

TOWN OF WELLESLEY



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## ZONING BOARD OF APPEALS

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ZBA 2017-30

Petition of Romy Chu  
51 Kenilworth Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 6, 2017, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Romy Chu requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing two-story structure and construction of a new two-story structure that will meet all setback requirements, on an 18,000 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet at 51 Kenilworth Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 27, 2017, 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 David Silverstein, Copper Leaf Development.

Mr. Himmelberger said that the request is for a special permit for 51 Kenilworth Road, on an 18,000 square foot lot in a 20,000 square foot Zoning District. He said that the proposal is to raze the existing structure and replace it with a structure that will be otherwise dimensionally compliant with all Zoning requirements. He said that existing lot coverage is 2,261 square feet and will increase by 723 square feet for a total of 2,984 square feet., which is 16.6 percent where 20 percent coverage is allowed. He said that the front setback will be at 36 feet, the side yard setback at 31.7 feet and the rear setback at 29.7 feet. He said that the height will increase by just a little over five feet. He said that the Total Living Area plus Garage (TLAG) will be 4,608 square feet, which is below the threshold of 5,900 square feet in a 20,000 square foot district. He said that Mr. Silverstein designed the home to be something that would fit in a 15,000 square foot district. He said that it will be a colonial farmhouse style with many architectural features. He said that a rendering was submitted that compared the existing and proposed homes and shows that less than half of the house will be taller than the existing house. He said that the house will be raised slightly off of the ground due to the fact that groundwater was discovered at four feet. He said that the grade will be raised by a couple of feet so that there will not be an exposed foundation. He said that the existing house sits high.

A Board member said that the architect did a nice job designing an appropriately sized house that will fit in with the neighborhood. Mr. Himmelberger said that Kenilworth Road has a number of significant structures on it. He said that 43 Kenilworth has a TLAG of 4,471 square feet, 39 Kenilworth has a TLAG of 4,514 square feet and 48 Kenilworth has a TLAG of 4,413 square feet, which are close to the proposed TLAG of 4,608 square feet.

Mr. Silverstein discussed Tree Preservation Bylaw compliance. He said that the only trees that they will remove are the ones that the arborist deemed to be hazardous. He said that there is one tree in the front

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yard, one tree in the left yard and a series around the left rear that are deemed hazardous and will be removed. He said that there are some trees at the back right, mature oaks, that they will maintain. He said that the grading plan was composed in part to make sure that those canopy trees are maintained. He said that they will work with the arborist to erect tree fences and deep root fertilizers as he thinks appropriate. He said that he has a draft Landscape Plan and has been in communication with the next door neighbor on the left who has some concerns about the overall project. He said that he will try to work with her to modify the plans to address her concerns. He said that he will plant evergreen trees on her side of the property line and pull the stone wall back towards the house to maintain the existing grades. He said that the topography of the neighbor's view down Kenilworth Road will be maintained. He said that he has plans that show that.

The Chairman said that the proposed structure is very reasonable. He said that they could build something that is bigger and he is glad that they are not. A Board member commended Copper Leaf for the completeness of their submittal package.

Joan Hale, 55 Kenilworth Road, said that she lives adjacent to this property. She said that she met Mr. Silverstein yesterday for the first time. She said that they disagree on the proposal. She said that there are several things that bother her about it. She said that the present design is not consistent with the neighborhood. She said that building up the front of the land around the house will cut the openness between the houses. She said that right now all of the houses are level with a slight grade going up. She said that all of the front lines are open. She said that the amount of asphalt by putting the garage around the side will be quite extensive. She said that it will go up practically to her property line. She said that the front of the house is quite plain and massive. She said that she preferred the plan that was submitted on February 24, 2017 that showed the garage at the front. The Chairman said that the Board would be making its decision based on the plans that are before it. Ms. Hale said that by putting the garage at the front, they would cut the asphalt, leave more of the openness and would be consistent if the land is not graded up. She said that Mr. Silverstein said that he is willing to work with her. He told her that he was willing to plant trees on her side and move the wall back a little bit but it would still be built up.

The Chairman said that Mr. Silverstein explained that he wanted to raise the grade because they found groundwater at four feet when they did borings. Ms. Hale said that with the garage this way, more water will come toward her property. A Board member said that all of the rainwater will be captured and re-injected to groundwater on the property. He said that it cannot flow onto Ms. Hale's property. Ms. Hale said that it does not flow onto her property now. She said that she does not want that to change. Mr. Silverstein said that they pulled the driveway two feet off of the property line and will add crushed stone to the plantings space to retain water that runs off of the driveway.

