

**ZONING BOARD OF APPEALS**

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ZBA 2011-37  
Petition of Kane Built, Inc.  
5 Pinevale Avenue

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 16, 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, XIVE and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming 1,141 square foot structure and an existing nonconforming 101 square foot shed, and construction of a conforming 1,740 square foot structure, on a 7,500 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 5 PINEVALE AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The subject property is located in a Water Supply Protection District.

On May 26, 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 existing house is on a nonconforming lot. He said that the house was built in 1928. He said that it is a one story cottage that contains 1,000 square feet of living area. He said that lot coverage is 16.5 percent. He said that there is no garage. He said that the house has a nonconforming front yard setback of 25.4 feet.

Mr. Shind said that the proposed new residence will comply in all aspects with Zoning dimensional setback requirements. He said that it will have a modest finished living area of 2,858 on two floors. He said that lot coverage will increase to just over 23 percent.

Mr. Shind said that they tried to be consistent with the prevailing designs of houses in the neighborhood. He said that they communicated their proposal to the neighborhood. He said that they were not aware of any objections.

The Board said that the increase in impervious area is significant. The Board asked what will happen to the additional runoff. Mr. Kane said that there is a perimeter drain that is connected to the street drainage. He said that rainwater conductors will be connected to the perimeter drain. He said that there will be gutters and downspouts.

The Board said that there was no basement plan included in the submittal. Mr. Kane said that there will be a full basement under the main house. The Board said that it is not shown on the elevation drawings either. The Board said that a concern is the height of the first floor above grade. The Board said that there was no dimension to show that. Mr. Kane said that the proposed top of foundation is 201.5 feet. He said that the existing grade of the lot is 199 to 200 feet. He said that the top of the concrete will be 1.5 feet above the existing grade. The Board asked if the first floor construction will be 14 inches above that. Mr. Kane said that it will probably be 3.5 feet to the first floor. He said that from the top of the foundation to the peak of the roof will be 29 feet 11 inches.

The Board said that there is little more than siding to break up the right, left and rear elevations. Mr. Kane said that he could add a window in bedroom 2, bedroom 3 and bedroom 4.

The Board said that the elevation drawings show the door sill at 18 inches over grade. Mr. Kane said that the amount of exposed concrete will be approximately 1.5 feet. The Board said that the drawing shows 8 inches of concrete shown. Mr. Kane said that when he puts the siding on the house, it will come down over the foundation by a few inches.

The Board said that the elevation is showing 18 inches to the front door. The Board said that Mr. Kane has shown the house to be 29 feet 11 inches. The Board said that it will need to see the dimensions to the first floor. The Board said that the floor height appears to be 10 feet. Mr. Kane said that he has to stay with the 235.1 height that is shown on the Engineer's plan. He said that the TOC on the Engineer Plan is 201.5 and the TOC to the peak is 29.92, which adds up to 231.42. He said that the ridge would be 31.42 feet above the finished grade. The Board said that the plans do not show that the 29 feet 11 inches is to the top of the concrete. The Board said that the plans show that the 29 feet 11 inches is from the grade.

The Board said that the elevation drawings show the front elevation at 29 feet 3 5/8 inches and the right side elevation at 29 feet 11 inches. Mr. Kane said that the figure for the front elevation is an error. He said that the 29 feet 11 inches lines up with the 29.92 on the Engineer's Plan. Mr. Shind asked if a condition could be that the Engineer's Plan be adhered to with respect to the height of the house.

The Board said that there is an average finished grade at 200 feet. The Board said that the height of the building will be limited to 31 feet above that.

The Board said that a major concern is that there will be a few feet of concrete visible. The Board said that the floor on top of that will be 3 feet above the grade. The Board discussed inserting a condition that no more than 18 inches of concrete be exposed. Mr. Kane said that he could reduce that to 1 foot. The Board said that will make the height from grade to ridge at 231 feet.

The Board said that 10 foot floor to floor is tall. The Board said that the stairs may not meet the Building Code.

The Board said that this is a transitional neighborhood but there are still a lot of smaller houses there.

