TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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2013 FEB 21 P 3:

ZBA 2013-06
Petition of Yaxin Wang & Xiaoyan Yin
77 Oak Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 7, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of YAXIN WANG & XIAOYAN YIN requesting a Special Permit/Finding pursuant to the provisions of the Section XVII and Section XXV of the Zoning Bylaw that construction of a one-story addition on the first floor, demolition of the existing roof, dormer and second floor partitioning, and construction of a new second story on an existing nonconforming structure with less than required left side yard setbacks, in a 10,000 square foot Single Residence District, at 77 OAK STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 23, 2013, 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 Xiaoyan Yin. (the "Petitioner").

Ms. Yin said that they bought the house in October. She said that it is a Cape style house that they plan to convert to a Colonial style house. She said that the plan is to rebuild the second floor as a larger addition.

Ms. Yin said that the structure is nonconforming because the existing garage is too close to the side property line. She said that on one side of the house is a school and on the other side are neighbors.

Ms. Yin said that the previous owners were granted a Variance to build the garage. She said that the proposed addition will be on the main house and will not involve the garage.

The Board said that there is a nonconforming left side yard setback at 14.7 feet. The Board said that a Variance had been granted (ZBA 75-43) for the garage with less than required side yard setbacks. The Board said that there will be no change to the current setback.

The Board discussed the difference between Special Permits and Variances.

The Board said that unless this was a teardown, there would be no basis for a Special Permit.

The Board said that the proposed changes do not involve the garage or the reason for the Variance. The Board said that the only reason that the petition is before the Board is because the garage exists. The Board said that the proposal is to change the conforming house only, not the nonconforming garage.

The Board discussed amending the Variance versus granting a Special Permit. The Board said that the petition was advertised to the public as a request for a Special Permit. The Board said that a Special Permit is a lesser request than a Variance. The Board said that this petition does not fall under the parameters for granting a Special Permit because it is not a pre-existing nonconforming use.

The Board read excerpts from ZBA 75-43, the decision in which the Board granted a Variance for the garage.

The Board said that Apple Street is a discontinued street. The Board said that there are no abutters on that side.

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 77 Oak Street, in a 10,000 square foot Single Residence District, with a minimum left side yard setback of 14.7 feet.

The Petitioner is requesting a Special Permit/Finding that construction of a one-story addition on the first floor, demolition of the existing roof, dormer and second floor partitioning, and construction of a new second story on an existing nonconforming structure with less than required left side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Existing Plot Plan, dated 1/11/13, stamped by George C. Collins, Professional Land Surveyor and Proposed Plot Plan, dated 1/11/13, stamped by George C. Collins, Professional Land Surveyor, Cover Sheet, dated 1/2/13, Plan 0.2, dated 12/28/12, Plan E-1, Plan E.2, Plan D.1, Plan A-1, Plan A-2, Plan A-4, Plan A-5, dated 11/14/12, Plan A-6, dated 1/23/13, Plan A-7 dated 11/14/12, Plan A-8, dated 1/3/13, Plan A-9, dated 11/14/13,and Photographs were submitted.

On February 6, 2013, 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 construction of a one-story addition on the first floor, demolition of the existing roof, dormer and second floor partitioning, and construction of a new second story shall not be substantially more detrimental to the neighborhood, as it shall neither increase an existing nonconformity nor create a new nonconformity.

The Board made the finding that the proposed construction is allowed under the existing Variance, ZBA 75-43. The proposed construction works with the Variance and does not require a Special Permit.

The Board said that the finding must be filed with the Town Clerk and the 20 day appeal period will apply.

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.

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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

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm

I CERTIFY THAT THIS PLAN WAS MADE FROM AN INSTRUMENT SURVEY ON THE GROUND BETWEEN THE DATES OF NOVEMBER 26, 2012 AND ALL STRUCTURES ARE LOCATED AS SHOWN HEREON.

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) MAPS, THE MAJOR IMPROVEMENTS ON THIS PROPERTY FALL IN AN AREA DESIGNATED AS ZONE "X" (AREA DETERMINED TO BE OUTSIDE O.2 % ANNUAL CHANCE FLOODPLAIN).
MAP NO. 25021C0016E
EFFECTIVE DATE: JULY 17, 2012

