

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 2018-58
Petition of Stephanie Anderson
24 Avon Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 2, 2018, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Stephanie Anderson 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 structure and construction of a two-story dwelling with an attached side facing two-car garage that will meet setback requirements, on an 8,000 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 24 Avon Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 26, 2018, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication. The Board held public hearings on August 2, 2018 and September 11, 2018.

Presenting the case at the hearing were David Himmelberger, Esq., Charles Kraus, Architect, and Stephanie Anderson, the Petitioner.

Mr. Himmelberger said that the request is for a special permit to raze and rebuild an existing nonconforming structure. He said that the only nonconformity that they cannot change is the 8,000 square foot lot. He said that the existing house has a side yard setback of 19 feet and a front yard setback of 22 feet. The existing shed has a rear yard setback of 9.3 feet. He said that the reconstructed house will be fully compliant. He said that the topography of the lot drops 28 feet from the front to the rear. He said that the height of the house will present almost identically to the existing house and to the home at 10 Avon Road.

Mr. Himmelberger said that proposed TLAG will be 5,452 square feet. He said that the two main floors will total 3,680 square feet, which is just slightly over the threshold for the district. He said that because of the 28 foot drop from front to rear, much of the basement is exposed and 1,122 square feet of it is counted as TLAG. He said that 650 square feet in the attic is also counted.

Mr. Himmelberger said that the Planning Board made note of the fact that the rear of the house will present at about 40 feet, which is the case today. He said that screening of 10 foot arbor vitae that is proposed at the rear will grow significantly taller.

Mr. Himmelberger said that the Applicant believes that the proposed house will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure and requests favorable approval. He said that they will eliminate three nonconformities on the rear, side and front.

A Board member asked if there will be a significant amount of excavation to build the basement and garage level. Mr. Kraus said that the grade at the back left corner will be the same as the existing. He said that there are a couple of retaining walls behind the existing house that enable the site to drop down. He said that they will use the level at the lowest point for the garage. He said that they will remove the walls and have the site slope continuously.

The Chairman said that he did not see anything on Avon Road that comes anywhere near the Total Living Area (TLA) that is proposed. Ms. Anderson said that they would love to save the house if they could. She said that to renovate the house, they would have to put ten foot additions on both sides, which would cost too much. She said that when she went under contract for the property in July, the new TLAG rules had just gone into effect. She said that it is really not an excessive house and it will meet all of the zoning requirements. The Chairman said that it is a good thing to conform to the setbacks but that does not automatically mean that the proposed change will be substantially less detrimental to the neighborhood. Mr. Himmelberger said that it will not be substantially more detrimental based on its similarity to 10 Avon Road, how it presents to the street, and how it fits in with the neighborhood.

A Board member said that the proposed house will be 50 percent over TLAG, which is the criteria that Town Meeting determined constitutes a large house. The Chairman said that 10 Avon Road has a TLA of 1,948 square feet. He said that even by doubling that to account for the difference between TLA and TLAG, this will be an increase of 150 percent. He questioned how that would not be substantially more detrimental. Mr. Himmelberger said that the nonconformities will be eliminated, except for the lot size. Ms. Anderson said that a good amount of the TLAG is in the basement.

The Chairman said that the property is located in a Water Supply Protection District (WSPD) where runoff should be reinjected to groundwater unless there is some issue with that. He said that a proposed drywell was shown on the plan but there was nothing in the application package that talked about what happens to the runoff. Mr. Kraus said that only one drywell is shown on the Plot Plan but two drywells are shown at the rear corners on Landscape Plan L1.1. He said that the Applicant is willing to accept a condition that all of the runoff be tied off to two drywells that are sized to the satisfaction of the Town's Engineering Department and that the driveway paving be pervious.

Ms. Anderson said that the neighbors are supportive of this project due to the fact that the current house is a blemish on the neighborhood. A Board member said that the proposed house appears to have premium architectural features with respect to windows, finishes and appearance. He said he was not swayed as much by the numbers presented as by the actual appearance of the house from the street.

