

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

J. RANDOLPH BECKER, CHAIRMAN  
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TOWN CLERK'S OFFICE  
WELLESLEY MA 02482

ZBA 2020-50

Petition of Christopher & Paige O'Rourke  
37 Morses Pond Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, October 29, 2020 at 7:30 pm, on the petition of Christopher & Paige O'Rourke requesting a Special Permit/Finding pursuant to the provisions of Section 14 E, Section 17 and Section 25 of the Zoning Bylaw that raising the ridge height and adding dormers on an existing nonconforming structure with less than required front and left side yard setbacks, construction of two-story addition with less than required front yard setbacks, construction of a conforming breezeway that connects the existing nonconforming main structure to an existing nonconforming two-story accessory structure, and demolition of an existing nonconforming garage, at 37 Morses Pond Road, on an 8,150 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.

On March 3, 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. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for October 29, 2020.

Present at the public hearing were Christopher and Paige O'Rourke, the Petitioner. Mr. O'Rourke said that they are looking to redo their home with an addition to create more living space. He said that they spoke with their neighbors, one of whom wrote a letter to the town on the O'Rourke's behalf. He said that their architects were also present at the public hearing.

The Chairman said that this is an interesting lot from the perspective of trying to determine the dimensional features of the project and how they compare to requirements because about 2,200 square feet of the lot is in Natick, not in Wellesley. Mr. O'Rourke said that they spoke with the neighbors in Natick as well as the neighbors in Wellesley. He said that his understanding is that neighborhood was originally smaller lots that were combined into larger lots as cottages were turned into permanent homes.

The Chairman said that not considering whether the lot is in Wellesley or Natick, the lot size conforms, the frontage conforms and all other elements except for the front yard depth are nonconforming. He said that the nonconforming front yard depth will be unchanged by the proposed project.

Greg Livingston, 27 Morses Pond Road, said that he and his wife wrote a letter to the Board on October 26, 2020 to support the petition to modify the home at 37 Morses Pond Road. He said that he and wife have lived at 27 Morses Pond Road for 40 years. He said that the neighborhood has changed over time and houses have been modified to reflect what people need. He said the O'Rourkes are good neighbors who maintain their property and are very respectful. He said that he spoke with them about their plans

and approve the plans. He said that they have been very responsible about the design and how it fits into the neighborhood. He said that they have been thoughtful about every detail. He said that he hoped that the Zoning Board will approve this petition.

Statement of Facts

The subject property is located at 37 Morses Pond Road, on an 8,150 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 13.9 feet where 30 feet is required, and a minimum left side yard setback of 4.5 feet where 20 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that raising the ridge height and adding dormers on an existing nonconforming structure with less than required front and left side yard setbacks, construction of two-story addition with less than required front yard setbacks, construction of a conforming breezeway that connects the existing nonconforming main structure to an existing nonconforming two-story accessory structure, and demolition of an existing nonconforming garage, on an 8,150 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.

An Existing Conditions Plan, dated 6/27/19 and a Proposed Plot Plan, dated 7/10/20, stamped by John D. Bremser, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 6/24/20, prepared by Edward Deegan Architects, and photographs were submitted.

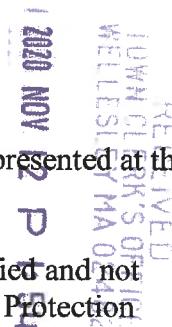
On October 28, 2020, the Planning Board reviewed the petition and recommended that a special permit be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

The Board found that the Design and Operation Standards in Part F are adequately satisfied and not otherwise prohibited in Part D.1, of Section 14 E of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that raising the ridge height and adding dormers on an existing nonconforming structure with less than required front and left side yard setbacks, construction of two-story addition with less than required front yard setbacks, construction of a conforming breezeway that connects the existing nonconforming main structure to an existing nonconforming two-story accessory structure, and demolition of an existing nonconforming garage, on an 8,150 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, will result in the intensification of existing nonconformities, will not 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 raising the ridge height and adding dormers on an existing nonconforming structure with less than required front and left side yard setbacks, construction of two-story addition with less than required front yard setbacks, construction of a conforming breezeway that connects the existing nonconforming main structure to an existing nonconforming two-story accessory structure, and demolition of an existing nonconforming garage, on an 8,150 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, in accordance with the submitted plot plan and construction drawings.

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.

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WELLESLEY MA 02482

2020 NOV 12 P 1:55

ZBA 2020-50

Petition of Christopher & Paige O'Rourke  
37 Morses Pond Road

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* lrm  
J. Randolph Becker, Chairman

*Walter B. Adams* lrm  
Walter B. Adams

*Richard L. Seegel* lrm  
Richard L. Seegel

ZBA 2020-50  
Applicant Christopher & Paige O'Rourke  
Address 37 Morses Pond Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

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:

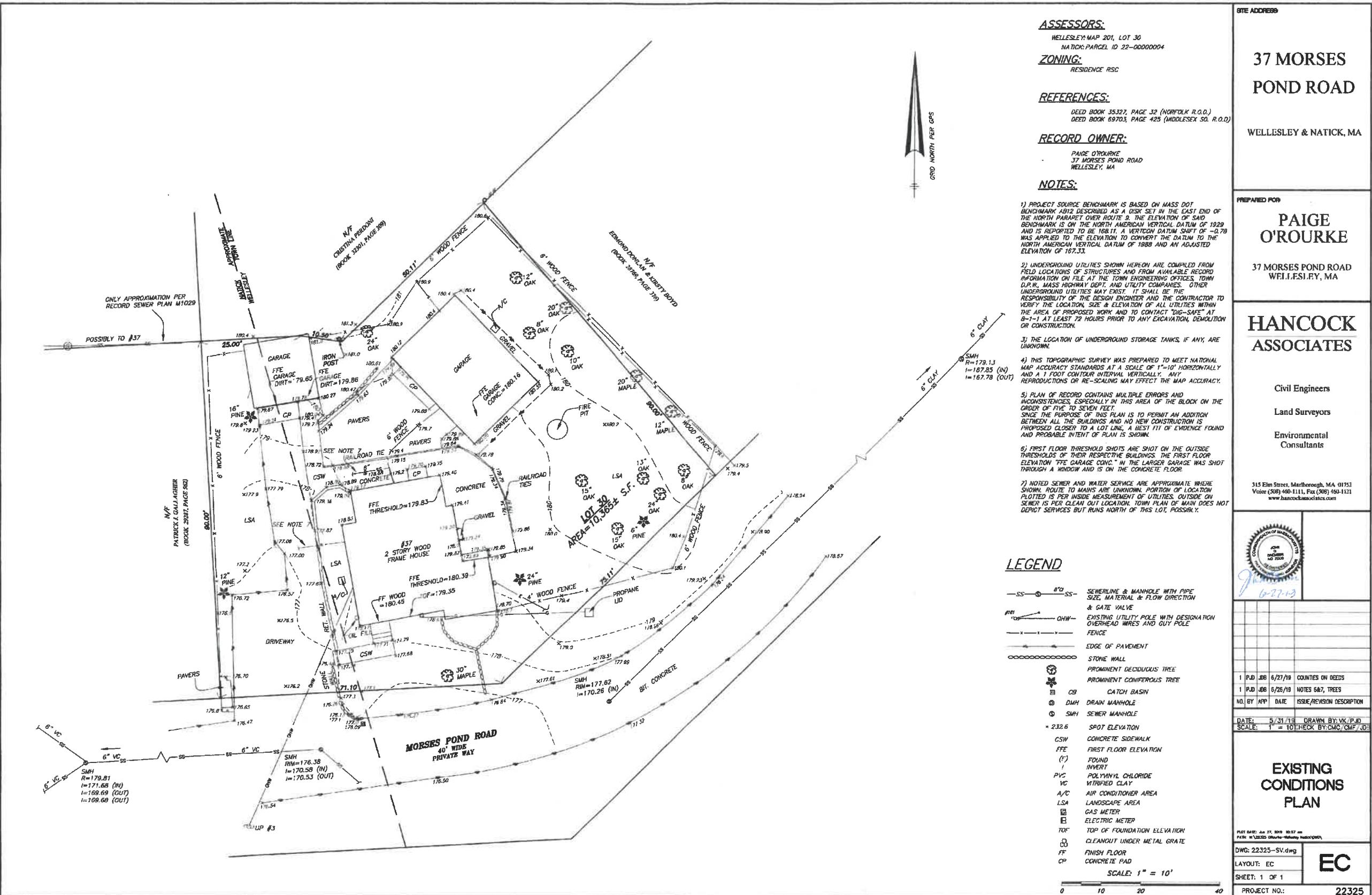
Attest:

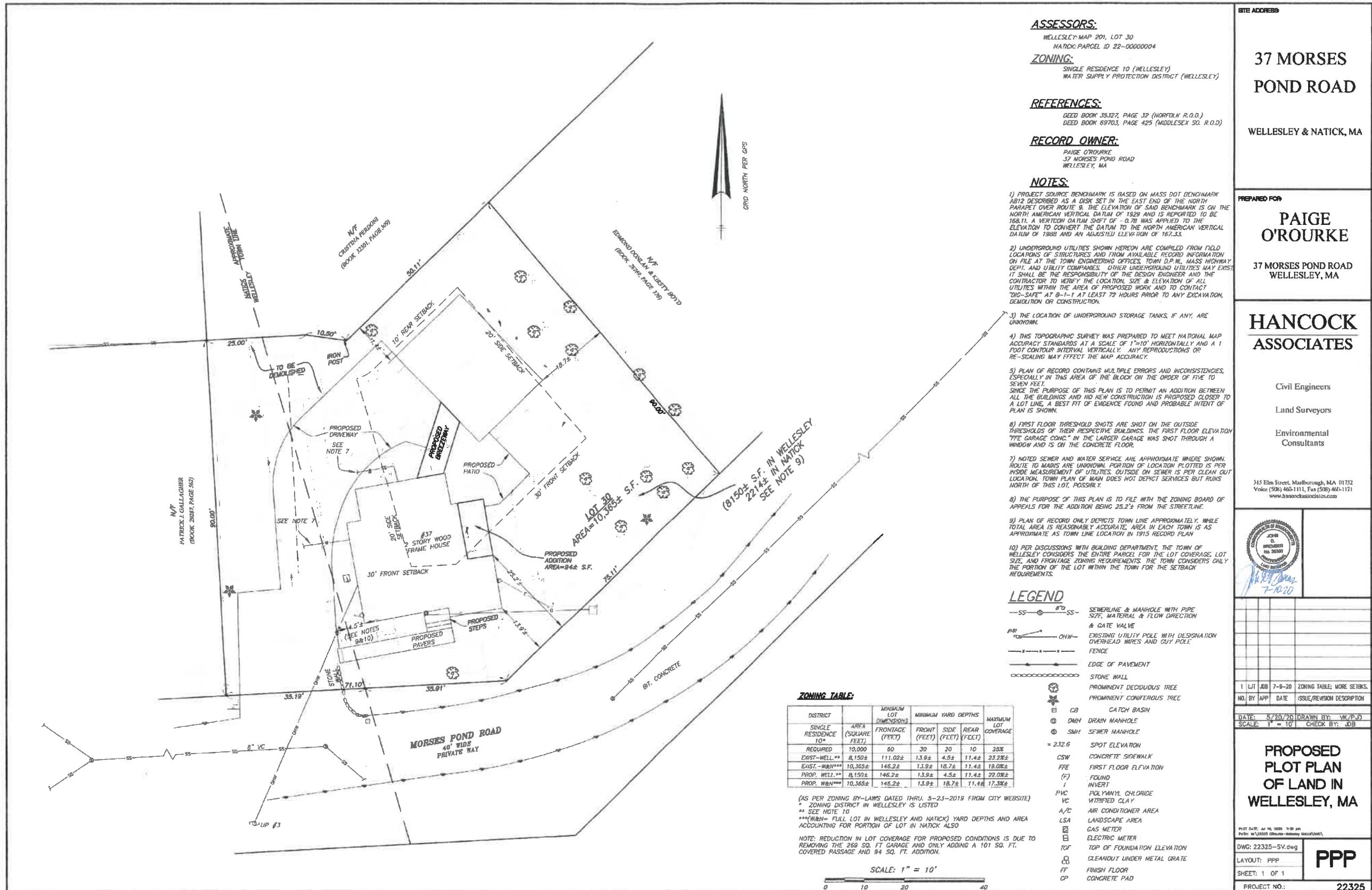
Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm

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WELLESLEY MA 02482

1100 NOV 12 P 1:55





TOWN OF WELLESLEY



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## ZONING BOARD OF APPEALS

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WALTER B. ADAMS  
DEREK B. REDGATE  
RICHARD L. SEESEL

November 4, 2021  
7:30 pm  
Public Hearing

Zoning Board of Appeals Members Present:

J. Randolph Becker  
Richard L. Seegel  
David G. Sheffield

### BUSINESS MEETING

#### ZBA 2020-50, PAIGE O'ROURKE, 37 MORGES POND ROAD

2021 NOV 18 PM 12:49

Mr. Becker said that the request is for determination that the changes are minor modifications that do not require a public hearing. He said that the Board has the documents that show what the builder found when excavation was done to implement the plans that were included in the permit. He said that those changes are not minor modifications from the standpoint of structural safety and structural work but if the focus is on the impact on the Zoning and the permit, it will help the Board come to a determination from the perspective of Zoning.

Mr. Sheffield said that the structural problems were discovered after permitting and after opening up the building.

Mr. Becker said that modified plans were submitted that show the same things as the plans that were attached to the building permit application. He said that some of the changes include a different kind of work, such as reinforced concrete instead of structural block. He said that in other cases there is structural concrete where it was not used before.

Mr. Seegel said that it appears that the Building Inspector made a careful examination and submitted pictures to the Board. He said that at first glance it appears to not be a minor modification but, in reality, it is because they are replacing a piece of foundation wall that was not anticipated to be replaced. He said that it was deemed by the engineer to be unsafe to put a two story addition on it. He said that he would find that it was a minor modification.

Mr. Sheffield confirmed that it was a minor modification with respect to the Zoning Bylaw.

Mr. Becker said that the Board has a letter from Richard Testa, Jr., structural engineer, who did the investigation of what was found when they took the building apart. He said that Mr. Testa opined that the existing walls were not acceptable to build a two story addition.

Matthew Coady, Coady Built, said that they need to replace unsuitable construction so that they can proceed with the project.

Mr. Seegel moved, Mr. Sheffield seconded the motion, and the Board voted unanimously to make a determination that the proposed changes at 37 Morses Pond Road are a minor modification and do not require a public hearing under the Zoning Bylaw.

Zoning Board of Appeals  
The Town of Wellesley  
525 Washington St  
Wellesley MA 02482

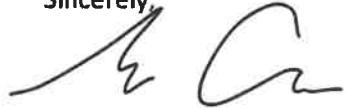
Dear Mr. Chairman,

I am requesting a board determination that the changes made to the project scope at 37 Morse's Pond Rd are minor modification and are required due to safety and structural reason that were discovered during work approved per building permit # RES-21-764. The following changes required are,

1. Replace 413 sft of damaged 1<sup>st</sup> floor exterior wall sheathing and studs.
2. Replace 66.5 lft of under structured CMU crawlspace foundation with poured concrete foundation.
3. Replace 340 sft of 1<sup>st</sup> floor sheathing and floor joist as required to repair foundation.

This work will not cause changes to the dimensional footprint of the existing non-conforming structure and are required repairs to the existing structure so work can be completed as approved per building permit # RES-21-764.

Sincerely,



Matthew Coady

President



TESTA ENGINEERING  
ASSOCIATES  
Structural Engineering

181 Worcester Street  
Natick, MA 01760  
Tel: [508] 655-2420

Invoice: 2021 - 0197A  
Date: 10/28/2021

Coady Built  
201 Parkerville Road  
Southborough, MA 01772  
Attn: Matt Coady

Project:  
37 Morses Pond Road  
Wellesley, MA

Dear Matt,

I have inspected the foundation at 37 Morses Pond Road in Wellesley.

The existing foundation at the rear and left side of the building was an addition at some time in the past. The contractor that built the addition did not install the foundation correctly. The foundation are only 8 inch masonry walls and do not go to the correct distance below the grade to provide frost protection. These existing walls are not acceptable to build a two story addition.

The foundations will need to be removed and replaced with a new footing and foundation to meet the requirements of the 9<sup>th</sup> edition of Massachusetts State Building Code and all addendums.

If you have any questions, please feel free to call me at 508-655-2420.

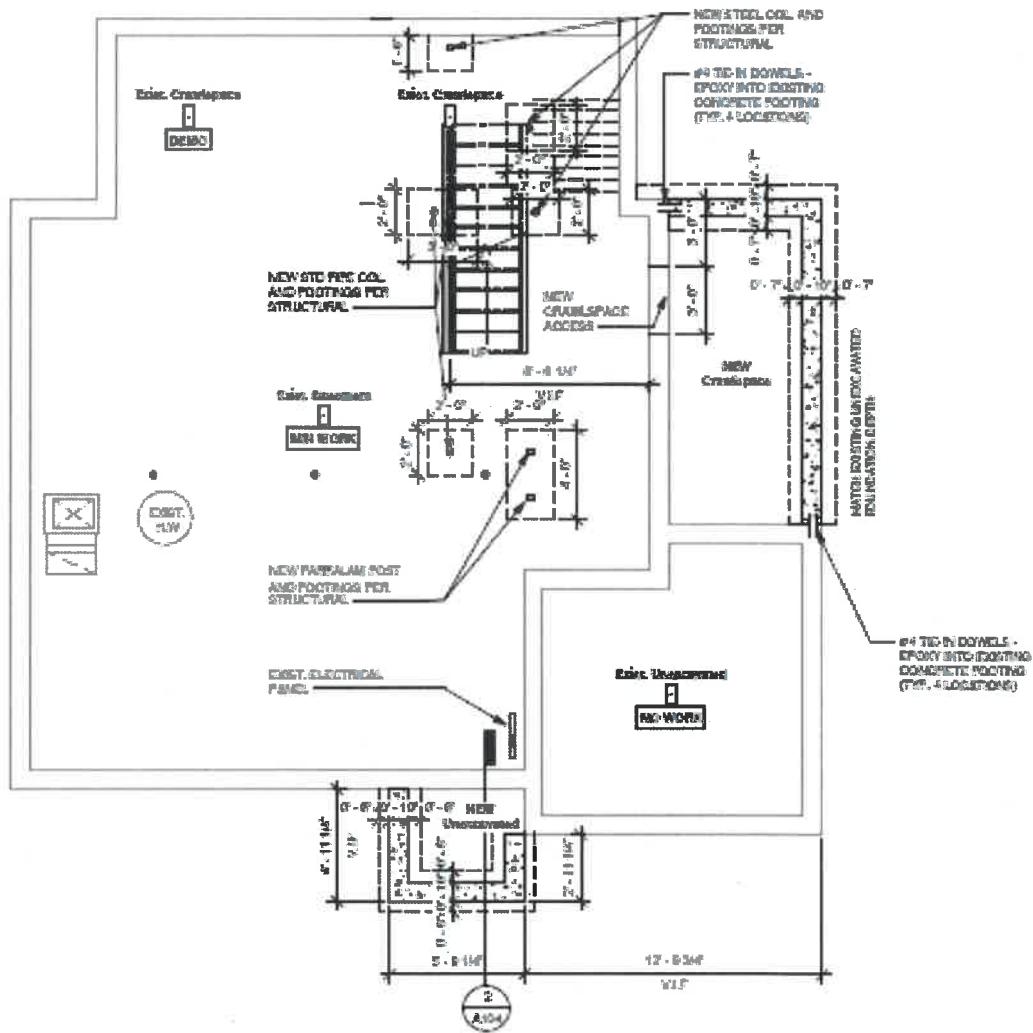
Sincerely yours,

Richard J. Testa Jr. P.E.  
License #: 37868



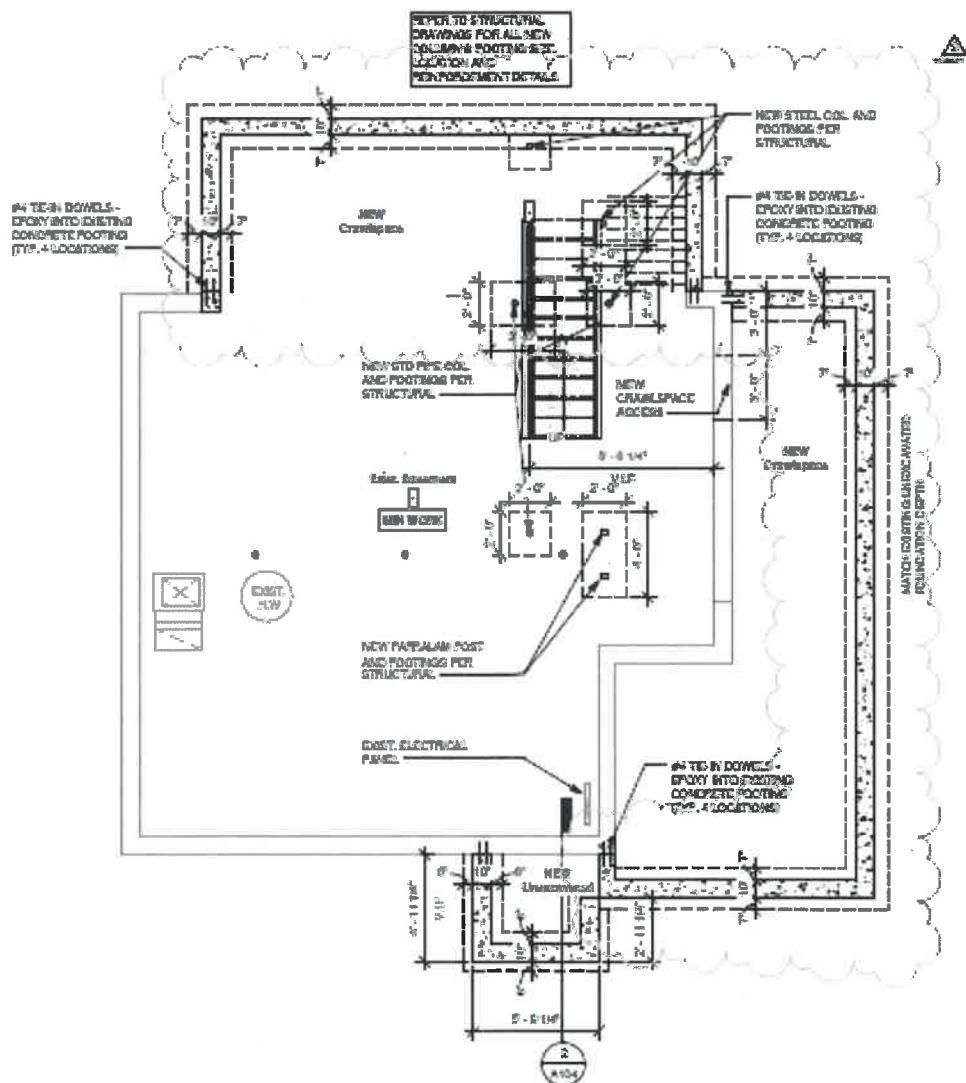
10/28/2021

REFER TO STRUCTURAL  
DRAWINGS FOR ALL NEW  
COLUMN & FOOTING SIZES,  
LOCATION AND  
REINFORCEMENT DETAILS.



## Scope of new foundation work as proposed at ZBA Hearing for special permit

② Beacon through proposed Main 2000  
1/2" = 1'-0"



Scope of proposed foundation work to replace inadequate existing foundation

Photo of foundation once depth was verified during excavation of existing crawl space.



Photo of existing wall during demolition. It was not salvageable.

