

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2020-09
Petition of Kevin McClintock Family Trust
97 Crest Road

2020 FEB 20 P220
ZONING BOARD OF APPEALS
WELLESLEY, MA

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 6, 2020 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Kevin McClintock Family Trust requesting a Variance and a Special Permit/Finding pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that demolition of an existing porch and deck, demolition of an existing nonconforming garage, and construction of a one story addition, construction of a one story screened porch and construction of a two story addition that will meet setback requirements over a side facing, two car garage at the basement level with less than required left side yard setbacks, on an existing nonconforming structure with less than required front yard and right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 8, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing were David Himmelberger, Esq., and Kent Duckham, Architect, representing the Kevin McClintock Family Trust, the Petitioner.

Mr. Himmelberger submitted revised plans. He said that the request is to construct a two story addition at the rear of a pre-existing nonconforming home that has a front yard setback of 23.5 feet and a side yard setback of 15.3 feet. He said that the pre-existing nonconforming one car garage has less than required front and side yard setbacks. He said that the proposal is to raze the garage. He said that the proposed addition will be fully compliant except for the basement, side facing two car garage with a side yard setback of 24 feet where 30 feet is required. He said that the house is on an unusual pie shaped lot with a significant topographical slope of 20 feet from front to back. He said that, pursuant to meeting two of the three prongs for granting a variance, a variance is warranted for the basement garage.

Mr. Himmelberger said that the proposed new addition will maintain the existing ridge height of 23.5 feet. He said that total TLAG will be 3,436 square feet, which is below the threshold of 3,600 square feet for the district in which it is located. He said that TLAG is shown on Plan A011 and a worksheet was provided.

Mr. Himmelberger said that lot coverage will increase from 1,879 square feet to 1,984 square feet, for a modest increase from 16 percent to 16.7 percent.

Mr. Himmelberger said that the neighbors were consulted. He said that the neighbors at 95 Crest Road were very supportive. He said that the neighbors to the south had a number of concerns that they raised

with the Petitioner. He said that the neighbors requested that arbor vitae be planted on either side of the wall that is shown on Plan A001, that the proposed fence be moved off of the wall, and that the wall be moved a foot from the property line to lessen the effect on the neighbor's trees. He said that his client agreed to move the wall a foot inward, to plant 12 arbor vitae, with six and six on either side of the wall, and plant three red maples for additional screening. He said that his client did not move the fence because he believes that it would look unusual to not have it centered on top of the wall.

Mr. Himmelberger said that a proposed drywell is currently shown on Plan A001 to capture any additional runoff. He said that because there has not been a perk test done yet, the drywell might be moved into the rear yard. He said that Page 2 of the revised plans shows a proposed wall with a one foot offset and impervious area increasing from 2,830 square feet to 3,950 square feet. He said that Page 3 of the revised plans is the Existing Conditions Plans that shows the topographical challenges of the lot from front to back and the pie shape. He said that a Tree Mitigation Plan will be submitted that shows compliance with the bylaw.

The Chairman said that there are two requests for relief. Mr. Himmelberger said that one request is for a special permit to build an addition on a pre-existing nonconforming home. He said the Petitioner is requesting a variance for the new nonconformity created with the side facing garage. He said that this is an older home that they want to preserve. He said that the proposed structure will retain its charm from the street. He said that the house currently has a number of bump outs at the rear, some of which will be removed.

The Chairman confirmed that none of the retaining walls are jurisdictional under the Zoning Bylaw. He asked if the two car garage could be pulled back to help mitigate the nonconformity. Mr. Duckham said that the garage will be 22 feet by 22 feet, which is smaller than typical. A Board member questioned the ability to back out of the second bay and having space to maneuver with less than 30 feet. Mr. Duckham said that two maneuvers may be required to get out. Mr. Himmelberger said that the intention of the bylaw is to prevent trespass on the neighbor's property. He said that the wall will prevent that.