The Chairman said that what Mr. Silverstein is proposing to build meets all of the requirements of the Zoning Bylaw. He said that the only reason that he is before the Board is because the lot happens to be about 1,200 feet less than the required 20,000 square feet in this zone. He said that the Zoning Bylaw would actually allow him to build something larger than what he is proposing. He said that is not as massive as the house at the corner of Kenilworth Road and Grove Street.

Mr. Himmelberger discussed Ms. Hale's concern about the streetscape and the fact that there are currently no stone walls at the sidewalk. He said that Mr. Silverstein agreed to pull the retaining wall back 20 feet and plant shrubs in front of it. He said that instead of a two foot wall at the sidewalk, the plan is to have

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the two foot wall 20 feet in from the sidewalk and have the ground slope up from the sidewalk to that. Ms. Hale said that the streetscape will not have the continuity that it currently has.

Ms. Hale said that Mr. Silverstein told her that he would make a clear demarcation between 51 Kenilworth and Ms. Hale's property by planting some trees.

#### Statement of Facts

The subject property is located at 51 Kenilworth Road, on an 18,000 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing two-story structure and construction of a new two-story structure that will meet all setback requirements, on an 18,000 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.

A Plan dated 2/24/17, stamped by Bradley J. Simonelli, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 2/24/17, prepared by DNA Architecture, and photographs were submitted.

On March 28, 2017, the Planning Board reviewed the petition and recommended that the special permit be approved.

#### 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 two-story structure and construction of a new two-story structure that will meet all setback requirements, on an 18,000 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, 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 two-story structure and construction of a new two-story structure that will meet all setback requirements, on an 18,000 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, subject to the following condition:

- A revised plot plan shall be submitted that shows the new location of the retaining wall and shows a driveway where drainage stops at the property line.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction 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.

ZBA 2017-30  
Petition of Romy YM Chu  
51 Kenilworth Road

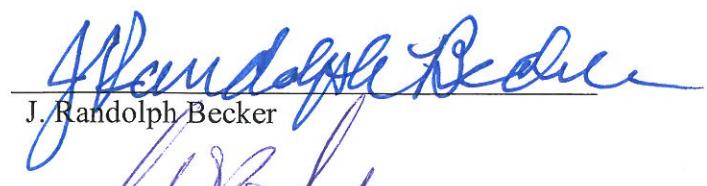
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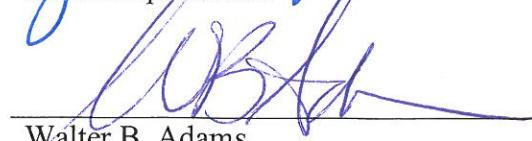
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.



