

OWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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

RICHARD L. SEEGEL, CHAIRMAN  
J. RANDOLPH BECKER, VICE CHAIRMAN  
DAVID G. SHEFFIELD

LENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208

ROBERT W. LEVY  
WALTER B. ADAMS  
DEREK B. REDGATE

ZBA 2017-68  
Petition of IC 16 Mica RE LLC  
16 Mica Lane

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 7, 2017, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of IC 16 Mica RE LLC requesting Site Plan Approval and a Special Permit pursuant to the provisions of Section XIII, Section XVIA, Section XVII, Section XXI and Section XXV of the Zoning Bylaw for a Major Construction Project that consists of demolition of a one-story structure and construction of a third-story addition over an existing two-story structure. The proposed project will provide 25 dimensionally compliant parking spaces with required landscaping, screening and setbacks. The pre-existing nonconforming FAR for the site is 1.001 and will remain unchanged. The building will continue its use as light industrial/office space. The property is located at 16 Mica Lane, in an Industrial District. The proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 6, 2017, 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 were David Himmelberger, Esq., Randy Goldberg, Principal, IC 16 Mica RE LLC, Mike Waters, Architect, LDa, Dan Mulloy, Project Engineer, and Bill Madden, Landscape Architect.

Mr. Himmelberger said that the request is for Site Plan Approval and a special permit. He said that presently 16 Mica Lane is a two story masonry building that was built in 1955 and consists of a 13,446 square foot two-story building at the rear and a 4,722 square foot one-story building at the front. He said that the property is located in an Industrial District. He said that the proposed project involves razing the one-story building and reconstructing it as a third story over the existing two-story structure with the same footprint. He said that when the project is completed the square footage of the building will be the same. He said that the building will continue to be used as office space. He said that the roof height will increase from 28 to 43 feet, which is less than the permissible height of 45 feet. He said that by relocating the front portion to the new third floor, there will be space on the site for 25 dimensionally compliant parking spaces and 1,213 square feet of open space. He said that the existing building is pre-existing nonconforming due to its Floor Area Ratio (FAR) of 1.001 where .30 is allowed. He said that will remain unchanged. He said that the property has a front setback of 26.1 feet where 30 feet is required. He said that the new front setback will be 128 feet. He said that because the property was included in the Industrial District in 1982 and will have no additional space or change of use, it is exempt from the requirements of the off-street parking bylaw.

Mr. Himmelberger said that there will be significant improvements. He said that currently there are no striped parking spaces. He said that the property is currently 100 percent impervious. He said that the proposed landscaping will improve drainage and stormwater runoff. He said that, based on the foregoing, they believe that the proposed project shall not be substantially more detrimental to the neighborhood than the existing nonconformities.

Mr. Himmelberger said that the project is coming before the Board for Site Plan Approval because it is a major construction project, as deemed by the Building Inspector. He said that the project will disturb more than 5,000 square feet of land.

Mr. Himmelberger said that the property is located in close proximity to the Charles River. He said that the project was approved by the Wetlands Protection Committee (WPC), who issued an Order of Conditions. He said that the project was approved by the Design Review Board (DRB). He said that the Applicant worked extensively with the Engineering Department at the Department of Public Works (DPW). He said that George Saraceno sent an email to the Zoning Board stating that Engineering is satisfied that its concerns have been addressed. He said that the Planning Board recommended approval and made note of the parking improvements. The Chairman asked that a copy of the Order of Conditions be submitted to the Zoning Board.

Mr. Goldberg said that moving the front portion of the building will improve circulation on the site. He said that Mica Lane is narrow and moving the building will open up the area.

Mr. Goldberg said that the property was previously occupied by the Shelley Plastics Company for several years. He said that the intention is to operate permitted uses with multiple tenants, likely one tenant per floor with a two tenant per floor maximum.

Mr. Goldberg said that the building has been untouched since the 1950's. He said that there has been a series of smaller additions but it is basically a masonry building with block walls and limited windows.

