



## ZONING BOARD OF APPEALS

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

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 TELEPHONE  
 (781) 431-1019 EXT. 2208  
 web: www.wellesleyma.gov

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ZBA 2015-95  
 Petition of Kane Built, Inc.  
 30 Willow Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 3, 2015, 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 XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with less than required frontage at 30 Willow Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 16, 2015, 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, Principal, Kane Built, Inc., the Petitioner.

Mr. Shind said that the request is for a special permit/finding to construct a new residence on this lot. He said that the process is somewhat out of order. He said that the Applicant had inadvertently applied for and obtained a demolition permit for the existing house on the lot. He said that neither the surveyor nor the Building Department realized, given the large size of the lot, that there was a frontage nonconformity. He said that the Petitioner is before the Board because of the lack of sufficient frontage, although the lot is quite large. He said that it was an oversight. He said that based on the issuance of the demolition permit, the prior house was taken down about six weeks ago.

Mr. Shind said that it is a 26,475 square foot lot in a 10,000 square foot Single Residence District. He said that the nonconformity is that the frontage on the cul de sac is 40 feet where 50 feet is required. He said that the previous house was a small outdated colonial that was built in 1959. He said that it had 1,500 square feet of living area and a one-car garage. He said that there was an existing nonconformity on the left side of 15 feet. He said that lot coverage will increase from 4.5 percent to 9 percent. He said that the proposed house will comply with all Zoning and dimensional requirements.

Mr. Shind said that Total Living Area plus Garage (TLAG) will be 3,304.5 square feet, which is within the 3,600 square foot threshold for the district. He said that the lot is more than twice as large as the minimum that is required. He said that this is a neighborhood with an evolving mix of homes. He said that there are a number of new and larger homes in the neighborhood and this would be appropriate there.

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A Board member asked about the two easements that are shown on the plan at the rear of the lot and on the northeast side. Mr. Shind said that he believes that it is a drainage easement in favor of the Town. He said that the plan of record of subdivision at the end of Willow Road from 1958 shows the easement that runs along the west side or the rear of the lot as being a drain easement and connecting to what is listed as a sewer easement that goes out to Hickory Road. The Board member said that the 166.14 side of the lot or rear is the drainage easement and the other is the sewer easement. The Chairman said that the sewer easement appears to go all the way out to Willow Road. He said that some houses on Hickory Road may connect into that sewer to go out to the Willow Road side. He said that the Board will insert a condition that there shall be no disturbance of either easement. Mr. Shind said that, according to a note from the surveyor, he found no recorded easements beyond the depiction on the plan. A Board member asked how the surveyor found the easements in the first place. Mr. Shind said that he went to the recorded plan of the subdivision from 1958.

A Board member asked about a survey on the back of a building permit that was dated May 29, 1959. Mr. Shind said that the plan that he was looking at was dated October 22, 1958. The Board member said that the property line is a totally different proportion from the current one. He said that it was signed by a registered surveyor. The Chairman suggested that the Petitioner confirm the actual dimensions of the lot to make sure that the plot plan has the true dimensions because the 1959 survey record and the Town's records show a lot that is different shaped. He said that the rear boundary looks like it is 132.57 feet, not 166.14. He said that maybe there was a piece deeded out. He said that it looks like a different shape. Mr. Shind said that the prior deed for this property from 2004 referenced the October 22, 1958 plan and the square footage listed in the deed matches the square footage of 26,475 square feet, which is consistent.

There was no one present at the public hearing who wished to speak to the petition.

#### Statement of Facts

The subject property is located at 30 Willow Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with 40.04 feet of frontage, and a minimum left side yard setback of 18.9 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

An Existing Plot Plan & a Proposed Plot Plan, dated 11/5/15, stamped by Alfred M. Berry, Professional Land Surveyor, 500-ft Rule Letter to Michael Grant, Wellesley Building Inspector, dated 9/2/15, stamped by Scott P. Hayes, Professional Engineer, TLAG Calculation Plan, dated 10/6/15, prepared by Foresite Engineering, Proposed Floor Plans and Elevation Drawings, dated 12/30/14, prepared by Alicia B. Macy, Architect, and photographs were submitted.

On December 1, 2015, 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 opinion of this Authority that demolition of an existing nonconforming structure and construction of a new two-story structure that will meet all setback and height requirements, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with less than required frontage, 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 two-story structure that will meet all setback and height requirements, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with less than required frontage, subject to the following condition:

- Both easements and any utilities shall be protected during construction activities.

