



ZONING BOARD OF APPEALS

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ZBA 2016-24
 Petition of Kraus Associates LLC
 21 Avon Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 7, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Kraus Associates LLC 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 structure and construction of a new structure that will meet all setback requirements, on a 9,976 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 21 Avon Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On March 21, 2016, 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 David Himmelberger, Esq., and Charles Kraus, Kraus Associates LLC, the Petitioner.

Mr. Himmelberger said that this is the second Special Permit that he has brought before the Board in the past year due to surveying issues. He said that the lot was noted as being 10,000 square feet in deeds and the Assessor's records. He said that upon closer inspection, the lot was found to be 9,976 square feet. He said that the request is for a Special Permit to raze and rebuild a single family home on an otherwise compliant lot. He said that the proposed structure will have a Total Living Area plus Garage (TLAG) of less than the 3,600 square foot trigger for Large House Review (LHR), which does not apply. He said that it will have compliant setbacks and will comply with the 500 Foot Rule. He said that the overall design of the proposed house is tasteful and aesthetically in harmony with the neighborhood. He said that he has emails from the neighbors at 19 and 26 Avon Road in support of the project.

Mr. Himmelberger said that in 1954 there was a purchase of a parcel at the rear which seems to have been made with the intent to bring the lot to 10,000 square feet. He said that it was done to secure the building permit at the time. Mr. Kraus said that the size of the lot was listed as 9,982 square feet and they purchased 18 square feet. He said that the dimensions on the plot plan do not add up to 9,982 square feet.

A Board member said that they will be building on ledge. He said that the ledge is obvious and sticks out of the ground. He asked if they will be blasting. Mr. Kraus said that they are hoping to be hammering and splitting, if necessary. He said that there was a similar project around the corner. The Board member said that he tried to look at the resulting topography after the material was removed. He said that he had a

difficult time determining whether the elevations are correct based on what he could see as the slope of the property. He said that he could not do any numbers without seeing the related topography. He said that with so much rock there, there may be some drainage mitigation needed.

Mr. Kraus said that he put some spot elevations on the first floor plan. He said that the existing house sits about a foot higher than the first floor of the proposed house. He said that it will still sit up on the hill. He said that they will keep most of the topography the same except for the side entrance garage on the driveway side. He said that the ledge and the driveway area was filled in for access to the basement. He said that fill will be removed to create the driveway for the garage under that will not face the street. He said that the basement will be created by removing ledge.

A Board member said that on Drawing A 3.2, the garage appears to be close to the level of Avon Road. Mr. Kraus said that it will be approximately one foot above the curb cut on Avon Road.

Mr. Kraus said that they may retain some of the ledge for aesthetics. He said that might be a nice feature. He said that area beyond the ledge will be removed. A Board member said that the ledge at the back affects about a quarter of the footprint of the house. He asked if there will be any retaining walls behind the house because of the further slope up the hill. Mr. Kraus said that the patio shown on the proposed plot plan will be close to existing grade. He said that they will fill a little bit back there. He said that as you come down the driveway there will be a retaining wall to hold back the slope. He said that it will be down to nothing as it goes toward the abutter's property.

The Board asked how drainage will be taken care of. Mr. Kraus said that they have not done calculations for impervious surface yet. He said that the new impervious footprint should be close to the existing impervious surface. He said that they are going to try to collect all of their roof drainage with drywells. He said that they are trying to find suitable, leachable soils on site, which they assume that they can do at the left rear of the lot. The Board said that any flow from the driveway will be out to the street. The Board said that a condition will be that action shall be taken to prevent drainage from flowing onto abutting properties.

Maureen Huddleston, 23 Avon Road, said that she and her husband fully support the project. She said that they have some concerns because of the amount of ledge, blasting and the proximity to their foundation. She said that the fence that shares the property is holding up the soil. She said that their concerns are drainage, blasting and privacy. The Chairman said that there are State Laws that govern blasting. He said that Mr. Kraus has to give the Huddlestonses sufficient notice and he would be liable for damages to their property. Ms. Huddleston said that she sent an email stating that they do support the project and the proposed design.

