



ZONING BOARD OF APPEALS

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ZBA 2013-01
Petition of Kane Built, Inc.
33 Thomas Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 3, 2013, 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 two-story structure that will meet all setback requirements, on an 8,432 square foot lot in a Water Supply District in which the minimum lot size is 10,000 square feet, at 33 THOMAS ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 17, 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 Laurence Shind, Esq. and Roger Kane, (the "Petitioner").

Mr. Shind said that a prior application was withdrawn without prejudice at the December 6, 2012 Public Hearing. He said that the current petition is for a Special Permit/Finding that demolition of an existing nonconforming structure and construction of a new structure that will comply with all dimensional setback requirements will not be more substantially more detrimental to the neighborhood than the existing structure.

Mr. Shind said that the property, as it is currently improved, is on a nonconforming lot containing 8,432 square feet in a district that requires a 10,000 square foot minimum. He said that the current house abuts Perrin Park and was built in 1913. He said that it is a single story two-bedroom cottage with 850 square feet of living area. He said that lot coverage is approximately 22 percent. He said that there is a nonconforming garage on the lot. He said that the house is nonconforming on the right hand side with a 15.9 foot setback. He said that the existing house is in derelict condition.

Mr. Shind said that the proposed house will have a total finished living area on the first and second floors of 3,166 square feet. He said that the lot coverage will increase to 24.6 percent. He said that the Total Living Area plus Garage (TLAG) measurement will be 3,581 square feet, which is within the TLAG threshold for the district.

Mr. Shind said that design and siting of the house was carefully considered to fit in with the neighborhood.

The Board said that the attic plans are confusing and are not designated on the construction plans. The Board said that the house has a huge amount of roof, some of which has no stairway access, except for possibly a pull down stair. The Board questioned the ridge length of Attic C, saying that it appears to be more like 30 feet, rather than the 8 feet shown on the TLAG Calculation Plan.

The Board said that, although the proposed house does not need to meet the TLAG threshold, it would consider the finished space in the attic in the calculations. Mr. Kane said that there are 415 square feet that can be finished in the attic. He said that Attic B will have 315 square feet and Attic C will have 100 square feet. He said that Attic C is the front of the garage. He said that he has no interest in finishing the attic space.

The Board discussed the 2 foot by 24 foot bay window. The Board said that the bay will be almost half the length of the entire house. The Board said that, although there will be a number of windows, it appears that less than 50 percent of the wall surface of the bay will be windows.

The Board said that the bay will encroach into the setback at 19.3 feet. The Board asked if the house could be shifted to the west. The Board said that there could be a problem if the foundation is not put in the correct place.

Mr. Kane said that the proposed house is narrow. He said that the rooms in the front were narrow and that was the reason for the bump. He asked if bumping out one foot instead of two would be acceptable to the Board. The Board said that the 24 foot bay is a helpful feature because it breaks up the mass. The Board said that cutting the bay back to one foot would be a good element on the building.

The Board said that the front façade is nicely done. The Board confirmed that the decision to make the dominating roof was for aesthetics. The Board said that its initial concern was how the attic space was calculated. Mr. Kane said that the gable over the garage had some area that had to be figured into the TLAG. He said that 100 square feet cannot be finished but has to be calculated for the Building Code.

The Board asked about access to the attic. Mr. Kane said that the Fire Department usually determines where to put the pull down stairs.

Mr. Shind said that, although he did not have an exact number, there are a number of homes on Thomas Road that are on undersized lots.

The Board discussed revisions to the plans for the previous petition that was withdrawn. Mr. Kane said that there had been some information missing on the architectural plans. He said that the original plans showed the height calculation from the top of concrete to the ridge. Mr. Shind said that the original plan did not show the average grade. He said that has is now shown on Plan 1.

Mr. Shind said that originally the chimney dimension was not shown. He said that the bulkhead location on the architectural drawings conflicted with the plot plan. He said that has been corrected.