Mr. Goldberg said that the new parking area will have screening at the end and drainage swales in the islands. He said that there will be parking spaces and pedestrian walkways throughout. He said that there will be a dedicated one-way entry that wraps around the island. He said that the series of walkways will be treated with pavers up against the building and along the side of the building. He said that there is an unimproved service area between the two buildings that they will resurface.

Mr. Goldberg said that the intention is to create verticality for the site. He said that the Landscape Architect came up with the idea to install vertical totems that will be used to mount the light poles to illuminate the parking lot. He said that the thought was that it would give the property some personality and depth. He said that they will use different materials so that it is not a sea of asphalt.

Mr. Goldberg said that the concept was to take advantage of an existing industrial building, keep it somewhat consistent with the area, open it up and make it marketable for area tenants. He said that they develop a lot of office space in the area and found that a lot of the tenants like to see wide open space, tall ceilings and windows. He said that a main entry door will lead into a common corridor. He said that there will be two additional entry doors in case the space is split in the future. He said that the rest are

storefront windows that span 12 feet in height. He said that the second floor is all glass and the third floor will have a 10 foot deep outdoor deck with views of the Charles River. Mr. Waters said that the openings on the second floor that look similar to the doors on the first floor are fixed doors and are more of a decorative element. He said that there are no hinges.

Mr. Goldberg said that the existing windows on the north elevation of the building will remain and the third floor will have 10 foot tall windows in a repeated pattern. He said that there will be windows for tenants on the west elevation with glass on the third floor. He said that the blank space on the third floor will house the second means of egress out of the back of the building. He said that the south elevation will face 14 Mica Lane. He said that all of the setbacks on the third floor will be compliant. He said that they will be installing a metal grid system between the existing windows and a fiber cement panel between the windows on the top floor.

Mr. Goldberg said that they will be adding HVAC equipment on the roof. He said that you will not see the equipment from the ground. The Chairman asked about the view from Waterstone; Mr. Goldberg said that the Waterstone site is up gradient from this site.

Mr. Mulloy said that the aisles in the parking lot are 15 feet wide with an 18 foot wide entrance off Mica Lane. He said that it will comply with the Zoning Bylaw.

A Board member questioned the clockwise circulation on the lot. He said that a passenger will be on the opposite side of the car from the entrance door if there is pick up and drop off. Mr. Goldberg said that when you approach the site, it is typical to go in the first drive, which is one way.

The Chairman said that he had concerns about the traffic study. He said that the numbers were inappropriate for Washington Street and Mica Lane. He said that the intersection history listed crashes for a million vehicles, which is not typical. He said that it appears that the traffic engineer looked at data from the Massachusetts Department of Transportation rather than data from Wellesley Police Department. He said that he was concerned because they will be adding a number of people and cars to this end of Mica Lane. He said that there is a 5 to 6 pm rush to and from Mica Lane of people who want to access the restaurants. Mr. Goldberg agreed to pay for a peer review by the Town's Traffic Engineer. A Board member said that because this is a unique site, it does not need to be a cookie cutter traffic report. He said that it needs someone who understands the site.

Mr. Himmelberger said that the more telling number is the number of crashes at two. He said that there will be no increased square footage, so there is only modest trip generation anticipated above the historical use. He said that it should be approximately 12 trips or less during peak hours.

The Chairman said that he also disagreed with the traffic engineer's sight distance analysis. He said that it is a very difficult location where you frequently cannot see pedestrians. Mr. Goldberg said that in its prior condition since the 1950's, the site has been used as office and industrial space. He said that the space has never been striped for vehicles. He said that on-site parking was limited to four to six vehicles in addition to many box trucks that access the site on a regular basis. He said that they will not increase the square footage and the site will now handle 25 spaces on site, which is a drastic improvement. The Chairman agreed that it will be a drastic improvement. He said that because there are so many box trucks going in

and out of there, he is not trusting the crash data and sight distance data in the traffic report. He said that he has lived in Wellesley for 52 years and it has been a horrible situation getting in and out of Mica Lane.