A Board member asked if there are State Regulations for mechanical removal of rock. He said that the neighbors should be alerted to that activity. The Board discussed restriction of times during the week and weekends for ledge removal. Mr. Himmelberger said that the Applicant would offer to refrain from any removal activity except within the hours of 8 am to 4 pm. The Chairman said that the hours should be limited to 9 am to 3 pm, when the children are in school. He said that there should be notification to the neighbors for any ledge removal and strict compliance with all applicable laws, regulations and requirements.

Mr. Kraus confirmed that the State Statute should apply to hammering as well as blasting. He said that his concern is that he does not know what the State Statute is for blasting. He said that there may be regulations that might not apply to hammering. The Chairman said that it is more of a notification issue. He said that he was not suggesting that the blasting rules apply to taking the ledge out some other way. Mr. Himmelberger said that they will use the notifications standards for blasting. The Chairman said that the main thing is going to be a noise situation. He said that there will be no work on Saturday or Sunday.

Statement of Facts

The subject property is located at 21 Avon Road, on a 9,976 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District.

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 structure and construction of a new structure that will meet all setback requirements, on a 9,976 square foot lot in a Single Residence 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.

A Plot Plan, dated 3/1/16, stamped by Peter A. Lothian, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 2/22/16, prepared by Kraus Associates, Architects, and photographs were submitted.

On April 6, 2016, the Planning Board reviewed the petition and recommended that the Special Permit be granted.

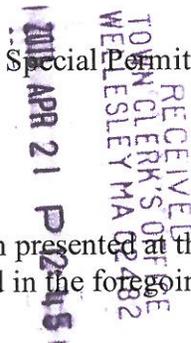
Decision

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 demolition of an existing structure and construction of a new structure that will meet all setback requirements, on a 9,976 square foot lot in a Single Residence 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, 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 structure and construction of a new structure that will meet all setback requirements, on a 9,976 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, subject to the following conditions:

1. The Applicant shall notify the neighbors in accordance with State Blasting Regulations for notification.
2. The Applicant shall install at least one drywell at the rear of the property and attached to the house's roof leaders



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3. Blasting or removal of ledge shall be done only between the hours of 9 am and 3 pm, Monday through Friday

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.

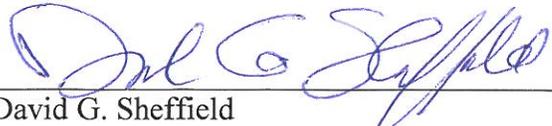
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


