

**ZONING BOARD OF APPEALS**

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

RICHARD L. SEEGEL, CHAIRMAN  
CYNTHIA S. HIBBARD  
DAVID G. SHEFFIELDLENORE R. MAHONEY  
EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208  
web: [www.wellesleyma.gov](http://www.wellesleyma.gov)J. RANDOLPH BECKER, VICE CHAIRMAN  
ROBERT W. LEVY  
DAVID L. GRISSINO

ZBA 2011-65  
Petition of Kane Built, Inc.  
73 Fuller Brook Road

---

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 6, 2011, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of KANE BUILT, INC. requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new structure with a footprint of 2,103 square feet that will meet all setback requirements on a 17,301 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 73 FULLER BROOK ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 19, 2011 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 Laurence Shind, Esq. and Roger Kane, Kane Built, Inc. (the "Petitioner"). Mr. Shind said that the request is for a Special Permit/Finding that the proposed demolition of an existing nonconforming residence and construction of a conforming structure will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Mr. Shind said that the Petitioner had been before the Board on July 7, 2011 with a prior proposal that was withdrawn without prejudice. He said that the Petitioner was asked to address some areas of concern at the prior hearing. He said that the neighbors and the Board were concerned about the size of the proposed residence. He said that the floor area of the house has been reduced from 3,808 square feet to 3,395 square feet, for a reduction of approximately 11 percent. He said that the Large House Review (LHR) threshold for the district is 5,900 square feet. He said that the proposed structure will be 43 percent below that threshold.

Mr. Shind said that the proposed lot coverage will be 12 percent.

Mr. Shind said that the proposed new residence will comply with all dimensional requirements. He said that the existing house has a nonconforming left side yard setback.

Mr. Shind said that the right side and rear elevations of the home were substantially altered in the revised plans.

Mr. Shind said that the revised plans show two drywells to be installed. He said that one will be at the northwest corner of the property behind the garage and the other one will be down toward the street at the southeast corner. He said that the two drywells will be sized to handle 100-year storm events. He said that all of the roof drainage will flow into the two drywells.

Mr. Shind said that more screening was added on the right side of the property. He said that the 30 foot berm was moved back at the request of the neighbor. He said that there are plantings planned for that berm as well as six evergreen trees. The Board said that the previous plan for screening on the right was opposite the kitchen and dining room. The Board said that it is now proposed to be opposite the breakfast room and bathroom. The Board asked if the screening was moved primarily for the neighbor. Mr. Shind said that it was.

The Board confirmed that the only nonconformity will be lot size.

The Board said that there is a 31 foot dimension shown from the lot line to the right corner of the building on the plot plan. The Board said that it is not clear that the dimension to the corner of the porch is greater than or less than 31 feet.

The Board asked about the height calculations. Mr. Shind said that the Engineer noted on the top of the plot plan the maximum allowed peak elevation and the proposed peak elevation. The Board said that the calculations for the height from the average grade must be submitted.

The Board said that normally calculations to explain how the drainage system was sized and some data about the receiving devices are submitted. Mr. Kane said that he could supply that information.

Andrew Lee, 177 Benvenue Street, said that he was concerned about the left side of the property where the two-car garage, the deck and the air conditioning units will be located. He submitted photographs. He said that area will face his backyard where his patio and deck are. He said that he was concerned about headlights. He asked about adding screening on the left side of the lot.

The Board said that it always encourages dialogue between the developer and the neighbors.

Stephen Carey, 71 Fuller Brook Road, said that he lives on the east side of the subject property. He said that he was at the previous hearing. He said that Mr. Kane and his associates have done a great job addressing the concerns that were brought up previously. He said that the neighbors had been concerned about the size of the proposed structure. He said that they appreciate that the house has been downsized. He said that architectural work was done to the east elevation so that there is a little more interest on that side. He said that one of his major concerns had been the drainage strategy. He said that they have been getting a lot of water in their basement from 73 Fuller Brook Road because of how the downspouts are routed. He said that, after speaking with the Engineer about the proposed drainage system, it was his understanding that the runoff will be directed to the street to a drywell that is oversized for what the Town normally requires. He said that he felt that there seems to be a commitment from the developer to work with the neighbors moving forward.

