



ZONING BOARD OF APPEALS

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

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ZBA 2016-02
 Petition of Michelle & Ezra Paul
 38 Clovelly Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 7, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Michelle & Ezra Paul requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a two story addition with less than required right side yard setbacks shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a garage with attic space above with less than required left side yard setbacks. The structure is located at 38 Clovelly Road, on a 7,925 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet. Plans may be examined in the office of the Board of Appeals.

On December 21, 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 was Michelle Paul, the Petitioner.

Ms. Paul said that they have owned their home for 10 years. She said that it is a nonconforming lot with 8,000 square feet in a district in which 20,000 square feet is required. She said that the request is for side yard setback relief. She said that there are significant topography issues. She said that their lot abuts a town drainage system that is part of one of the legs of the Fuller Brook drainage path. She said that their property flooded in 2011, which was a significant hardship for them. She said that the garage is part of the basement and open towards the channel. She said that it is below grade from the back of the lot to the front of the lot. She said that there is a significant grade change from where the open channel is to where it is closed in a 24 inch pipe that the Town maintains. She said that the house sits at a low point on Clovelly Road. She said that whenever there is rain, they have a lot of issues with flooding. She said that in 2011, they had over 3 feet of water in their driveway from Tropical Storm Irene. She said that because the Town maintains the brook, and the brook flooded, DPW pumped out their basement and driveway. She said that since that event, every time that it rains, they have to check the channel and call DPW. She said that Kevin Connolly, DPW foreman of streets and maintenance, told them that this is one of the top five spots in town. She said that they face substantial financial hardship because of flooding. She said that they are always worried about flooding again. She said that the hardship is not self-created. She said that the proposed changes create substantial usefulness and value to the house. She said that it substantially affects their situation. She said that they seasonally sandbag their garage because they are worried about flooding again. She said that the request is for a variance to re-grade and close up the

garage and put the garage more at grade. She said that it will be below where the house actually sits. She said that they will not take the backyard to any higher level. She said that they will re-grade from the backyard down to the street. She said that the garage will sit about 3 feet below the existing house. She said that there will be a grade change inside the garage. She said that the variance is required because when you look at their lot, they own 10 feet that they do not own. She said that the situation was created in 1935 when the channel was closed. She said that the Town was granted an easement to maintain the brook. She said that 10 feet is owned by their neighbors even though it is on the Paul's side of the planting berm. She said that if they owned that 10 feet, they would not need the variance. She said that they do need a variance for a single car garage at grade.

Ms. Paul said that the special permit is requested because they would like to expand and modernize the kitchen at the back on the right side of the house. She said that the existing front corner of the house is at 13.6 feet and the back corner is at 16.1 feet.

Ms. Paul said that the request is to re-grade the driveway, build a new front facing garage at grade, and have an 8 percent grade slope to the street. She said that the Wetlands Protection Committee approved the plans. She said that George Saraceno from DPW reviewed and approved the plans. She said that they spoke with Kevin Connolly about the plans. She said that they have a letter from all of their neighbors and direct abutters who have signed a letter of support.

A Board member said that the plot plan is really hard to read. He said that you cannot see the existing house or grades and there are no dimensions on the setback. Ms. Paul submitted a large scale plan.

The Board asked about the grade change from the existing garage to the proposed garage. Ms. Paul said that the height of the proposed garage will be 25 feet 4 inches. She said that it is 26.6 feet to the top of the existing house. The Board said that the proposed garage will be two feet below the existing ridgeline of the house. The Board said that by raising the grade the height of the house will get lower.

The Board said that the existing garage is part of the basement. The Board asked if the proposed changes will solve the flooding problem. Ms. Paul said that the existing garage is three feet above the culvert height. She said that Mr. Saraceno believes that there is usually enough capacity in the culvert. She said that if there is backflow, there is three feet between the pipe and their garage floor. She said that Mr. Saraceno does not want them to put any inlets in. She said that he does not want it to have any pumping or connection. She said that if they are graded down to the street, anything that fills up should run to the storm drain in the street. She said that Mr. Saraceno is comfortable with that. She said that the berm sits above the floor of the basement.

A Board member asked about the hose to the catch basin. Ms. Paul said that Mr. Connolly added that to the drainage system. She said that they pull it. She said that it will have to be pulled very soon so that it does not freeze. She said that it requires constant maintenance from them. She said that without it the drywell in the driveway fills with stormwater and starts to pond.