A Board member asked about the intended use of the attic. He said that a bathroom is shown on the plans. Ms. Anderson said that she was hoping to use that space for her boys who will be going to college. Mr. Kraus said that they could avoid the TLAG calculation for the attic by raising the second floor ceiling joist or lowering the pitch of the roof. He said that lowering the pitch of the roof would not be in keeping with the neighborhood.

The Chairman said that house at 24 Avon Road will not sit next to its neighbor the way that 10 Avon Road does. He said that the house on the right hand side is at a lower elevation and will be dwarfed by this house. Ms. Anderson said that it is hard to understand unless you walk the lot. She said that there is an eight to nine foot drop with a foundation wall. She said that the basement is almost a hardship in this

case. A Board member said that it is usable space. He said that there will be a bedroom, a full bathroom, a walk in closet and a mudroom in the basement.

Victor Panak, Assistant Planning Director, said that this would be the largest TLAG in a 10,000 square foot district that the Planning Board has seen at least in the past year. He said that most of the TLAGs in the 5,000 square foot range were on lots that were around 11,000 square feet or larger. He said that there have been situations on larger lots where the TLAG is more than double the trigger but the lots are oversized in most of those cases.

Mr. Kraus said that it would be very difficult to reduce the TLAG because they have the attic to deal with and they do not want to lower the pitch of the roof, as it would look out of context with the neighborhood. He said that they would not have to count the basement if they filled the site up and built retaining walls.

Catherine Johnson, Planning Board, said that the proposed house has a lot of the same characteristics as mcmansions described in McAlester's Book of Styles, which were typically built in subdivisions and used every bit of available space on the lots. She said that it will be a complete use of the allowable volume.

The Chairman said that other houses in the neighborhood have living areas that are on the order of 2,100 square feet. He said this house will be two to three times bigger than that. Mr. Kraus said that the house that was built across the street is 4,700 square feet. He said that because the house went through the special permit process before the bylaw changed, the TLAG of 3,600 square feet did not count the attic. The Chairman said that he recognized that the TLAG rules were changed without changing the trigger but he could not remember anything in a 10,000 square foot district that was 5,300 square feet on an 8,000 square foot lot.

September 11, 2018

Mr. Himmelberger said that the house was scaled down to 4,864 square feet by narrowing the width and shortening the length. He said that the front yard setback was increased. He said that the overall height was reduced by six inches. He said that the scaled down design was presented to the Historical Commission, which had previously deemed that the house was preferably preserved. He said that the Commission was enthusiastic about the revised design and voted unanimously to grant a waiver for construction. He said that the architectural elements make it a very appropriate home. Ms. Anderson said that the proposed house was modeled after 10 Avon Road, which was built in 1906.

Mr. Kraus said that the overall area was reduced by almost 10 percent. He said that the plot plan now shows two drywells. He said that the plan is to collect all roof drainage into those two drywells at the lower end of the property. He said that the details are the same on the house except for the grid pattern in the windows to accommodate concerns of the Historical Commission. He said that the windows will be six over one. He said that they eliminated the attic and created cathedral ceilings.

The Chairman asked how the drainage system will operate. He said that the driveway drops approximately nine feet from the street to the garage floor and that will bring a lot of water to the back of the property. Mr. Kraus said that they do not have details because they do not have a civil engineer on board at this point. The Chairman asked if anything is known about the subsurface and whether drywells will work or not. He said that the Board received a letter from an abutter who called to the Board's attention the blasting that was done for a similar project on Avon Road. Mr. Kraus said that he designed

and built the house across the street at 21 Avon Road. He said that they hammered, not blasted, and the majority of it was rock. He said that the soil did perk and one drywell served the house well. He said that side of Avon Road has a lot of ledge but the other side does not. The Chairman said that the two drywells will probably take care of the roof runoff but will not address runoff coming down the driveway. He said that abutters should not be adversely impacted.

