



Town of Winchester  
BOARD OF APPEALS  
Town Hall 71 Mt. Vernon Street, Winchester, MA 01890  
Phone 781-721-7115 Fax 781-721-9935  
Janine L. Viarella, Clerk

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April 25, 2022

RE: Petition No. 3953 – 21 Laurel Hill Lane, Winchester, MA

Pursuant to Chapter 40A, Section 15 of the Massachusetts General Laws, you are hereby notified that the Board of Appeals has granted Micaela and David Tuell Site Plan Review under Section 9.5.1(7) of the Winchester Zoning By-Law so as to change the grade of more than 500 square feet by more than six (6) percent. The property is located in the RDB (Single Residence) zoning district and contains 12,933 +/- square feet.

Appeals from this decision, if any, must be made pursuant to Chapter 40A, Section 17 of the Massachusetts General Laws and must be filed within twenty (20) days after the date of the filing of this decision in the Office of the Town Clerk.

Janine L. Viarella  
Clerk, Board of Appeals

/jv

**TOWN OF WINCHESTER  
BOARD OF APPEALS**

2022 APR 25 AM 9: 08

Decision No. 3953

TOWN CLERK

21 Laurel Hill Lane, Winchester, Massachusetts 01890 OF WINCHESTER

**NAME OF PETITIONER:** Micaela and David Tuell

**APPLICATION FOR:** Site Plan Review under Section 9.5.1 (7) of the Winchester Zoning By-Law so as to change the grade of more than 500 square feet by more than six (6) percent. The property is located in the RDB (Single Residence) zoning district and contains 12,933 +/- square feet.

**DATE OF HEARING:** February 17, 2022 and continued to March 3, 2022 and again to March 31, 2022

**BOARD OF APPEALS:** David Feigenbaum, Dorothy Simboli, Robert W. Tedesco

**DECISION:** Granted

**VOTE OF BOARD:** Unanimous

**CONDITIONS:** The following conditions apply to the grant of this Site Plan Review:

1. Construction of the proposed change in slope shall be in substantial conformity with the plans and information submitted with the Petition including the following:
  - (a.) Plot Plan Showing Proposed Retaining Wall and Grading in Winchester, Mass. Prepared by Keenan Survey, dated December 28, 2021;
  - (b.) Topographic Plan of Land in Winchester, Mass. Prepared by Keenan Survey, dated October 25, 2022;
  - (c.) Plot Plan Showing Proposed Retaining Wall and Grading in Winchester, Mass. Prepared by Keenan Survey dated November 30, 2021;
  - (d.) Design Plan entitle "Stone Retaining Wall Plan/Details" Prepared by TLH Consulting, Inc. marked DWG. No. S1.0 dated December 9, 2021, March 1, 2022 and March 16, 2022;
  - (e.) Design Plan entitled "Rear Stone Retaining Wall Elevation" Prepared by TLH Consulting, Inc. marked DWG. No. S1.1 dated March 1, 2022 and March 16, 2022;

- (f.) Undated Landscaping plan
  - (g.) Landscaping plan Prepared by Ray Bouley dated March 9, 2022
  - (h.) Town of Winchester Assessors Maps 3 & 8 dated May 25, 2006; and
  - (i.) Nineteen photographs provided by the Petitioner; and
  - (j.) Statement from direct abutters as to their approval of the revised plans.
2. No vinyl fence will be installed between the proposed walls and the abutters' properties
  3. All representations made by the Petitioner at the public hearing and not memorialized are hereby incorporated into this Decision.

#### **FACTS:**

The Petitioners are seeking Site Plan Review in accordance with the Town of Winchester Zoning By-Law 9.5.7.1 to change the grade of more than 500 square feet by more than six percent. The Petitioners explained that they wished to "flatten" the back yard, which was very steep, in order to better utilize the area and match the slope and grade of surrounding properties in the neighborhood. The Petitioners desired to add two stone walls, of varying heights, to the backyard which would be identical to an existing stone wall in the front yard of the property. The Petitioners also provided extensive landscape plans showing trees and shrubs to be planted to act as "natural" safety and privacy barriers, as opposed to the use of fencing on top of the stone walls, which plantings would be more aesthetically pleasing.

