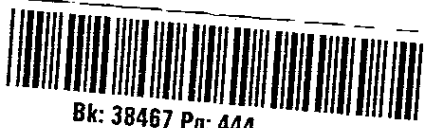


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Recorded: 03/24/2003

Document: 00000465 Page: 1 of 9



TOWN OF WESTON  
MASSACHUSETTS

BOARD OF APPEALS

There having been presented to the Board a petition for a variance dated March 13, 2002, by **Town of Weston/Elderly Housing Committee, 44 School Street, Weston, MA 02493** the Board decided to hold a hearing on said petition on **Monday, April 8, 2002, at 8:10 P.M.** and caused the following notice to be published in *The Town Crier*, a newspaper of general circulation in Weston on March 21 and 28, 2002.

TOWN OF WESTON  
MASSACHUSETTS

BOARD OF APPEALS  
**Hearing Notice**

Notice is hereby given that the Board of Appeals of the Town of Weston will hold a public hearing on **Monday, April 8, 2002, at 8:10 P.M.** in the Board of Appeals trailer at the Weston Town Hall, on a application by the Town of Weston/Elderly Housing Committee, **44 School Street, Weston, MA (Map #28, Lot #105)** under the Zoning By-Law of the Town of Weston, as amended, as to the above premises requesting a variance with respect to the expansion of the Brook School Elderly Housing where the vertical distance from the Grade Plane to the highest point of the building is greater than the height required under said Zoning By-Law, as amended. The applicant is also seeking relief from the off-street parking regulations under the provisions of Section VIII.A.1.i. of said Zoning By-Law, as amended.

The application is on file with said Board of Appeals and is available for public inspection in the office of the Board of Appeals on Monday through Friday, from 9 A.M. to 4:30 P.M.

Board of Appeals of the Town of Weston  
By Robert P. Cook, Chairman

MSD 03/24/03 09:21:17 465 84.00

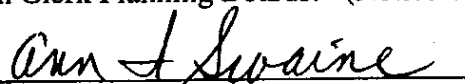
The Board also mailed the foregoing notice postage prepaid on March 21, 2002 to the following named person deemed by the Board to be all of the persons affected by said petition as they appear on the most recent tax list:

**Petitioner: Town of Weston, Elderly Housing Committee**  
(List of Abutters)

Vandeviene, Herman & Beatriz Tr, Vandeviene Family Realty Tr., 348 Boston Post Rd, Weston  
Town Of Weston, Josiah Smith Tavern, PO Box 378, Weston  
Naphtal, Warren, Naphtal, Mary S., 27 School St, Weston  
Town Of Weston, School, Po Box 378, Weston  
Town Of Weston, Recreation, Po Box 378, Weston  
Forte, John H., Forte, Sally M., 47 School St, Weston  
Gilbert, Carol A., 37 School St, Weston  
Smith, Joanne M., 28 School St, Weston  
Kelly, Jonathan M., Kelly, Margaret C.H., 338 Boston Post Rd, Weston  
Tasker, Monisha S., Tasker, Shiv C., 336 Boston Post Rd, Weston  
Gwozdz, Ronald E., Gwozdz, Carol E., 334 Boston Post Rd, Weston  
St. Peter's Parish, 320 Boston Post Rd, Weston  
Town Of Weston, Park, PO Box 378, Weston  
Milligan, Michael D., Milligan, Alicia M., 1 Winsor Way, Weston  
Shepard, Ray A., Shepard, Kathleen, 18 Wellesley St, Weston  
Pakenham-Walsh, Nancy C., Ferrante, Audrey L., 49 Wellesley St, Weston,  
Huckstepp, Christopher J., Huckstepp, Wendy, 3 Maple Rd, Weston  
Peters, Cameron G., Peters, Hannah T., 39 Wellesley St, Weston  
Strong, Simon Leighton, Strong, Sarah Ann, 37 Wellesley St, Weston  
Lehman, David M., Lehman, Kathia A., 35 Wellesley St, Weston  
Burchard, William J., Burchard, Susan Cronin, 27 Wellesley St, Weston  
Nichols, Elizabeth D., 23 Wellesley St, Weston  
Leroy, Gary E., 17 Wellesley St, Weston  
Town Of Weston, Municipal Purposes, Po Box 378, Weston  
Brooks, Stephen H., Brooks, Virginia W., 13 Maple Rd, Weston  
Fennell, Patricia A., 9 Maple Rd, Weston  
Dickson, Violet E., 5 Maple Rd, Weston  
Strout, Alan M., Strout, Caroline S., 10 Maple Rd, Weston  
Peterson, Jennifer C., 14 Maple Rd, Weston  
Kenney, Eloise, Perry, David A., Jr. Etal., 20 Maple Rd, Weston  
Wedge, William J., Wedge, Ellen C., 68 School St, Weston

