



## ZONING BOARD OF APPEALS

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

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ZBA 2015-57  
 Petition of Scott & Elizabeth Lashway  
 25 Glen Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, July 9, 2015, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of SCOTT & ELIZABETH LASHWAY requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming deck and stairs and construction of an additional landing and stairs, with less than required front yard setbacks, on an existing nonconforming structure with less than required front yard setbacks from Glen Road and Montvale Road, on an 8,760 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, at 25 GLEN ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On June 22, 2015, 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 Scott and Elizabeth Lashway, the Petitioner. Mr. Lashway said that the request is for a special permit to remove and replace a pre-existing nonconforming structure and an exterior deck. He said that they learned from a neighbor that the structure has been in existence for more than 30 years. He said that they have owned the house since 2011. He said that they learned about the nonconformity during an evaluation for structural safety. He said that the deck is currently 10 feet by 10 feet. He said that it is the rear exit from the house and a second egress. He said that the house sits on a hill on the corner of Glen Road and Montvale Road, which is a private road that feeds a driveway. He said that the proposal is to tear the deck down and replace it. He said that they have two young children. He said that lack of safety with the current structure is a concern, as the deck has fallen into disrepair. He said that there will be an amendment to the structure to allow egress to the front and rear yards. He said that the children play out back and they want to be able to get to the back yard in a timely fashion if needed.

Mr. Lashway said that they went before Wetlands Protection Committee for approval. He said that there is a stream that flows behind a neighbor's house. He said that he had two letters of support from direct abutters.

The Board said that there is a very steep drop off.

A Board member questioned whether this is a pre-existing nonconforming structure. He said that it would have to have been built prior to enactment of the Zoning Bylaw, which was more than 30 years ago. He

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said that the Board has seen decks built without permits over the years. He said that owners try to enclose the decks based on the existence of the deck over a number of years. He said that this would be an improvement because the deck is in disrepair and is probably a hazard.

Ms. Lashway said that the neighbor on Montvale Road is the only residence on Montvale Road. She said that the neighbor's grandfather owned the property and said that, as long as the neighbor has been around, the deck has been there.

Mr. Lashway said that, relative to property lines, the houses were not built with exact science on Glen Road. He said that the houses are not perpendicular to property lines but to the road. He said that presents a problem with the setback issue.

Mr. Lashway said that Montvale Road dictates that there are two front yards for this property, which complicates side egress. The Board said that the road is shown as a dashed line on the plot plan. The Board said that where it says road, there are trees or bushes there. The Board said that there is a noticeable amount of land between the deck and the actual road. The Board said that it is a treacherous road that nobody goes down regularly.

The Board said that the three nonconformities are the two front yard setbacks and lot size.

Mr. Lashway said that they do not have plans of the house that are datable. He said that they do not have an accurate age of the house. He said that there is evidence that the town records could be inaccurate by as much as 30 years as to when the original home was built.

A Board member said that he was concerned about the condition of the deck. He said that it appears to be the second egress from the house. Mr. Lashway said that there is a door out of the basement. He said that the first floor is living space and it would be tough to get out of the house in an emergency with only one option on that floor.

Ms. Lashway submitted letters of support from neighbors at 23 and 31 Glen Road.

The Board said that this could meet the variance standard of topography. The Board said that it cannot determine when the deck was put there. The Board said that this is a very unique situation. The Board said that the Building Inspector would permit a structure of some size for an egress. The Board said that the deck is out of the way and separated by the private way. The Board said that it is unlikely that the private way will be improved. The Board said that it will not be more detrimental to the neighborhood. The Board said that each decision is unique and does not set a precedent.

#### Statement of Facts

The subject property is located at 25 Glen Road, on an 8,760 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with a minimum front yard setback of 14.2 feet to Glen Road and a minimum front yard setback of 3.3 feet to Montvale Road.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming deck

and stairs and construction of an additional landing and stairs, with less than required front yard setbacks, on an existing nonconforming structure with less than required front yard setbacks from Glen Road and Montvale Road, on an 8,760 square foot corner lot in a Single Residence 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 5/12/15, stamped by Robert F. Drake, Professional Land Surveyor, Explanation of Request, dated 5/12/15, Floor Plans and Elevation Drawings, dated 5/1/15, prepared by Sousa Design Architects, and photographs were submitted.

On June 4, 2015, the Wetlands Protection Committee issued a Negative Determination of Applicability, with conditions.

On July 7, 2015, 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 although demolition and reconstruction of an existing nonconforming deck and stairs and construction of an additional landing and stairs, with less than required front yard setbacks, on an existing nonconforming structure with less than required front yard setbacks from Glen Road and Montvale Road, on an 8,760 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet 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 deck and stairs and construction of an additional landing and stairs, with less than required front yard setbacks, on an existing nonconforming structure with less than required front yard setbacks from Glen Road and Montvale Road, on an 8,760 square foot corner lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in accordance with the submitted plot plan and construction drawings.