The Board asked about work to be done in the town right of way. The Board said that they will be removing the sidewalk. Ms. Paul said that they have a letter from the Town saying that they have abandoned the sidewalk. She said that they have permission to remove it. A Board member said that the letter that he saw was from the Engineering Department and cc'd the DPW. He said that he did not think

that ZBA approval should approve removal of the sidewalk. He said that he would like to see this taken to another level where the Board of Selectmen (BOS) say that the sidewalk has already been abandoned by the Town. Ms. Paul said that it has already been abandoned by the BOS. She said that the letter stated that was the case. She said that they were not seeking to have it abandoned but it has been abandoned by the Town. A Board member asked the Executive Secretary to follow up to see if the sidewalk needs further action by the BOS. He said that it leads to nowhere on either side of the house and the Pauls want to landscape it. Ms. Paul said that it creates water that flows down Clovelly Road and the driveway. She said that if they seed and loam it, it will slow the flow of water.

The Board said that they will be creating space on the second floor. Ms. Paul said that it will be attic space. She said that they need it desperately because they do not want to store anything in the basement. She said that they are not planning to pull heat into the area. She said that they cannot get up into the existing attic because of the way it is configured. She said that it is pull down steps over the existing stairwell and is very dangerous. She said that they need storage because they do not have enough closet space. The Chairman asked about the height. He said that the TLAG shows the attic space at 278 feet. Ms. Paul said that is the area over the garage. The Chairman confirmed that it will be over seven feet. He said that they will still be way under the TLAG threshold.

Ms. Paul said that a letter of support that was signed by all of the neighbors was submitted.

The Board asked about plans to fill the area. The Board asked if they will remove the stone walls. Ms. Paul said that she would like to preserve the stone because it has great patina. She said that they would like to put the stone on top of the existing wall at the back property line. She said that she spoke with the neighbor at the back about building that wall up and filling it with clean fill. The Board asked if the garage addition will have a basement. Ms. Paul said that it will be a slab. She said that the kitchen addition will have crawl space underneath because she is worried about the water levels.

The Board said that the proposed TLAG is 2,262 square feet and that is well under the threshold for LHR in the district. Heather Lamplough, Town Planner, said that the Planning Board was concerned about the height of the space. She said that they felt that it does not need to be that high for storage. She said that they would like to see the height lower so that the addition is not so big. The Chairman asked if the Planning Board would object to that being finished space. Ms. Lamplough said that the Planning Board was concerned that, if it just going to be used for storage, it could be lower so that the addition is not almost as tall as the house. Ms. Paul said that they would like to have the option to do that in the future but they do not have the money to do that at this time. The Board said that if they were going to make that into another bedroom, they would lose some space from the master suite. Ms. Paul said that the only thing that they can use that space for is for office space or a closet. She said that they would have to pull heat in there. She said that it cannot be a bedroom because of the way the house is configured.

The Board discussed the legal standards for special permits and variances under State Statute and the Town Bylaw. The Board said that the statutory requirements require that there is a substantial financial or otherwise hardship relating to the soil conditions, lot shape or topography. The Board said that this property has issues with topography and soil conditions.

The Board said that it is not sanctioning removal of the sidewalk and public way as part of this decision.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 38 Clovelly Road, on a 7,925 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, with a minimum right side yard setback of 13.6 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that construction of a two story addition with less than required right side yard setbacks, on a 7,925 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The Petitioner is requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for construction of a garage with attic space above with less than required left side yard setbacks, on a 7,925 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet.

Explanation of Request, a Plot Plan, dated 9/1/15, revised 10/20/15, stamped by David G. Ray, Professional Land Surveyor, Existing Floor Plans and Elevation Drawings, dated 4/27/15, Proposed Floor Plans, dated 8/31/15 & 11/9/15, Proposed Elevation Drawings, dated 7/24/15, revised 8/31/15 & 11/9/15, prepared by Amy Nastasi, Architect, and photographs were submitted.

On October 14, 2015 and amended on November 2, 2015, the Wetlands Protection Committee issued Order of Conditions – MA DEP #324-0699.

On January 5, 2016, the Planning Board reviewed the petition and recommended that the Special Permit be granted and action on the Variance be deferred.