A Board member questioned whether there was enough width for in and out traffic at the same time on Mica Lane. He said that there is public parking behind the building that circulates out through CVS's parking lot. He asked if there is opportunity to route people from Mica Lane similarly. Mr. Goldberg said that it is privately owned land.

Mr. Goldberg said that they will be opening up the sight line in front of the building. The Chairman said that is not the sight line that concerns the Board. He said that the Board is concerned about the sight lines at Washington Street.

A Board member asked about ownership of Mica Lane. He said that the property line appears to go to the center of Mica Lane on the plan. Mr. Himmelberger said that the way was preserved in the late 1800's. He said that the original plan of land for the area that came to be known as Mica Lane is a 20 foot wide swath entitled, "passage reserved for use of abutters." He said the property abuts the 20 foot swath and does not go into it. A Board member said that Plan L100 shows a dashed line coming down the middle of Mica Lane. Mr. Mulloy said that the dashed line refers to a utility easement. He said that the plan does not show the other side of Mica Lane.

The Chairman asked about drainage in the parking lot. Mr. Mulloy said that there is a rain garden in the center island with a stone trench. He said that the lot will slope toward the rain garden. A Board member asked about curbing. He said that the rain garden detail on Plan C106 shows a raised curb. Mr. Goldberg said that Plan L100, Detail H corresponds to the flush curbing around the rain garden. He said that at the edge of the property is Detail F, which is vertical curbing to create separation between the property and the roadway and the entry to the parking area. Mr. Mulloy said that there will be curb stops.

A Board member asked about snow plowing. Mr. Goldberg said that they will plow up to the wheel stops and use a snow blower on the angled spaces. He said that they own several properties in Newton and handle the operations themselves. He said that they have a private site in Newton that they haul the snow to. The Chairman confirmed that there will be no dumping in the river at the back.

The Chairman asked if there will be any signage on the building. Mr. Goldberg said that they do not intend to have it.

There was no one present at the public hearing who wished to speak to the petition.

The Board voted unanimously to continue the hearing to October 5, 2017.

### **October 5, 2017**

Presenting the case at the hearing were David Himmelberger, Esq., Randy Goldberg, Dan Mulloy, Michael Waters and Dan Dumais, Traffic Consultant.

Mr. Himmelberger said that it is the Applicant's contention that, pursuant to the Development Prospectus Rules and Regulations of Site Plan Approval, parking and traffic analyses are only triggered by

construction of 10,000 square feet or in excess of 50 car trips per hour in any given hour. He said that there will be no increase in square footage and the Traffic Consultant has opined and BETA Engineering has confirmed that there will be no more than 12 trips per hour during peak hours. He said that, according to BETA, MDM has fully satisfied every concern they had with regard to traffic. The Chairman said that the Applicant has agreed to put a double yellow line along Mica Lane and will install a stop bar. Mr. Himmelberger said that BETA provided a second letter that spoke to a couple of parking issues late last week. He said that this is a building that is not undergoing any change of use, has been in existence prior to 1985 and is not subject to additional off-street parking requirements pursuant to the ZBL. The Chairman said that BETA feels that one of the spaces should be removed for safety purposes. Mr. Himmelberger read Section XXI, Part D., Subpart 3. g of the ZBL. He said that the Applicant can address parking at space #19 by placing a sign that states that parking spaces 15 to 25 are restricted to employees only. He said that would satisfy the exception in the ZBL.

The Chairman said that BETA suggested signage at the entrance and exit. Mr. Goldberg said that was already included. He said that there was a design feature that BETA may have missed on the plan. He said that all of the curbing shown on the plans is purposely flush to allow extra room for vehicles. He said that the flush curbs will be concrete. He said that the curbs at the entry will be raised granite. He said that there will be concrete curb stops at each space.