Richard L. Seegel, Chairman

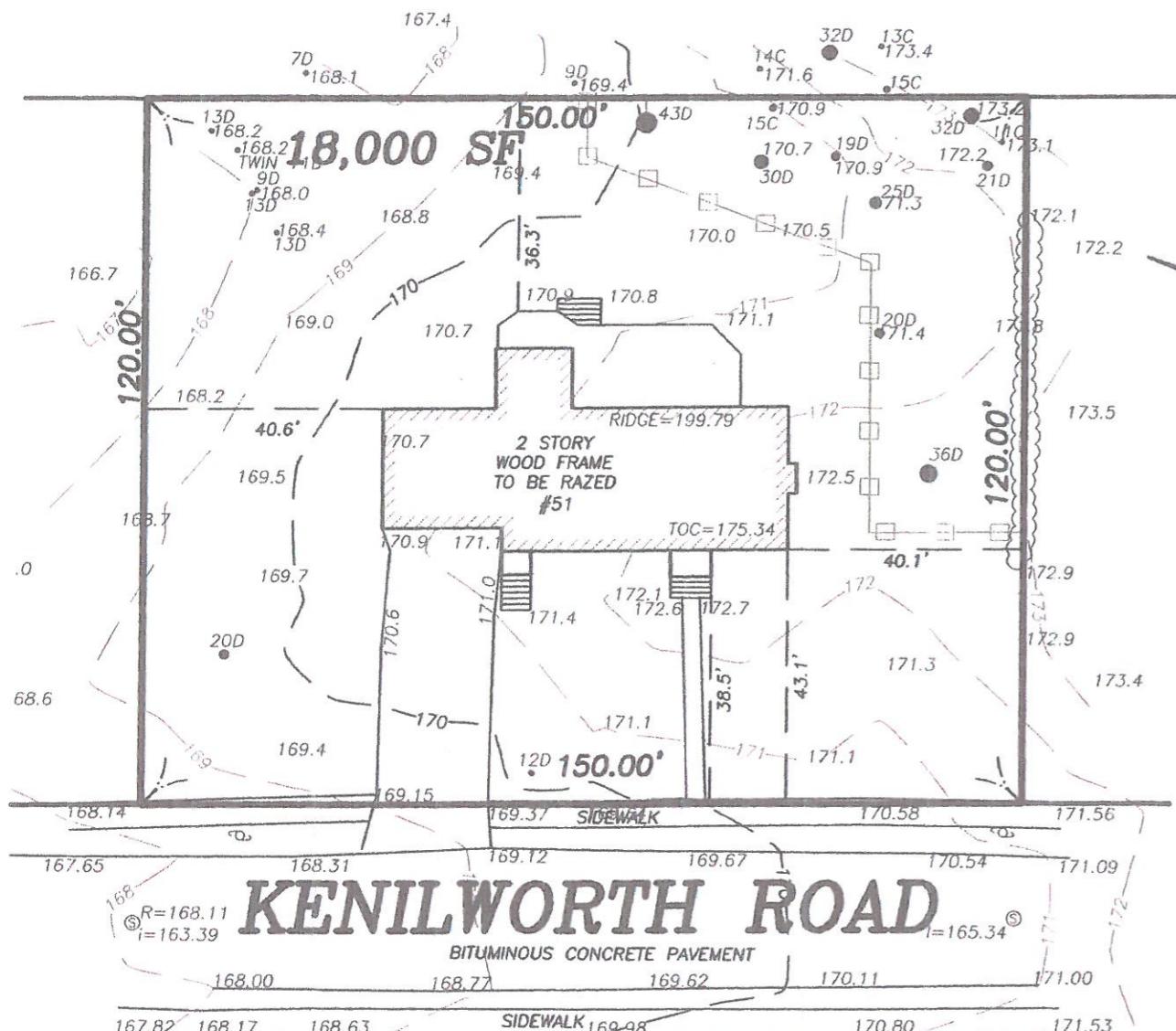


J. Randolph Becker



Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
lrm

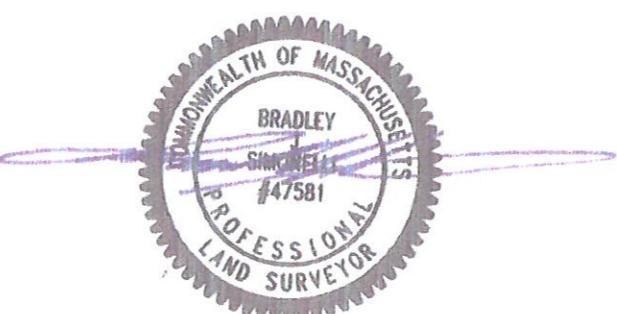
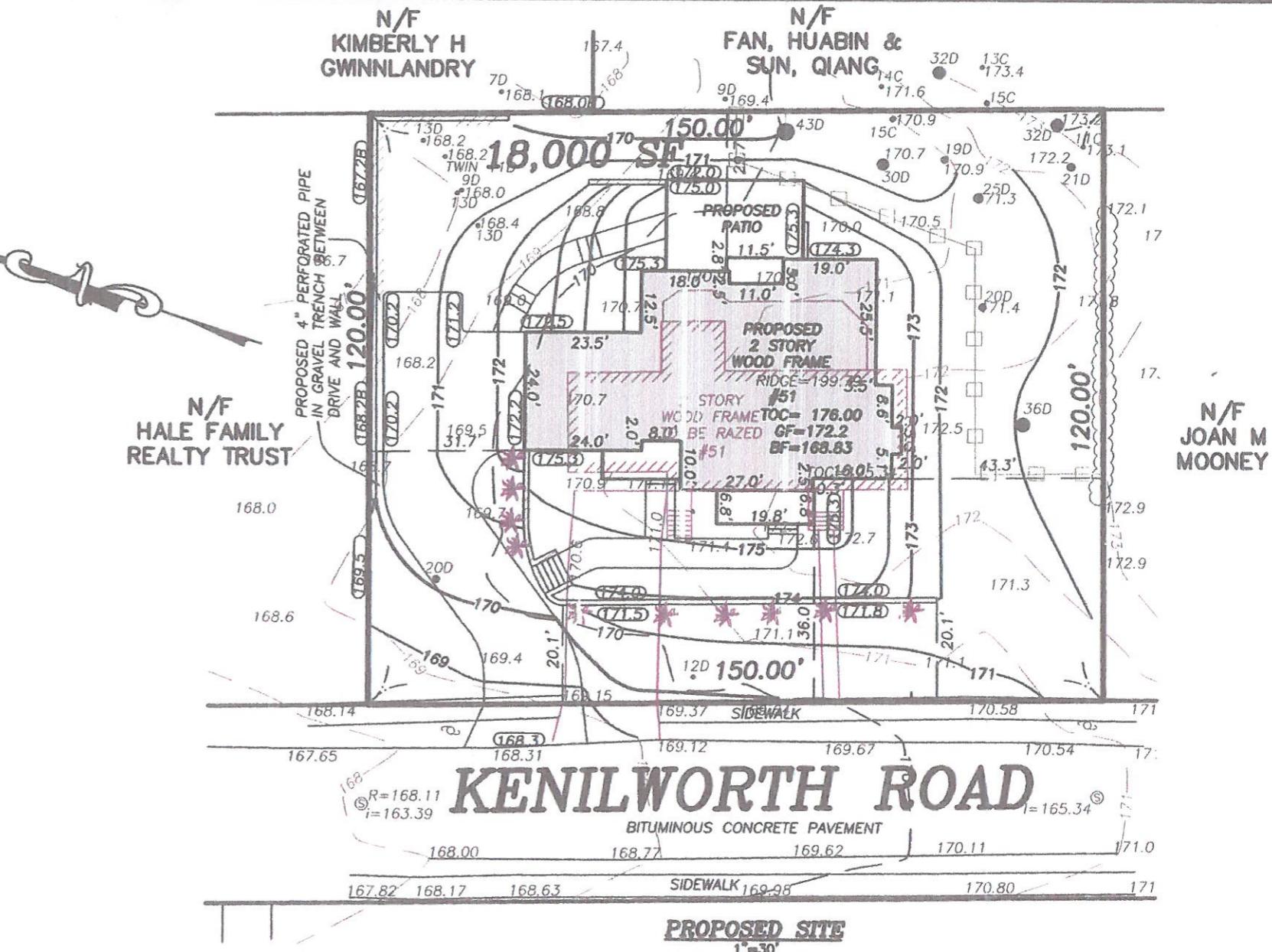


ZONING INFORMATION: SINGLE RESIDENCE 20 (SR20)

REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA	20,000 SF	18,000 SF
MINIMUM LOT FRONTAGE	60 FEET	150.00 FEET
MINIMUM FRONT SETBACK	35.1 FEET*	38.5 FEET
MINIMUM SIDE YARD	20 FEET	40.1 FEET
MINIMUM REAR YARD	20 FEET	36.3 FEET
MAXIMUM BUILDING COVERAGE	20% (3600 SF)	2261 SF (12.6%)
MAXIMUM BUILDING HEIGHT	36 FEET	28.8 FEET
MAXIMUM BUILDING HEIGHT	2 1/2 STORIES	2 1/2 STORIES

\*FRONT SETBACK DETERMINED BY 500 FOOT RULE

\*\*PER SECTION XX OF THE WELLESLEY ZONING BYLAW, ALL BUILDING HEIGHTS ARE  
MEASURED TO AVERAGE FINISHED OR ORIGINAL GRADE WHICHEVER IS LOWER.



JOB NO. 017-17

REVISED: APRIL 7, 2017  
REVISED: APRIL 6, 2017  
REVISED: MARCH 9, 2017

**ZONING BOARD OF APPEALS  
PLAN OF LAND  
51 KENILWORTH ROAD  
WELLESLEY, MASS.**

**Field Resources, Inc.  
LAND SURVEYORS**

FEBRUARY 24, 2017      SCALE 1"=30'  
P.O. BOX 324      281 CHESTNUT ST.  
AUBURN, MA      NEEDHAM, MA.  
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