Stanley Brooks, Esq., said that he was representing Hongyi Jannet Long and Xintao Qiu, who are the owners of 111 Crest Road, which is next door, downhill below the retaining wall. He said that they would like the Board to know that they are supportive of this project. He asked that the revised plans be made the plans of record.

Mr. Brooks said that 97 Crest Road slopes significantly from front to back and right to left, with the left side being the common lot line with 111 Crest Road. He said that the slope continues down from the common lot line approximately eight to nine feet. He said that drainage is a very serious concern. He said that his clients purchased the property last November, so they have not a chance to live through a seasonal year to see what the existing impact of water is. He said that they aware that a soil test has not been completed and that a drywell will be put in somewhere. He said that the plan shows a drain in the driveway at Elevation 198. He said that the new plan shows downspouts and roof runoff being collected and directed to a drywell that has an unspecified location. He said that they did not see any information about the increase in impervious surface but on the Town's GIS maps, it appears that there will be in excess of 2,000 square feet of impervious surface added. He said that there will be a lot of new driveway, two parking spaces at the front, new walls all around, and a patio/fire pit at the back. Mr. Himmelberger said that the impervious surface is shown on the plan as an increase of 1,120 square feet.

Mr. Duckham said that they are required to have a drain in the driveway because the garage is below street level. He said that downspouts will collect to underground drainage to a drywell. He said that it will wrap around both sides of the building. Mr. Brooks said that his clients do not know what storm level the system will be designed to accommodate. He said that they do not know if there are existing drainage issues because they have only lived there since November and the ground has been frozen.

Mr. Brooks said that another concern is that three to four feet of fill will be placed in driveway area and re-graded to the west and south toward 111 Crest Road. He said that his clients do not know what the layout will be. He said that it looks like the asphalt will go up to the wall and they do not know if water will be collected there. He said that they do not know what the composition of the retaining wall will be. He said that the existing retaining wall is two to three feet tall. He said that the plan is to fill three to four feet and put up a new retaining wall, a little less than 48 inches. He asked if the existing retaining wall will be removed. He asked if the grades shown on the civil plan take into account the retaining wall. Mr. Duckham said that the existing wall will be removed because they do not think that it is stable. He said that the new wall will not exceed four feet.

The hearing was temporarily adjourned to allow the Petitioner's representatives and Mr. Brooks and his clients time to answer questions and try to resolve issues. Mr. Brooks said that it was agreed that there will be a condition whereby the maximum height of the retaining walls along the lot line with 111 Crest Road will not exceed a combined 48 inches. The Chairman said that a four foot wall would be noncompliant and would require a special permit.

Mr. Brooks said that a condition will be that the owner will comply with the Tree Preservation Bylaw with respect to trees on 111 Crest Road that would be impacted by redevelopment. He said that the owners of 97 Crest Road are only required to deal with trees on their own land under the bylaw.

Mr. Brooks said that a detail sheet on the wall and an elevation drawing that shows what the wall will look like will be provided and his clients reserve the right to sign off on it. The Chairman said that it would be difficult for the Board to condition its decision on Mr. Brooks' clients' approval. He said that the Building Inspector has to look at the conditions. Mr. Brooks said that they will take the Petitioner's word about the agreement. Mr. Himmelberger said that an elevation and wall drawing will be submitted to the abutter within one week. He said that if it is not to their satisfaction, they will have appellant right to dispute it.

Mr. Brooks said that a condition will be that lighting on the 111 Crest Road side of the property, on the southerly side of 97 Crest Road, will be dark sky compliant.

Mr. Brooks said that nobody knows what the drainage design will be. He said that the system should be sufficient to capture all surface and roof runoff. The Chairman said that the Board will require that a drainage plan stamped by an engineer be submitted. He said that drainage shall be designed so that there is no runoff onto the abutter's property. He said that the Applicant shall submit a stamped report from a civil engineer with pre and post drainage calculations that show that peak rate and volume are not increased.

The Chairman said that a condition will be that the trees depicted on the Plan of Land in Wellesley MA, dated February 5, 2020, revised February 6, 2020, stamped by Bruce Bradford, Professional Land Surveyor, shall be installed prior to a Certificate of Occupancy.