The Board said that the Elevation Drawings are labeled incorrectly for the right and left sides. The Board said that corrected plans must be submitted.

Mr. Shind said that the basement windows are now shown on the Elevation Plans.

Donna Ticchi, 31 Thomas Road, asked about the location of the bay window and the air conditioning units. The Board said that the air conditioning units will face Perrin Park and the bay window will face 31 Thomas Road. Ms. Ticchi asked if it is odd to have a bay window facing so close to another home. The Board said that the Developer has agreed to pull the bay back so that it will be at least 20 feet from the lot line.

Ms. Ticchi asked if the fence between 31 and 33 Thomas Road will be replaced. The Board said that is not required under Zoning. Mr. Kane said that he will replace the fence.

Ms. Ticchi said that there are trees along the side of the fence at 33 Thomas Road that are dead or dying. She said that when the gas line was dug up it destroyed the root systems of the trees. She said that she was concerned that the trees could come down in a storm. She said that she would like to see the trees replaced. Mr. Kane said that he will replace the trees, subject to the Tree Preservation Bylaw.

Ms. Ticchi said that, at the December hearing, the Board had a lot of concerns with changes to the grade and the foundation. She said that she is concerned with runoff to her property. She said that she has been living at 31 Thomas Road for six years and the basement has been dry. She said that she does not want to have a water issue.

The Board said that it is a fairly level lot. The Board asked if there will be a change in grade. Mr. Kane said that the plans are drawn by a professional engineer and reviewed by the Building Department. He said that the grades will change just to create proper grading around the house.

Mr. Kane said that he will be installing gutters on the house that will go to drywells.

Ms. Ticchi said that she would like to be kept informed as to when the work will be going on. She said that she was concerned about vibrations during the demolition phase. Mr. Kane said that he will notify Ms. Ticchi before he demolishes the home.

Charles Cote, 36 Thomas Road, said that when they dug up the road to install new lines, they tore up the curbs and sidewalk and left a divot. He asked how that will get fixed. Mr. Kane said that is a temporary patch. He said that when he puts the new line into the house, it will be dug up and then covered with sod, a base coat and a final coat that the Town will inspect. He said that the sidewalk will be repaired.

Mr. Cote said that there are several sporting events at Perrin Park. He said that when the sports seasons pick up there is hardly any parking on the street. He said that, on occasion, he has been blocked in. He asked how construction vehicles will be handled. He said that it can be difficult to maneuver the road.

Mr. Kane said that he will keep as many vehicles on the lot as possible. He said that the toughest phase is after the foundation is in while the mechanicals and plumbing are going in. He said that period is approximately a week and a half. He said that the neighbors should notify him if they experience a problem.

The Board said that the neighbors can call the police if there is any illegal parking.

Mr. Cote asked if the garage cut will be in approximately the same place. Mr. Kane said that it will be. He said that there will be a little less driveway.

Mr. Cote asked that Mr. Kane clean the site up.

Harold McCormick, 29 Thomas Road, asked about the dimensions for length, width, and height of the structure. Mr. Kane said that the house will be approximately 54 feet long by 40 feet wide. He said that the height will be 33.2 feet.

Mr. McCormick asked if the foundation will be enlarged. The Board said that the proposed house will be larger than the existing house but will be more centered and pulled back to meet the setbacks requirements.

Ms. Ticchi asked if, when the house is built, the grade will be the same for 33 Thomas Road as for 31 Thomas Road. Mr. Kane said that the grading will not change.

Mr. Shind said that the Board's concern at the last meeting was that the Elevation Plan did not show the height from average grade to meet the height requirement. The Board said that is now specifically identified on the plans.

The Board discussed potential conditions that there be no plumbing in the attic, that revised plans show the bay window at the 20 foot side yard setback, that the Elevation Drawings be revised to show correct labeling for the right and left sides, that the fence on the east side be replaced with stockade fence, and that gutters and drywells be installed.