A Board member said that the lot is undersized at 8,000 square feet in a 10,000 square foot district. He said that the TLAG not only exceeds the threshold for LHR in a 10,000 square foot district, it also exceeds the threshold for a 15,000 square foot district. He said that it will be the largest house on the street by multiple factors. Ms. Anderson said that the TLA will be 3,600 square feet. Mr. Kraus said that the first and second floors will each be 1,750 square feet. Mr. Himmelberger said that the basement contributes 880 square feet of TLAG. He said that, presented from the street, this is not a particularly large house and will be consistent with other houses on the street. He urged the Board to focus on how it will appear, not on the TLAG, of which 880 square feet will be below the street level.

A Board member said that the plot plan shows a dimension of 20.6 feet to the house. He said that the dimension to the garage should be shown since the bylaw requires that it be at least 30 feet. He said that the air conditioning units cannot be in the setback area. Mr. Himmelberger said that the plot plan can be revised to show that the ac condensers are more than 20 feet from the side lot line.

James Foley, 211 Weston Road, said that he is a direct abutter, downhill from 24 Avon Road. He said that his house was built in 1902 and has an original concrete basement, which is not impervious to water. He said that they have had water in their basement before and he is concerned about potential runoff from the new house. He said that they changed their gutter system to move drainage from the roof away from areas where there were issues and it has worked quite well for them. He said that directing water to the back will hit a sore spot. He suggested that the drywell be put in towards the front of house. He said that his concern is whether the drainage system will be one hundred percent effective.

Mr. Himmelberger said that the Applicant would accept a condition that they demonstrate that there will be no increased runoff from the property. The Board discussed inserting a condition that an engineered drainage plan that is stamped by an engineer be submitted and reviewed by an Engineer at DPW.

Statement of Facts

The subject property is located at 24 Avon Road, on an 8,000 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, with a minimum front yard setback of 22.4 feet and a minimum right side yard setback of 19.6 feet. The existing nonconforming shed has a minimum right side yard setback of 18.5 feet and a minimum rear yard setback of 9.3 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 structure and construction of a two-story dwelling with an attached side facing two-car garage that will meet setback requirements, on an 8,000 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 Certified Plot Plan and a Proposed Plot Plan, dated 6/26/18, revised 9/6/18, stamped by Scott C. Lynch, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings and Proposed Landscape Plan, dated 6/20/18, revised 9/5/18, and TLAG Affidavit, dated 9/5/18, prepared by Kraus Associates, and photographs were submitted.

On July 18, 2018, the Planning Board reviewed the petition and recommended that a Special Permit be denied or review of the application be continued.

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 structure and construction of a two-story dwelling with an attached side facing two-car garage that will meet setback requirements, on an 8,000 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 nonconforming structure and construction of a two-story dwelling with an attached side facing two-car garage that will meet setback requirements, subject to the following conditions:

1. An engineering site plan that includes a drainage system shall be stamped by an engineer, submitted to the Board and approved by the Town Engineer.
2. The engineered drainage plan shall indicate that there shall be no increase in runoff.
3. A revised plot plan shall be submitted that shows the dimension which shall be not less than 30 feet from the garage to the side lot line, and the dimension to the ac condensers.

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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24 Avon 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.


