LLC —Dean Behrend, Principal) ... is no longer involved in the development process.” As SEB itself alleges in its Complaint against Mr. Behrend, “SEB agreed to undertake the permitting process pertaining to Owner’s [(Behrend, the Trust, and Behrend Construction)] proposed development of [the Property.]” *SEB Wellesley LLC vs. Behrend, Dean F. et al.* Norfolk Superior Court, 2182CV00687, Complaint ¶ 5.

On May 17, 2019, MassHousing issued the PEL to SEB for the Project. After explaining that we had previously denied Mr. Behrend’s application due to concerns related to his qualifications and capacity, the PEL states:

MassHousing’s review of the Project as proposed by SEB Wellesley, LLC is conditioned upon the previous applicant no longer having any membership, financial interest, or involvement in the Project.

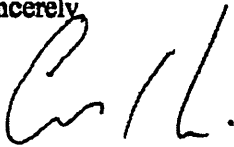
The Development Agreement demonstrates that Mr. Behrend remained involved in the Project and had financial interest in the Project continuing through the date of the PEL. Therefore, the condition was not satisfied. Nevertheless, on May 24, 2019, SEB filed an application for a Comprehensive Permit with the Town, without disclosing the Development Agreement to MassHousing.

We further understand that, on January 30, 2020, you and Mr. Behrend executed an amendment to the Development Agreement. The amendment does not remedy the issues addressed herein.

As amended, the Development Agreement provides that SEB "will transfer all of SEB's right, title, and interest in and to the [Comprehensive Permit] to an entity to be designated by the Owners. Said entity which must be an unrelated third party in which the Owners, and any of their affiliates have absolutely no financial interest, shares, management interest or membership interest whatsoever (the "Third Party Entity")." SEB would have the obligation to transfer the Comprehensive Permit once, among other things, "the Owners and the Third Party Entity have consummated the transfer and sale of the Development from the Owners to the Third Party Entity." With respect to the Property, the Amendment provides that, once Mr. Behrend paid fees to SEB and the Comprehensive Permit was transferred, among other things, "the Parties shall cancel and void the Trust P&S and shall effect an assignment to the Third Party Entity of [SEB's rights under the assignment of the Cartwright P&S from Behrend Construction to SEB]." Thus, under the as-amended Development Agreement, you agreed to transfer the Comprehensive Permit and control of the Property so that Mr. Behrend could sell the Project to a third party. Accordingly, Mr. Behrend retained a financial interest and involvement in the Project.

For all of these reasons, MassHousing hereby revokes the PEL and will not grant final approval for the Project. Had you disclosed the Development Agreement to MassHousing in connection with the Application, MassHousing would not have issued the PEL for the Project.

Sincerely



Colin McNiece
General Counsel

cc: Thomas Harrington, Esq. (Counsel, Town of Wellesley) [REDACTED]
Dean Behrend [REDACTED]
The Honorable Cynthia Stone Creem
The Honorable Rebecca L. Rausch
The Honorable Alice Hanlon Peisch



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One Beacon Street, Boston, MA 02108

Tel: 617.854.1000
Fax: 617.854.1091 | www.masshousing.com

Videophone: 857.366.4157 or Relay: 711

December 10, 2021

VIA EMAIL: [REDACTED]
AND FEDERAL EXPRESS

Mr. Geoffrey Engler
SEB Wellesley, LLC
257 Hillside Avenue
Needham, MA 02494

Re: Chapter 40B Program Suspension

Dear Mr. Engler:

We write to inform you that the Massachusetts Housing Finance Agency ("MassHousing") is suspending you immediately from any involvement in MassHousing's Chapter 40B application process, whether as an owner, applicant, consultant, or otherwise, with respect to any applications filed on or after today's date. MassHousing is suspending you due to your lack of the forthrightness and candor that MassHousing expects and requires from applicants for Chapter 40B project eligibility, with respect to a material misrepresentation that you made in connection with your application for project eligibility for a proposed Chapter 40B project at 136 & 140 Worcester Street in Wellesley (the "Project").