The Board said that it had some concerns with the size of the house. The Board said that the proposed structure will maximize the square footage allowed on the lot. The Board said that the Petitioner attempted to meet all of the setback requirements and that removing the garage was an improvement. The Board said that it is a neighborhood with a number of small lots and that an 8,400 square foot lot appears to be typical for the area.

The Board said that the Petitioner should work with the neighbors to address their concerns.

Statement of Facts

The subject property is located at 33 Thomas Road, on an 8,432 square foot lot in a Water Supply Protection District in which the minimum lot size is 10,000 square feet, with a minimum left side yard setback of 8.9 feet, a minimum right side yard setback of 15.9 feet, and a minimum front yard setback of 25.6 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 two-story structure that will meet all setback requirements, on an 8,432 square foot lot in

a Water Supply 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.

Existing Plot Plan and Proposed Plot Plan, dated 9/28/12, TLAG Calculation Plan, dated 9/24/12, stamped by Susan E. Sullivan, Professional Land Surveyor, Proposed Floor Plans and Elevations Drawings, dated 9/14/12, prepared by R.C. Searles Associates, and photographs were submitted.

On December 27, 2012, the Planning Board Staff reviewed the petition and recommended that the Special Permit be denied.

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 two-story structure that will meet all setback requirements, on an 8,432 square foot lot in a Water Supply 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, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure and construction of a two-story structure that will meet all setback requirements, on an 8,432 square foot lot in a Water Supply District in which the minimum lot size is 10,000 square feet, subject to the following conditions:

1. There shall be no plumbing in the attic.
2. Revised plans shall be submitted that show the bay window with at least a 20 foot right side yard setback.
3. Revised Elevation Drawings shall be submitted that show correct labeling for the right and left side elevations.
4. The fence on the east side of the property between 33 and 31 Thomas Road shall be replaced with new stockade fence.
5. Gutters and drywells shall be installed.

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.

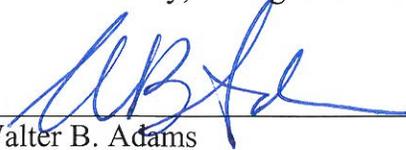
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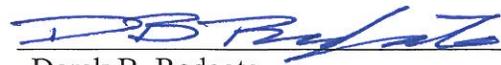
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