Jeff Peterson, 19 Fenmere Avenue, said that his house is just behind 5 Pinevale Avenue. He said that he did not have an objection to the house being built. He said that he sent an email to the Board regarding a 36 inch oak on the property. He said that he has lived a 19 Fenmere Avenue for 33 years. He said that every year the tree gets bigger and bigger. He said that the tree branches out and over shadows his

backyard. He asked if the tree would be taken down or pruned. He asked if the tree could be pruned back from his property at least unless it was going to be removed altogether. He said that there is a lot of dead wood and defoliation. He said that the crotch of the tree has stuff growing up out, which makes him think that there is some rot.

The Board said that it would include a condition that an arborist look at the tree and make recommendations as to its maintenance. The Board said that whatever portion of the tree that is hanging over Mr. Peterson's property can be shaved off.

#### Statement of Facts

The subject property is located at 5 Pinevale Avenue on a 7,500 square foot lot in a district in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 25.4 feet. The subject property is located in a Water Supply Protection District.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming 1,141 square foot structure and an existing nonconforming 101 square foot shed, and construction of a conforming 1,740 square foot structure, on a 7,500 square foot lot in a district in which the minimum lot size is 10,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

An plot plan and a proposed plot plan, dated 4/12/11, stamped by Susan E. Sullivan, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 4/14/11, prepared by R.C. Searles Associates, Letter to Building Inspector, dated 4/12/11, from Susan E. Sullivan, Professional Land Surveyor, regarding Building Front Setback at 5 Pinevale Avenue, T-LAG Calculation Plan, dated 4/11/11, stamped by Susan E. Sullivan, Professional Land Surveyor, and photographs were submitted.

On June 15, 2011, the Assistant Planning Director 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.

It is the opinion of this Authority that demolition of an existing nonconforming 1,141 square foot structure and an existing nonconforming 101 square foot shed, and construction of a conforming 1,740 square foot structure, on a 7,500 square foot lot in a district in which the minimum lot size is 10,000 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 for demolition of an existing nonconforming 1,141 square foot structure and an existing nonconforming 101 square foot shed, and construction of a conforming 1,740 square foot structure, on a 7,500 square foot lot in a district in which the minimum lot size is 10,000 square feet, subject to the following conditions:

1. The height from grade to ridge shall not exceed the elevation of 231 feet.
2. An arborist shall be retained by the applicant to assess the condition of the 36 inch oak tree and make recommendations for its maintenance.
3. Appropriate action shall be taken to remove the portion of the 36 inch oak tree that overhangs Mr. Peterson's property.

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.

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Richard L. Seegel, Chairman

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J. Randolph Becker

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David G. Sheffield

cc: Planning Board  
Inspector of Buildings  
lrm

**DIMENSIONAL CONSTRAINTS**

ZONE: 10 - SINGLE RESIDENCE  
 MIN. FRONT YARD: 30'  
 MIN. SIDE YARD: 20'  
 MIN. REAR YARD: 10'  
 MAX. HEIGHT: 36'

**SITE DATA**

5 PINEVALE AVENUE  
 RECORD OWNERS:  
 WILLIAM H & DOROTHY M HOLMES  
 ASSESSORS MAP 198 LOT 69  
 DEED BOOK 3660 PAGE 492  
 PLAN NO 3324 IN BOOK 69