Massachusetts General Laws c. 40B, §§ 20-23 ("Chapter 40B"), promotes responsible housing growth by creating a streamlined permitting process for eligible projects that utilize subsidized financing to meaningfully accommodate lower-income residents. As the Supreme Judicial Court has recognized, Chapter 40B was enacted to address an acute shortage of decent, safe, low and moderate cost housing throughout the Commonwealth. The success of Chapter 40B projects is of critical importance to the Commonwealth of Massachusetts as it has, since its enactment, supported the vast majority of affordable housing construction in Massachusetts outside of our largest cities.

MassHousing is an independent, quasi-public agency charged with providing financing for safe, affordable housing in Massachusetts. MassHousing takes its mission very seriously, and integrity is among the core values that guide our culture. Indeed, some of the functions that MassHousing performs with respect to the Chapter 40B process are designed to prevent fraud and ensure compliance with the complex regulations governing Chapter 40B projects. Chapter 40B developers must strictly comply with the statute and applicable regulations, including adherence to affordability restrictions and limitations on profits and dividends. Accordingly, MassHousing must be able to rely on applicants and developers to be truthful and forthright throughout the process.

As set forth in detail in our letter to you regarding eligibility for the Project (also of today's date), which is incorporated by reference herein, your representation, made in the cover letter of your February 13, 2019 application for a determination of Project Eligibility (the "Application"), that "the previous applicant (Riverview Crossings, LLC —Dean Behrend, Principal) does not have any membership or financial interest in SEB Wellesley, LLC and **is no longer involved in the development process,**" cannot be reconciled with the terms of the Development Agreement that you executed on behalf of SEB Wellesley, LLC ("SEB"), with Mr. Dean Behrend, on behalf of himself, the Worcester Road Realty Trust (the "Trust"), and Behrend Construction, LLC ("Behrend Construction"), on March 11, 2019.^{1/}

Pursuant to your Development Agreement, which states that it was effective February 11, 2019, two days before you submitted the Application to MassHousing, SEB agreed to pursue a Comprehensive Permit for Mr. Behrend and entities that Mr. Behrend controlled so as to allow Behrend Construction to construct the Project, and you specifically agreed to cancel the P&S and Assignment through which you established site control if the Comprehensive Permit issued, and to transfer the Comprehensive Permit to Behrend Construction or an entity to be designated by Behrend Construction. Mr. Behrend further retained the right to participate in design decisions and "other matters that may arise during obtaining the Entitlements" and review and consider proposals for architectural and environmental work. Mr. Behrend also agreed to pay, "directly," fees of Project consultants.

None of these rights and duties are consistent with your representation that "the previous applicant (Riverview Crossings, LLC —Dean Behrend, Principal)is no longer involved in the development process." Your representation to the contrary was false or misleading when made or became false or misleading when you executed the Development Agreement (to be effective

^{1/} The Town of Wellesley brought the Development Agreement to our attention after it was disclosed in and attached to a Complaint filed by SEB against Mr. Behrend over unpaid fees, allegedly due under the Development Agreement. *SEB Wellesley LLC vs. Behrend, Dean F. et al.* Norfolk Superior Court, 2182CV00687. A copy of the Town's October 13, 2021 letter to MassHousing is enclosed herein. MassHousing has conducted its own independent review of the facts set forth herein.

9. 85 Plymouth, Bridgewater
10. The Residences on the Charles, Newton
11. Mashpee Commons – Phase 1A (JWT Phase 1A), Mashpee
12. Beaver Pond Commons, Milford
13. Settler's Landing, Barnstable
14. Sippican Woods, Marion
15. 21 Crown, Brookline
16. Babcock Place, Brookline
17. The Metropolitan at Reading Station, Reading
18. 1299 Beacon, Brookline
19. Edge Hill Road, Sharon
20. Rosewood Apartments at Swansea, Swansea
21. 16 Stearns Road, Wellesley
22. Wellesley Park, Wellesley
23. Old Bridgewater Place, West Bridgewater
24. Sailmaker Place, Marblehead
25. Greenwood Station, Wakefield
26. Dunstan East, Newton
27. Island Cove Apartments, Tisbury
28. The Cottages at Old Oaken Bucket, Scituate
29. 45 Bartlett, Brookline
30. Wakefield North Apartments, Wakefield
31. 45 Marion Street, Brookline
32. The Point at Merrimack River, Andover
33. Audubon Easterly, Walpole
34. The Point at Wrentham, Wrentham
35. Broadstone Bare Cove, Hingham
36. 455 Harvard, Brookline
37. 680 Worcester, Wellesley
38. Winchester North, Winchester
39. The Village on Main, Hingham
40. Herring Brook Meadow, Scituate
41. 19-35 River Street, Winchester
42. The Village at Silver Hill, Weston
43. Red Robin Pastures, Dover
44. Sanctuary at Manchester-by-the-Sea, Manchester

