



ZONING BOARD OF APPEALS

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

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ZBA 2014-15
Petition of Kevin & Patricia Barry
25 Washburn Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 6, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of KEVIN & PATRICIA BARRY requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that construction of a one-story addition with a basement and construction of a deck that will meet all setback requirements on an existing nonconforming structure with less than required right side yard setbacks, and a height from average grade of 36 feet 2 inches, in a 15,000 square foot Single Residence and Water Supply Protection District, at 25 WASHBURN AVENUE, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 18, 2014, 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 Kevin and Patricia Barry, (the "Petitioner").

Mr. Barry said that the request is to make renovations to their nonconforming property. He said that the setbacks on the existing house are nonconforming on the right side. He said that there is an existing detached garage on the left side of the property that does not meet setback requirements. He said that the existing house exceeds the height from average grade that is allowed under the bylaw.

Mr. Barry said that the plan is to demolish the existing two-car garage that is in a state of disrepair. He said that they would like to build an attached garage at the basement with a guest room, bathroom and family room above it. He said that it will be set further back from the side of the property. The Board said that it was good that the addition was set further back because it will not appear as massive from the street.

The Board said that it received a letter from the neighbor, Dr. Kestenbaum, expressing his concern about the large pine trees that are in the setback area. The Board said that it did not think that the proposed addition will impact those trees.

Mr. Barry said that the house is on the grade that rises up from the street. He said that the plans show the driveway coming to approximately 10 feet away from the property line. He said that they plan to have an arborist come out to consult about protecting the trees.

The Board asked how much of the grade will have to be removed for the driveway. The Board said that they will have to dig further into the hill as they get closer to the house. Mr. Barry said that the maximum height of the retaining wall at the back of the property is five feet at its steepest point.

The Board asked about the height of the existing ridge above grade. Mr. Barry said that it is 36 feet 2 inches. The Board said that the addition will be substantially lower than the existing ridge.

Dr Victor Kestenbaum, 35 Washburn Avenue, said that he lives next door. He said that he sent a letter to the Board. He said that he is not troubled with the structure. He said that he is concerned that the roots of the spruce trees extend well into work area where heavy equipment will be moving. He said that the trees are old. He said that they will now see the garage doors on the side of the house. He said that the center of activity will move to the side of the house. He said that he did not follow how the trees will be carefully preserved.

The Board questioned if the Tree Bylaw would come into play. The Board said that it would not be granting relief from the Tree Bylaw because it is enforced by the Building Inspector.

The Board said that there are two deciduous trees closest to Dr. Kestenbaum's property that appear to be Norway Maples, which are deemed to be nuisance trees in Wellesley. The Board said that it will issue a condition that the Petitioner consult with an arborist to come up with plan to best protect the roots of the trees that Dr. Kestenbaum is concerned with. The Board said that the arborist can give the contractor good instructions on how to protect the roots.

Dr. Kestenbaum asked how the change in grade will affect the water table. He said that the trees need adequate water. The Board said that the bituminous driveway will come down from an elevation of 209 to 210 feet at the back to an elevation of 201 feet at the street. The Board said that it may well be that the Building Inspector or the contractor will strongly recommend that there be some sort of drainage system at the bottom of the driveway to catch water so that it does not sheet onto the road. Mr. Barry said that they plan to have drainage specialist look at that. The Board said that it will add a condition that a drainage plan be submitted.

Dr. Kestenbaum asked where the equipment will stay overnight. Ms. Barry said that there is an existing driveway where the equipment will probably go. The Board said that once the site is excavated and the foundation is in they will not have heavy vehicles there but just delivery of materials.

The Board asked if the existing garage will come down at the end of the project. Mr. Barry said that he was not sure of the demolition plan. He said that the garage is in such poor repair that they do not use it.

Michael Zehner, Planning Director, said that the Tree Bylaw would be triggered because of demolition of the garage which is over 250 square feet. He said that trees along the side within 20 feet and more than 10 inch in diameter would be protected.

The Board said that both of the existing air conditioning units are nonconforming. Ms. Barry said that they have been there for eight to ten years. She said that they have no plans to change them.

Statement of Facts

The subject property is located at 25 Washburn Avenue, in a 15,000 square foot Single Residence and Water Supply Protection District, with a minimum right side yard setback of 16.8 feet and an existing height from average grade of 36 feet 2 inches. The existing garage has a minimum left side yard setback of 13.8 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 garage with less than required left side yard setbacks and construction of a one-story addition with a basement and construction of a deck that will meet all setback requirements on an existing nonconforming structure with less than required right side yard setbacks, and a height from average grade of 36 feet 2 inches, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 2/10/14, stamped by Joyce Hastings, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 1/6/14, prepared by Williamson Building Works, LLC, and photographs were submitted.

On February 25, 2014, the Planning Board reviewed the petition and recommended that the petition 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 demolition of an existing nonconforming garage with less than required left side yard setbacks and construction of a one-story addition with a basement and construction of a deck that will meet all setback requirements on an existing nonconforming structure with less than required right side yard setbacks, and a height from average grade of 36 feet 2 inches, 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 garage with less than required left side yard setbacks and construction of a one-story addition with a basement and construction of a deck that will meet all setback requirements on an existing nonconforming structure with less than required right side yard setbacks, and a height from average grade of 36 feet 2 inches, subject to the following conditions:

1. The project shall be in compliance with the Tree Protection & Preservation Bylaw, Section XVIIE of the Zoning Bylaw.
2. Special attention shall be paid by an arborist to review and mitigate any impact on the tree roots.

