

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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2021 MAY 15 P 1:44

ZBA 2021-32

Petition of Scott & Elizabeth Lashway
38 Lowell Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, April 1, 2021 at 7:30 pm, on the petition of Scott & Elizabeth Lashway requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two-story addition and deck that will meet setback requirements, on an existing nonconforming structure with less than required left side yard setbacks, and construction of a detached two-car garage that will meet setback requirements, at 38 Lowell Road, in a 20,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming lot.

On February 24, 2021, 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 Keri Murray, Architect, Scott and Elizabeth Lashway, the Petitioner. Ms. Murray said that the request is for approval of a conforming addition on a pre-existing nonconforming lot with less than required side yard setback of 19.3 feet where 20 feet is required. She said that the proposed addition is at the rear of the property and will meet all Zoning requirements and TLAG for the district.

The Chairman asked about the garage work. Ms. Murray said that the garage is part of the project and will meet Zoning requirements. She said that currently there is nothing in that location. She said that pre-existing curb cuts will accommodate the new garage.

The Chairman said the existing nonconformity is the left side yard. He said that the challenge with the garage is the 500 Foot Rule, that talks about buildings that would include the garage. Ms. Murray said that the house and garage sit more than 30 feet from the road. A Board member discussed the requirements of the 500 Foot Rule, as listed in Section 19 of the Zoning Bylaw. He said that a surveyor will have to determine the front setback for properties within 500 feet. He said that the intent of the bylaw may have been for infill vacant lots.

Mr. Lashway said that the front setback at 42 Lowell Road appears to be 36.1 feet. He said that the proposed garage does not require a special permit. He asked if the Board could move forward with the review for a special permit for the main portion of the house and exclude the garage. He said that they can come back before the Board with a plan for re-siting the garage and information relating to compliance with the 500 Foot Rule.

The Chairman said that the proposed additions to the house do not increase the existing nonconformities. He said that under the bylaw, if the Board makes that finding, the Petitioner is entitled to a special permit.

A Board member said that the house at the corner of Edmunds Road appears to be closer to the street. Mr. Lashway said that they did a full renovation there with an attached garage within the last two years. He said that he believes that the plan showed a front yard setback of 36.1 feet.

Ms. Lashway said that they will be going before the Historic Commission next week. A Board member said that if the Board approves plans at this hearing, the Petitioner may have to come back if the Historic Commission asks for changes.

Ms. Lashway asked that the Board proceed with the petition without the garage.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 38 Lowell Road, in a 20,000 square foot Single Residence District, with a minimum left side yard setback of 19.3 feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that construction of a two-story addition and deck that will meet setback requirements, on an existing nonconforming structure with less than required left side yard setbacks, and construction of a detached two-car garage that will meet setback requirements, shall not be substantially more detrimental to the neighborhood than the existing nonconforming lot.

Letter to Zoning Board of Appeals, dated 2/24/21, from Scott & Elizabeth Lashway, Existing Conditions Plan of Land Showing Proposed Improvements, Sheets 1 and 2, dated 2/22/21, stamped by Elliott J. Paturzo, Professional Land Surveyor, Floor Plans and Elevation Drawings, 3-D Renderings, dated 2/24/21, prepared by Keri Murray Architecture, and photographs were submitted.

On March 30, 2021, the Planning Board reviewed the petition and recommended that action of the special permit be delayed.

Decision

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

It is the opinion of this Authority that construction of a two-story addition and deck that will meet setback requirements, on an existing nonconforming structure with less than required left side yard setbacks, will not 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 construction of a two-story addition and deck that will meet setback requirements, on an existing nonconforming structure with less than required left side yard setbacks, subject to the following conditions:

1. The proposed garage shall be eliminated from the plan.
2. A new plan shall be submitted that shows that the proposed garage has been eliminated.

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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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 (Am.)
J. Randolph Becker, Chairman

Robert W. Levy (Am.)
Robert W. Levy

David G. Sheffield (Am.)
David G. Sheffield

ZBA 2021-32
Applicant Scott & Elizabeth Lashway
Address 38 Lowell Road

2021 APR 15 P 1:46
WELLESLEY TOWN CLERK
MA 02481

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

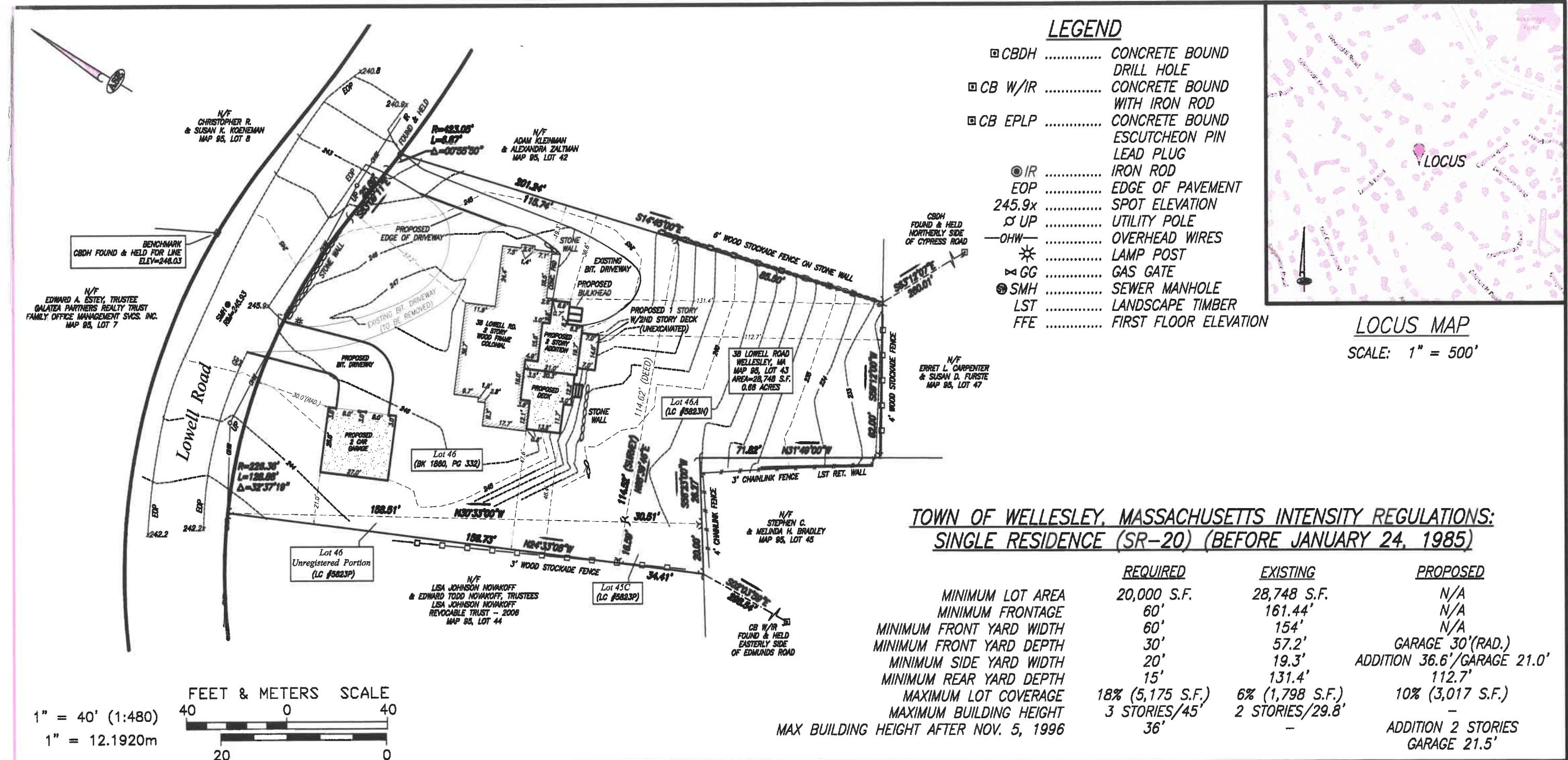
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



ZONING DESIGNATION: TOWN OF WELLESLEY ZONING DISTRICT SINGLE RESIDENCE 20 (SR20) HISTORIC OVERLAY DISTRICT	REVISIONS	A.S. Elliott & Associates Professional Land Surveyors P.O. BOX 85 ~ HOPEDALE, MASSACHUSETTS (508) 634-0256 www.aselliott.com	Existing Conditions Plan of Land Showing Proposed Improvements 38 LOWELL ROAD WELLESLEY, MASSACHUSETTS PREPARED FOR: ELIZABETH LASHWAY SCALE: 1" = 40' DATE: FEBRUARY 22, 2021 SHEET 1														
ASSESSORS REFERENCE: MAP 95, LOT 43	<p>I CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED ON THE GROUND ON OCTOBER 1, 2020 AND THE LATEST PLANS AND DEEDS OF RECORD.</p> <p>I CERTIFY THAT PART OF THE SUBJECT DWELLING SHOWN LIES IN A FLOOD ZONE "X" AS SHOWN ON MAP NUMBER 25021C0008E, HAVING AN EFFECTIVE DATE OF JULY 17, 2012.</p>	<table border="1"> <thead> <tr> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table> <p>FIELD: MRI/BMD CALCS: EJP/SMI DRAWN BY: SMI FIELD EDIT: N/A CHECKED: EJP APPROVED: JOB #: 201818</p> <p>ELLIOTT J. PATURZO No. 34623 PROFESSIONAL LAND SURVEYOR DATE: FEBRUARY 22, 2021</p>	DATE	DESCRIPTION													
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