### Statement of Facts

The subject property is located at 73 Fuller Brook Road, on a 17,301 square foot lot in a district in which the minimum lot size is 20,000 square feet, with a minimum left side yard setback of 19.5 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming structure and construction of a new structure with a footprint of 2,103 square feet that will meet all setback requirements on a 17,301 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 8/9/11, revised 9/30/11, T-LAG Calculation Plan, dated 8/1/11, stamped by Susan E. Sullivan, Professional Land Surveyor, and Proposed Floor Plans and Elevation Drawings, dated 7/26/11, prepared by Alicia May, Architect were submitted.

On October 5, 2011, the Planning Board reviewed the petition and recommended that the Special Permit be granted.

### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that demolition of an existing nonconforming structure and construction of a new structure with a footprint of 2,103 square feet that will meet all setback requirements on a 17,301 square foot lot in a district in which the minimum lot size is 20,000 square feet, 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 an existing nonconforming structure and construction of a new structure with a footprint of 2,103 square feet that will meet all setback requirements, in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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.

---

J. Randolph Becker, Acting Chairman

---

Robert W. Levy

---

David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
lrm

NATURAL AVERAGE GROUND: 160.5  
 MAX. ALLOWED HEIGHT: 36.0  
 MAX. ALLOWED PEAK ELEVATION: 196.5 > PROP. PEAK ELEVATION: 191.92  
 PROPOSED TOC: 162.00  
 TOC TO PEAK: 29.92

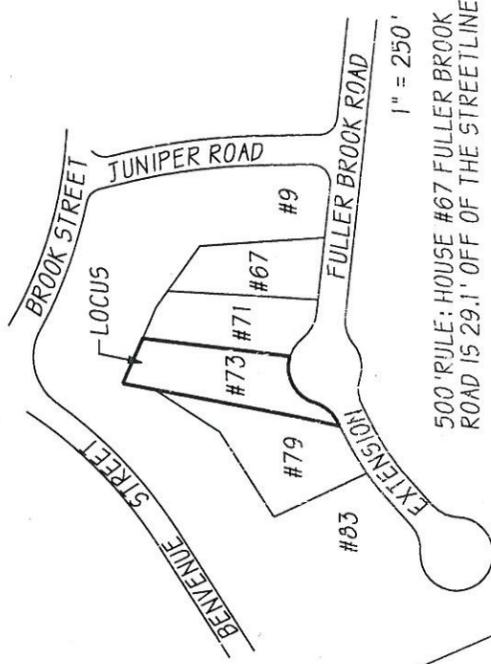
EXISTING LOT COVERAGE 6.1% (1,063 S.F.)  
 PROPOSED LOT COVERAGE 12.1% (2,103 S.F.)  
 MAX. ALLOWED COVERAGE 20.0% (3,460 S.F.)

