

David Rosmarin, M.D.

105 Bellevue St.
Newton, MA 02458
(617) 699-8113
rosmarin.david@gmail.com

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Dear Committee Members:

Thank you for the opportunity for me to address the committee. My name is David Rosmarin and I speak on behalf of the Riley Carriage House Condominium Association, which has 12 residents living in the 6 units, and which was constituted in the early 1980s.

Given the magnitude and scope of the proposed project, the details and scope of which have been provided to us in only the past few days, we rely on the judgment and wisdom of city government to protect our rights and the rights of the Newton citizenry.

I will speak to four areas: history of the property, the burden of this past year's massive construction, concerns about the proposed construction, and our recommendations and pleas.

History

In the early 1980s, George Naddaff purchased and subdivided the buildings and acreage that now comprise the mansion at 93 Bellevue and the Riley Condominium carriage house and acreage. As a result, our property has frontage on Bellevue Street but also wraps around the north side of the 93 property in an L-shaped fashion, with a gated exit on Bennington Street. There were multiple restrictions placed on both properties.

It is our contention, as a matter of fundamental fairness, that the division of the original property and the sale of the condominium portion (which - I am told - fully funded the cost of the original combined property) should not have its covenants and restrictions vitiated. Had Naddaff chosen not to divide the property to pay for his original purchase, he and subsequent owners would have retained the condominium building, which is a carriage house built for exactly the same purposes that the Rashes wish to duplicate by their proposal. The carriage house could easily have housed the five car bays and provided the additional adjunct living quarters and wet bar that the Rashes now propose to add to their property.

Our property also has restrictions. It cannot be subdivided. So even though we have the acreage and the Bennington Street access, we could not sell a house lot that would otherwise easily fit on the north side and bucolic view of the

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Rashes' property. And I can only imagine the flurry of objections from the Rashes if we asked for the kind of exemption from long-standing historical restrictions to build a home merely the size of their proposed additions, which would spoil their view and privacy.

At the time of the subdivision, the property at 93 Bellevue was granted a formal deeded easement from the Bellevue street entrance of our driveway, extending approximately 50 feet down the driveway from Bellevue Street. The easement includes a spur that turns eastward to connect with the driveway in the front of 93, which extends under their front door carport/portico and continues to their solely owned driveway entrance on Bellevue Street.

In the mid-1990s, the city granted Naddaff a non-conforming garage. The garage has two bays facing our property (west) and does not include any living space or connection to the mansion at 93. At that time, the condominium owners requested that the bays to face east—facing away from our homes— and be accessed by an extension of Naddaff's existing driveway. Naddaff chose to build the bays facing west, chose not to extend his driveway through his garden, and began to utilize the lower portion of our driveway to access his garage. He created a second spur from our lower driveway that extends eastward to his garage and is located approximately 20 feet from our building. As I understand it, and as I have observed for the past five years, the use of that garage has been minimal. His son occasionally stored some racecars there. In five years, I never saw Naddaff or his wife park their cars anywhere but under their carport/portico in the front of the home. It should be noted that in contradistinction to the deeded easement for the upper driveway spur near Bellevue Street, there was never any formal granting of an easement in the lower part of our driveway.

As will be developed below, the Rashes—over our repeated spoken and written pleas and objections—have grossly overburdened the lower portion of our driveway in what they contend is an implied easement. Since last summer, multiple huge trucks have daily gone up and down our driveway, degrading it, rumbling, beeping as they back in at 7 AM precisely, and frequently allowing their engines to idle. Repeatedly, and despite our pleas, their workmen amble up and down our driveway on foot rather than the slightly longer path that would keep them on the Rashes' property. The Rashes have rejected our written and spoken pleas to cease this overburdening and to service the construction of the rear of their mansion via a temporary path for these trucks, which would degrade their property, not ours.

It is with these historical considerations in mind, that we ask the committee to heed our concerns and objections.

Current construction

Only in the past few days have we been apprised of the massive additional scope of construction that the Rashes propose, and which will inevitably add months and months to their current renovations. Therefore, it is important for the committee to understand that while the Rashes have been and will be living off-site during the construction of these additions, we will be suffering for what we were told just this Sunday night would be construction through the winter. In addition, the erection of the proposed stone garage and residence 15 feet from our property line (it is currently about 35 feet) will commence in the spring, according to the architect.

Virtually every day, there are a dozen trucks parked on Bellevue Street, in the Rashes' front driveway (more rarely), and (daily) in the spur to their garage via our lower driveway. Since last summer, virtually every workday has seen trucks entering and exiting our lower driveway, at least a dozen workmen on site, commotion, noise, and fumes. Having suffered with this intrusion and overburdening of our lower driveway, we would request the committee require the Rashes to access their existing garage and rear of their home via a temporary truck route running exclusively through their property. The Rashes have not contributed financially to the plowing or restoration costs of our driveway, despite being apprised of these.

