



ZONING BOARD OF APPEALS

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

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2017 JAN 19 P 2:56
 TOWN OF WELLESLEY
 ZONING BOARD OF APPEALS
 WELLESLEY, MA 02482

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ZBA 2016-90
 Petition of John Nilson
 7 Bryn Mawr Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 3, 2016, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of John Nilson requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and garage and construction of a two-story structure that will meet all setback and height requirements, on a 9,995 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, at 7 Bryn Mawr Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 17, 2016, 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 was Paul Beaulieu, Field Resources and Leonardo DaSilva, Builder.

Mr. Beaulieu said that the request is for a special permit/finding to tear down a single family house and detached garage and replace them with a new home. He said that the nonconforming lot is five square feet short of the 10,000 square foot minimum.

A Board member said that a third floor plan was not submitted but the second floor plans show stairs going up. A Board member said that proposed the TLAG of 3,561 square feet will be just under the 3,600 square foot threshold for the district. He said that the calculation was predicated on zero living space in the attic. Mr. Beaulieu said that there will be no living space in the attic. The Board said that there was nothing in the package that was submitted that shows that. The Board asked about the permanent stairs going up to the third floor. Mr. Da Silva said that they can eliminate the staircase and put in a pull down stair. A Board member said that they will still have access to space that is not counted in the TLAG. He said that nothing in the plans says that it should not be included. Mr. Beaulieu said that the Architect signed off on the plans saying that there will be zero living space in the attic. He said that the remaining height precludes living space. A Board member said that the Petitioner has not provided dimensions of the space between the floor of the attic and the roof and no trusses are shown. Mr. Da Silva said that what was submitted are not the final plans. He said that Plan Z1.1 shows that the attic will be trussed. A Board member said that is not consistent with permanent stairs going up to the attic. The Chairman said that the plans that the Board approves are what has to be built.

The Chairman said that a major concern is that he cannot read the print on Plan A1.1.

A Board member said that the proposed house will be 2.8 times bigger than the existing house, which is in the middle of what the Board typically sees. He said that after this renovation it will be the largest house in the neighborhood by 500 square feet.

The Chairman said that the 45-foot red maple at the front of the property will not interfere with the new construction. He asked why the plan is to remove it. Mr. Beaulieu said that they originally wanted to save the tree but the Arborist said that it was hazardous. He said that the only tree that will be taken down by design is at the rear right corner by the garage. The Chairman said that the Petitioner may need written permission from the neighbor to take down the 50-foot tree. Mr. Beaulieu said that the Tree #1 at the front of the property was probably planted by the town when the street was built. He said that it is a Norway Maple.

The Chairman said that the Board received a letter from Martin and Nancy Galligan, 11 Thomas Road, who expressed concerns about removal of three trees that abut other properties. They said that they are one of the abutters. Mr. Beaulieu said that the Arborist had recommended taking down two of the trees that straddle the lot lines. He said those trees will not impinge on the construction plans and the Petitioner is happy to keep them. A Board member said that the Arborist's Certification that Trees #4 and #5 that straddle the rear lot line are hazardous has put the neighbors on notice.

The Chairman said that the plans should be put together at a different scale so that they are readable. The Board discussed allowing the petition to be withdrawn without prejudice versus continuing the petition to January 5, 2017.

The Chairman said that the Board will need to see letters from neighbors if the trees will be taken down on the property lines. Mr. Beaulieu said that they may not take the trees down. The Chairman said that the Petitioner will have to submit a plan that says that the trees will not come down. He said that the Board has to approve the plans and they must be consistent with what will be done.

A Board member said that something must be submitted that shows that the attic cannot be used as living space.

Elizabeth Szabo, 5 Bryn Mawr Road, said that she spoke with MOTA Construction. She said that close to her house at the back is a dense area. She said that the plans look lovely but the house is big for the area. She said that it will be 25 feet closer to her house on the side and more house in the back. She said that the house will be 500 square feet bigger than any other houses on the street. She said that the proposed house does not fit into the street, is out of character on the street and will be detrimental to the street, even though it looks nice. She said that she would like to have any of the trees on her side taken down. She said that branches are always coming down. She said that she was concerned about her privacy. A Board member said that the proposed house will comply with the setback requirements. He said that the Zoning Bylaw does not guarantee the separation that is there. Ms. Szabo said that she would like to have a living fence with arbor vitae.

The Board voted unanimously to continue the petition to January 5, 2017.

January 5, 2017

Presenting the case at the hearing was Paul Beaulieu, who discussed the changes that were made since the previous meeting. He said that the neighbor on the left had a concern about screening. He said that they will not be taking down some of the trees that they had initially planned to but will still plant as many trees that would be required had the trees been taken down. He said that they will move the trees in a row to create a privacy hedge for the neighbor, as shown on the revised Tree Plan.