MassHousing requests that you certify in writing that you have made no false or misleading statements in your applications and/or other submissions to MassHousing in connection with the Current SEB Projects, and that you know of no undisclosed facts, agreements or changes of circumstances that would cause statements in your applications or other submissions to MassHousing to be false or misleading, or inaccurate. If you fail to supply such certification within thirty (30) days, MassHousing will not permit you, or any entities owned, controlled or managed by you, to remain involved in the Current SEB Projects. A form of certification acceptable to MassHousing is included below.

before you made the representation). Indeed, according to SEB itself, “SEB agreed to undertake the permitting process pertaining to Owner’s [(Mr. Behrend, the Trust, and Behrend Construction)] **proposed development** of [the Property.]” *SEB Wellesley LLC vs. Behrend, Dean F. et al.* Norfolk Superior Court, 2182CV00687, Complaint ¶ 5 (emphasis added). Moreover, you never corrected your representation that Mr. Behrend was no longer involved in the development process or disclosed the Development Agreement to MassHousing before applying for a comprehensive permit for the Project or thereafter.

On May 17, 2019, MassHousing issued the PEL to SEB for the Project based on your representation concerning Mr. Behrend. After explaining that we had previously denied Mr. Behrend’s application due to concerns related to his qualifications and capacity, the PEL states:

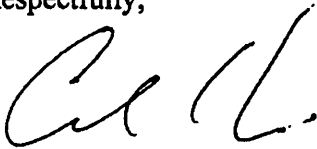
MassHousing’s review of the Project as proposed by SEB Wellesley, LLC is conditioned upon the previous applicant no longer having any membership, financial interest, or involvement in the Project.

The Development Agreement demonstrates that Mr. Behrend remained involved in the Project and had a financial interest in the Project effective before you submitted the Application and continuing through the date that MassHousing issued the PEL. Though MassHousing made clear that our review was conditioned on Mr. Behrend having no financial interest or involvement in the Project, on May 24, 2019, SEB filed an application for a comprehensive permit, without disclosing Mr. Behrend’s financial interest and involvement to MassHousing. We take these matters very seriously. As a result of our review of your actions with respect to the Project, you, and any entities owned, managed or controlled by you, are immediately suspended from any involvement in MassHousing’s Chapter 40B application process as an owner, applicant, consultant, or otherwise, with respect to any applications filed on or after today’s date.

MassHousing understands that you, or entities owned, managed or controlled by you, are currently involved (either as the applicant, owner or consultant) in other Chapter 40B projects for which MassHousing has already granted preliminary site approval or final approval or completed cost certification, or for which MassHousing is currently considering a project eligibility application, including, but not limited to, the list of developments below (collectively, the “Current SEB Projects”):

1. The Pines at Marsh Hill, Dracut
2. Madalene Village, Frankling
3. Kickamuit Woods, Swansea
4. The Village at Sudbury Station, Sudbury
5. Tarrant Lane Apartment, Wakefield
6. Pond View Commons, Lunenburg
7. The Flats @ Merrimac Square, Merrimac
8. Residences at 1180 Boylston, Brookline

Respectfully,



Colin McNiece
General Counsel

Enclosure: October 13, 2021 letter from Thomas J. Harrington, Esq. to Chrystal Kornegay

CERTIFICATION

The undersigned hereby declares, under the pains and penalties of perjury, that, in connection with the Current SEB Projects, I have made no false or misleading statements in applications and/or other submissions to MassHousing, and know of no undisclosed facts, agreements or changes of circumstances that would cause statements made to MassHousing to be false, misleading, or inaccurate.