**LOT #7**  
 AREA = 17,301 Sq.Ft.  
 LOT COVERAGE: 12.1%

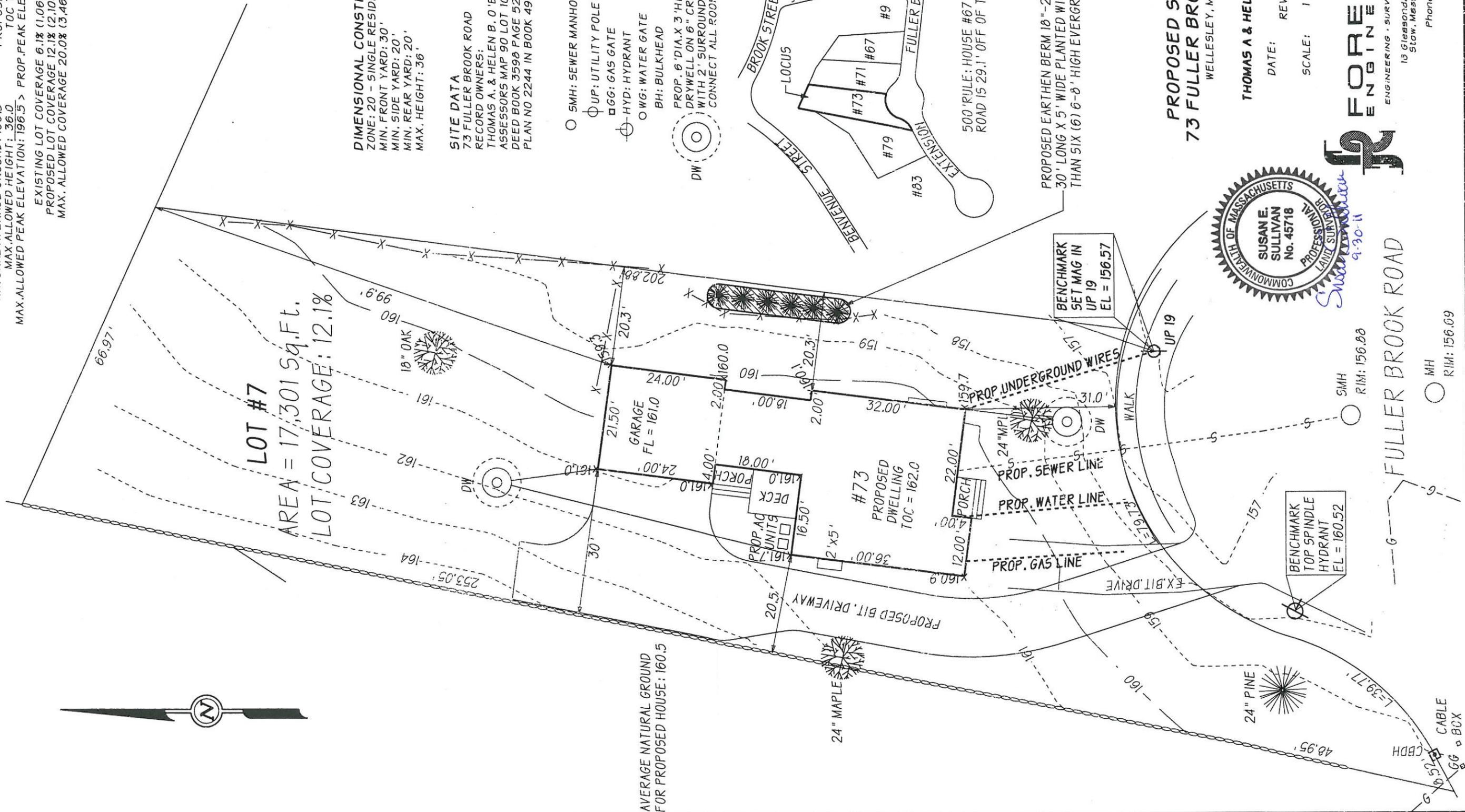
AVERAGE NATURAL GROUND  
 FOR PROPOSED HOUSE: 160.5

**DIMENSIONAL CONSTRAINTS**  
 ZONE: 20 - SINGLE RESIDENCE  
 MIN. FRONT YARD: 30'  
 MIN. SIDE YARD: 20'  
 MIN. REAR YARD: 20'  
 MAX. HEIGHT: 36'

**SITE DATA**  
 73 FULLER BROOK ROAD  
 RECORD OWNERS:  
 THOMAS A. & HELEN B. O'BRIEN  
 ASSESSORS MAP 90 LOT 10  
 DEED BOOK 3598 PAGE 526  
 PLAN NO 2244 IN BOOK 496



PROPOSED EARTHEN BERM 18"-24" HIGH  
 30' LONG X 5' WIDE PLANTED WITH NOT FEWER  
 THAN SIX (6) 6-8' HIGH EVERGREEN TREES



**PROPOSED SITE PLAN**  
**73 FULLER BROOK ROAD**

WELLESLEY, MASSACHUSETTS

RECORD OWNER:  
**THOMAS A & HELEN B O'BRIEN**

DATE: AUG. 9, 2011  
 REV: SEPT. 30, 2011

SCALE: 1 INCH = 20 FEET

www.foresite.com



**FORESITE**  
**ENGINEERING**

ENGINEERING · SURVEYING · PLANNING  
 15 Gleasondale Road Suite 1-1  
 Stow, Massachusetts 01775

Phone: (978) 461-2350

1624ALLR.2D

FULLER BROOK ROAD

SMH RIM: 156.88

MH RIM: 156.09

BENCHMARK  
 TOP SPINDLE  
 HYDRANT  
 EL = 160.52

BENCHMARK  
 SET MAG IN  
 UP 19  
 EL = 156.57

CABLE  
 BOX