Mr. Beaulieu said that although impervious cover of the site will only be increased by 42 square feet, they will add Cultec Infiltration Systems to collect rainwater from the downspouts to minimize any potential stormwater impacts. He said that there will be one chamber in the front and one in the rear.

Mr. Beaulieu said that there are a couple of trees on the property line that they contemplated removing that would require a joint venture agreement with the abutters. He said that people seemed to think that it was worthwhile to keep the trees, so the Applicant has agreed to that.

Mr. Beaulieu said that additional information from the architect was requested. He said that it was unclear that the third floor was not going to be usable space. He said that the stairwell has been removed and replaced with a pull down. A Board member said that a note on the plan states that the finished ceiling will be less than 7'-0" so as to render the space uninhabitable per code.

There was no one present at the public hearing who wished to speak to the petition.

The Board said that the lot is 5 square feet short of the minimum for conforming lot size. The Board said that the existing house has a 14.9 front yard setback where 30 feet was required, and the garage has a 10.4 right side yard setback where 20 feet is required, and a 9.2 foot rear yard setback where 10 feet is required. The Board said that the proposed structure shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Statement of Facts

The subject property is located at 7 Bryn Mawr Road, on a 9,995 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 14.9 feet for the existing house structure and a minimum right side yard setback of 10.4 feet for the existing garage structure.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and garage and construction of a two-story structure that will meet all setback and height requirements, on a 9,995 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.

A Plot Plan, dated 9/29/16, Basement TLAG Exemption Plan, dated 9/30/16, Allowable Height Plan, dated 10/3/16 & Tree Bylaw Mitigation Plan, dated 10/4/16, revised 12/1/16, and Proposed Infiltration Plan, dated 12/1/16, stamped by Bradley J. Simonelli, Professional Land Surveyor, Proposed Floor Plans

and Elevation Drawings, dated 9/29/16, issued for ZBA on 10/3/16, revised 11/17/16, prepared by HPA Design, Inc., and Letter dated 10/3/16, signed by Kray A. Small, Massachusetts Certified Arborist #1797 were submitted.

On November 1, 2016, the Planning Department Staff reviewed the petition and recommended that the Special Permit be denied. On January 4, 2017, the Planning Board reviewed the petition and recommended that the Special Permit be denied.

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 although demolition of an existing nonconforming structure and construction of a two-story structure that will meet all setback and height requirements, on a 9,995 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 is intensifying a nonconformity, such intensification shall 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 nonconforming structure and construction of a two-story structure that will meet all setback and height requirements, on a 9,995 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 constructions 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.