A Board member said that the plans that were submitted should be stamped by a professional.

Statement of Facts

The subject property is located at 97 Crest Road, in a 10,000 square foot Single Residence District, with a minimum right side yard setback of 15.9 feet where 20 feet is required and a minimum front yard setback of 26.4 feet where 30 feet is required. The existing nonconforming garage has a minimum left side yard setback of 12 feet where 20 feet is required and a front yard setback that is less than the required 30 feet.

The Petitioner is requesting a Variance and a Special Permit/Finding pursuant to the provisions of Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that demolition of an existing porch and deck, demolition of an existing nonconforming garage, and construction of a one story addition, construction of a one story screened porch and construction of a two story addition that will meet setback requirements over a side facing, two car garage at the basement level with less than required left side yard setbacks, on an existing nonconforming structure with less than required front yard and right side yard setbacks, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 12/23/19, Plan of Land in Wellesley, MA, Proposed Addition, dated 2/5/20, revised 2/6/20, Plan of Land in Wellesley, MA, Existing Conditions, dated 11/18/19, stamped by Bruce Bradford, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 12/30/19, and Architectural Site Plan, dated 2/3/20, prepared by Duckham Architecture and Interiors, and photographs were submitted.

On February 5, 2020 the Planning Board reviewed the petition and recommended that the Board delay action on the special permit and grant a variance.

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 porch and deck, demolition of an existing nonconforming garage, and construction of a one story addition, construction of a one story screened porch and construction of a two story addition that will meet setback requirements over a side facing, two car garage at the basement level with less than required left side yard setbacks, on an existing nonconforming structure with less than required front yard and right side yard setbacks will not result in the intensification of existing nonconformities, will result in additional nonconformities, and will 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 of an existing porch and deck, demolition of an existing nonconforming garage, and construction of a one story addition, construction of a one story screened porch and construction of a two story addition that will meet setback requirements over a side facing, two car garage at the basement level

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with less than required left side yard setbacks, on an existing nonconforming structure with less than required front yard and right side yard setbacks, subject to the following conditions:

1. The Applicant shall submit a stamped report from a civil engineer with pre and post drainage calculations that show that peak rate and volume are not increased.
2. The trees depicted on the Plan of Land in Wellesley MA, dated February 5, 2020, revised February 6, 2020, stamped by Bruce Bradford, Professional Land Surveyor, shall be installed prior to a Certificate of Occupancy.
3. The owner shall comply with the Tree Preservation Bylaw with respect to trees on 111 Crest Road that would be impacted by redevelopment.
4. Lighting on the 111 Crest Road side of the property, on the southerly side of 97 Crest Road, shall be dark sky compliant.
5. The maximum height of the retaining walls along the lot line with 111 Crest Road shall not exceed a combined 48 inches.

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 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted for construction of a two car garage at the basement level with less than required side yard setbacks.

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 Variance shall expire one year after the date time stamped on this decision and this Special Permit shall expire two years after the date time stamped on this decision.

2020 FEB 20 P 12:04
WELLESLEY MA 02454
ZONING BYLAWS OFFICE

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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

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Applicant Kevin McClintock Family Trust
Address 97 Crest Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

