



ZONING BOARD OF APPEALS

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

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ZBA 2012-54
 Petition of Vincent O'Brien
 7 Lake Road

Record Owner of Property: Albert S. Robinson, Administrator of the Estate of Joan M. Chartres

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 12, 2012, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of VINCENT O'BRIEN requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming structure with less than required front and side yard setbacks and frontage on a 1,911 square foot corner lot in a district in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 7 LAKE ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 26, 2012, 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 Vincent O'Brien, Esq., (the "Petitioner"). Also present at the hearing were Chris Gaboriault, Engineer and Ronald Margolis, Architect.

Mr. O'Brien said that the existing house and lot are nonconforming.

Mr. O'Brien said that the proposed footprint will be identical to the existing one.

Mr. O'Brien displayed enlarged pictures (retained by proponent).

Mr. O'Brien said that there is one minor change proposed to the application that was submitted to the Board. He said that the proposal is to relocate the air conditioning condenser.

Mr. O'Brien said that the height of the interior ceilings will conform to Building Codes.

Mr. O'Brien said that they spoke with all of the immediate abutters. He said that the neighbors requested that the Petitioner submit a revised plan with a garage underneath. He said that parking on the lot is an issue. He displayed a physical model with that showed the proposed house with and without the garage (retained by proponent). He said that the footprint will stay the same. He said that the stairway at the back will change. He said that the setback to the steps will be 10.3 feet.

Mr. O'Brien said that they will submit revised plans.

The Board asked if there is an existing air conditioning condenser. Mr. O'Brien said that there is not. The Board said that the bylaw prohibits placing air conditioning condensers in the setback area if there is no pre-existing unit there already. The Board said that would require a Variance and the application was submitted for a Special Permit. Mr. O'Brien asked that the request for the air conditioning condenser in the setback area be withdrawn. He said that there is no spot on the property that is not in violation.

Mr. O'Brien discussed *Gale vs Gloucester*. He said that increases can be allowed as long as they are found to be not detrimental.

The Board discussed Chapter 40A, Section 6 findings. The Board said that it does not generally permit new nonconformities.

Mr. O'Brien said that the existing rear stairs are nonconforming. The Board asked about the size of the proposed landing and stairs. Mr. O'Brien said that it will be 4 feet by 13 feet.

The Board confirmed that the intention is to reconstruct the retaining wall and steps to the same dimensions.

The Board asked if any of the abutters had written letters of support. Mr. O'Brien said that they did not.

The Board asked about the height of the retaining walls. Mr. Gaboriault said that at either side of the house at the garage they will be approximately 4 feet. He said that as they get down to the road they will be approximately 1.5 to 2 feet. He said that the retaining wall that goes along the left side of the house may vary depending on how the lot is graded. He said that there will probably be a lot less than what is there now, based on the garage under plan.

The Board asked about the portion of the landing that seems to overlie the existing retaining wall. Mr. Gaboriault said that there is a good possibility that the wall will be going out. He said that the elevation of the first floor of the house will be at 204. He said that the intent is to have one step down to the landing. He said that the elevation to the existing landing is 198x9.

The Board said that the plans do not show the height dimension. The Board said that the lot slopes from Lake Road upward. The Board said that the grade is not uniform around the perimeter of the structure. The Board said that height restrictions are defined in the bylaw. Mr. Gaboriault said that the height from average grade to the peak will be 33.3 feet.

The Board said that a revised plot plan should be submitted.

The Board said that it is a challenging site.

There was no one present at the Public Hearing who wished to speak to the petition.

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Statement of Facts

The subject property is located at 7 Lake Road, on a 1,911 square foot corner lot in a Water Supply Protection District in which the minimum lot size is 10,000 square feet, with minimum front yard setbacks of 0.3 feet and 12.8 feet, minimum side yard setbacks of 8.9 feet and 12.6 feet, and minimum frontage of 40.3 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 and reconstruction of an existing nonconforming structure with less than required front and side yard setbacks and frontage on a 1,911 square foot corner lot in a district in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Existing Plot Plan, dated 5/15/12 and Proposed Plot Plan, dated 5/18/12, revised 7/10/12, stamped by Joyce B. Hastings, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 5/11/12, revised 7/12/12, prepared by Margolis+Fishman, and photographs were submitted.

On July 6, 2012, the Planning Department Staff 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 although demolition and reconstruction of an existing nonconforming structure with less than required front and side yard setbacks and frontage on a 1,911 square foot corner lot in a district in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition and reconstruction of an existing nonconforming structure with less than required front and side yard setbacks and frontage on a 1,911 square foot corner lot in a district in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, subject to the conditions that

1. An updated plot plan shall be submitted that provides a dimension for the height of the structure from average grade.
2. The height of the proposed structure shall not exceed 33.3 feet.
3. The air conditioning unit shall be removed from the plot plan.

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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.