Robert W. Levy, Acting Chairman

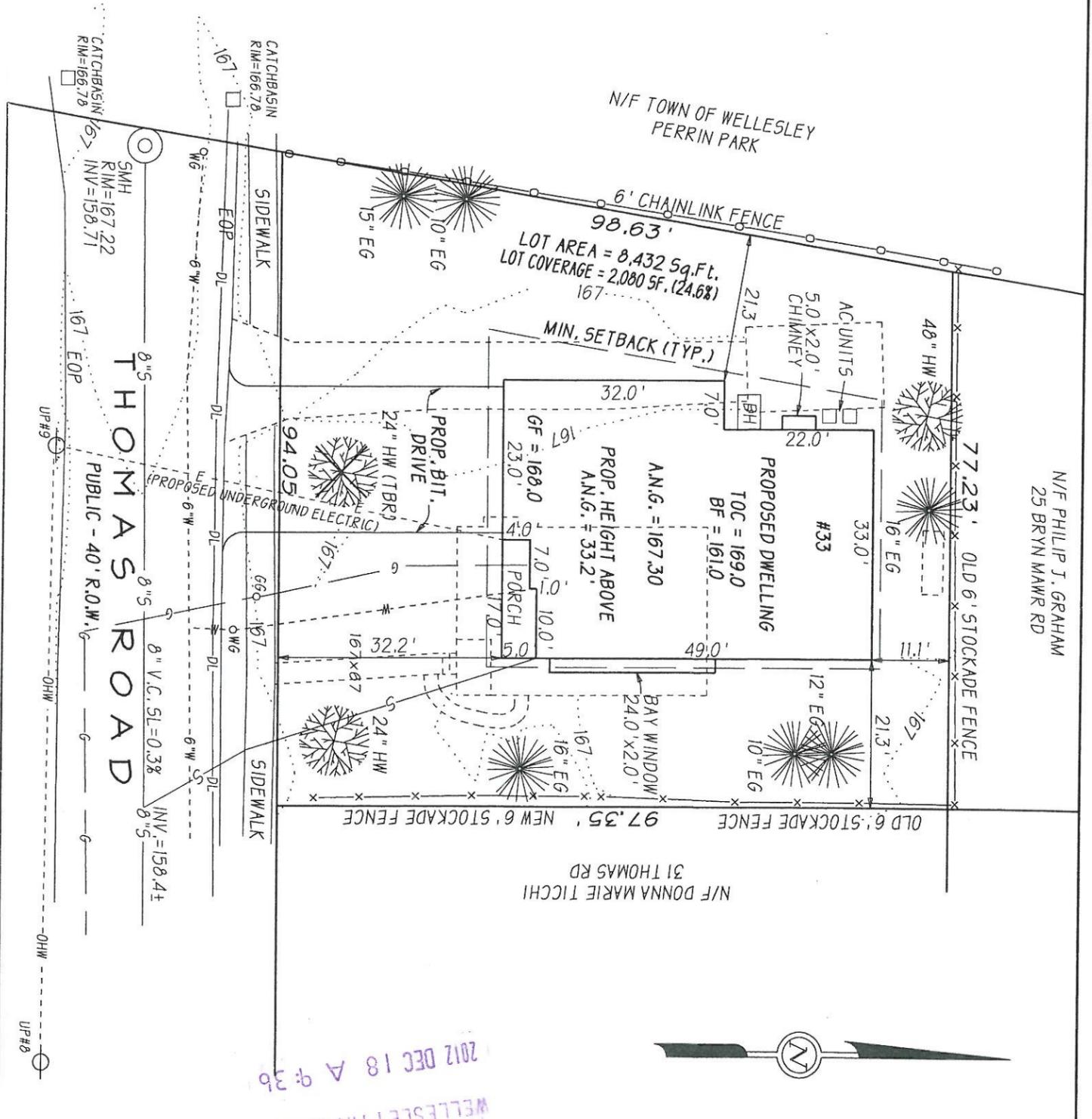


Walter B. Adams



Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm



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WELLESLEY MA 02482
2012 DEC 18 A 9:36

LEGEND

- SMH SEWER MANHOLE
- W-- WATER SERVICE
- UTILITY POLE
- OHW- OVERHEAD WIRES
- DL- DRAIN LINE
- G- GAS LINE
- XXXX SPOT ELEVATION
- XXX--- EXIST. 5-FT CONTOUR
- ...XXX... EXIST. 1-FT CONTOUR
- X" DIAMETER HARDWOOD
- X" DIAMETER EVERGREEN
- A.N.G. AVERAGE NATURAL GRADE

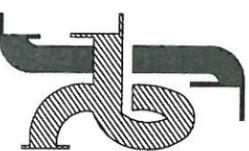
SITE DATA

- 33 THOMAS ROAD, WELLESLEY
- RECORD OWNER: JOHN W. SCHMIDT
- ASSESSORS MAP 191 LOT 77
- DEED BOOK 4095 PAGE 706
- PLAN BOOK 1499 PAGE 315
- ZONE SRD 10
- TABLE 1
- FRONT YARD: 30-FT
- SIDE YARD: 20-FT
- REAR YARD: 10-FT
- MAX. LOT COVERAGE = 25% = 8,432 X 0.25 = 2,108 S.F.

PROPOSED PLOT PLAN
33 THOMAS ROAD
WELLESLEY, MASSACHUSETTS

DATE: SEPTEMBER 20, 2012
SCALE: 1"=20'

Phone: (978)461-2350
Fax: (978)841-4102



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1754PROP.2D



GRAPHIC SCALE