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

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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.

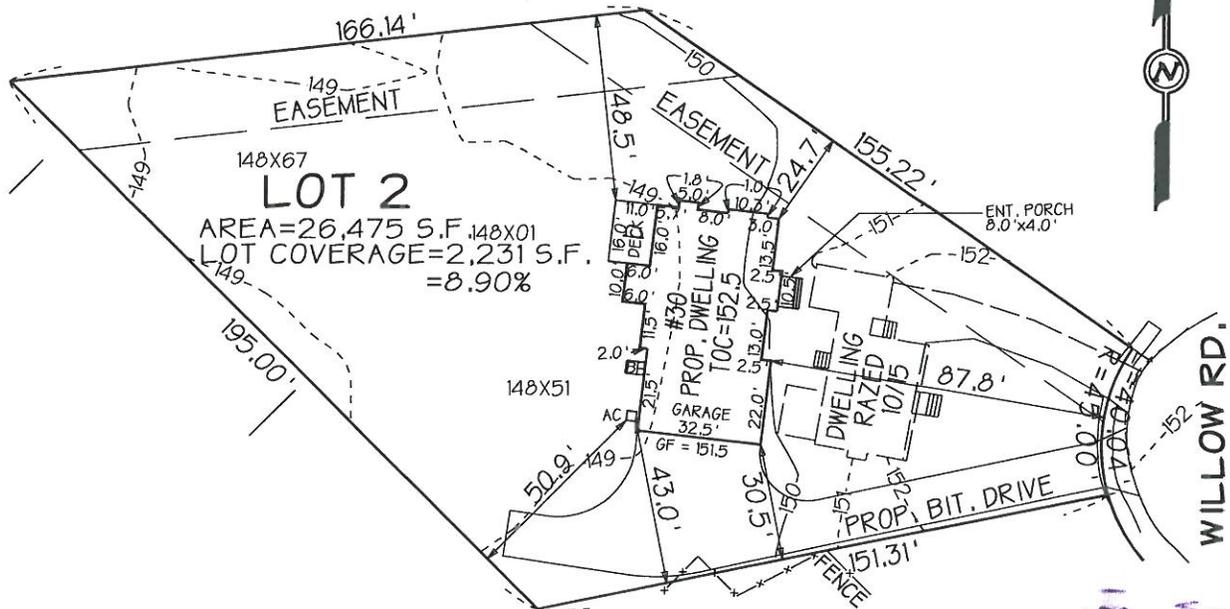
  
Richard L. Seegel, Chairman

  
David G. Sheffield

  
Derek B. Redgate

cc: Planning Board  
Inspector of Buildings  
lrm





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PROPOSED DWELLING HEIGHT  
 PROPOSED TOC = 152.5  
 AVERAGE NATURAL GRADE (ANG) = 149.5  
 PROPOSED HEIGHT ABOVE TOC = 29.0'  
 PROPOSED HEIGHT ABOVE ANG = 32.0'



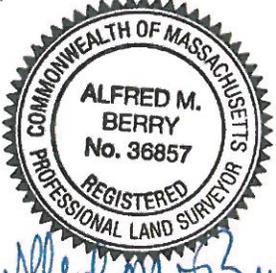
**SITE DATA**

30 WILLOW ROAD, WELLESLEY  
 RECORD OWNER:  
 KANE BUILT, INC.  
 ASSESSORS MAP 159 LOT 42  
 DEED BOOK 33485 PAGE 115  
 PLAN BOOK 206 PLAN 15  
 ZONE SRD 10  
 TABLE 1  
 FRONT YARD: 30-FT  
 SIDE YARD: 20-FT  
 REAR YARD: 10-FT

**PROPOSED PLOT PLAN  
 30 WILLOW ROAD  
 WELLESLEY, MASSACHUSETTS**

DATE: NOV. 5, 2015  
 SCALE: 1"=50'

www.foresitel.com



*Alfred M. Berry*



**FORESITE  
 ENGINEERING**  
 ENGINEERING SURVEYING PLANNING  
 16 Gleasondale Road Suite 1-1  
 Stow, Massachusetts 01775  
 Phone: (978)461-2350

MAX. LOT COVERAGE = THE GREATER OF 18%  
 OR 4,000 S.F. (BUT NOT MORE THAN 6,000 SF)