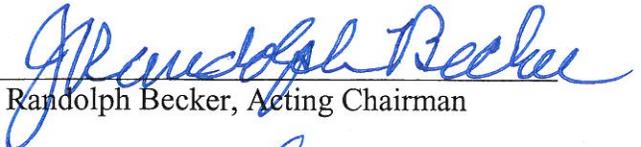
If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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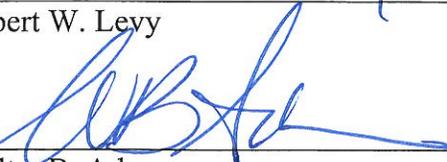
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



J. Randolph Becker, Acting Chairman

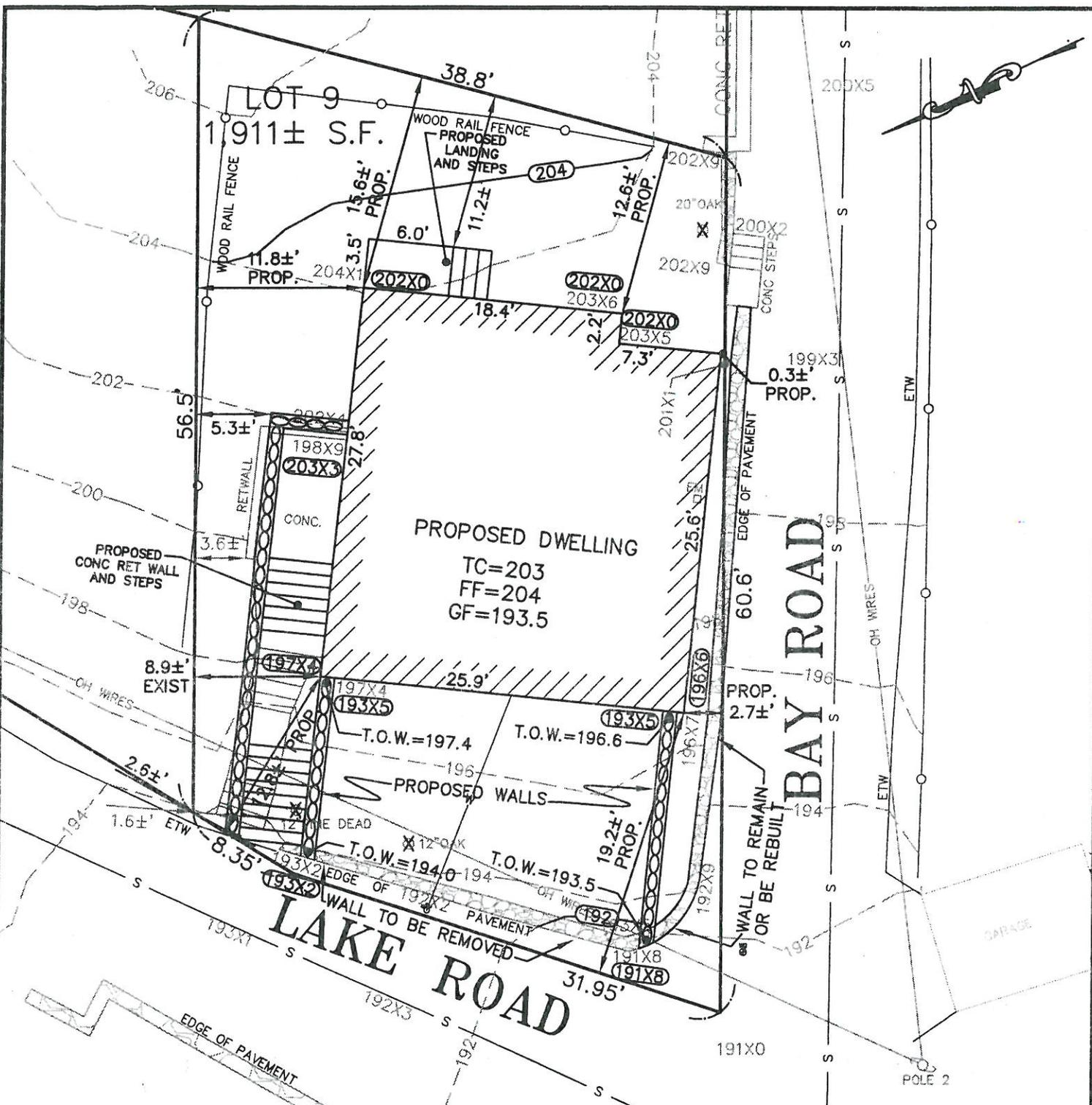


Robert W. Levy



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



PROPOSED LOT COVERAGE = 36.8%
 DISTRICT SRD-10
 EXIST. AVERAGE GRADE = 201±
 PROP. AVERAGE GRADE = 199±
 PROP. ROOF RIDGE GRADE = 231.83

LEGEND

---190---	EXISTING CONTOUR
196X7	EXISTING SPOT GRADE
(192)	PROPOSED CONTOUR
(191X8)	PROPOSED SPOT GRADE
▬▬▬▬▬	PROPOSED RETWALL
✕	TREE TO BE REMOVED

PROPOSED HOUSE PLAN
7 LAKE ROAD
WELLESLEY, MASSACHUSETTS

SCALE : 1" = 10' JULY 13, 2012

GLM ENGINEERING CONSULTANTS INC.
 19 EXCHANGE STREET
 HOLLISTON, MASS. 01746
 (508) 429-1100

JOB # 14693

I CERTIFY THAT THE BUILDING ON THIS PROPERTY IS LOCATED AS SHOWN

[Signature]
 PROFESSIONAL LAND SURVEYOR

JULY 13, 2012 DATE