WELLESLEY MASSACHUSETTS
TOWN CLERK'S OFFICE
WELLESLEY, MASSACHUSETTS 02451

2020 FEB 20 P 1204

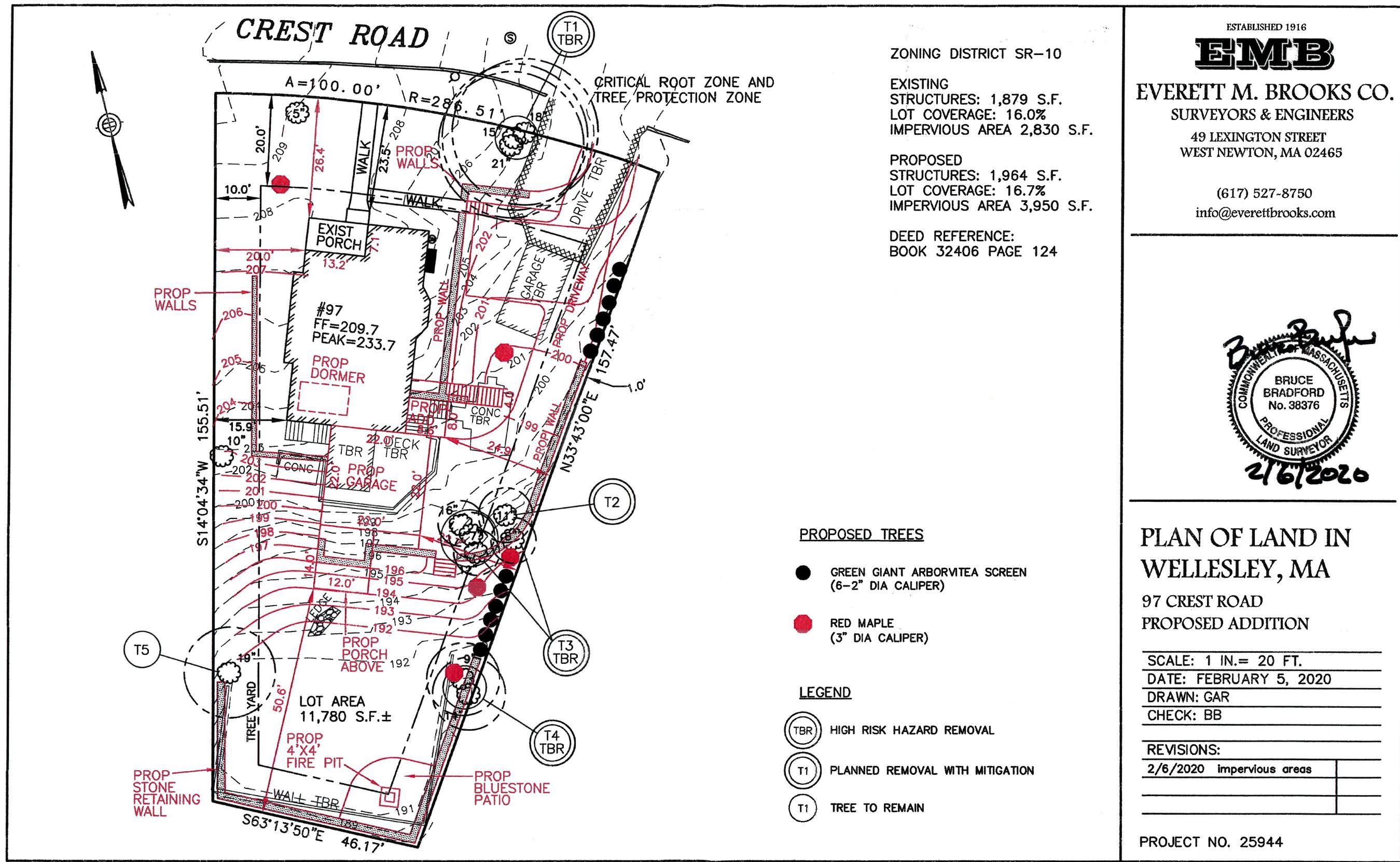
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:


Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



SITE REVIEW

DRAWING NOT
FOR CONSTRUCTION
FEBRUARY 3, 2020

Issues
Number Date Description

Revisions
Number Date Description

Checked by:
Drawn by:

McClintock Residence
97 Crest Road
Wellesley, MA

ARCHITECTURAL SITE PLAN

Drawing Scale:
1/20" = 1'-0"