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 construction of a two story addition with less than required right side yard setbacks 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 construction of a two story addition with less than required right side yard setbacks, in accordance with the submitted plot plan and construction drawings.

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It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the shape and topography of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section XIX and pursuant to the provisions of Section XXIV-D of the Zoning Bylaw is granted for construction of a garage with attic space above with less than required left side yard setbacks, subject to the following conditions:

1. The drainage shall be as identified on the approved plans.
2. A legible plan, stamped by a Registered Professional Land Surveyor 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.

If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

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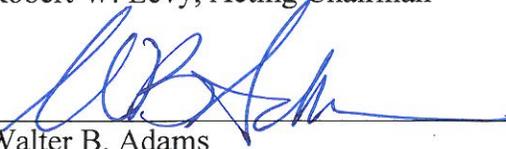
ZBA 2016-02
Petition of Michelle & Ezra Paul
38 Clovelly Road

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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.



Robert W. Levy, Acting Chairman



Walter B. Adams



Derek B. Redgate

cc: Planning Board
Inspector of Buildings
lrm

Notes

General:

- CONTRACTOR SHALL NOTIFY "DIG-SAFE" (1-888-344-7233) AT LEAST 72 HOURS BEFORE EXCAVATING.
- AN ORDER OF CONDITIONS WAS ISSUED BY THE TOWN OF WELLESLEY CONSERVATION COMMISSION ON NOVEMBER 8, 2012 (MASS DEP FILE NO. 324-0699). ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE ORDER OF CONDITIONS AND ANY SUBSEQUENT AMENDMENTS, AS APPROPRIATE.
- ANY WORK TO BE PERFORMED ON ADJACENT PROPERTIES SHALL REQUIRE APPROPRIATE PERMISSIONS, AUTHORIZATIONS, AND/OR PERMITS FROM THE APPROPRIATE PARTY.
- REFER TO ARCHITECTURAL PLANS PREPARED BY OTHERS FOR BUILDING ADDITION AND GARAGE DESIGN.

Erosion Control:

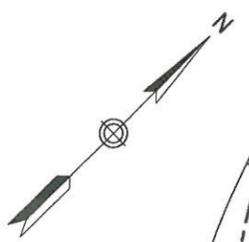
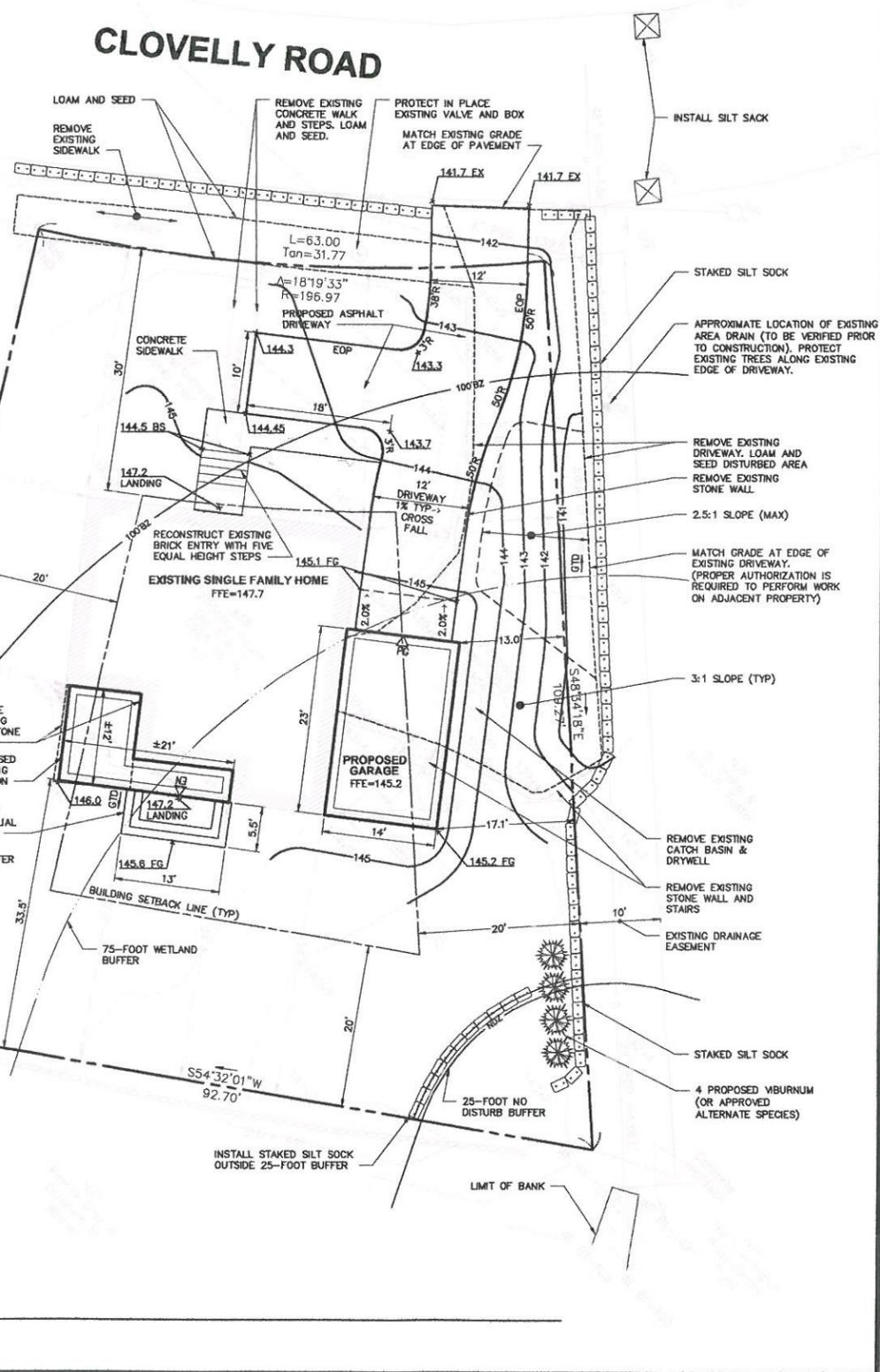
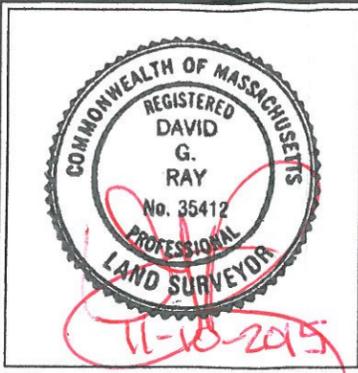
- PRIOR TO STARTING ANY OTHER WORK ON THE SITE, THE CONTRACTOR SHALL NOTIFY APPROPRIATE AGENCIES AND SHALL INSTALL EROSION CONTROL MEASURES AS SHOWN ON THE PLANS AND AS IDENTIFIED IN FEDERAL, STATE, AND LOCAL APPROVAL DOCUMENTS PERTAINING TO THIS PROJECT.
- CONTRACTOR SHALL INSPECT AND MAINTAIN EROSION CONTROL MEASURES, AND REMOVE SEDIMENT THEREFROM ON A WEEKLY BASIS AND WITHIN TWELVE HOURS AFTER EACH STORM EVENT AND DISPOSE OF SEDIMENTS IN AN UPLAND AREA SUCH THAT THEY DO NOT ENCUMBER DRAINAGE PATTERNS AND PROTECTED AREAS.
- CONTRACTOR SHALL BE FULLY RESPONSIBLE TO CONTROL CONSTRUCTION SUCH THAT SEDIMENTATION SHALL NOT AFFECT REGULATORY PROTECTED AREAS, WHETHER SUCH SEDIMENTATION IS CAUSED BY WATER, WIND, OR DIRECT DEPOSIT.
- CONTRACTOR SHALL PERFORM CONSTRUCTION SEQUENCING SUCH THAT EARTH MATERIALS ARE EXPOSED FOR A MINIMUM OF TIME BEFORE THEY ARE COVERED, SEEDED, OR OTHERWISE STABILIZED TO PREVENT EROSION.
- UPON COMPLETION OF CONSTRUCTION AND ESTABLISHMENT OF PERMANENT GROUND COVER, CONTRACTOR SHALL REMOVE AND DISPOSE OF EROSION CONTROL MEASURES AND CLEAN SEDIMENT AND DEBRIS FROM ENTIRE DRAINAGE AND SEWER SYSTEMS.