J. Randolph Becker, Acting Chairman


Robert W. Levy

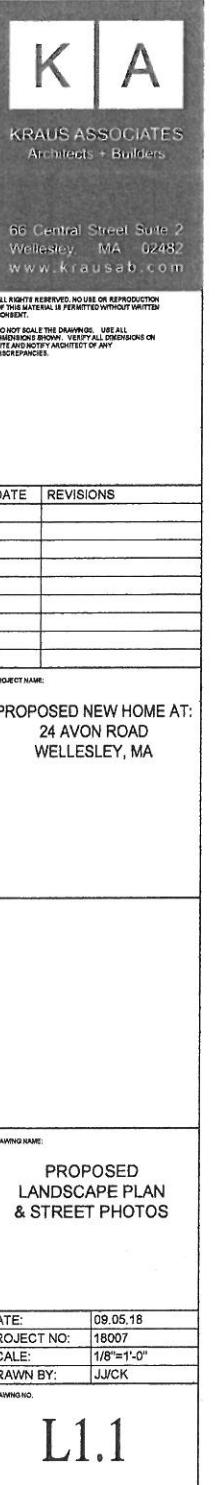
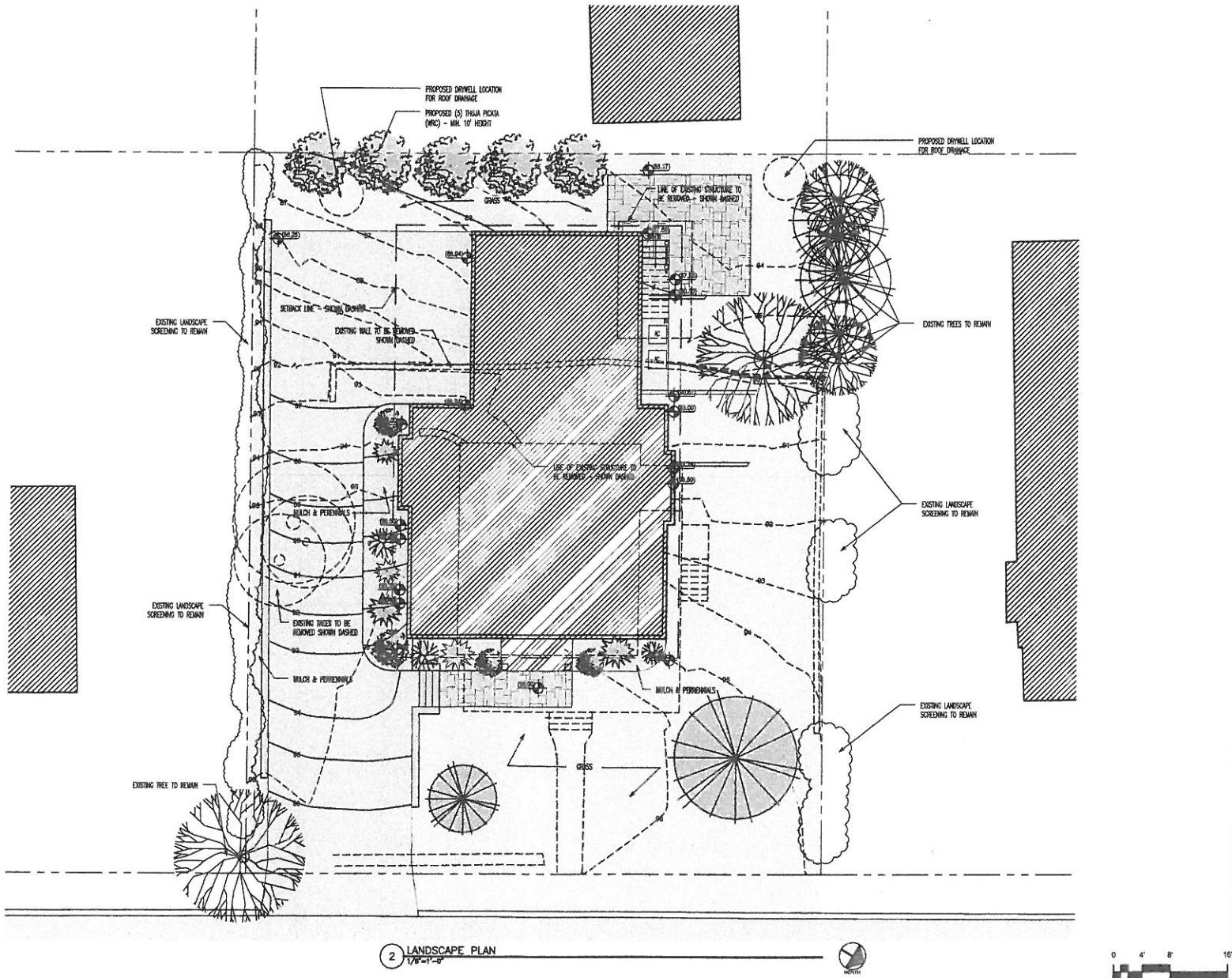