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.

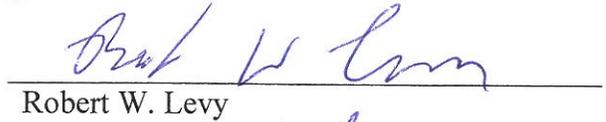
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25 Glen Road

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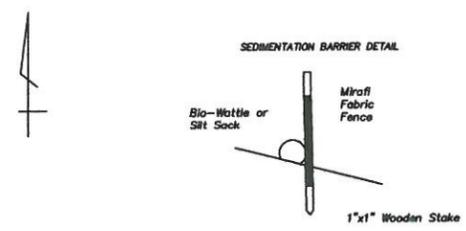
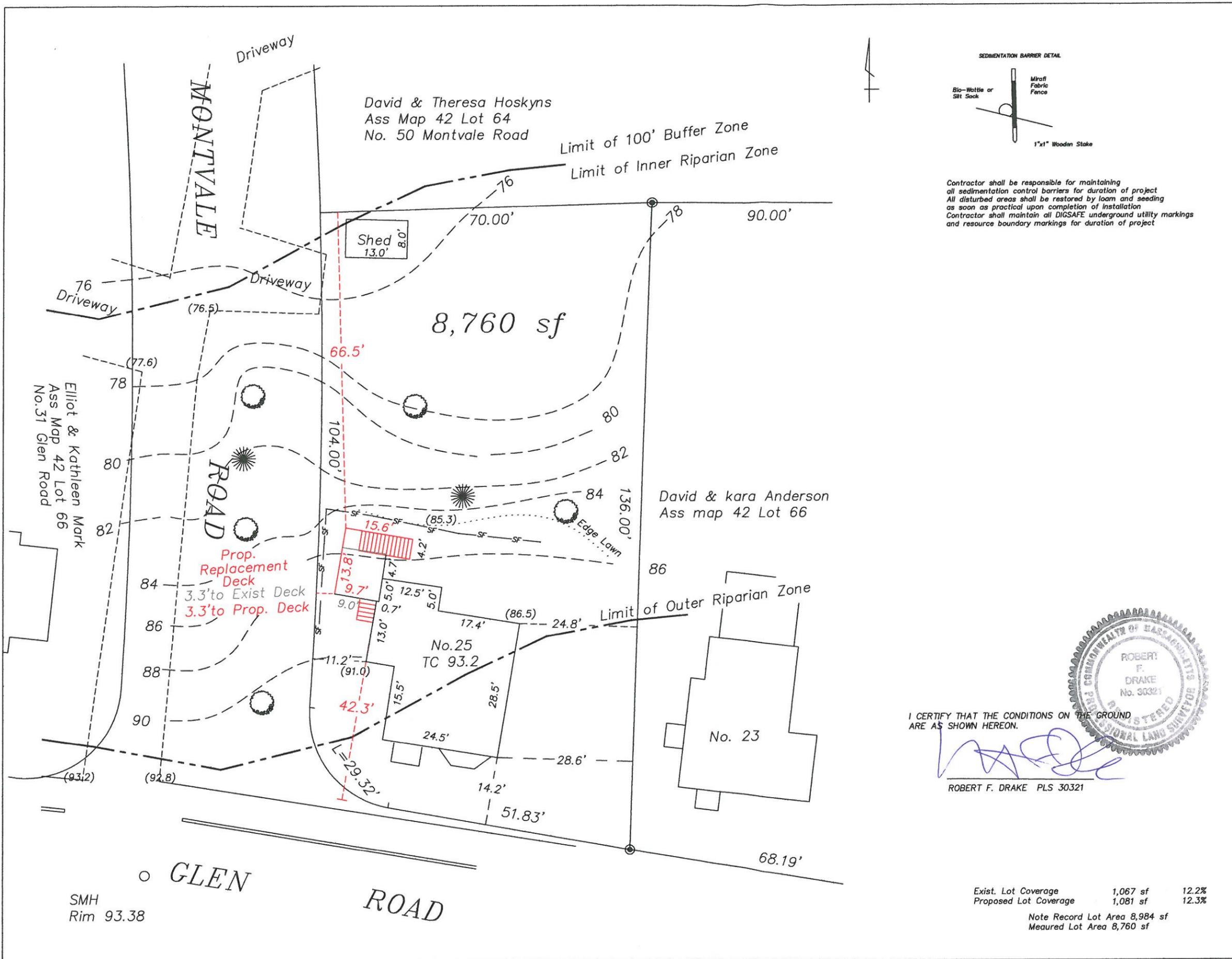
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.