**Board of Appeals Members: in Cook, Knight, Margulies**

In Hand To: Board of Assessors, Building Inspector, Conservation, Fire Chief, Board of Health,  
Planning Board Chairman, Board of Selectmen and Town Clerk Planning Boards: (Notice only)  
Lincoln, Natick, Newton, Waltham, Wayland, Wellesley



Ann I. Swaine, Clerk  
Weston Board of Appeals

.....

Pursuant to the foregoing notice the Board held a public hearing on Monday, April 8, 2002, at approximately at 8:10 P.M. in the Town Hall. The following members were present:

Robert P. Cook, Chairman  
Peter C. Knight  
Marc Margulies, Acting Secretary

Mr. Cook read a letter from Judith Markland, Chair of the Weston Historical Commission, requesting that the Zoning Board of Appeals defer its decision on the proposed addition pending further review. Mr. William Cress subsequently presented an "Elderly Housing Committee Schedule" of meetings, starting in March 2, 2002 up to the current date, indicating 29 meetings. Ms. Connie Davis stated that the Conservation Commission and the Board of Health had both seen the plans and their approvals were expected, pending final adjustment of the drawings. She acknowledged the need for a demolition delay and therefore Historical Commission review.

Pam Fox, representative from the Planning Board, spoke to say that she understood the request for delay to be because there had been no review by the Planning Board. There was a discussion about whether or not a Planning Board review is, in fact, required; Mr. Cress stated that they do intend to go before the Planning Board to get their input, but wanted to get the Zoning Board's decision on whether or not the plans were feasible before spending more money on design.

Mr. Knight stated that he preferred to hear the case with input, in advance, from both the Planning Board and the Historical Commission, given that a "hardship" needed to be proven.

Mr. Cook reminded the petitioners that if the Board begins to "hear" the case, and decides to delay the decision pending other input, then the petitioners would have to re-present to the same members of the Board.

Mr. Cress clarified that the decision sequence is important in order to be able to be able to present to Town Meeting in May, approval for which is required in order to get funding.

It was decided to begin to "hear" the case, and to then adjourn pending input from other Boards.

The variance request is for height (44 feet instead of 37 feet), number of stories (3 stories instead of 2-1/2 stories) and amount of parking (relief from 2 spaces per apartment to instead be 1 space per apartment). The "hardship" is that, in order to provide 24 additional units of elderly housing, the addition must be connected to the existing structure, there is a significant slope downward, there are wetlands and a river constraining its location on one side, the existing tennis courts, soccer fields, and septic system.

Mr. Shields noted that the original architectural commission was to look at the means of creating community within the buildings, better access to the elevator, and better parking/traffic flow for soccer/tennis parking. Mr. Knight mentioned his strong objection to the parking lot being visible from School Street, as did Mr. Margulies.

Mr. Cress explained the issues surrounding the septic system constraints. Mr. Knight asked if it was perhaps possible that the site is not large enough to have the addition plus the required parking plus the soccer field and tennis courts plus the associated community parking. Mr. Shield explained some of the landscaping intent, including shielding some of the proposed parking lot.