Derek B. Redgate

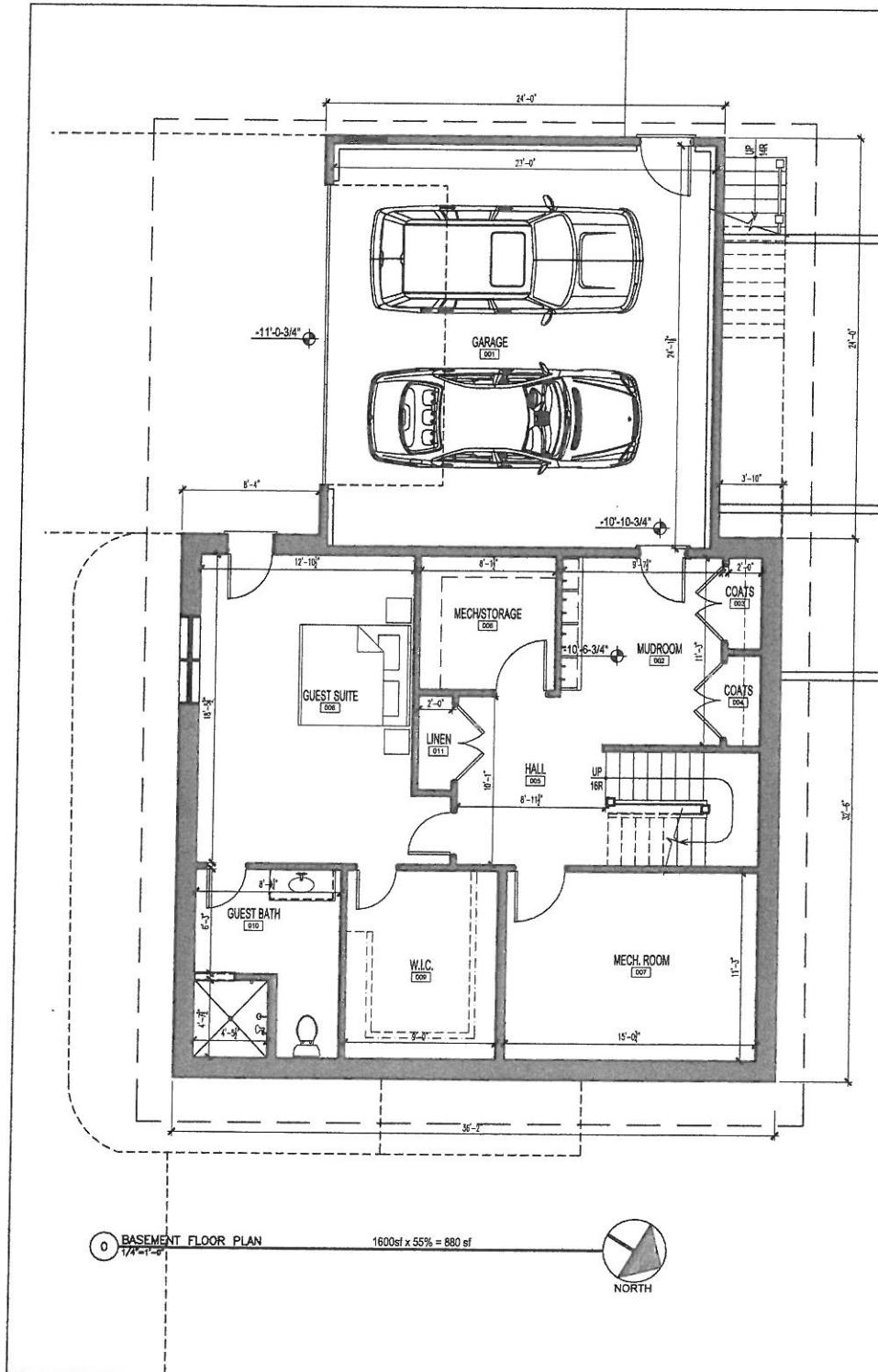
cc: Planning Board
Inspector of Buildings
