

**ZONING BOARD OF APPEALS**

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

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ZBA 2010-97
Petition of Joseph O'Brien
28 Thomas Road

Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, December 2, 2010 on the petition of JOSEPH O'BRIEN 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 2,218.6 square foot two-story structure that will meet all setback requirements, on a 9,932 square foot lot in a district in which the minimum lot size is 10,000 square feet, at 28 THOMAS ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 15, 2010, 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 was Kevin O'Leary, who said that he is the Engineer who drew up the plans for Joseph O'Brien (the "Petitioner"). He said that he was representing Paul Wiley from Chadwick Properties, who is a prospective buyer of the O'Brien property.

Mr. O'Leary said that the lot is nonconforming by approximately 68 square feet. He said that the road was first laid out in 1921 and the house was built in 1933.

Mr. O'Leary said that the petition is to demolish the existing house and to construct a replacement structure that will conform to all dimensional aspects of the Zoning Bylaw except for the land area. The Board said that it is one of six properties on the street of the same size.

Mr. O'Leary said that all of the lots on the subdivision plan were initially created at less than 5,000 square feet. He said that this lot, as well as others, was the combination of two lots put together but still less than 10,000 square feet. He said that there are lots at the end of the street that are less than 5,000 square feet in area.

Mr. O'Leary said that the replacement house will be 2.5 stories. He said that it will be slightly higher than the existing house and slightly higher than the existing house to the west but lower than the house to the east. He said that the house on the east was granted a Special Permit from the Board in 2005. He said that also was on a nonconforming lot.

Mr. O'Leary said that the proposed house is Colonial style.

The Board said that the proposed house will be approximately the same size as four other houses on the south side of Thomas Road.

The Board said that the side elevations are lacking in windows. The Board said that there appears to be an opportunity for additional windows. The Board said that blank walls are unfriendly to neighbors and creates a differential in scale for the neighborhood.

The Board said that it would prefer to see windows on either side of gas fireplace on the right side elevation. The Board said that there should be more windows on the left side elevation as well. The Board said that there needs to be some detail on the side elevations to break up the mass.

The Board questioned the location of the door to the garage. The Board said that the proposed location of the door will make it almost impossible to use. The Board suggested that the Petitioner take a look at that.

Joseph O'Brien, 28 Thomas Road, said that his neighbor to the east just left the Hearing. He said that the neighbor had been present to support the project.

The Board said that the Planning Board had two suggested conditions which relate to existing trees and shrubs and the maintenance and removal. Mr. O'Leary said that he had spoken with Mr. Wiley before the Hearing. He said that Mr. Wiley indicated that probably only one tree would have to come down. He asked if that would be something that would have to come back before the Board. He said that it is over three feet high. The Board said that the Zoning Bylaw does not control trees and shrubs.

The Board asked that the contractor be directed to preserve as much existing plant material that would be beneficial to the neighborhood as possible.

The Board said that in looking at the footprint of the two structures, it is clear that there will be more impervious area with the proposed structure. The Board asked what will happen with the rainwater. Mr. O'Leary said that recharge basins will go in off of each corner. He said that there are grades and contours shown on the plot plan. He said that the lot is flat. He said that there will not be a large gush of water going in any particular direction. He said that the standard construction practice is to put recharge basins or leaching pits off of each corner of the house, 20 feet off of the foundation and three to four feet below grade, surrounded by washed stone and with downspouts into it. He said that the substratum is very granular. He said that currently the rainwater flow is uncontrolled. He said that it will be controlled after construction, especially from the rooftop downspouts.

Statement of Facts

The subject property is located at 28 Thomas Road, on a 9,932 square foot lot in a district in which the minimum lot size is 10,000 square feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming structure and construction of a 2,218.6 square foot two-story structure that will meet all setback requirements, on a 9,932 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.

A Plot Plan dated 11/10/10, stamped by Todd P. Chapin, Registered Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 11/1/10, prepared by Chadwick Properties, Inc., and photographs were submitted.

On December 1, 2010, the Planning Board reviewed the petition and recommended that the Special Permit be granted with conditions.

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 structure and construction of a 2,218.6 square foot two-story structure that will meet all setback requirements, on a 9,932 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 structure and construction of a 2,218.6 square foot two-story structure that will meet all setback requirements, on a 9,932 square foot lot in a district in which the minimum lot size is 10,000 square feet, subject to the following condition:

- Stormwater shall be controlled on the site.

The Board strongly suggests that the maximum amount of existing landscaping materials as possible be preserved.

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



BUILDING COVERAGE:

EXISTING = 1,202± S.F.
PROPOSED = 2,218.6± S.F.