Mr. Margulies suggested that he does not have a problem with the height of the addition, the number of stories, or the number of cars (based on a ratio of one-to-one parking spots/apartment plus the adequate number of spots for tennis and soccer). He does have an issue with the visual impact of the complex, and asked that it be reconsidered with input from other Boards.

The hearing was adjourned until May 9<sup>th</sup> at 7:30 pm.

Continued on May 9, 2002:

Mr. Cook read a letter from Connie Davis, Manager of the Brooks School Apartments, attaching the letters from:

Judith Markland, Chair of the Historical Commission, stating that the proposed addition would not necessitate a demolition delay.

Edward Lashman, Chair of the Weston Housing Needs Committee, stating that the proposed expansion was unanimously approved by that committee.

Members of the Elderly Housing Committee to their "Neighbors", inviting them to information sessions.

John Stayn, Assistant Superintendent of the Weston School Committee, supporting the idea of using school land for the septic system for the proposed addition, pending review of the plans.

Mr. Knight asked for records on the Brooks School Apartments that would help the Board to understand the process by which the existing apartments were originally approved for the number of housing units (52) in Residence District B. Ms. Davis stated that it was developed in 1978, on Town land, through enabling legislation and Town Meeting approval. The lack of information about a previous variance appeared confusing to the Board, the only conclusion for which was that no variance had previously been granted.

Mr. Knight asked for an explanation of the "hardship" on which the variance would be granted. Mr. Field stated that the "hardship" was the topography of the nearby wetlands and brook, and the downward slope of the land.

Steve Charlip started the May 9 presentation, stating that the application was for number of stories, height, and number of parking spots for the 23 additional units of elderly housing. The proposal has been revised since the last presentation, with a revised parking/vehicular circulation concept. Mr. Shields presented the new scheme, showing that the parking area adjacent to Maple Road has

been eliminated, replaced with a cul-de-sac. All of the 38 proposed recreational-use parking space have been eliminated. Resident parking is thus comprised of 75 units, one allotted for each of the residents. Currently there are a total of 62 spaces for the building plus 15 for recreation. The proposed plan shows 18 spots adjacent to School Street behind Building "A" where there are currently no spots.

Ms. Davis summarized the meeting previously held with the School Committee, who stated that there was an ongoing study of the parking throughout the Alphabet Lane complex, which might have some relationship to the Brooks School fields parking area. Mr. Knight confirmed that the Brooks School field was likely to be used as a school field in the future.

Mr. Knight expressed his concern about the legal status of the Zoning Board of Appeal's ruling, the hardship, as well as the clear detriment to the town of eliminating the recreational-use parking.

Mr. Field enumerated the "hardship" components related to height, which could be alleviated if there was no sloped roof, but coherence with the existing building was clearly preferable .

Mr. Margulies asked Ms. Davis how many parking spots were really needed. She responded that currently nearly all of the spaces are currently in use during the weekday. Visitor parking becomes available during the weekend. The dumpster currently occupies a parking spot.

Mr. Cook restated the question as to whether or not this municipal land is subject to zoning jurisdiction, and if so how it was dealt with in the past.

Ms. Davis reminded the Board that the property was school land, 24 years ago, when neighbors donated parts of their adjacent land for school use. In 1978, the school transferred the property to the Board of Selectmen and thereafter to the Brooks School Apartments. The land adjacent to Maple Road is still allocated as School Board land.

Mr. Field indicated that the land adjacent to Maple Road would be the leaching field for the Apartments, and would be raised 3-4 feet above current grade.

Mr. Cook stated that he didn't feel that he could rule on the case without better understanding of the legal issues, and suggested that Town Counsel review the issues.

Mr. Margulies asked that future plans also include better definition to the extent of the landscaping, and that the landscaping better buffer the parking lots from view both from the street and from the fields.