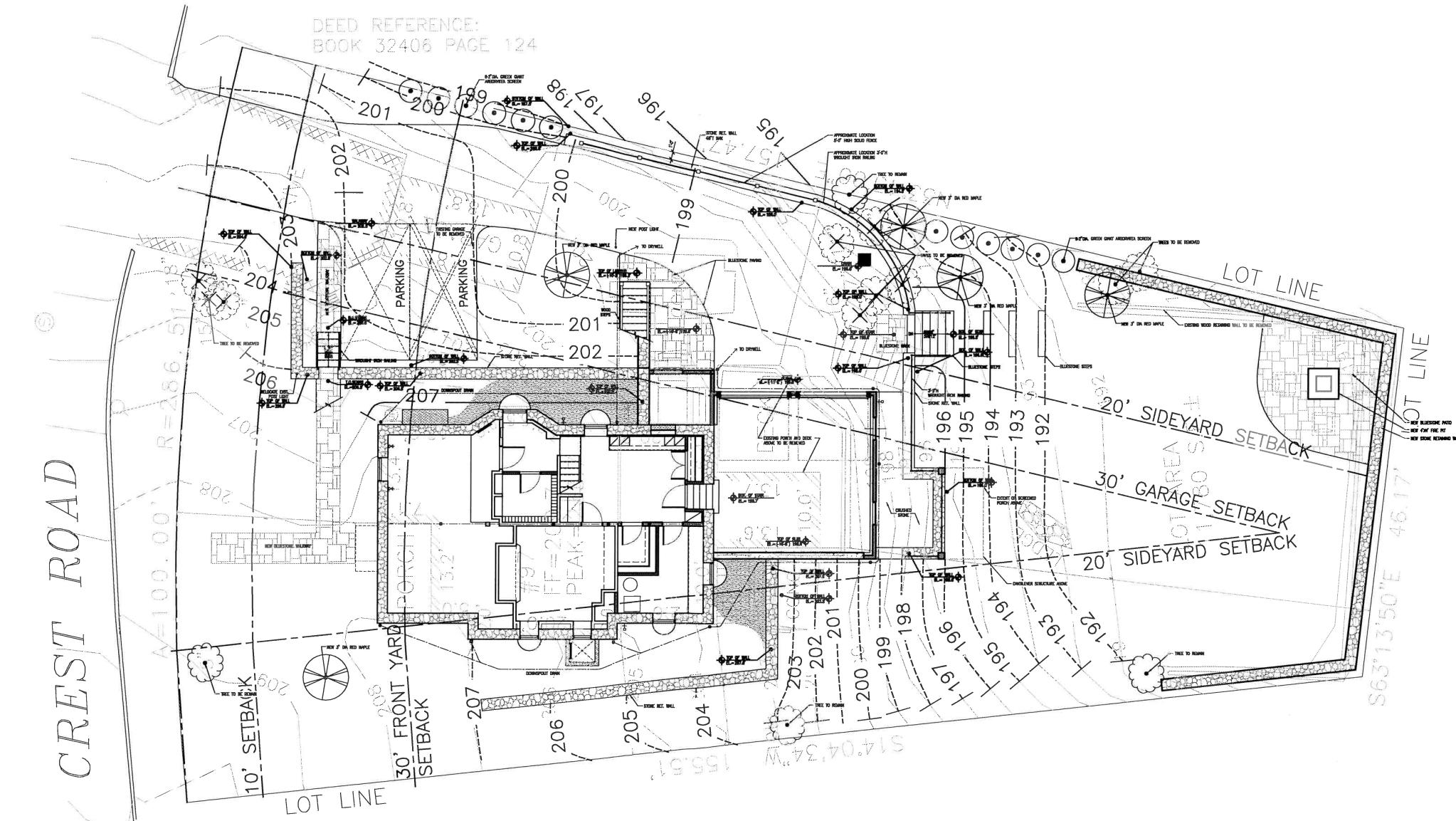
Project Number:
201918.00

Date Issued:
02.03.2020

A001

STRUCTURES: 1,879 S.F.
LOT COVERAGE: 16.0%

DEED REFERENCE:
BOOK 32406 PAGE 124



1 PROPOSED ARCHITECTURAL SITE PLAN

SCALE: 1/8" = 1'-0"