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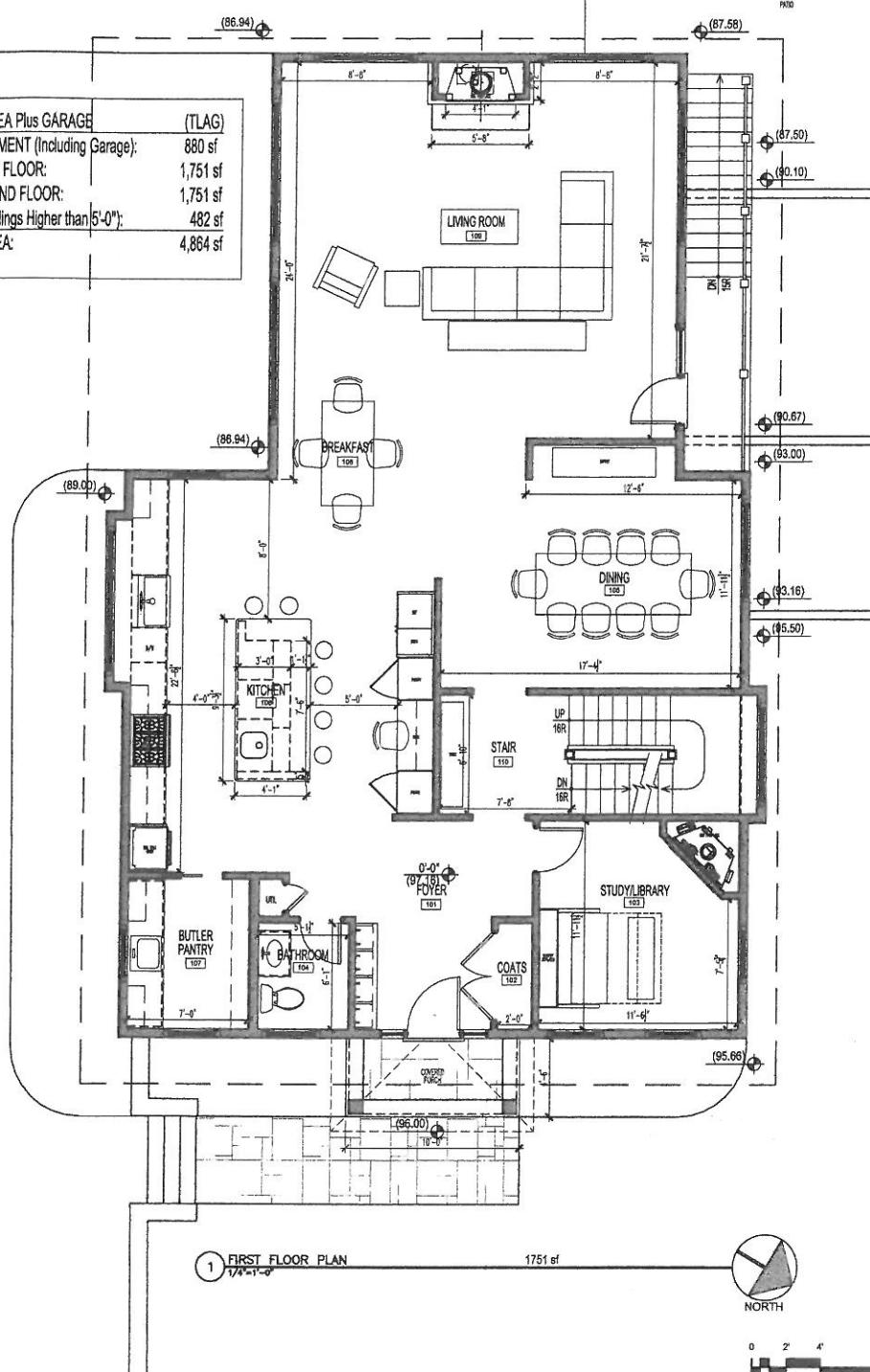
STREET PHOTOS