[Signature]

[Print name]

[Date]

TOWN OF WELLESLEY



MASSACHUSETTS

Building Department

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992
781-431-1019 ext. 2228 Fax 781-283-5724

Michael T. Grant
Inspector of Buildings
Zoning Enforcement Officer
Public Safety Officer
Socrates Sirafos
Local Building Inspector
Asst. Zoning Enforcement Officer

Michael R. Sweeney
Electrical Inspector
George Lessard
Plumbing & Gas Inspector
Bernard Ashley
Local Building Inspector
Asst. Zoning Enforcement Officer

April 27, 2018

Mr. Dean Berhend
869 Worcester Street
Wellesley, MA 02482

Mountview Road LLC
136 Worcester Street
Wellesley, MA 02481

Re: NOTICE OF VIOLATIONS AND ORDER TO STOP WORK:
16 Mountview Road, Wellesley, MA

Dear Mr. Behrend:

This letter concerns the residential premises located at 16 Mountview Road, Wellesley, Massachusetts ("Property"). Public records show that you¹ are the record owner of the Property.

This letter constitutes this Department's notice to you of multiple violations of the Massachusetts State Building Code and the Town of Wellesley Zoning Bylaws and this Department's determination that one or more of those violations have created unsafe conditions on the Property that place the public's safety at risk.

This Department therefore **ORDERS** you to **STOP WORK** on the Property until you have demonstrated to this Department's satisfaction that you have complied with all requirements and conditions set forth in this letter.

COMPLAINT AND INVESTIGATION

After a recent rainstorm, this Department received a complaint concerning the Property; specifically, that a retaining wall and other portions of the Property became critically unstable, resulting in a landslide on sloping land on the Property ("Slope") that threatened the abutting property located at 41 Suffolk Road. On April 18, 2018, I visited the Property and inspected the complained-of conditions.

As a result of my investigation, this Department has determined that your construction and/or alteration of retaining walls and other construction related activities on sloped portions of the Property violated several sections of the Massachusetts State Building Code, 8th Edition, and the Town of Wellesley Zoning Bylaws. My

¹ "You" means Dean Berhend and/or Mountview Road LLC, including any person or entity affiliated with or acting at the direction, control, or on behalf of either.

investigation further concluded that one or more of those violations have created unsafe conditions on the Property that place the public's safety at risk.

VIOLATIONS

You are hereby cited for the following violations of the Massachusetts Building Code:

Section R103.3 – Your project has become a threat to the public safety.

Section R105.1 – You modified a slope that was certified by a Registered Design Professional without the required building permit. Your unpermitted action created a surcharge on the slope and retaining wall.

Section R121.0 – Your modifications to the Slope, including but not limited to altering property at the top of the Slope, altering the Slope itself, and failing to ensure installation and maintenance of an adequate drainage system each resulted, individually or in combination with other modifications, in making the Slope and all retaining walls and/or other structures on the Slope or on land at the top of the Slope unstable and unsafe.

Section 110.R5.2.15 – You failed to ensure that all modifications and other work on the Slope, on property at the top of the Slope, and on retaining walls and/or other structures on the Slope was done pursuant to all applicable requirements of the Massachusetts Building Code, chapter 780 of the Code of Massachusetts Regulations.

You are hereby cited for the following violations of the Town of Wellesley Zoning Bylaws:

Section XXIID (C)(1) & (2) – Your modifications to the Slope resulted in a pre-existing retaining wall located on the Slope to retain more than 4 feet of unbalanced fill. You also modified other portions of the Slope to create new sections of retaining wall, without the required special permit from the Zoning Board of Appeals.

ORDER

As a result of these violations this department is ordering you to **STOP WORK** and to comply with the following requirements and conditions. Be advised that this Department will make no final inspection of and will not issue a Certificate of Occupancy for the Property until: (1) you have complied fully and to this Department's satisfaction with all the requirements and conditions listed below, and (2) this Department is satisfied that renewed construction will not place the public at further risk:

Immediately Required Actions to Stabilize Unsafe Conditions

1. You must retain a Massachusetts Registered Professional Engineer ("Stabilization Engineer") to inspect existing conditions on and around the sloped portion of the Property (including but not limited to the Slope, portions of the Property surrounding the Slope, and structures or other features located on or around the Slope) that abuts the property at 41 Suffolk Road ("inspection area"). You are required to permit a member of this Department to be on the Property during the Stabilization Engineer's inspection and shall direct the Stabilization Engineer to inspect all portions of the Property, including but not limited to the inspection area, that either the Stabilization Engineer or this Department deem necessary. Any portions of the Property that the Stabilization Engineer inspects in addition to the inspection area defined above shall become part of the inspection area for all remaining requirements and conditions in this Order.
2. Before retaining the Stabilization Engineer, you must inform this Department of the Stabilization Engineer's identity and also provide to this Department his or her contact information. You must do so by the close of business on May 11, 2018. At the time you identify your Stabilization Engineer to this Department, you must also consent in writing to this Department contacting the Stabilization Engineer as frequently and at such times as this Department deems necessary. You shall further consent in writing to the Stabilization Engineer's release to this Department, as frequently and at such times as this Department deems necessary, of information in any way related to the Property.

3. After conducting the inspection, the Stabilization Engineer must prepare and submit a report to this Department that assesses and opines upon, to this Department's satisfaction, the stability and safety the inspection area and any risks to the public's safety.
4. If the Stabilization Engineer determines that any portion of the inspection area or Property is unstable, unsafe, or otherwise presents a risk to the public, you shall direct the Stabilization Engineer to develop a plan (the plan may be in narrative form), which will be stamped and sealed, to immediately remediate those conditions ("stabilization plan"). This stabilization plan shall be developed to be implemented as quickly as feasible, so as to protect the public's safety, while approvals are sought from the Design Review Board, Zoning Board of Appeals and the Building Department for the permanent repair of the inspection area and any other portions of the Property identified to be unstable, unsafe, or otherwise posing a risk to the public's safety.
5. After this Department authorizes you to commence work on a stabilization plan, the Stabilization Engineer shall be on the Property while any work under the stabilization plan is performed and must approve of any and all work before it begins. The Stabilization Engineer shall submit weekly written reports to the Building Department summarizing work during the prior week and, upon the Department's request, shall submit additional, more frequent reports as the Department deems necessary.
6. After completion of all work under the stabilization plan, the Stabilization Engineer shall submit a final written report that includes the Stabilization Engineer's certification that the inspection area is stable, safe, and presents no current or future risk to the safety of the public.
7. After completion of all work under the stabilization plan, the Stabilization Engineer shall inspect the site weekly and submit a written report after each such weekly inspection to the Building Department confirming that no aspect of the Property presents a current or future risk to the safety of the public. This obligation shall remain in effect until a permanent plan for repair or replacement is approved by the Design Review Board, Zoning Board of Appeals, and the Building Department and work has commenced under such a plan.

Required Approvals and Actions for Permanent Repair of Unsafe Conditions

- 1 You shall submit an application to the Design Review Board for review and permanent repair² of the Slope, portions of the Property surrounding the Slope, and structures or other features located on or around the Slope in accordance with Section XXIID (D)(1) of the Town of Wellesley Zoning Bylaws ("DRB Application").
- 2 After the Design Review Board completes its review of the DRB Application, you shall submit an application to the Zoning Board of Appeals for a special permit for relief from section XXIID (E)(1)(a) & (b) of the Town of Wellesley Zoning Bylaws ("ZBA Application").
- 3 Other than work performed and completed pursuant to a stabilization plan (see above), you shall perform no work of any kind on the Property until receiving approval of the ZBA Application and written authorization from this Department that you may commence work. Any such approved work shall be performed subject to the following conditions.
 - a. All work shall be performed under the control of a Massachusetts Registered Professional Engineer ("Permanent Construction Engineer"). Before retaining the Permanent Construction Engineer listed above, you must inform this Department of the Permanent Construction Engineer's identity and also provide to this Department his or her contact information. You must do so by the close of business May 11, 2018.

² For purposes of this notice, the word "repair" means "repair and/or replacement."