Richard L. Seegel, Chairman


David G. Sheffield

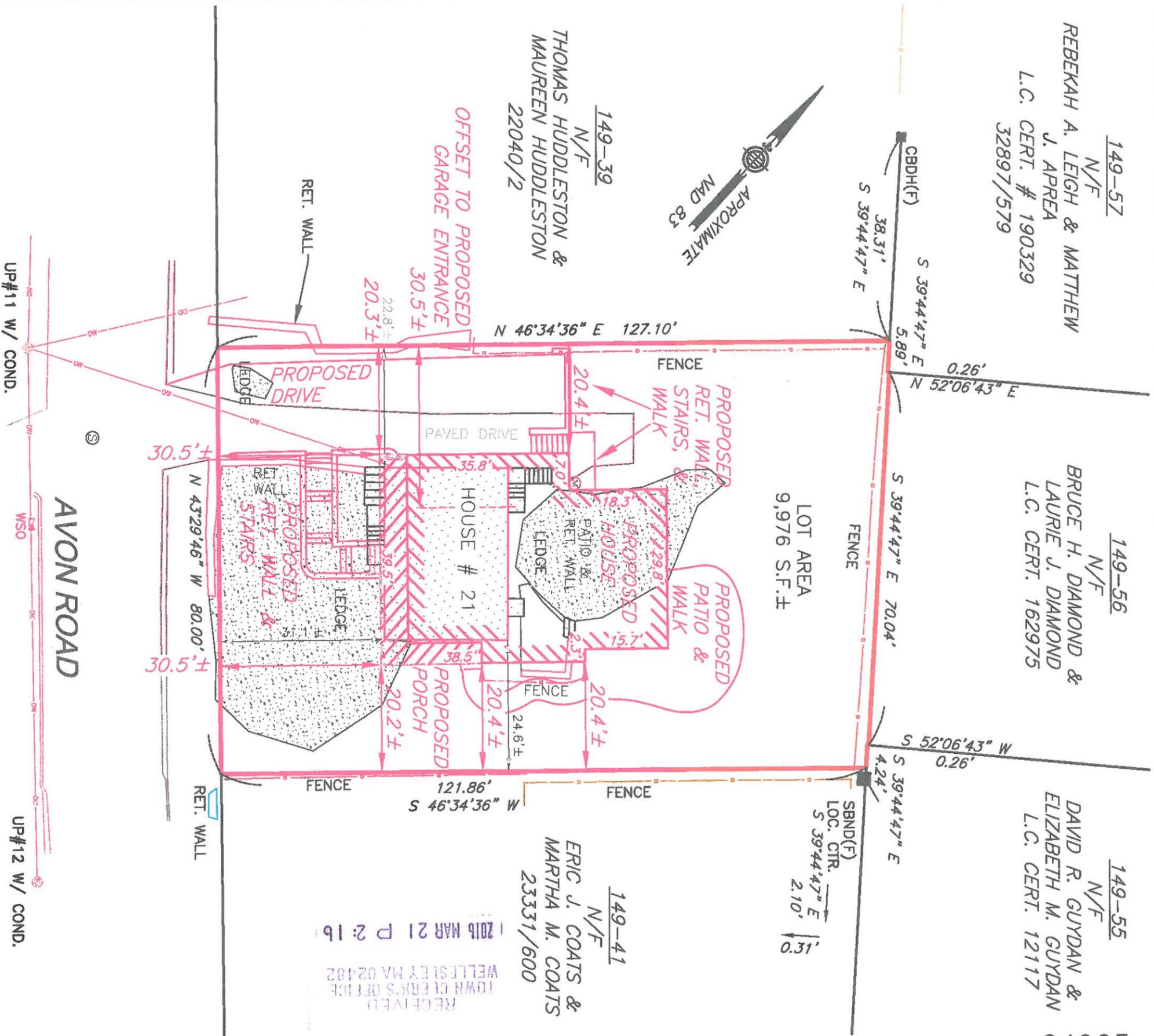

Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

149-57
N/F
REBEKAH A. LEIGH & MATTHEW
J. APREA
L.C. CERT. # 190329
32897/579

149-56
N/F
BRUCE H. DIAMOND &
LAURIE J. DIAMOND
L.C. CERT. 162975

149-55
N/F
DAVID R. GUYDAN &
ELIZABETH M. GUYDAN
L.C. CERT. 12117
24905



NOTES

1. RECORD OWNER: KRAUS ASSOCIATES LLC. SEE DEED BOOK 33823 PAGE 427 AND LAND COURT CERTIFICATE OF TITLE # 192646 RECORDED AT NORFOLK REGISTRY OF DEEDS.
2. SEE ASSESSORS PARCEL 149-40.
3. PARCEL FALLS WITHIN ZONING DISTRICT SINGLE RESIDENCE 10.
4. THE SUBJECT PROPERTY FALLS WITHIN A ZONE X (UNSHADED) AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP FIRM #25021C0016E DATED JULY 17, 2012.

	EXISTING	PROPOSED
LOT AREA(SF):	9,976	NO CHANGE
LOT COVERAGE(SF):	751	1,961
LOT COVERAGE(%):	8	20
HEIGHT OF BUILDING(FT):	22.6	34.5 FROM AVERAGE ORIGINAL GRADE



Peter A. Lothian
3/1/2016

24905

LOT PLAN FOR ZBA APPLICATION
21 AVON ROAD
WELLESLEY, MASS.
PREPARED FOR: KRAUS ARCHITECTS
SCALE: 1"=20' DATE: MARCH 1, 2016

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