The Winchester Planning Board reviewed the application of the Petitioners. At its meeting on February 8, 2022, discussion focused on the need to reduce the wall height and the extent of cut and fill, and provide fencing or barriers to prevent falls from the tall walls. The Petitioners made a second presentation to the Planning Board on March 1, 2022, showing revised plans for the retaining walls, with more gradual stepping down and a lower maximum height. The Planning Board showed a preference for 18" high step-ups in the height of the wall instead of 12" step-ups, so that the overall slope of the grade would be more gradual towards the end of the wall, thereby lowering the total height from 8'8" to potentially 5'8". No motion was made to endorse or withhold endorsement of the revised Site Plan. The Planning Board agreed the changes to the site plan addressed its concerns.

The Town of Winchester Design Review Committee reviewed the application of the Petitioners and by a vote of 7 – 0 recommended favorable action on the proposed walls, with the following conditions: 1.) Instead of installing a guard rail fence, install dense plantings at the top of the walls to protect against drop-off. This should be reviewed for

building code compliance by the building inspector. 2.) Choose plants suitable for dry conditions to grow between the walls. 3.) Design Review Committee agrees with the homeowners' choice of natural stone for the walls.

The Town of Winchester Historical Commission voted 6 in favor, 0 opposed (1 Absent) in accordance with Zoning By-Law Section 9.5.7, finds that the plans as submitted have no adverse effect on a historical or cultural resource.

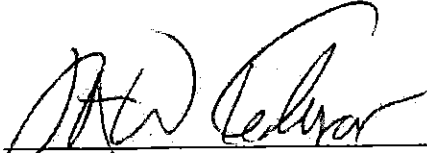
The Town of Winchester Engineering Department reviewed the petition and in a memorandum dated February 17, 2022 stated that project as presented consisted of re-grading the rear of the property. The newly regraded backyard would be supported by stone retaining walls. Footing drains in the retaining walls will discharge onto the Owner's property. The Engineering Department determined that the proposed construction does not increase impervious area by an amount which triggers an Engineering Department drainage review. As such, the Department had no further comment on said Site Plan Review.

The Town of Winchester Conservation Commission reviewed the petition and determined that it did not have jurisdiction over the proposed work.

#### **DISCUSSION:**

Pursuant to Section 9.5.7 of the Town of Winchester By-Law, Site Plan Approval shall be granted only upon the determination by the Board of Appeals that the Site Plan meets the ten (10) Site Plan Approval standards. The Board carefully reviewed the plans for construction of the two stone walls and landscaping plan. At the first Public Hearing the Board expressed to the Petitioners its concerns, in particular, regarding the height of the walls, both individually and collectively, of over eight feet. The Petitioners were asked to review the plans once again and adjust the height of the walls, while still maintaining a similar grade as proposed. The Board also requested that a 6 foot vinyl fence between the proposed wall and the abutter's lot, be removed as it cluttered the landscape and may result in an area of land that would be nearly impossible to maintain. The Petitioners were amenable to these requests and returned to the Board with revised plans that lowered the overall height of the walls, both individually and collectively, as shown on the plan presented at the Board's March 31, 2022 meeting. The Board finds that the aforesaid ten (10) Site Plan Approval standards have either been satisfied by the imposition of the conditions contained in this decision, by plans and documents submitted and revised by the Petitioners, as applicable, or are otherwise not applicable. Thus, the Petitioners' requests for Site Plan Review of their proposal to change the grade of more than 500 square feet by more than six (6) percent is granted, subject to the above described conditions and limitations.

**BOARD OF APPEALS, BY:**

A handwritten signature in black ink, appearing to read 'R. W. Tedesco', written over a horizontal line.

Robert W. Tedesco

**DECISION DATED:**

4-22-2022