A Board member said that people angle park against the building at 27 Mica Lane. He asked if the geometry of the 16 Mica Lane project will still allow that to happen. Mr. Goldberg said that it will not work. He said that they have been parking on the 16 Mica Lane property without authorization. He said that the plan is to work together to landscape that area. He said that the lot will be configured specifically for 16 Mica Lane. The Board member asked if a letter from 27 Mica Lane could be submitted stating that they understand that the parking will be eliminated. Mr. Goldberg that they vetted the issue with George Saraceno initially. He said that vehicles for 27 Mica Lane are not supposed to be parking on 16 Mica Lane property. He said that they do not have right to access. He said that there has never been an agreement between the two property owners.

A Board member said that the parking is intended for 16 Mica Lane. He asked if there will be a sign for employees only. Mr. Goldberg said that there is not. He said that if it becomes an issue, they could put signage there that designates parking for tenants and guests. The Board member said that employees will get used to parking in a tight lot.

A Board member said that there are at least four other access roads to Washington Street from the southern side and none of them have no left turn restrictions.

The Chairman said that the Board would insert a condition for striping a double yellow line and a stop line.

The Board identified the nonconformities and made findings in accordance with Section XVII of the Zoning Bylaw

There was no one present at the public hearing who wished to speak to the petition.

**Submittals from the Applicant**

- Application for Site Plan Approval, dated 6/12/17
- Letter to Zoning Board of Appeals, dated 6/12/17, from David J. Himmelberger, Esq., re: Application for Site Plan Approval and Special Permit for 16 Mica Lane
- Project Narrative, dated 5/17/17, prepared by Intrum
- Site Plan Approval Review Plans and Submittal Checklist
- Development Prospectus, dated 5/17/17
- Letter to Semoon Oh, PE, dated 8/16/17, from Thomas Duross, CIPE, CPD, re: Hydrant Flow Testing
- Construction Area Fencing Summary, dated 4/24/17
- Letter to David J. Hickey, Town Engineer, dated 5/17/17, from David J. Himmelberger, Esq., re: 16 Mica Lane; Request for Site Plan Approval
- Drainage Analysis, dated 5/11/17, prepared by Site Design Engineering, LLC
- Stormwater Best Management Practices Inspection and Maintenance Plan, prepared by Site Design Engineering, LLC
- Memorandum to Town of Wellesley, dated 5/17/17, from Michael Waters, Principal, LDA Architecture & Interiors, re: Water Conservation Measures
- Memorandum to Randy A. Goldberg, dated 6/8/17, revised 9/26/17, from Robert Michaud, PE and Daniel Dumais, PE, MDM Transportation Consultants, Inc., re: Proposed Office Building Renovation
- Letter to Zoning Board of Appeals, dated 9/26/17, from MDM Transportation Consultants, Inc., re: Updated Traffic and Parking Memorandum
- Letter to Zoning Board of Appeals, dated 10/4/17, from MDM Transportation Consultants, Inc., re: Response, BETA Parking Comments
- Letter to Zoning Board of Appeals, dated 10/5/17, from Daniel Mulloy, PE, Site Design Engineering, LLC, re: Proposed Building Renovation
- Memorandum to Victor Panak & Lenore Mahoney, dated 8/22/17, from Thomas Jonak, LDA Architecture & Interiors, re: Design Review Board – Coordination Roadmap

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
	Cover Sheet	5/17/17	LDA Architecture & Interiors	5/17/17
C101	Existing Site Features Plan	5/17/17	Scott D. Cameron, PLS	5/17/17
C102	Site Plan Development	5/17/17	Daniel C. Mulloy, PE	5/17/17
C103	Plot Plan	5/17/17	Scott D. Cameron, PLS	5/17/17
C104	Grading & Drainage Plan	5/17/17	Daniel C. Mulloy, PE	5/17/17