Planting and Landscape:

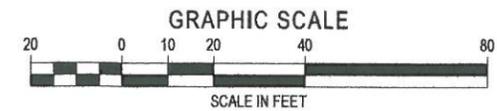
- AREAS DISTURBED DURING CONSTRUCTION AND NOT RESTORED WITH IMPERVIOUS SURFACES (BUILDINGS, PAVEMENTS, WALKS, ETC) SHALL RECEIVE 4" INCHES LOAM AND SEED.
- PLANT SELECTION SHALL BE LIMITED TO NATIVE PLANTS AND SHALL INCLUDE PRUNABLE SHRUBS AND GROUND COVER.
- LANDSCAPING SHALL BE MAINTAINED IN PERPETUITY. ANNUAL PRUNING OF SHRUBS SHALL BE CONDUCTED TO PROMOTE HEALTHY GROWTH. MULCHING SHALL BE LIMITED TO < 1.5 INCHES TO ALLOW FOR HERBACEOUS GROWTH OF VEGETATION.
- ONLY SLOW RELEASE ORGANIC FERTILIZERS ARE PERMITTED FOR USE IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND GUIDELINES FOR APPLICATION.

Survey:

- THE EXISTING CONDITIONS AND WETLAND BOUNDARY DEPICTED ON THIS PLAN IS FROM AN ON THE GROUND SURVEY PERFORMED BY NANTASKET SURVEY ENGINEERING, LLC. IN SEPTEMBER 2012. AN ORDER OF CONDITIONS WAS ISSUED BY THE TOWN OF WELLESLEY CONSERVATION COMMISSION ON NOVEMBER 8, 2012 (MASS DEP FILE NO. 324-0699) CONFIRMING THE WETLAND DELINEATION.
- ELEVATIONS SHOWN ON THE PLAN ARE BASED ON NAVD 88.
- SITE IS LOCATED IN FEMA ZONE X, AS INDICATED ON PANEL 17 OF 430, 2502:55 0017E, JULY 17, 2012.



PLAN
SCALE: 1" = 20'



Legend

- General**
- PROPERTY LINE
 - NDZ - 25-FOOT BUFFER ZONE
 - 75-FOOT LIMITED DISTURBANCE ZONE
 - 100' BZ - REGULATORY 100-FOOT BUFFER ZONE
 - EXISTING BUILDING
 - PROPOSED BUILDING ADDITION
 - PARKING GARAGE
 - BUILDING SETBACK
 - EOP - EDGE OF PAVEMENT

Abbreviations

- BS - BOTTOM OF STEP
- EOP - EDGE OF PAVEMENT
- EX - EXISTING
- FFE - FIRST FLOOR ELEVATION
- MAX - MAXIMUM
- R - RADIUS
- TS - TOP OF STEP
- TYP - TYPICAL

Zoning Summary Chart

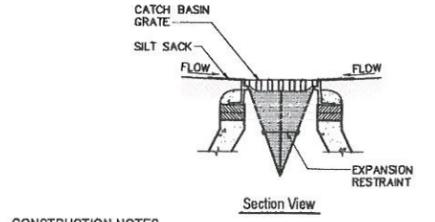
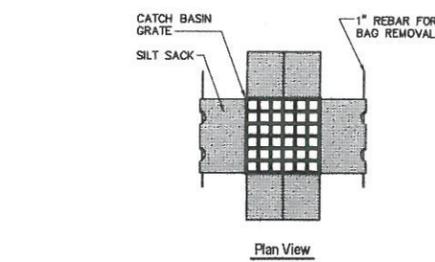
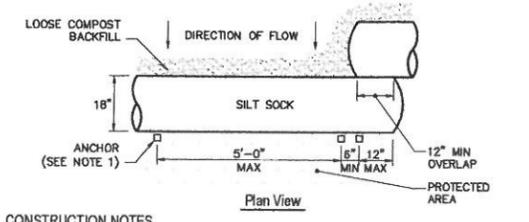
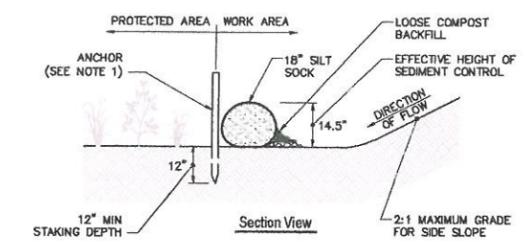
Zoning District Information			
ZONING DISTRICT:	SINGLE RESIDENCE 20		
Zoning Requirements	Required	Existing	Provided
LOT AREA (MIN.)	20,000 SF	7,925 SF	7,925 SF
FRONTAGE (MIN.)	60 FT	63 FT	63 FT
YARD SETBACKS:			
FRONT YARD (MIN.)	30 FT	30.2 FT	30.2 FT
SIDE YARD (MIN.)	20 FT	13.6 FT	13.0 FT
REAR YARD (MIN.)	20 FT	34.4 FT	33.5 FT
FRONT YARD WIDTH (MIN.)	60 FT	71 FT	71 FT
BUILDING COVERAGE (MAX.)	25 %	13 %	20 %
BUILDING COVERAGE (MAX.)	1,981 SF	1,063 SF	1,543 SF