- b. At the time you identify your Permanent Construction Engineer to this Department, you must also consent in writing to this Department contacting the Permanent Construction Engineer as frequently and at such times as this Department deems necessary. You shall further consent in writing to the Permanent Construction Engineer's release to this Department, as frequently and at such times as this Department deems necessary, of information in any way related to the Property.
- c. Before beginning any construction, the Permanent Construction Engineer shall prepare, seal, and stamp plans for repairs in accordance with the approved DRB and ZBA Applications. Prior to commencing any construction, you shall submit these sealed and stamped plans to this Department for approval. **You shall not commence any construction work until receiving written approval from this Department.**
- d. The Permanent Construction Engineer shall remain on the Property while any construction related activities are performed. He or she shall submit written weekly reports to this Department cataloguing all construction work performed in the week prior and representing to this Department that the Permanent Construction Engineer approves of all such work.
- e. After completion of all construction activities, the Permanent Construction Engineer shall submit to this Department a final construction control affidavit and letter certifying that all construction conforms to all applicable requirements of the Massachusetts State Building Code and the Town of Wellesley Zoning Bylaw.

Fines for Failure to Comply with this Notice

Failure to comply with this letter will result in fines of up to \$1,000 (One Thousand Dollars) per day, for each section of building code violated. Each day shall constitute a separate offense.

Failure to comply with this letter will result in fines of up to \$300 (Three Hundred Dollars) per day, for each section of zoning bylaws violated. Each day shall constitute a separate offense.

In addition to the fines enumerated above, the Town of Wellesley, including all of its instrumentalities, may seek further relief against You as authorized by law, should you fail to comply with the requirements and conditions of this notice.