2017 JAN 19 P 2:56
TOWN ENGINEERING
WELLSLEY MA 02492

ZBA 2016-90
Petition of John Nilson
7 Bryn Mawr Road

RECEIVED
TOWN CLERK'S OFFICE
WELLS RIVER MA 02182
2017 JAN 19 P 2:56

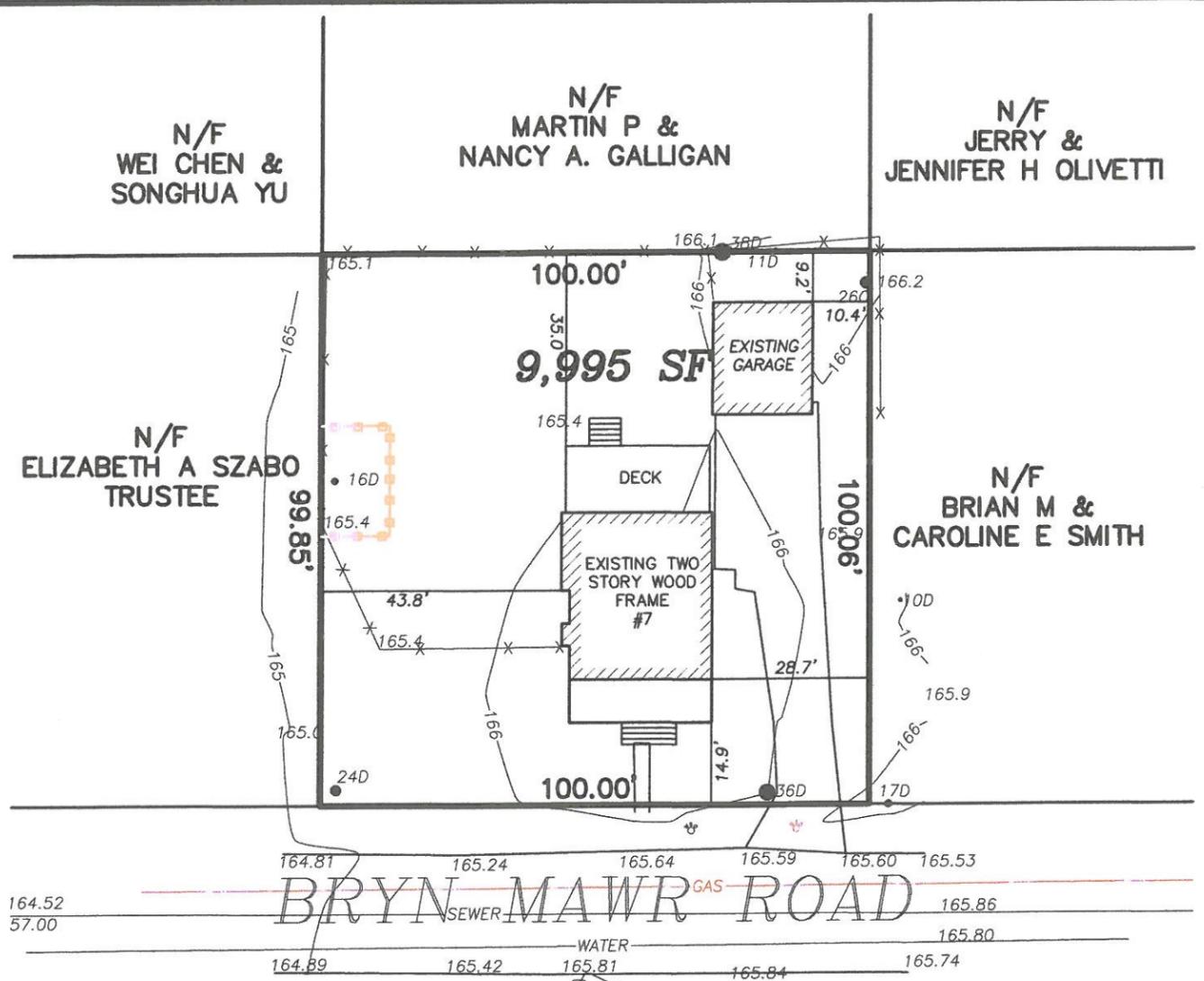
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.