LOT COVERAGE:

EXISTING = 12.1%
PROPOSED = 22.3%

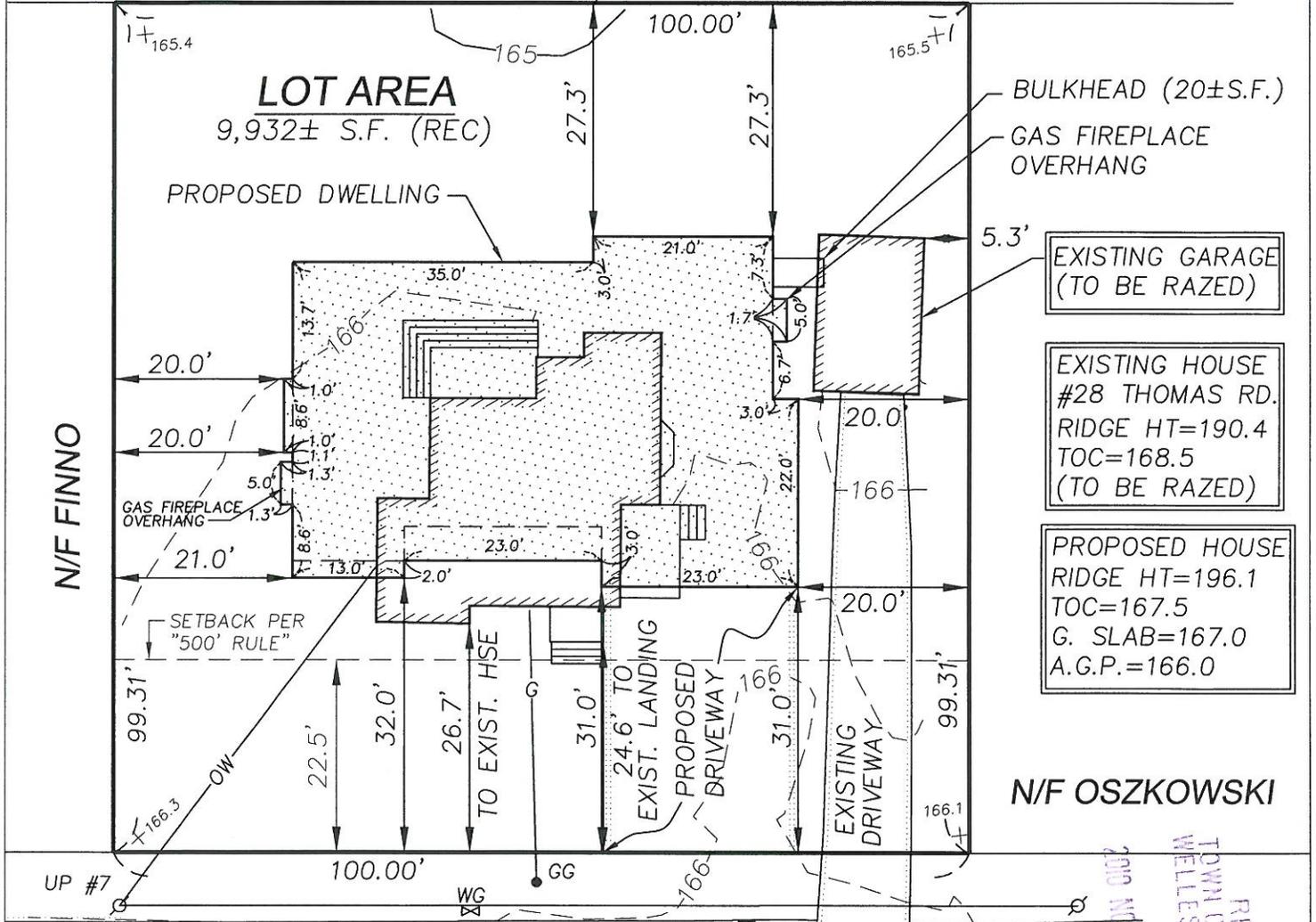
N/F JTS INVESTMENTS

ZONING DISTRICT*:

SINGLE RESIDENCE 10
MIN. 10,000 SF, MIN. 60' FRONTAGE
FRONT LOT LINE SETBACK = 30 FEET*
STREET CENTER LINE SETBACK = 20 FEET
LOT LINE SETBACK = 10 FEET
MAX. LOT COVERAGE = 25%

*CURRENT SETBACK REQUIREMENTS.
SEE ZONING BY-LAWS FOR ADDITIONAL INFORMATION
AND RESTRICTIONS (ie. "500 FOOT RULE").

N/F #31 GARRISON ROAD R.T.



LOT AREA
9,932± S.F. (REC)

PROPOSED DWELLING

BULKHEAD (20±S.F.)
GAS FIREPLACE
OVERHANG

EXISTING GARAGE
(TO BE RAZED)

EXISTING HOUSE
#28 THOMAS RD.
RIDGE HT=190.4
TOC=168.5
(TO BE RAZED)

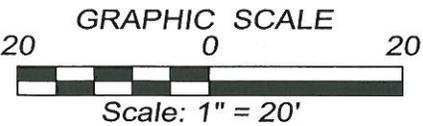
PROPOSED HOUSE
RIDGE HT=196.1
TOC=167.5
G. SLAB=167.0
A.G.P.=166.0

N/F FINNO

N/F OSZKOWSKI

THOMAS ROAD

(PUBLIC ~ 40' WIDE)



RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MASS 02482
2010 NOV 5 PM 2:52

PREPARED FOR: CHADWICK PROPERTIES
78 PELHAM ISLAND RD.
WAYLAND, MA 01778



"BASED ON AN INSTRUMENT SURVEY,
I CERTIFY THAT THE EXISTING BUILDINGS
ARE LOCATED AS SHOWN HEREON."

Todd P. Chapin

"SPECIAL PERMIT PLAN"

LAND IN
WELLESLEY, MASS.

SCALE: 1" = 20' DATE: 10 NOVEMBER 2010

PREPARED BY: THE JILLSON COMPANY, INC.
P.O. BOX 2135
FRAMINGHAM, MA 01703-2135
(508) 485-0500
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JOB #2257