PREPARED FOR:
XIAOYAN YIN & YAXIN WANG
77 OAK STREET
WELLESLEY, MA 02482

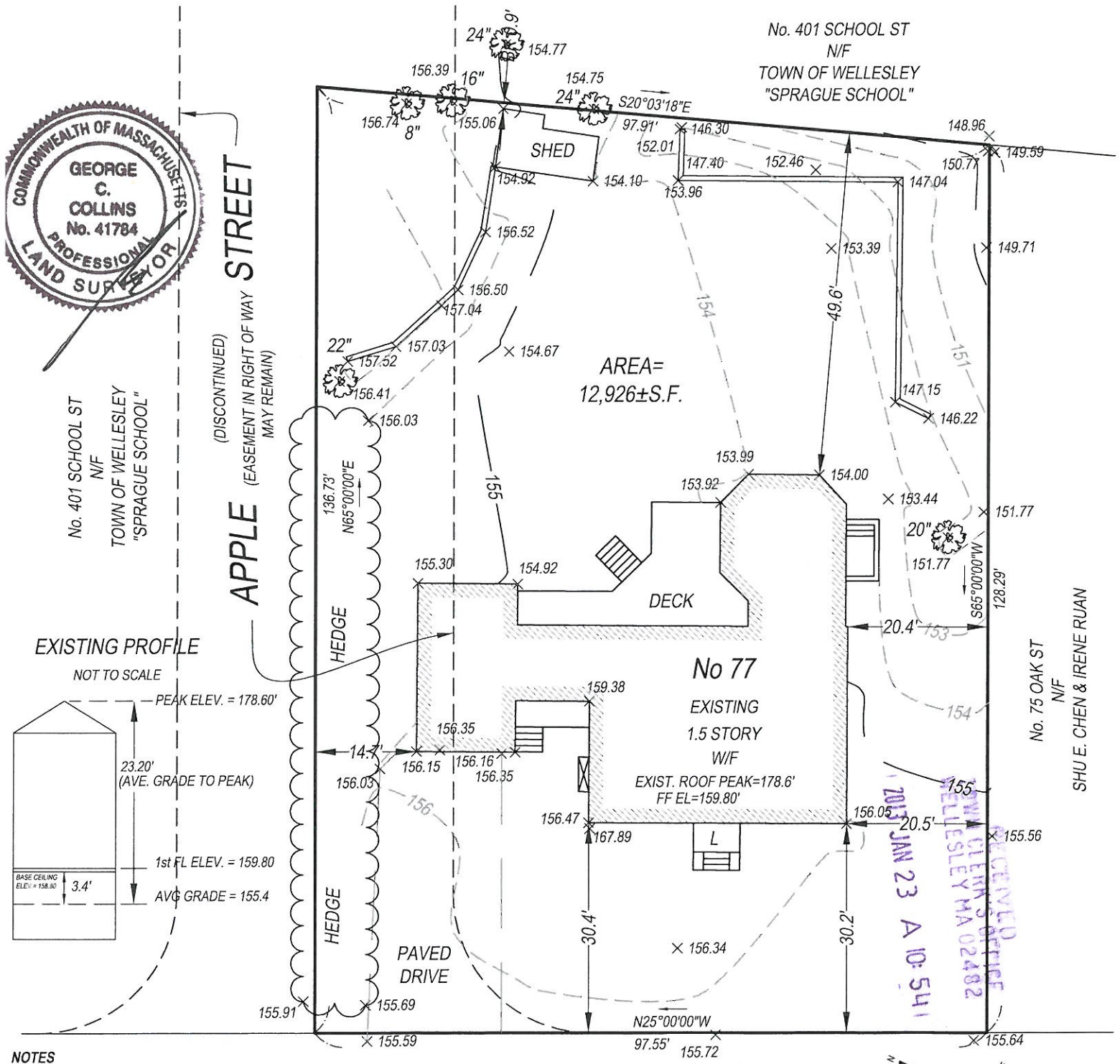
REFERENCES
DEED: BOOK 21401, PAGE 432
PLAN: BOOK 3960, PAGE 390
PLAN: BOOK 1559, PAGE 487
PLAN: BOOK 1791, PAGE 521

CERTIFIED PLOT PLAN

LOCATED AT

77 OAK STREET
WELLESLEY, MA

SCALE: 1 INCH = 20 FEET DATE: JANUARY 11, 2013



EXISTING PROFILE

NOT TO SCALE

NOTES
ZONING DISTRICT: SRD 10 - SINGLE RESIDENCE
ELEVATIONS ARE ON TOWN OF WELLESLEY VERTICAL DATUM
PARCEL ID: 135-75

EXISTING LOT COVERAGE: 15.4 % ; 2,018 SF±
AVERAGE GRADE = $\frac{156.1+156.2+155.3+154.0}{4}$ = 155.4

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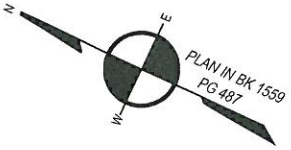
2013 JAN 23 A 10:54



BOSTON SURVEY, INC.
UNIT C-4 SHIPWAYS PLACE
CHARLESTOWN, MA. 02129
(617)242-1313

JOB # 12-00687

I CERTIFY THAT THIS PLAN WAS MADE FROM AN INSTRUMENT SURVEY ON THE GROUND BETWEEN THE DATES OF NOVEMBER 26, 2012 AND ALL STRUCTURES ARE LOCATED AS SHOWN HEREON.