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3. A Drainage Plan shall be submitted.

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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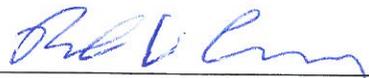
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25 Washburn Avenue

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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.



Richard L. Seegel, Chairman

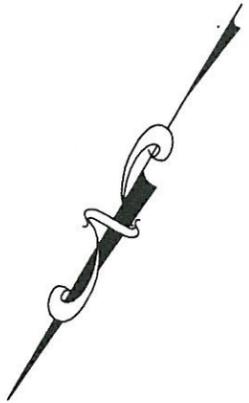


Robert W Levy



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



ZONING
 SRD 15
 SINGLE RESIDENCE

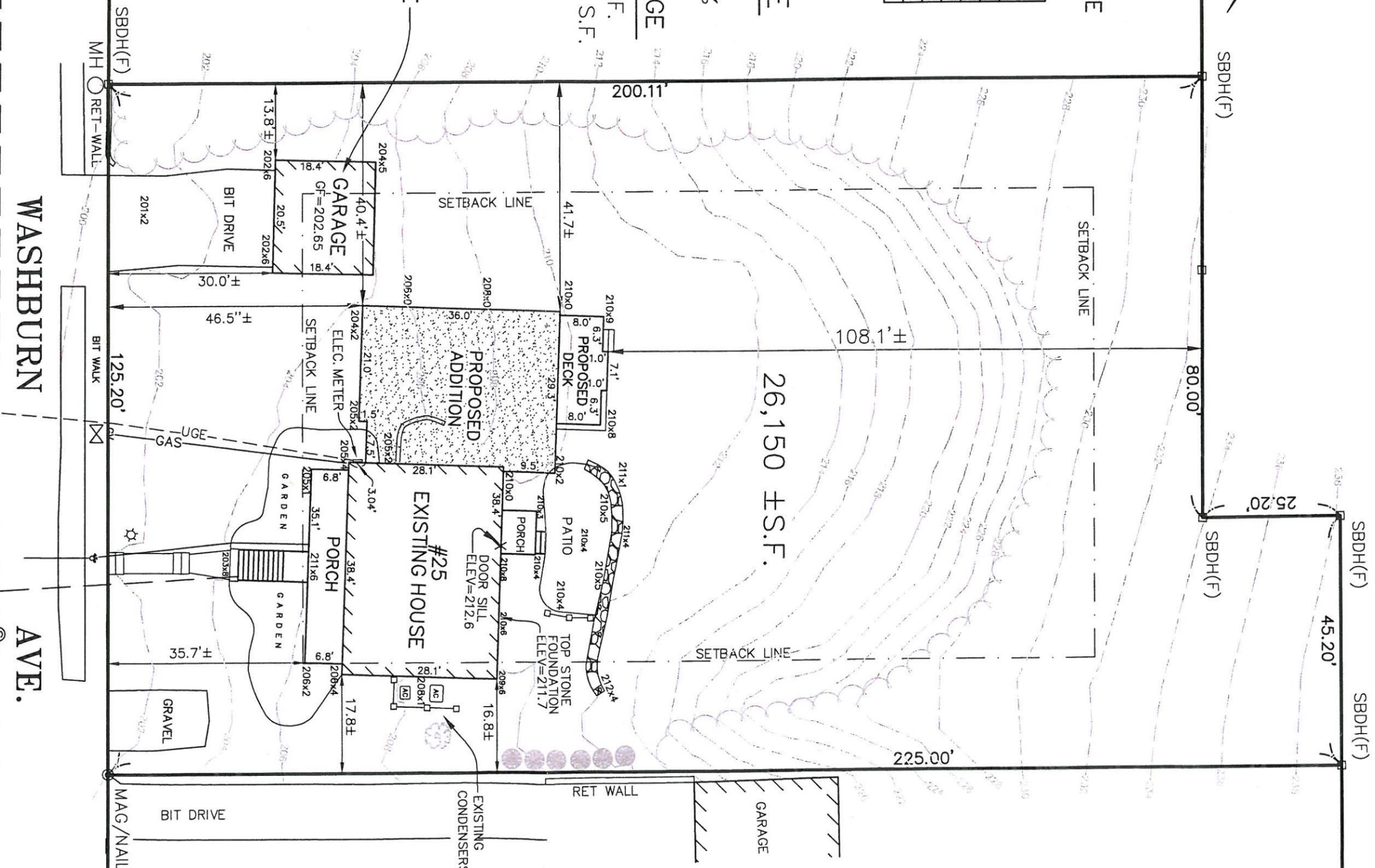
HOUSE #	FRONT SETBACK
#37	37.2'±
#35	39.0'±
#25	35.7'±
#21	35.5'±
#19	39.7'±
#15	39.3'±

LOT COVERAGE

EXISTING=6.5%
 PROPOSED=8.95%

BUILDING COVERAGE

EXISTING=1,744 S.F.
 PROPOSED=2,553 S.F.



PLANNING OFFICE
 WELLESLEY MA 02482
 2014 FEB 18 P 2:11

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



PROFESSIONAL LAND SURVEYOR

DATE

2/10/14

PLOT PLAN OF LAND
 25 WASHBURN AVE.
 WELLESLEY, MASSACHUSETTS

DATE: FEBRUARY 10, 2014

SCALE: 1"=20'

PREPARED FOR: KEVIN BARRY
 25 WASHBURN AVE.
 WELLESLEY MA.

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