Given the lack of clarity on the legal issues, it was decided to reconvene after further research and following Town Meeting.

Continued on June 10<sup>th</sup>, 2002:

Mr. Cook stated that he remained open-minded but was concerned about the density of the site, and all the issues (parking, lighting, traffic, etc.) associated with that density. He reiterated that a "hardship" is required for a variance, and that there must be no "substantially detrimental to the public good or a substantial derogation of the intent and purposes of the applicable zoning by-law".

Mr. Cook summarized that the letter, dated June 7<sup>th</sup>, from Kopelman and Page, Town Counsel, concludes that the Board of Appeals does have jurisdiction to rule on the case.

Mr. Cook then read the letter from Courtney Atkinson, dated June 10<sup>th</sup>, that stated that it was his opinion that the Zoning Board of Appeals should rule on the case.

It was agreed that the Board would hear the case on the issues of height and parking.

Mr. Knight asked if the neighbors had seen the current plan, and Connie Davis stated that she had made determined efforts to reach out to them.

Mr Shields presented the process by which the project was designed, outlining the list of Town Committees and departments he had met with, trying to reconcile the recreational use with apartment use. He indicated that the lighting would have cut-off shields on posts that would not offend neighbors or passers-by. He talked about landscaping to shield the view of the parking lot from School Street. 16 spaces would become "visitor" or unassigned spaces, up from the current number of 10. Now there are 68, of which 52 are for Brooks residents and 12 are for visitors.

The proposed plan is for 16 for recreational use out of the 75; the remaining 59 would NOT be reserved except for handicapped use (about 15).

Mr. Gillespie spoke, reminding the Board that the recreational parking has historically been on School and Maple Streets.

There was considerable discussion about the actual number of parking spots needed for Brooks Apartment residents.

Jean Masland said that based on her experience, an increase in parking need was unlikely.

Connie Davis mentioned that the Council on Aging has a bus, provides discount taxi coupons. Bill Cress mentioned that they were looking at the idea of adding an elevator at the front of Building C so that a turnaround behind the building would not be required. Mr. Knight asked about the priority of the tennis courts. Ms. Ecker said that the School Committee feels that the tennis courts are needed for school use.

Mr. Knight reiterated that he felt that regardless of the circulation, the plan represents too much density on the site, citing comparison of density in other zoning districts. Mr. Gillespie said that the Board of Selectmen is in favor of the project, since the alternative sites (Landsake and Merriam Street) are less desirable. He said that he believes that the community has generally expressed

acceptance of the project. He reminded the Board that Town Meeting votes, with only one person in opposition were in favor of funding the project.

Mr. Hines mentioned a traffic study that had counted a very small number (20 or 30) of vehicle trips per day.

Mr. Cress mentioned that 75 units is a more cost-effective number of units to manage, and can be done so with current staff.

Mrs. Strehle mentioned that aggregating the elderly is better than scattering them. The units do count toward the 10% affordability requirements of the Town, and the project will be self-supporting.

It was voted that the hearing should be continued, with topics outlined this evening to be addressed on June 27<sup>th</sup> at 7:30pm.

#### **Continued on June 27<sup>th</sup>, 2002**

Mr. Knight asked how many parking spots are "assigned"; Connie Davis explained that currently 41 are assigned, the balance of the spots for visitors. She reiterated that the same ratio should apply to the future number, ie. 80% of the actual number of units.

The current plan is for 75 residents, 59 assigned, as indicated on the chart in attachment #21 of the submission presented on June 27<sup>th</sup>, 2002. Mr. Cook reiterated that the plan currently under consideration is "Scheme 3". This scheme requires going back to the Conservation Commission for final approval, as there is slightly more encroachment into the buffer zones than previously presented.

Mr. Shields showed that Scheme 3 has moved six spaces to a new location behind the new addition, with some of the parking spots behind Building A relocated in favor of tree/planting beds to break up the expanse of the parking lot view from School Street.