Richard L. Seegel, Chairman


J. Randolph Becker

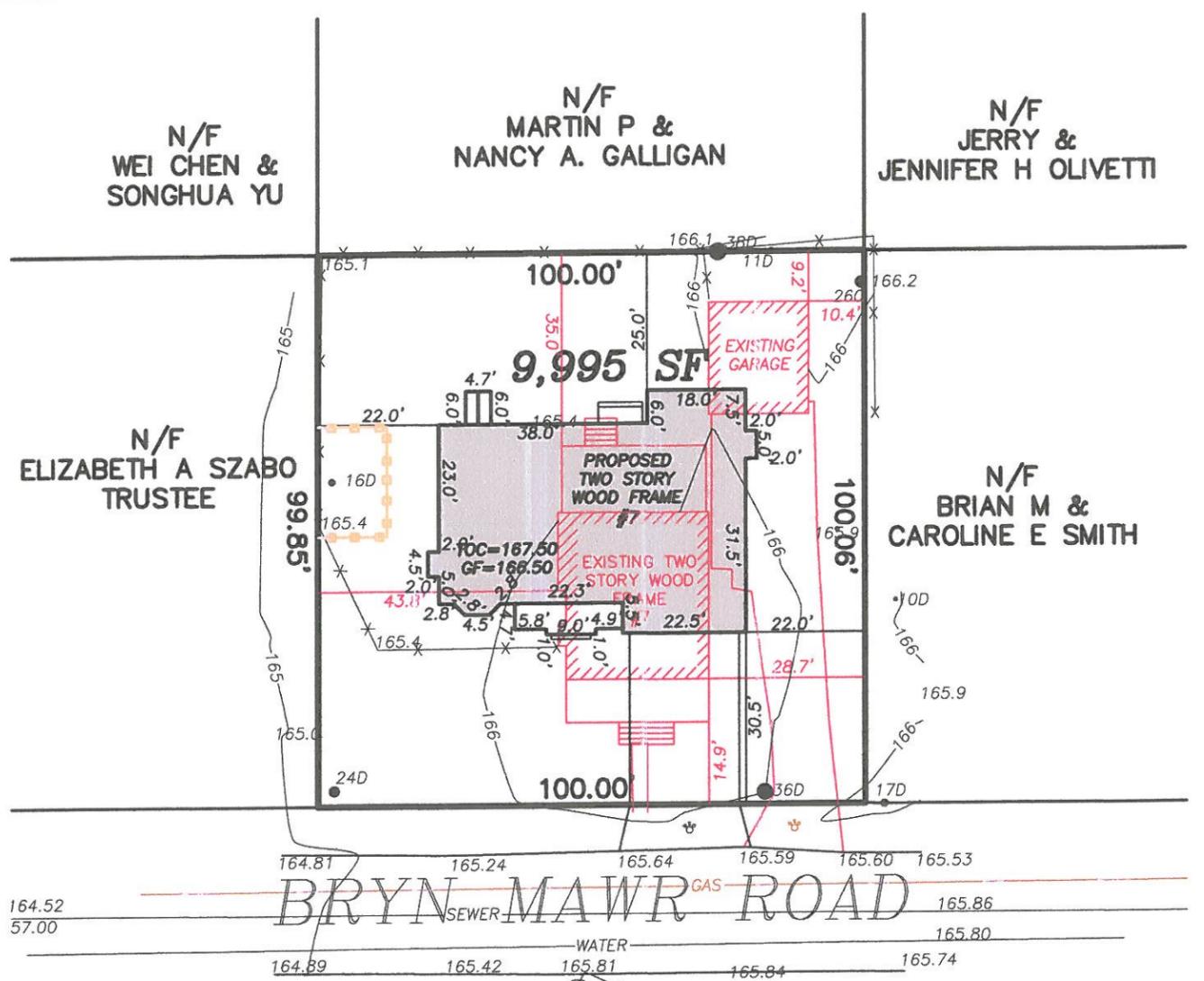

Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



EXISTING SITE

1"=30'



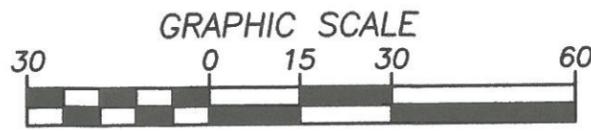
PROPOSED SITE

1"=30'

ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)

	REQUIRED	ACTUAL	PROPOSED
MINIMUM LOT AREA	10,000 SF	9,995 SF	9,995 SF
MINIMUM LOT FRONTAGE	60 FEET	100.00 FEET	100.00 FEET
MINIMUM FRONT SETBACK	30 FEET*	14.9 FEET	30.5 FEET
MINIMUM SIDE YARD	20 FEET	28.7 FEET	22.0 FEET
MINIMUM REAR YARD	10 FEET	41.1 FEET	32.2 FEET
MAXIMUM BUILDING COVERAGE	20%/2500SF	17.0%/1699SF	22.5%/2244SF
MAXIMUM BUILDING HEIGHT	36 FEET**	33.42 FEET (31'-10" + 1'-7")	
MAXIMUM BUILDING HEIGHT	2 1/2 STY.	2 1/2 STY.	2 1/2 STY.

*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.