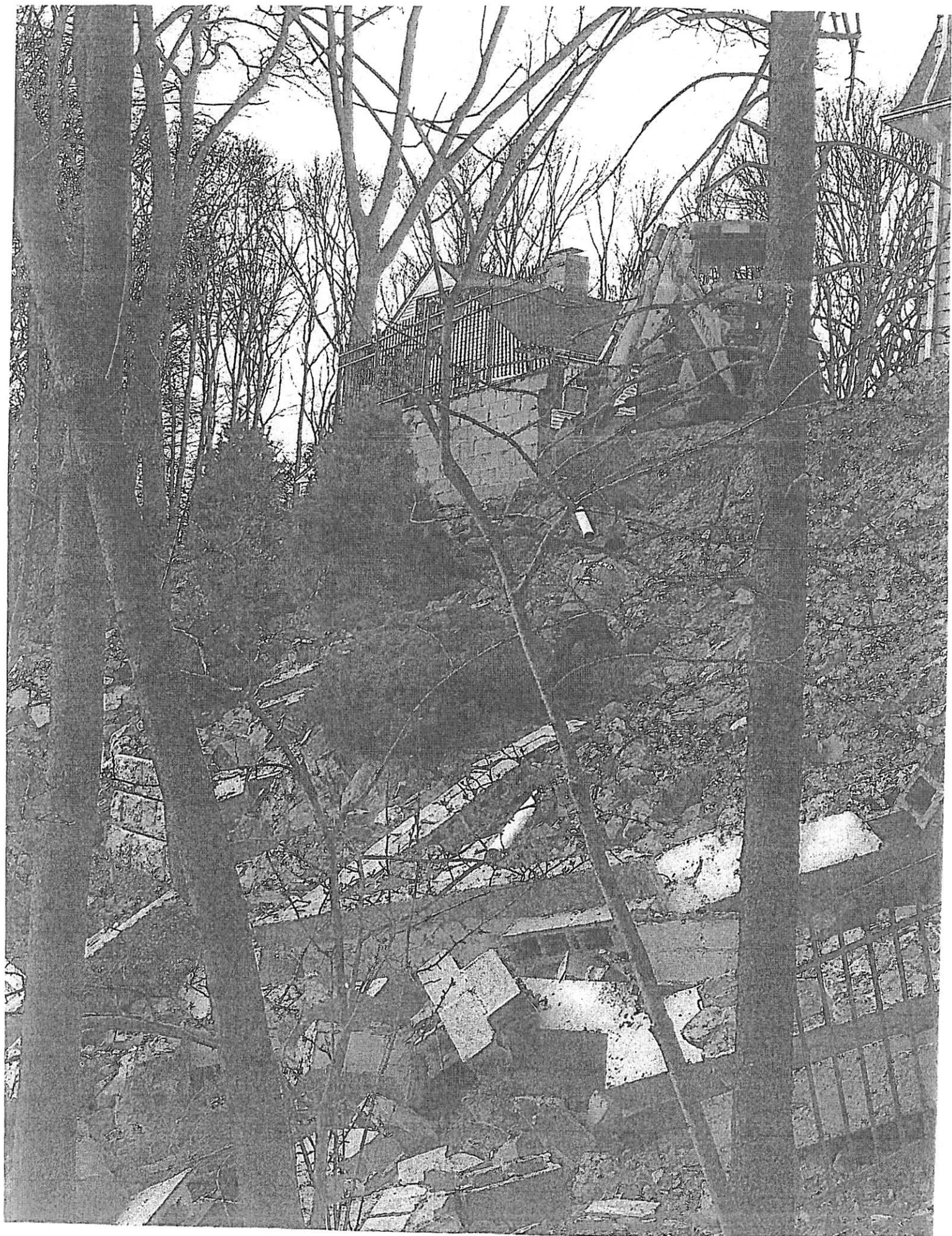
Respectfully,

Michael Grant
Inspector of Buildings

Cc: Board of Selectmen
Executive Director
Town Counsel
Town Engineer
State District Building Inspector



241017









February 4, 2026

Dear Members of the Wellesley Select Board,

We are writing to share concerns regarding the proposed development at 592 Washington Street and to respectfully request that this feedback be incorporated into the letter the Select Board is issuing to the Planning Board, as well as into future reviews of this project.

At the outset, we want to be clear that we are not opposed to new housing in Wellesley or within this neighborhood. Our request is simply that the Town boards with authority fully represent the interests of existing residents and the surrounding neighborhood so that this project works safely and responsibly for both new and current members of the community.

Traffic Impact Analysis and Public Safety

We believe that the November 2025 Traffic Impact Analysis (TIA) prepared by Vanasse, as amended by the January 14, 2026 Tighe & Bond letter, the January 20, 2026 Vanasse letter, and the January 23, 2026 Tighe & Bond letter, does NOT provide sufficient evidence that traffic, pedestrian, and bicycle conditions associated with the 592 Washington Street project meet the Town's PSI standards.

While the November 2025 TIA thoroughly addresses resident-generated vehicle trips, it fails to meaningfully analyze the significant and unavoidable impacts from service, delivery, and emergency vehicles. The study includes no projections for these trips, despite the scale and density of the proposed development. Based on lived experience at 594 Washington Street—with only nine residential units individually occupied — ten service or delivery vehicle trips per day is a conservative estimate. These include USPS, UPS, FedEx, Amazon, DoorDash, grocery delivery, trash removal, Comcast, Verizon, electricians, plumbers, cleaners, movers, property managers, and Town service vehicles, many of which are large trucks with varying safety features. None of these vehicles can be accommodated within the proposed underground garage or via non-existent onsite above-ground parking.

The TIA also fails to account for increased traffic generated by nearby commercial uses, including the expansion of Fiorella's indoor dining footprint, which will further increase traffic and parking demand in an already constrained area.

Critically, the TIA provides no discussion of the traffic and pedestrian safety risks created by frequent service and emergency vehicle activity accessing the site. Aside from the driveway and sidewalk leading to the underground garage, there is no space within the 592 development for these vehicles. Instead, the developer relies on proposed improvements associated with the Wellesley Square Improvement Project and neighbor egress. This reliance is deeply concerning

given that the five-way intersection at Washington/Grove/Central already has a crash rate higher than the state average, and the Washington/Weston intersection to the south also has a high crash impact.

Driveway, Parking, Guest Spaces, and Turnaround

At the January 26, 2026 Planning Board meeting, the developer agreed to increase parking to 41 spaces, including four guest spaces, as a condition of granting the special permit for increased density. These spaces were shown on a plan presented at the January 27, 2026 Select Board meeting and were initially justified as addressing the need for visitor parking resulting from increased density.

During the Select Board meeting, however, these same guest spaces became the proposed solution for deliveries, rideshare, drop-off, service needs, and vehicle turnaround. This dual use is not realistic or safe, particularly in such a highly pedestrianized area. It is questionable that the dimensions of the garage can even accommodate the size and movement of these vehicles. At that same meeting, the Select Board appropriately recommended that a turnaround plan be provided. An acceptable, clearly defined, and formally approved turnaround plan must be a requirement of any approval.

