

**CITY OF NEWTON  
LAW DEPARTMENT  
INTEROFFICE MEMORANDUM**

DATE: July 10, 2015

TO: All Members, Board of Aldermen

FROM: Ouida C.M. Young, Associate City Solicitor

RE: 2 Wells Avenue  
Amendment to Wells Avenue Deed Restriction

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At its June 23, 2015, meeting the Land Use Committee approved a number of amendments to the Wells Avenue deed restriction, all dimensional, that are needed in order to develop 2 Wells Avenue as proposed in the special permit/site plan approval application, Docket #124-15. I've attached a draft of the 2 Wells Avenue deed restriction board order that responds to the amendments to the deed restriction voted by the Land Use Committee.

I note that in most of the amendments to the deed restriction made by the Board over the past 40 years, the Board has made no findings at all about why the deed restriction is being amended because the Board is not required to make findings to support a legislative decision to modify an interest in real estate. In a few instances, the Board has found that the amendment being made represents a minor change or that a change of use is consistent with the other uses permitted by the deed restriction.

With regard to the draft deed amendment related to the 2 Wells Avenue proposal, I added a finding that reflects the explicit discussion in connection with the special permit/site plan approval the improvement to floodplain management and watershed protection although that finding was not specifically discussed with regard to the deed restriction amendment. Similarly, I added a finding that the proposed expansion to 2 Wells Avenue would not damage the purposes of the deed restriction, given that I believe this determination was implicit in the vote of the Land Use Committee. Hence I have added both those points in finding #1.

Please let me know if you have any questions.

Thank you.