24 AVON ROAD





TOTAL LIVING AREA Plus GARAGE (TLAG)
PROPOSED BASEMENT (Including Garage): 880 sf
PROPOSED FIRST FLOOR: 1,751 sf
PROPOSED SECOND FLOOR: 1,751 sf
ATTIC FLOOR (Ceilings Higher than 5'-0"): 482 sf
TOTAL LIVING AREA: 4,864 sf



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Architects + Builders

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DATE REVISIONS

PROJECT NAME:
PROPOSED NEW HOME AT:
24 AVON ROAD
WELLESLEY, MA

DRAWING NAME:
PROPOSED BASEMENT & FIRST FLOOR PLAN

DATE:	09.05.18
PROJECT NO.:	18007
SCALE:	1/4"=1'-0"
DRAWN BY:	JJ/CK
DRAWING NO.	

A1.1

K | A

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DATE REVISIONS

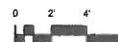
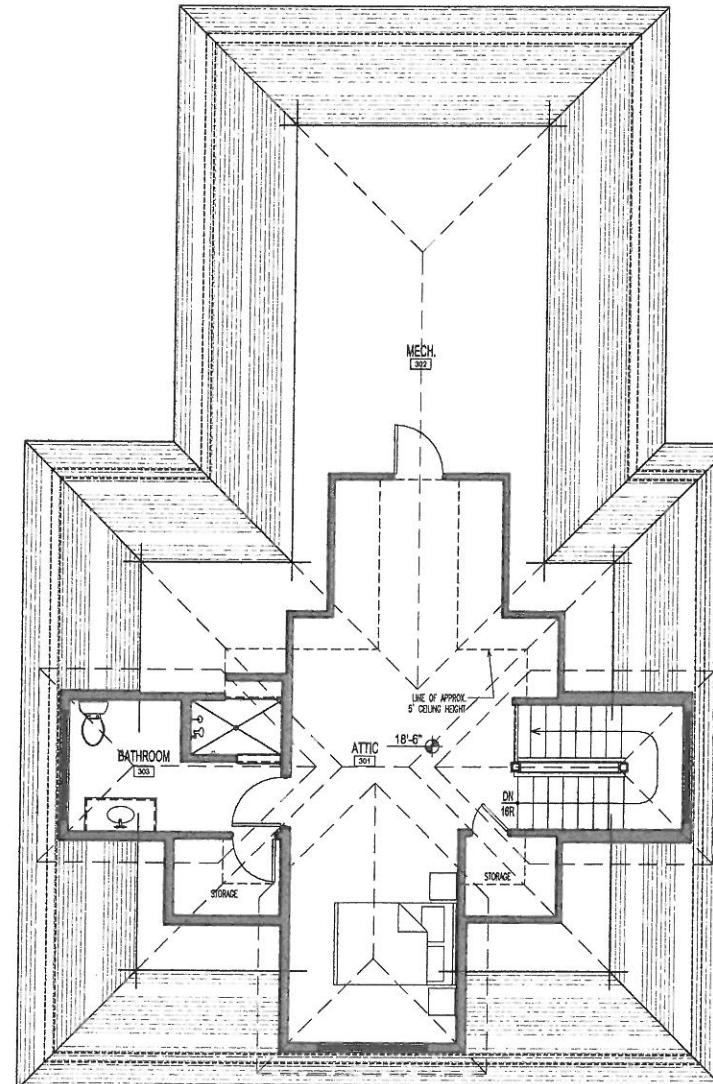
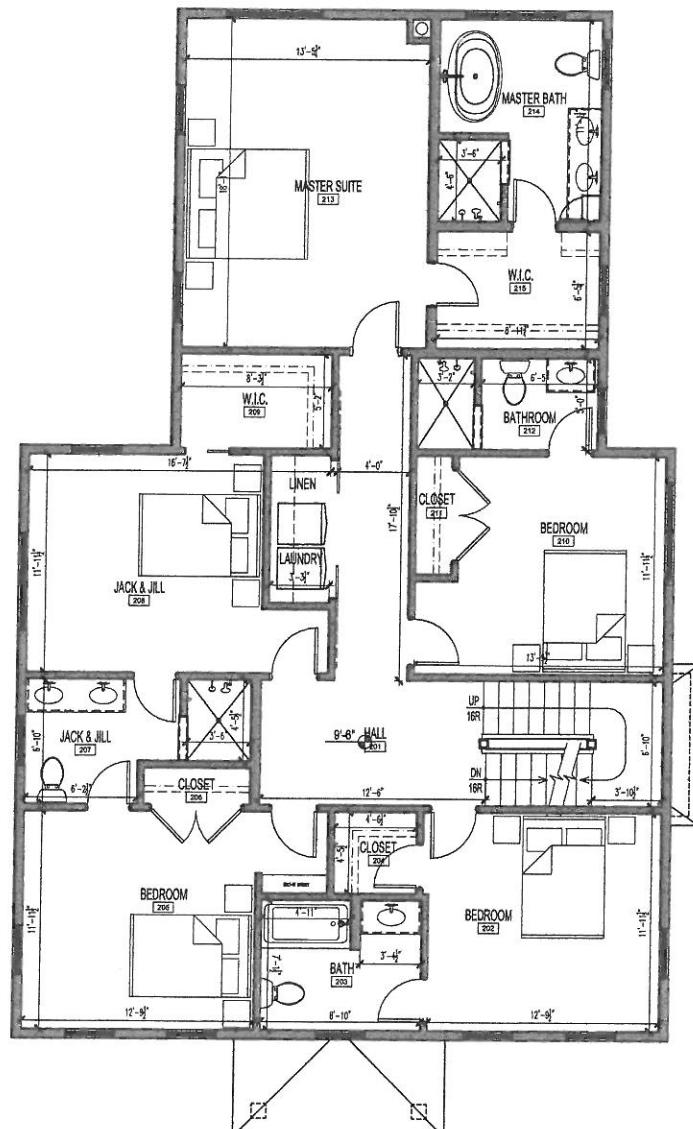
PROJECT NAME:

PROPOSED NEW HOME AT:
24 AVON ROAD
WELLESLEY, MA

DRAWING NAME:
PROPOSED SECOND &
ATTIC FLOOR PLAN

DATE: 09.05.18
PROJECT NO: 18007
SCALE: 1/4"=1'-0"
DRAWN BY: JJ/CK
DRAWING NO.

A1.2





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DATE REVISIONS

PROJECT NAME:
PROPOSED NEW HOME AT:
24 AVON ROAD
WELLESLEY, MA

DRAWING NAME:
PROPOSED EXTERIOR
ELEVATIONS

DATE: 09.05.18
PROJECT NO: 18007
SCALE: 1/4"=1'-0"
DRAWN BY: JJ/CK

DRAWING NO.

A2.1