ZBA 2017-68

Petition of IC 16 Mica RE LLC

16 Mica Lane

---

C105	Utilities Site Plan	5/17/17	Daniel C. Mulloy, PE	
L100	Landscape-Parking Plan	5/17/17	Gregory Lombardi, RLA	
D100	Existing Floor Plans	5/17/17	Michael D. Waters, RA	
D200	Existing Elevations	5/27/17	Michael D. Waters, RA	
A100	Level 1	5/17/17	Michael D. Waters, RA	
A101	Level 2	5/17/17	Michael D. Waters, RA	
A102	Level 3	5/17/17	Michael D. Waters, RA	
A103	Roof Plan	5/17/17	Michael D. Waters, RA	
A200	East Elevation	5/17/17	Michael D. Waters, RA	
A201	North Elevation	5/17/17	Michael D. Waters, RA	
A202	West Elevation	5/17/17	Michael D. Waters, RA	
A203	South Elevation	5/17/17	Michael D. Waters, RA	
A300	Building Sections	5/17/17	Michael D. Waters, RA	
A301	Building Sections	5/17/17	Michael D. Waters, RA	
A302	Building Section	5/17/17	Michael D. Waters, RA	
C106	Utilities Detail Plan	5/17/17	Daniel C. Mulloy PE	
C101	Existing Plot Plan	6/12/17	Scott D. Cameron, PLS	
C102	Proposed Plot Plan	6/12/17	Scott D. Cameron, PLS and Daniel C. Mulloy, PE	
E-PLN	Existing Floor Plans, Construction Plans	6/12/17	Michael D. Water, RA	
E-ELV	Existing Exterior Elevations, Construction Plans	6/12/17	Michael D. Waters, RA	
P-PLN	Proposed Floor Plans, Constructions Plans	6/12/17	Michael D. Waters, RA	

P-EXT	Proposed Exterior E elevations, Construction Plans	6/12/17	Michael D Waters, RA	
PHOTO	Existing Conditions Photos	6/12/17	Michael D. Waters, RA	16 Mica Lane
1 of 6	Area Context Plan	8/8/17	Michael D. Waters, RA	16 Mica Lane
2 of 6	Existing Conditions Photos	8/8/17	Michael D. Waters, RA	16 Mica Lane
3 of 6	Existing and Proposed Perspectives	8/8/17	Michael D. Waters, RA	16 Mica Lane
4 of 6	Proposed East, West E elevations, Construction Plans	8/8/17	Michael D. Waters, RA	16 Mica Lane
5 of 6	Proposed North, South E elevations	8/8/17	Michael D. Waters, RA	
6 of 6	Proposed Roof Plan & Site Line Diagram	8/8/17	Michael D. Waters, RA	
L000	Illustrative Landscape Plan and Perspective	5/17/17	Gregory D. Lombard, PLA	8/8/17
L100	Landscape, Grading, Outdoor Lighting Plan & Signage	5/17/17	Gregory D. Lombard, PLA	8/8/17, 8/17/17
L101	Site Details	5/17/17	Gregory D. Lombard, PLA	8/8/17, 8/17/17

On July 3, 2017, the Wetlands Protection Committee issued an Order of Conditions, MassDEP File #: 324-0852.

On July 21, 2017, David Allen, Supervisory Electrical Engineer, Wellesley Municipal Light Plant, reviewed the project and submitted comments.

On July 23, 2017, Deputy Chief Charles DiGiandomenico, Fire Department, reviewed and approved the project.

On July 25, 2017 and September 6, 2017, George Saraceno, DPW Engineering Division, submitted comments regarding the proposed project.

On August 16, 2017, the Design Review Board reviewed the petition and voted unanimously to approve the project.

On September 6, 2017, the Planning Board reviewed the petition and recommended approval.

On September 28, 2017 and October 5, 2017, BETA Group, Inc., reviewed the Applicant's responses to comments and submitted a response.

## DECISION

The Board's approval of the Site Plan for the Project is premised on the Applicant's and Project's compliance with the following conditions (the "Conditions"). All requirements imposed by the Conditions or this Site Plan Approval shall be applicable to the entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Applicant, the responsible entity, or no entity as having responsibility for a particular condition. By accepting this Site Plan Approval, the Applicant agrees to the terms, covenants, conditions, and agreements contained herein.