For several months, there were major renovations to the rear of the stone mansion. Virtually every day, beginning at precisely 7 AM, we were greeted to the screeches of granite stones being cut. Requests to defer stone cutting to 8 AM were ignored. The stone cutting created dust that coated our cars. It is with these noise and stone dust concerns that we request that in the event that the committee grants the Rashes permission to perform any further stone construction, that requirements to mitigate such impact be instituted. This should include the requirements that all stone cutting be done off-site or performed in the current garage with all windows and doors closed, and after 8 AM.

Proposed additional construction

Overall, the Rashes have proposed a massive additional project that goes well beyond modest alterations of their existing nonconforming garage and adds separate living quarters. Overall, what they have proposed pushes the blight and degradation to the perimeters of their property so these are borne by their abutters.

Their driveway extension to the east removes vegetation that provides privacy and beauty for the owner of 75 Bellevue. This past Sunday, Mr. Rashes stated to us that he would not wish to have his driveway addition be closer to the mansion and would otherwise insist on using both the deeded upper easement and his claimed easement to our lower driveway.

To the west, the Rahes propose a massive building 15 feet from our property line. It would loom over the two condominium units on our eastern side, blotting their view, taking away their eastern light, and architecturally overshadowing our building. This would unfairly depreciate both the value and enjoyment of our homes.

Consistent with the overall plan to site intrusive or unsightly necessities at their perimeter, the Rashes proposal moves their exterior HVAC machinery a few feet from our property line, near the northwest corner of their mansion. Given that they intend to heat and cool not only their mansion but also the massive two-story residence addition, plus their "mud room" connection, this will necessarily mean that the condominium owners will have ever-present noise impinging on us from this machinery. Mr. Rashes claimed this Sunday that siting of this machinery under their proposed porch on the southwest corner of the mansion under a stone terrace is an indication of how quiet the machinery will be. However, the proposed machinery will have zero sound mitigation since the design has it shielded to the west only by a wrought iron gate.

It is our request that any proposal that is approved require that HVAC machinery be located on the eastern side of either the mansion, or the existing garage, or any new structure that the committee approves over our objections. This would act as a shield from the constant noise of this machinery, which at present location (unknown to us), is not intrusive. Since this will be at least 100 yards away from 75 Bellevue, it is unlikely that noise will present a problem for that owner.

Lighting: We are not sure we have been fully apprised of plans for all exterior lighting. It is our contention that we have a right to natural darkness. Therefore, any exterior lighting should be directed from the perimeter of 93 inwards and not illuminate our property.

Drainage: We have not been fully apprised for plans for drainage. Appropriate plans should be required so that run-off not impact our property.

Requested findings

1. Of acute concern, we request that the Rashes immediately cease using our lower driveway for construction vehicles and instead access the rear of their mansion via their unique driveway and any temporary pathway they like that is solely on their property. Their current use is an illegal overburdening that is not necessary and far exceeds historical informal use since the mid 1990s.
2. We do not oppose moving the existing garage to Lot 40 along with the explicit renunciation of any easement claims to the lower portion and upper portions of our driveway.

3. We favor the reconfiguring of the existing garage or its replacement at the present site to have its bays facing eastward.
4. We do not oppose the demolition of the existing garage and its reconstruction in matching stone as long as it is located no closer to our boundary line, remains one story, has only a modest increase in footage to permit 3 car-sized bays, and has a roof line no higher than the present structure. We do not object to a connecting mudroom of the proportions and height proposed.
5. We strongly and fervently request the committee not permit the proposed HVAC unit to be located on the western side of the mansion. Rather, we fervently request this unit to be noise-shielded to its west by either the mansion or any constructed or existing garage.
6. We support the extension of the current driveway at 93 first northward and then westward to service the garage at its current location and/or a location in lot 40. (We were told Sunday night the Rashes may withdraw the request to move their existing garage.) That driveway extension need not be along the perimeter bordering 75 Bellevue. Instead, with modest grading, it could proceed just east of the large oak tree along the eastern side of the mansion.
7. As a mitigation for that additional driveway area from the view shed of the sidewalk, we would propose that 93 return its portion of the spur of gravel driveway that is closest to Bellevue Street back to natural grass and bushes. We would allow the portion of that deeded easement spur that is on our property to also be returned to a natural state, at the Rashes' expense. A small turnaround could be constructed just west of the existing carport/portico, which would be wholly on 93's property. This would obviate the need for the proposed large circular driveway in the southernmost front yard of 93 bordering Bellevue Street.
8. We would request that the above-mentioned stone cutting noise and dust mitigations be required.

Sincerely,



David Rosmarin, M.D. for the Riley Carriage House Condominium Association