Erosion Control

- STRAW BALES AND SILT FENCE
- SILT SACK SEDIMENT TRAP

Grading

- MAJOR CONTOUR
- MINOR CONTOUR
- SPOT ELEVATION
- HIGH/LOW POINT
- GRADE TO DRAIN



CONSTRUCTION NOTES

- ANCHOR TO BE A 2" X 2" X 36" HARD WOOD STAKE, OR APPROVED EQUAL.
- COMPOST FOR SILT SOCK FILL MATERIAL TO BE PROVIDED BY THE MANUFACTURER IN CONJUNCTION WITH THE ENGINEER TO PROVIDE THE REQUIRED REMOVAL OF SEDIMENT OR OTHER POLLUTANTS FROM RUNOFF.
- COMPOST MATERIAL SHALL BE DISPersed ON SITE, AS DETERMINED BY THE LOCAL CONSERVATION AGENT OR THE DESIGN ENGINEER.
- SILT SOCK SHALL BE INSPECTED AT LEAST ONCE EVERY SEVEN DAYS OR PER LOCAL AND STATE REQUIREMENTS. REPAIR OR REPLACEMENT SHALL BE PERFORMED PROMPTLY, AS NEEDED.
- METHOD OF INSTALLATION SHALL BE AS PER MANUFACTURER'S RECOMMENDATIONS.

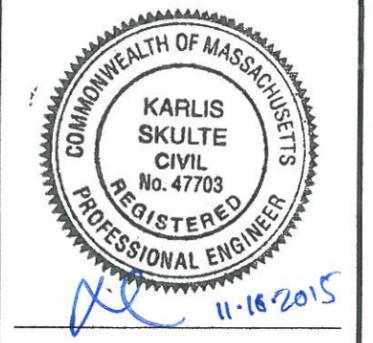
CONSTRUCTION NOTES

- INSTALL SILT SOCKS IN ALL CATCH BASINS WHERE INDICATED ON THE SITE PLANS BEFORE COMMENCING WORK OR IN PAVED AREAS AFTER THE BINDER COURSE IS PLACED AND EROSION CONTROL BARRIERS HAVE BEEN REMOVED.
- GRATE TO BE PLACED OVER SILT SOCK.
- SILT SOCKS SHALL BE INSPECTED PERIODICALLY AND AFTER ALL STORM EVENTS. CLEANING OR REPLACEMENT SHALL BE PERFORMED AS NEEDED. MAINTAIN SILT SOCKS UNTIL UPSTREAM AREAS HAVE BEEN PERMANENTLY STABILIZED.

SILT SOCK - EROSION CONTROL BARRIER
SCALE: N.T.S.

SILT SACK - INLET PROTECTION
SCALE: N.T.S.

EBC Consulting
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PREPARED FOR:
Ezra and Michelle Paul
38 Clovelly Road
Wellesley, Massachusetts 02481

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SUBMITTALS			
NO.	DATE	DESCRIPTION	BY
1	10/20/2015	TOWN COMMENTS	KPS

DATE: September 1, 2015
PROJECT NUMBER: 1615000012

PROJECT TITLE:
Proposed Site Improvements

38 Clovelly Road
Wellesley, Massachusetts
Norfolk County

ISSUED FOR:
Local Permitting
(Not Approved for Construction)

SHEET TITLE:
Site Layout Plan

SCALE: As Noted
DESIGNED BY: MVG
CHECKED BY: KPS
SHEET NO: **C-1**
1 OF 1