**LEGEND**

- SMH: SEWER MANHOLE
- ⊕ UP: UTILITY POLE
- G: GAS GATE
- ⊕ HYD: HYDRANT
- WG: WATER GATE
- BH: BULKHEAD

**PROPOSED SITE PLAN**  
**5 PINEVALE AVENUE**  
 WELLESLEY, MASSACHUSETTS

RECORD OWNER:  
**WILLIAM H & DOROTHY M HOLMES**

DATE: APRIL 12, 2011  
 SCALE: 1 INCH = 20 FEET

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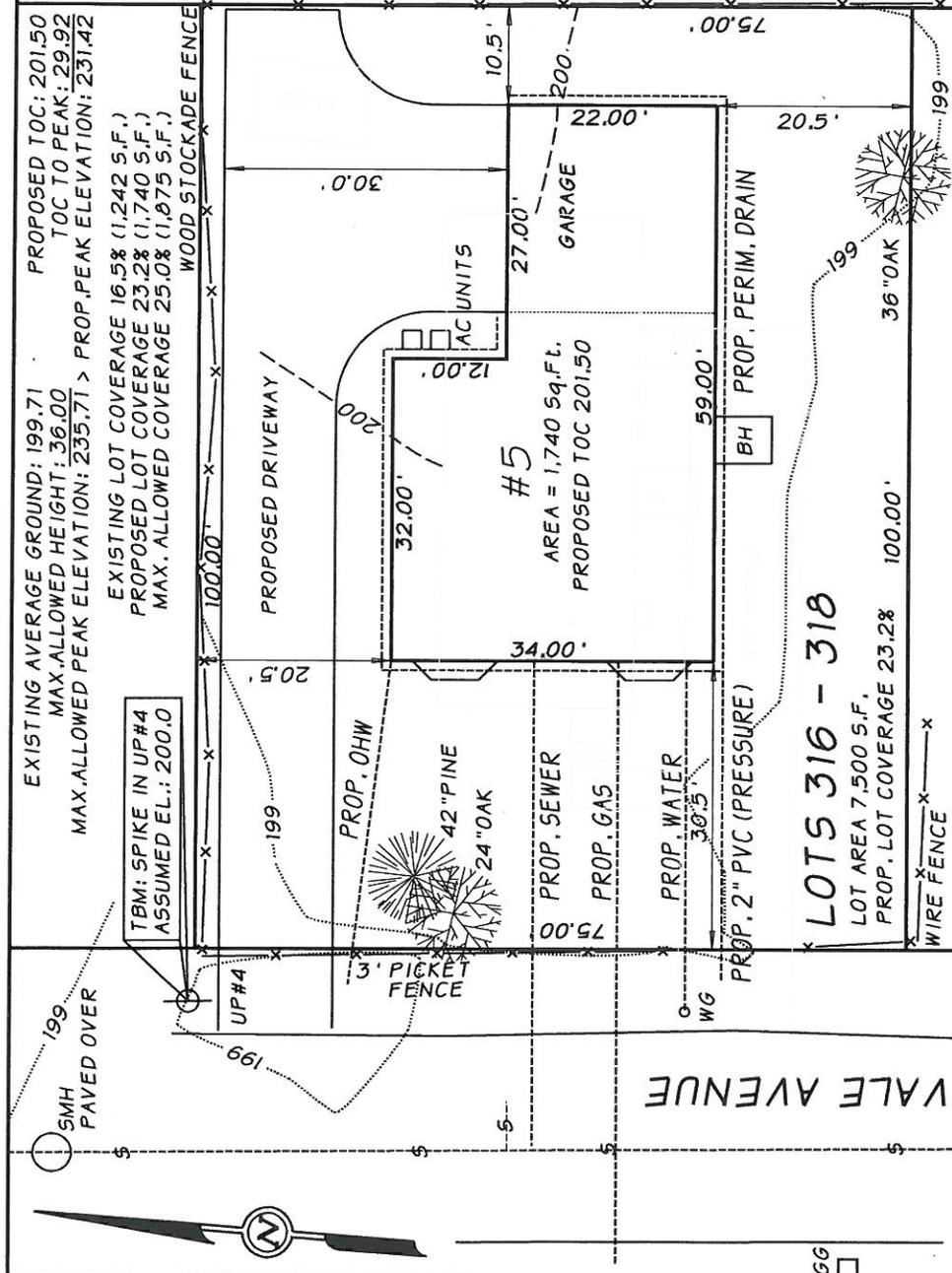


11-11-11

EXISTING AVERAGE GROUND: 199.71  
 MAX. ALLOWED HEIGHT: 36.00  
 MAX. ALLOWED PEAK ELEVATION: 235.71 > PROP. PEAK ELEVATION: 231.42

EXISTING LOT COVERAGE 16.5% (1,242 S.F.)  
 PROPOSED LOT COVERAGE 23.2% (1,740 S.F.)  
 MAX. ALLOWED COVERAGE 25.0% (1,875 S.F.)

TBM: SPIKE IN UP#4  
 ASSUMED EL.: 200.0



**LOTS 316 - 318**

LOT AREA 7,500 S.F.  
 PROP. LOT COVERAGE 23.2%

500' RULE: HOUSE #3 PINEVALE AVE  
 IS 20.0' OFF OF THE STREETLINE