The length and width of the driveway need further clarification and peer review. Vanasse reports did not identify that the width of the driveway had decreased from 24 to 20 feet. The Vanasse reports reviewed by Tighe&Bond (TB) included 24 feet which is not accurate. Page 6 of the Nov 2025 Vanasse report clearly states "project site driveway will be a minimum of 24ft in width and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle." Also to note the Fire Dept has flagged the plan as "deficient." The length of driveway has also been flagged as being insufficient for a hammerhead project such as this. It appears that peer reviewer, TB, was not aware of the decrease in the width of the driveway from 24 to 20 ft.

Misrepresentation of Fire Department Approval

During the January 27, 2026 Select Board meeting, Mr. Behrend stated that the Wellesley Fire Department had approved updated emergency access plans, including a ramp on the right side of the lawn, and cited this as the reason a tree at the corner of the property needed to be removed. After speaking directly with Deputy Chief Ian McMakin on February 2, 2026, Sheila Boyle was assured that while he has since seen the plan, he did not approve it and, in fact, will not approve it as it currently stands.

This misrepresentation is extremely troubling. Such a false assurance may have influenced the Select Board's vote and raises serious concerns about the reliability of future representations made by the developer.

Trash and Proposed Concierge Reliance

Stricter requirements must be imposed regarding delivery, service, and trash vehicles. Throughout the review process, the developer's answer to operational concerns and flawed design has repeatedly been reliance on a "concierge." Is it realistic to expect a concierge to be able to manage the multitude of responsibilities described by the developer?

The plans do not clearly identify where trash and recycling bins will be staged so as not to interfere with offsite pedestrian or vehicular traffic. The developer has acknowledged that standard trash trucks are too large for the site and has claimed experience with smaller trucks at another property. Given the density of this project and the volume of waste it will generate, this claim must be independently verified. It is also essential that trash and recycling bins not be visible to neighbors or pedestrians in order to preserve the character and aesthetics of the neighborhood, particularly given the proximity to multiple restaurants and the associated public health considerations.

Pedestrian and Bicycle Safety

This area already experiences very high pedestrian traffic, which will only increase with expanded restaurant uses. The lack of any above-ground parking or live-loading space means service and emergency vehicles will be forced to double park or back in and out of the underground garage driveway—neither of which is acceptable in such a busy location. Traffic would routinely come to a standstill, and pedestrian safety would be severely compromised.

Rather than addressing these on-site safety issues, the developer proposes traffic changes at the Washington/Grove/Central intersection, suggesting they be addressed through the Wellesley Square Improvement Project (see page 7 of the November 2025 Vanasse TIA). As noted during the January 27, 2026 Select Board meeting, at least one of these recommendations—restricting left turns—is not feasible. Mr. Behrend's level of scrutiny applied to off-site intersections should instead be applied to the unsafe conditions created directly by the 592 Washington Street design. It has been suggested that two parking spaces on Washington Street be removed for a loading zone which will negatively impact commercial businesses in the neighborhood.

Outstanding Technical Concerns Identified by Tighe & Bond

While Tighe & Bond generally agrees that the project will not significantly impact traffic capacity, their conclusions clearly state that these outstanding safety and operational concerns must be resolved, some of which are outlined below from the January 23, 2026 Tighe & Bond letter:

- Site distance at the driveway is not adequately addressed, and a plan is required that graphically shows intersection sight distance, stopping sight distance, and driveway restrictions.
- The project does not provide a dedicated pick-up/drop-off area, increasing the likelihood of double parking and sightline obstruction.

- Multiple garage design issues remain unresolved, including inaccessible or poorly configured parking spaces, unnecessary wheel stops, inadequate turning templates, unclear trash access, and accessibility concerns related to the elevator and internal circulation.

Conclusion

Given the known reputation of the developer, heightened scrutiny, enforceable conditions, and clear oversight mechanisms are essential to minimize traffic impact, ensure pedestrian safety and emergency vehicle access. As currently proposed, the project presents serious unresolved risks.

We respectfully urge the Select Board to reflect these concerns in its correspondence to the Planning Board and to advocate for clear, enforceable requirements before this project proceeds further.

Thank you for your time, consideration, and continued service to the Town of Wellesley.

Sincerely,

Sheila Boyle, Anne Jackowitz, Maura Howley
Residents [REDACTED]