It is the opinion of this Authority that demolition of a one-story structure and construction of a third-story addition over an existing two-story structure, on an existing nonconforming structure with an FAR of 1.001 shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as it shall neither increase an existing nonconformity nor create a new nonconformity.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of a one-story structure and construction of a third-story addition over an existing two-story structure, on an existing nonconforming structure with an FAR of 1.001, subject to the following conditions.

## CONDITIONS

1. By accepting this Site Plan Approval the Applicant agrees to the terms, covenants and conditions and agreements contained herein. This Site Plan Approval shall expire one year from the date hereof unless construction has begun by that date. The Applicant may apply to the Board for reasonable extensions to this Site Plan Approval for good and sufficient reason.
2. Except for the relief granted by the Board as listed in these Conditions, the Applicant shall comply with all provisions of the Zoning Bylaw and general bylaws generally applicable to a project approved on November 3, 2017. No fees are waived in connection with the Project. Fees shall be those then in effect at the time of application for the permit or approval subject to the fee.
3. Contract documents, including working drawings and specifications for the Project shall undergo the usual and customary review and approvals of the Building Inspector, the Town Engineer, or any other applicable local inspector or board.
4. The Applicant will establish a website or telephone number, or use an existing website during the duration of site construction activities, to provide Town officials and residents access to the most current scheduled activities and to notification of upcoming Project events that reasonably have the potential to impact the surrounding neighborhood.
5. The Applicant shall coordinate all utility work with the Town Engineer.

### **Design Conditions**

6. Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the requirements of the Massachusetts State Building Code (780 CMR) and the Massachusetts Architectural Access Board (521 CMR). The Project shall be designed and constructed on the Site in accordance with the Plans, except as provided in this Site Plan Approval, including these Conditions. Any requirement of consistency with the Plans means as those Plans are modified by the Conditions.
7. There shall be a double yellow line striped down the middle of Mica Lane and a stop bar at the Washington Street intersection, per Town Standards.
8. There shall be a stop bar at the Washington Street intersection, per Town Standards.

### **Construction Conditions**

9. During the period of construction, all deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 a.m. and no later than 6:00 p.m. Exterior construction work may be performed on the Site Monday through Friday commencing not earlier than 7:00 a.m. and completing not later than 6:00 p.m. and on Saturdays commencing not earlier than 9: a.m. and completing not later than 5:00 p.m. There shall be no work on Sundays.
10. During the period of construction, on-site parking for construction workers and for construction equipment is specifically permitted, and no vehicles of construction workers and no construction equipment shall be parked on any public way of the Town. Trucks and construction vehicles on-site shall shut off engines when not in use, or when idling time exceeds five minutes.
11. All construction and delivery vehicles entering the site shall stop at an established construction exit for a wheel wash.
12. Insofar as practicable, refueling of construction equipment on the site shall be prohibited.
13. The Applicant shall provide either a flagman or a police detail for all vehicles delivering materials or equipment that exceed 20 feet in length, coming to and from the site.

## Use Conditions

13. Operation and maintenance of the stormwater run-off and drainage system shall comply with the requirements of the Town's "Municipal Stormwater Drainage System Rules and Regulations" in effect as of September 18, 2014.

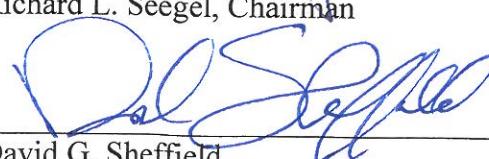
1999 NOV -3 P 1:02

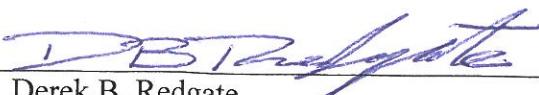
ZBA 2017-68  
Petition of IC 16 Mica Lane RE LLC  
16 Mica Lane

16 Mica Lane  
Petition of IC 16 Mica Lane RE LLC  
16 Mica Lane

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.

  
Richard L. Seegel, Chairman

  
David G. Sheffield

  
Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm