

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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2021 DEC 16 PM 12:01

ZBA 2021-74

Petition of Jose Martinez-Lorenzo  
4 Larch Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 7, 2021 at 7:30 pm, in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Jose Martinez-Lorenzo requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of a pre-existing nonconforming structure with less than required right side yard setbacks and construction of a new two-story structure with basement and attic with less than required right side yard setbacks, at 4 Larch Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On July 29, 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 on behalf of the petition were Jose Martinez-Lorenzo, the Petitioner, David Himmelberger, Esq., and Charles Kraus, Architect.

Mr. Himmelberger said that the request is for a special permit to raze and reconstruct a pre-existing nonconforming dwelling. He said that the house was originally built in 1946 and sits on an 11,235 square foot lot in a SR10 District and a Water Supply Protection District (WSPD). He said that the Historical Commission previously determined that the existing house is not preferably preserved. He said that the existing house has a right side yard setback of 12.8 feet and the lot has 70 feet of frontage. He said that the proposed house will retain the right side yard setback of 12.8 feet but will be conforming in all other aspects. He said that the proposed height will be 35.4 feet and TLAG will be 5,031 square feet. He said that because the house is located in a WSPD, two underground infiltration systems are proposed to take all roof runoff. He said that existing lot coverage is 1,021 square feet, or 9.1 percent and proposed lot coverage is 2,441 square feet, or 21.7 percent.

The Chairman asked when the deck was built. He said that a plot plan from 1974 does not show the deck. He questioned whether connecting the deck makes the garage part of the house. He discussed concerns

about a one car detached garage morphing into granting relief for two stories with a much longer extension into the setback. He said that it is an oversized lot in a 10,000 square foot district with enough frontage. He asked why the proposed house is nonconforming, Mr. Kraus said that it is a narrow lot. Mr. Himmelberger said that the house could only be 30 feet wide with a garage that would take up most of the front of the house. He said that a side facing garage would not meet the 30 foot setback requirement.

Mr. Martinez-Lorenzo discussed issues with moving the garage to the back. He said that the neighbors requested that they keep the windows at a minimum distance of 20 feet. Mr. Kraus said the plan was designed to accommodate the neighbor's request and to have the garage only encroach in the setback as it currently does. The Chairman said that the proposed garage will be 26 feet long, which is substantially longer than the existing garage. He said that it is a very big house for the lot. A Board member said that a TLAG of 5,000 square feet where the threshold is 3,600 square feet is not close to conforming.

Jeff Novins, 6 Larch Road, said that when Mr. Martinez-Lorenzo showed him the plans last spring, he was concerned about the height and the windows. He said that the entire home was at the 12.8 foot offset. He said that he suggested moving the garage to the front to allow for more back yard. He said that the new plan did a good job with the shoulder of the house and he is okay with the offset for the garage. He said that it would be good to have plenty of evergreen screening. He said that it will be very large and the back of the house will extend into his back yard. He said that he would like to see a new plan that the Board can be happy with.

A Board member said that it would be helpful to have a landscaping plan, a drainage plan and a lighting plan that can be shown to the neighbors.

James Daley, 2 Hickory Road, said that his property is on the north side facing 4 Larch Road. He said that Mr. Martinez-Lorenzo made some effort so that when Mr. Daley's family is in their back yard, they are not looking at a wall of house. He said that he would like to see some greenery along the way. He discussed issues with trees on Mr. Martinez-Lorenzo's property that have shallow roots that extend under the fence line. He said that his neighbors deserve to build a beautiful home but his concern is for his family and water problems caused by the trees. He asked if he could request that the trees be cut down. He asked about construction noise that could affect his son who has severe sensory issues.

The Chairman said that the trees would be subject to the tree bylaw. He said that the Board would like to see drainage calculations or an engineering plan that shows where the water coming off of the roof will go. Mr. Kraus said that the plans show proposed locations for the infiltration systems but nothing has been designed yet.

The Board voted unanimously to continue the hearing to December 2, 2021.

**December 2, 2021**

The Petition was heard de novo.

Mr. Himmelberger said that the house was significantly reduced in size to a TLAG of 4,284 square feet. He said that lot coverage was reduced from 2,441 square feet, or 21.7 percent, to 2,141 square feet, or 19.1 percent. He said that only the first floor portion of the garage will be at the existing right side yard

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setback of 12.8 feet and the remainder of the house will be outside of the setback. He said that two underground infiltration systems will handle all roof runoff.

A Board member said that the Applicant responded to the Board's comments. A Board member said that the changes reduced the depth of the house significantly. He said that the size and bulk have been reduced to a degree that the proposed structure is no longer more detrimental to the neighborhood.

Jeff Novins, 6 Larch Road, said that although the house does not extend as deep as it previously did, it still extends well into the yard. He said that the offset towards the front of the house is 12 feet from his property line. He said that he is in favor of the house plan. He asked that the Board address landscaping or fencing. The Chairman said that the provisions in the bylaw that deal with landscaping do not grant the Board the power to do what Mr. Novins is asking. He said that is something that the Petitioner can talk to the neighbor about.

The Chairman said that the Applicant's assertion is that the house, deck and garage form one unit and the 12.8 foot nonconforming setback is applicable to the entire project. He said that the plan is to move the garage forward with a 12.8 foot setback, which was the existing setback when the bylaw changed.

#### Statement of Facts

The subject property is located at 4 Larch Road, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, with a minimum right side yard setback of 12.8 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 demolition of a pre-existing nonconforming structure with less than required right side yard setbacks and construction of a new two-story structure with basement and attic with less than required right side yard setbacks, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals, dated 7/28/21, from David J. Himmelberger, Esq., Letter to Zoning Board of Appeals, dated 11/12/21, from David J. Himmelberger, Esq., Existing Conditions, dated 11/12/20, Proposed House, dated 7/27/21, and Proposed House, dated 11/8/21, stamped by Bruce Bradford, Professional Land Surveyor, Floor Plans, dated 7/27/21, revised 10/25/21, Elevation Drawings, dated 7/22/21, revised 10/25/21, Site Plan, dated 7/27/21, and TLAG Affidavit, dated 7/26/21 and TLAG Affidavit, dated 11/9/21, prepared by Kraus Associates, and photographs were submitted.

On October 5, 2021, the Planning Board reviewed the petition and recommended that a special permit be denied. The Planning Board did not subsequently review the revised plans.

#### 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 14E of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition of a pre-existing nonconforming structure with less than required right side yard setbacks and construction of a new two-story structure with basement and attic with less than required right side yard setbacks will result in the intensification of an existing nonconformity, 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 demolition of a pre-existing nonconforming structure with less than required right side yard setbacks and construction of a new two-story structure with basement and attic with less than required right side yard setbacks, in accordance with the plot plan, dated 11/8/21 and floor plans and elevation drawings, dated 10/25/21.

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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4 Larch 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, Chairman



Walter B. Adams



Derek B. Redgate

2021 DEC 16 PM 12:05  
Wellesley, MA

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Applicant Jose Martinez-Lorenzo  
Address 4 Larch 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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EVERETT M. BROOKS CO.

SURVEYORS & ENGINEERS

49 LEXINGTON STREET  
WEST NEWTON, MA 02465

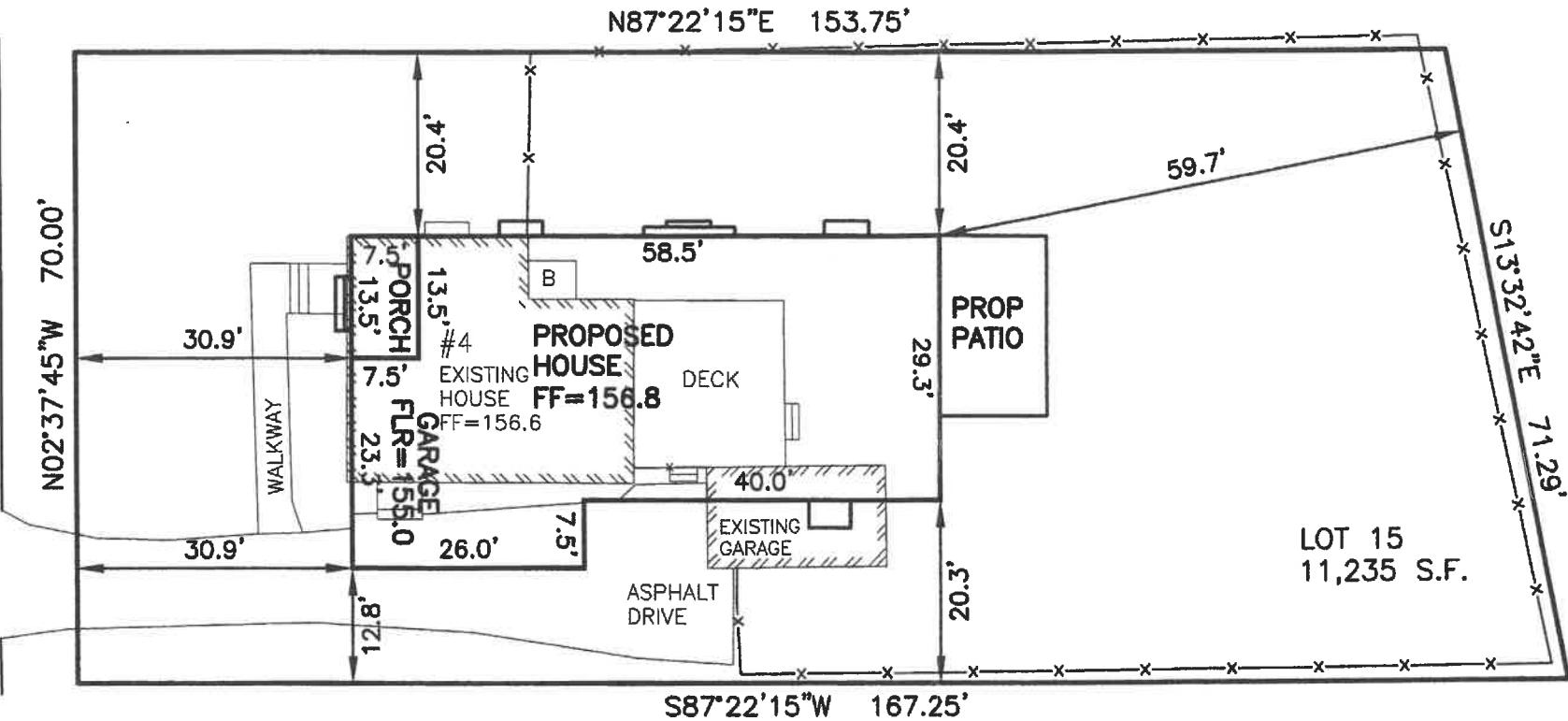
(617) 527-8750

info@everettbrooks.com



## LARCH ROAD

EDGE OF PAVEMENT



NOTE:  
ON-SITE SOIL TESTING, DRAINAGE DESIGN, SITE GRADING, AND  
WATER AND SEWER CONNECTIONS SHALL BE COMPLETED FOR SITE PLAN FILING.



EXISTING:  
AVERAGE GRADE = 154.1  
ROOF PEAK = 178.3  
BUILDING HEIGHT = 24.2'

PROPOSED:  
AVERAGE GRADE = 154.5  
ROOF PEAK = 189.8  
BUILDING HEIGHT = 35.3'

DEED REFERENCE:  
BOOK 32078 PAGE 147

PLAN REFERENCE:  
BOOK 2288 PAGE 475

ZONE: SR-10

EXISTING:  
STRUCTURES = 1,021 S.F.  
LOT COVERAGE = 9.1%

PROPOSED:  
STRUCTURES = 2,141 S.F.  
LOT COVERAGE = 19.1%

## PLAN OF LAND IN WELLESLEY, MA

4 LARCH ROAD  
PROPOSED HOUSE

SCALE: 1 IN. = 20 FT.

DATE: NOVEMBER 8, 2021

DRAWN: LNS

CHECK: BB

REVISIONS:


PROJECT NO. 26184

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**EMB**

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