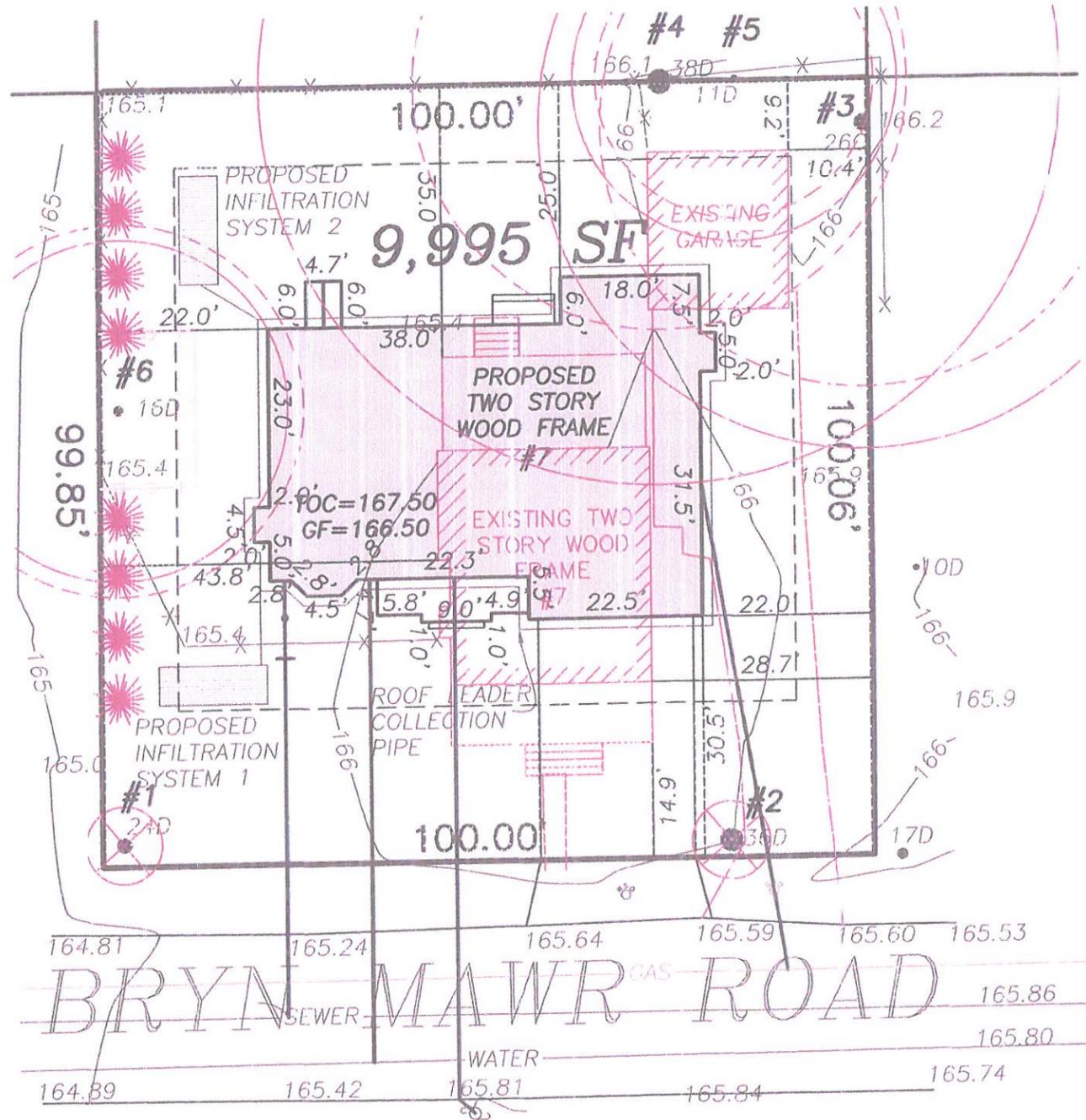


TOWN OF WELLESLEY
 MAP 180 PARCEL 42
 NORFOLK COUNTY
 REGISTRY OF DEEDS
 BOOK 5076 PAGE 645
 DEED BOOK 1542 PAGE 31 (PLAN)
 OWNER/APPLICANT:
 JOHN D. & JEANNE E NILSON

ZONING BOARD OF APPEALS
 PLAN OF LAND
 7 BRYN MAWR ROAD
 WELLESLEY, MASS.

Field Resources, Inc.
 LAND SURVEYORS

SEPTEMBER 29, 2016 SCALE 1"=30'
 P.O. BOX 324 281 CHESTNUT ST.
 AUBURN, MA NEEDHAM, MA.
 508 832 4332 781 444 5936
 fieldresources@hotmail.com



TREE LIST:

- #1 25" NORWAY MAPLE, 55 FEET TALL (HAZARD TO BE REMOVED)
- #2 15" RED MAPLE, 45 FEET TALL (HAZARD TO BE REMOVED)
- #3 31" EASTERN WHITE PINE, 50 FEET TALL
- #4 35" NORWAY MAPLE, 75 FEET TALL (HAZARD TO BE RETAINED)
- #5 14" NORWAY MAPLE, 35 FEET TALL (HAZARD TO BE RETAINED)
- #6 15" NORWAY MAPLE, 45 FEET TALL

NOTES:

1) THE RED DASHED CIRCLES AROUND THE TREES REPRESENT THE DRIP EDGE AND THE SOLID RED CIRCLES REPRESENT THE CRITICAL ROOT ZONES. TREES SHOWING A CROSSED OUT RED CIRCLE ARE TO BE REMOVED.

2) REFER TO ATTACHED TREE REPORT PROVIDED BY KRAY SMALL, A MASSACHUSETTS CERTIFIED ARBORIST, FOR SPECIFIC INFORMATION ON EACH TREE. (IE HEIGHT, HEALTH, ETC.)

-  PROPOSED MITIGATION FOR PLANNED TREE REMOVAL
(8) 2" WESTERN RED CEDAR
-  PROPOSED TREE PROTECTION FENCING

**TREE BYLAW
MITIGATION PLAN
7 BRYN MAWR
WELLESLEY, MASS.**



Field Resources, Inc.
LAND SURVEYORS

OCTOBER 4, 2016 SCALE 1"=20'

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fieldresources@hotmail.com