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) MAPS, THE MAJOR IMPROVEMENTS ON THIS PROPERTY FALL IN AN AREA DESIGNATED AS ZONE "X" (AREA DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN).
MAP NO. 25021C0016E
EFFECTIVE DATE: JULY 17, 2012

PREPARED FOR:
XIAOYAN YIN & YAXIN WANG
77 OAK STREET
WELLESLEY, MA 02482

REFERENCES
DEED: BOOK 21401, PAGE 432
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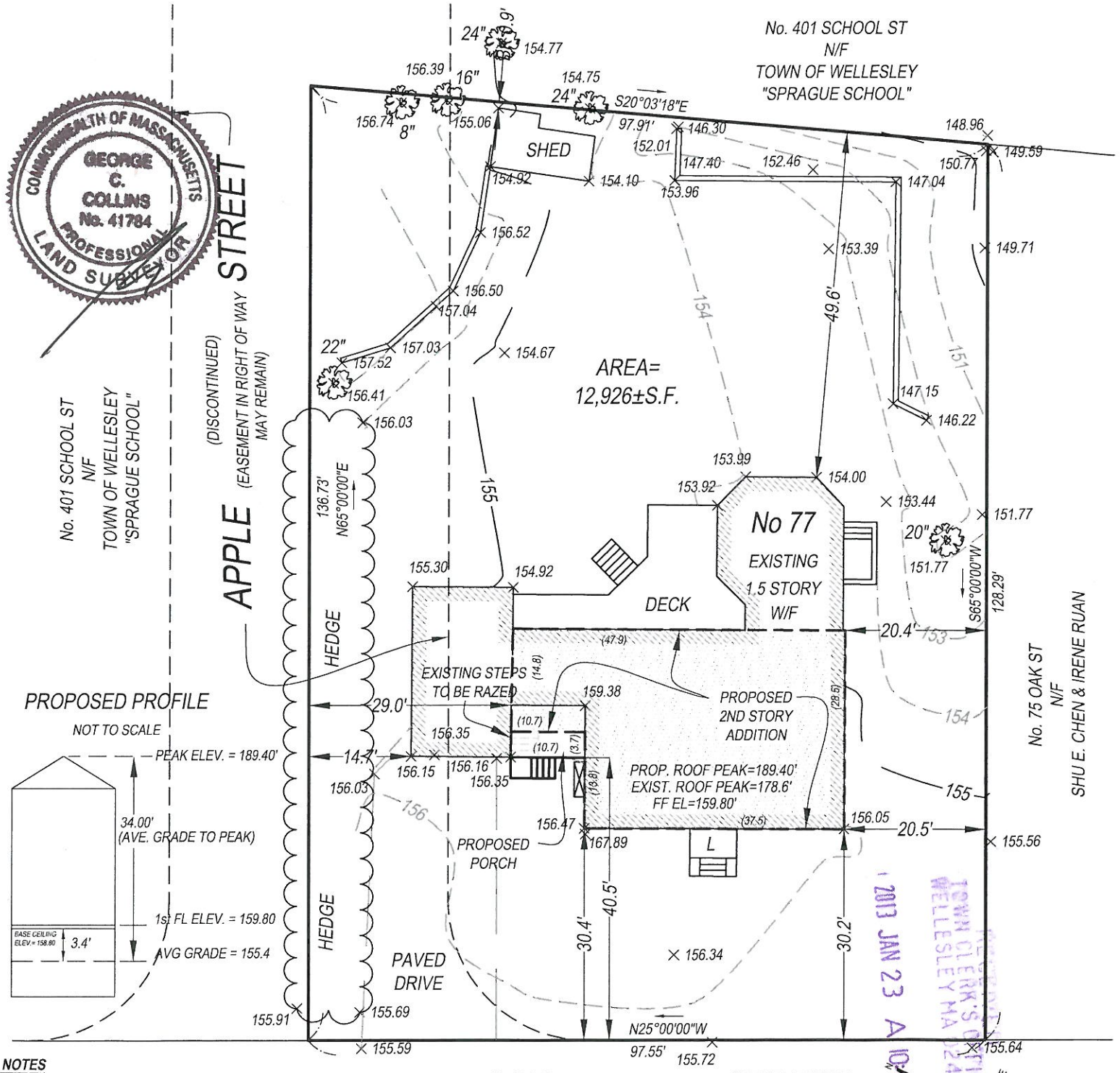
CERTIFIED PLOT PLAN

SHOWING PROPOSED CONDITIONS AT

77 OAK STREET
WELLESLEY, MA

SCALE: 1 INCH = 20 FEET DATE: JANUARY 11, 2013

COMMONWEALTH OF MASSACHUSETTS
GEORGE C. COLLINS
No. 41784
PROFESSIONAL LAND SURVEYOR



PROPOSED PROFILE
NOT TO SCALE

NOTES
ZONING DISTRICT: SRD 10 - SINGLE RESIDENCE
ELEVATIONS ARE ON TOWN OF WELLESLEY VERTICAL DATUM
PARCEL ID: 135-75

EXISTING LOT COVERAGE: 15.4% ; 2,018 SF±
PROPOSED LOT COVERAGE: 16.1% ; 2,078 SF±
AVERAGE GRADE = 156.1+156.2+155.3+154.0 / 4 = 155.4

2013 JAN 23 A 10:53
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WELLESLEY, MA 02482

PLAN IN BK 1559 PG 487

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UNIT C-4 SHIPWAYS PLACE
CHARLESTOWN, MA. 02129
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