  
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J. Randolph Becker, Acting Chairman

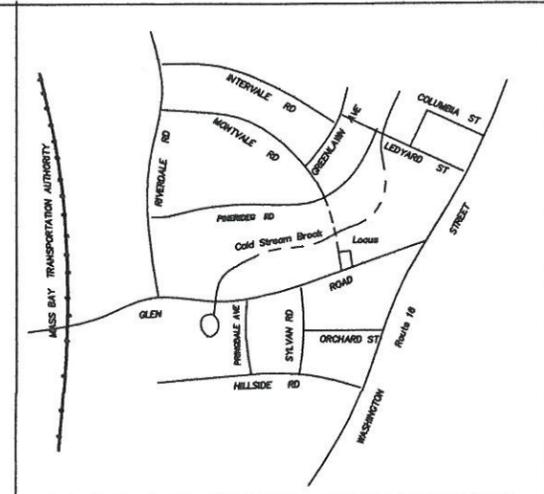
  
\_\_\_\_\_  
Robert W. Levy

  
\_\_\_\_\_  
Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm



Contractor shall be responsible for maintaining all sedimentation control barriers for duration of project  
All disturbed areas shall be restored by loam and seeding as soon as practical upon completion of installation  
Contractor shall maintain all DIGSAFE underground utility markings and resource boundary markings for duration of project



LEGEND

B.M.	TOPOGRAPHIC BENCH MARK NAVD 88
T.C.	TOP OF CONCRETE FOUNDATION
C.F.	CELLAR FLOOR ELEVATION
DCB	DRAINAGE CATCH BASIN
DMH	DRAINAGE MANHOLE
SMH	SANITARY SEWER MANHOLE
-W-W-	WATER SERVICE LINE
-D-D-	STORMWATER DRAINAGE LINE
-S-S-	SANITARY SEWER LINE
-FM-FM-	FORCE MAIN
ETW	EDGE OF TRAVELLED WAY
-FD-FD-	FOUNDATION DRAIN LINE
-RD-RD-	ROOF DRAIN LINE
-100-	EXISTING ELEVATION CONTOUR
(100.0)	PROPOSED ELEVATION CONTOUR
(100.0)	EXISTING SPOT GRADE
(100.0)	PROPOSED SPOT GRADE
HYD	HYDRANT
WSO	WATER SHUTOFF
WGV	WATER GATE VALVE
GSD	GAS SHUTOFF
SCD	SANITARY SEWER CLEANOUT
Pole	UTILITY POLE
-W-	EDGE OF WETLANDS
-SF-	SEDIMENTATION CONTROL BARRIER

LOCATIONS OF UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON FIELD LOCATIONS OF VISIBLE STRUCTURES SUCH AS CATCH BASINS, MANHOLES, WATER GATES, ETC. AND COMPLYING INFORMATION FROM PLANS SUPPLIED BY VARIOUS UTILITY COMPANIES AND GOVERNMENT AGENCIES. THE LOCATIONS SHOWN SHALL BE CONSIDERED APPROXIMATE. PRIOR TO CONSTRUCTION, THE LOCATIONS OF ALL UNDERGROUND UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR. PRIOR TO STARTING CONSTRUCTION, CALL DIGSAFE 888 344-7233

PROPOSAL

The proposal is to replace the existing 10'x10' Deck in it's current location and to add a 3.5' x 4.2' Landing with 13 stairs to provide access to the rear yard.

The net increase in impervious area will be 66 sf  
The area under the entire deck will be crushed stone to enhance infiltration and provide erosion control for the entire deck.

The work area is located in the Outer Riparian Zone for Cold Stream Brook

ZONING SR 10	ASS MAP 42	LOT 65
	DATE	REVISIONS
		ITEMS



I CERTIFY THAT THE CONDITIONS ON THE GROUND ARE AS SHOWN HEREON.

ROBERT F. DRAKE PLS 30321

Exist. Lot Coverage	1,067 sf	12.2%
Proposed Lot Coverage	1,081 sf	12.3%
Note Record Lot Area 8,984 sf Measured Lot Area 8,760 sf		

CERTIFIED PLOT PLAN

No. 25 Glen Road  
WELLESLEY MASS.

PREPARED FOR  
SCOTT & ELIZABETH LASHWAY  
SCALE 1"=20' MAY 12, 2015

PREPARED BY  
Drake Associates Inc.  
CIVIL ENGINEERS LAND SURVEYORS  
25 WELLESLEY AVENUE WELLESLEY MASS.  
(508) 877 - 0848