Mr. Knight asked about the location and appearance of the septic system. Mr. Shields explained that whether it is a septic system or a sewage treatment system, it would be a 42" high raised grass area that will be flat, with an edge where the leaching area ends.

Mr. Knight asked if any of the meeting's attendees wanted to speak in opposition, and none of the 19 attendees did.

Ingeborg Uhlir mentioned that the Town Green also has a new septic system which does not negatively impact its appearance.

Mr. Cook stated that the Board has received numerous letters of support from friends and neighbors and the Selectmen, which are part of the file.

Mercedes Primer, resident of Merriam Village, spoke in favor of having elderly housing available in Weston so that she can live near her family. She also submitted a list of 80 people in favor of the expansion of the Brook School Apartments. Reference is made to the multiple letters on file in support of the proposed addition.

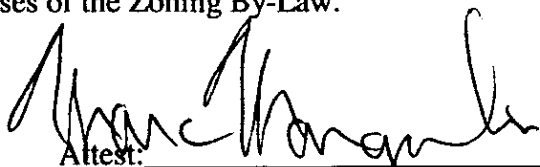
Betsy Nichols, a neighbor, spoke in favor of the project, and not putting the additional units in some other undisturbed area. She said that it is a good place for tennis and soccer, but a superb place for elderly housing.

Mr. Margulies suggested that approval of the project be given on the basis that the final landscape drawings be approved by a designee of the Board. The Board agreed to designate Mr. Margulies as the person to review the final landscape plan, and to be authorized to approve or reject the final design; inability to resolve approval of a design would require return to the Board for further review.

On the basis of that agreement, the Board voted unanimously to grant the petitioner's requested variance with respect to height and parking to permit building the proposed addition as shown on the site plan "Figure 3, dated 6-21-02 that is in the file. In reaching this decision, the Board found it reasonable that the petitioner should have the addition, and that the topography and shape of the property, the location near wetlands on the property and the placement of the addition on the lot creates a substantial hardship to conform with the required zoning requirements. The Board further determined that granting the request would not be substantially detrimental to the public good or a substantial derogation of the intent and purposes of the Zoning By-Law.

Petition Granted as Conditioned

A True Record

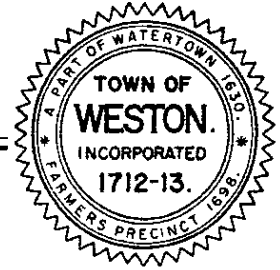
  
Attest: \_\_\_\_\_

Marc Margulies, Acting Secretary  
Weston Board of Appeals





TOWN OF  
WESTON



Post Office Box 378  
WESTON, MA 02493-0002  
(781) 893-7320  
FAX (781) 891-3697

TOWN CLERK

CERTIFICATE OF TOWN CLERK

I, M. Elizabeth Nolan, Town Clerk, Town of Weston, herewith certify that attached hereto is a true copy of the Variance/Special Permit decision of the Board of Appeals of the Town of Weston, rendered July 10, 2002 and filed with the Town Clerk concerning the following described property.

<u>Name of Owner</u>	<u>Location of Property</u>
Town of Weston/Elderly Housing Committee	44 School Street, Weston, MA

<u>Book No.</u>	<u>Page No.</u>	<u>Book No.</u>	<u>Page No.</u>
12236	10	11305	704
12594	001	7450	286
7902	69	6771	41-42
12718	239	11696	473-474
11669	658	13257	474
9286	320	6403	266
5107	End	11645	671
7456	59-60	12700	514
12658	251	13211	012

Plan Bk. 72 Plan 49  
Plan Bk. 1845 of 1948  
Plan Bk. 2097 of 1950

AND I FURTHER CERTIFY that more than twenty (20) days have elapsed since filing of the said decision with me and that no appeal of said decision been filed.

M. Elizabeth Nolan  
Town Clerk  
Town of Weston

July 31, 2002