



ZONING BOARD OF APPEALS

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

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2020 FEB 20 P 12:51
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WELLESLEY
MA 02482

ZBA 2019-87

Petition of Jeremy & Carolyn Kornwitz
10 Rice Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 7, 2019 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Jeremy & Carolyn Kornwitz requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming two-story structure and construction of a new two-story structure with less than required left and right side yard setbacks, on a 6,540 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, at 10 Rice Street, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 11, 2019, 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 Jeremy Kornwitz, the Petitioner, and David Kornwitz. Mr. J. Kornwitz said that the request is for a special permit to demolish an existing nonconforming structure and rebuild a new two-story house with less than required side yard setbacks. He said that the proposed structure will improve the side yard setbacks by approximately six inches on each side and will meet the front and rear yard setback requirements.

The Chairman said that the Planning Board recommendation discussed concerns about the house filling up the lot. He said that the Planning Board was comfortable with the size of the house and the front yard setbacks but was concerned about the side yard setbacks. Mr. J. Kornwitz said that his preference is to center the home on the lot for a better aesthetic from the street. Mr. D. Kornwitz said that the preference is to have 10 foot setbacks on each side, which improves the right side yard setback but decreases the left side yard setback.

A Board member said that the footprint will be almost doubled and there will be the appearance of a lot of garage from the street. Mr. D. Kornwitz said that it is a small home with three bedrooms. He said that the width of the house is just enough to accommodate a garage and a very small entryway.

The Chairman said that the property is located in a General Residence District, where the setbacks are not defined. He said that the existing nonconforming side yard setbacks are shown on the survey as 3.6 feet on the right side and 15.4 feet on the left side. He said that the lot size and frontage are nonconforming.

The Chairman said that central to this case is the Bellalta v Brookline Decision. A Board member said there may be a basis for a variance, due to the shape of the lot. He said that from a land use perspective, in terms of buildability and from a neighborhood perspective, it makes sense to center the structure. A

Board member asked that the Applicant look at moving the structure back where the lot is wider. Mr. J. Kornwitz said that they tried to line the house up with the other houses on the street.

A Board member said that any air conditioning (ac) condensers will have to meet the legal setbacks.

A Board member said that the two-car garage takes up approximately two-thirds of the front elevation. He said that designing the single door to look like two doors would dramatically change the scale of the building. He said that the garage door dominates the entire house.

Peter Cassidy, 14 Grant Avenue, said that he is an abutter. He said that Mr. Kornwitz is a wonderful neighbor. He said that Mr. Kornwitz showed him the plans, which will be an improvement to what is there now. He requested that the existing six foot fence at the back be replaced with an eight foot fence with screening plantings. He said that the proposed structure will be at least seven feet taller than the existing structure. He asked about his rights with respect to his request. The Board said that Mr. Cassidy has the right to appeal a decision of the Zoning Board to Land or Superior Court.

Mr. D. Kornwitz said that Jeremy spoke with all of the abutters and no one expressed concerns.

The Board voted unanimously to continue the hearing to February 6, 2020.

February 6, 2020

The Chairman said that because one of the members of the original panel was unable to attend tonight's hearing, the petition would be heard de novo.

Mr. J. Kornwitz said that the request is for a special permit to demolish the existing home and rebuild on a nonconforming lot. He said that plans were submitted that incorporated all of the feedback from the November hearing, including placement of the air conditioning (ac) units to meet setback requirements.

Mr. D. Kornwitz said that the house was centered on the lot in response to Planning Board comments. He said that the setbacks will be improved in many areas and the rear and front setbacks will be conforming.

The Chairman said that, in addition to nonconforming left and right side setbacks, the lot is undersized in a 10,000 square foot district.

A Board member read an excerpt from the November 7, 2019 minutes. He said that he had recommended a change to the single garage door to appear as two garage doors. He said that he re-calculated the width of the garage to be 70 percent of the front elevation. He said that revised plans for that had not been submitted. Mr. J. Kornwitz said that he discussed making that change with his builder and has mockups from the architect. The Chairman said that the Petitioner is asking the Board to approve a set of plans. He said that making the change to the garage door would be a condition of approval.

Mr. D. Kornwitz said that the patio was reduced by half, from 30 to 15 feet.

Statement of Facts

The subject property is located at 10 Rice Street, on a 6,540 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with a minimum left side yard setback of 15.4 feet and a minimum right side yard setback of 3.6 feet where 20 feet is required, and a minimum frontage of 44.61 feet where 60 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming two-story structure and construction of a new two-story structure with less than required left and right side yard setbacks, on a 6,540 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 9/24/19, revised 11/15/19, stamped by Peter A. Lothian, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated January, 2018, prepared by Shane Structures, and photographs were submitted.

On February 5, 2020, the Planning Board reviewed the petition and recommended that a special permit be granted.

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 nonconforming two-story structure and construction of a new two-story structure with less than required left and right side yard setbacks, on a 6,540 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, 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 demolition of an existing nonconforming two-story structure and construction of a new two-story structure with less than required left and right side yard setbacks, on a 6,540 square foot lot in a General Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, subject to the following condition:

- The design of the garage façade shall have the appearance of two separate and distinct doors.

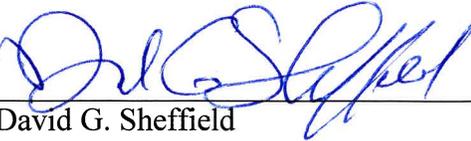
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

If construction has not commenced, except for good cause, the Special Permit shall expire two years after the date time stamped on this decision.

ZBA 2019-87
Petition of Jeremy & Carolyn Kornwitz
10 Rice Street

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


David G. Sheffield


Derek B. Redgate

ZBA 2019-87
Applicant Jeremy & Carolyn Kornwitz
Address 10 Rice Street

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2020 FEB 20 P 1:02
TOWN CLERK'S OFFICE
WELLESLEY MA 02481

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

NOTES:

1. FIELD SURVEY PERFORMED: AUGUST 30, 2019.
2. THIS PLAN IS PREPARED FOR OUR CLIENT USE ONLY FOR THE SPECIFIC PURPOSE OF OBTAINING PERMITS AND LOCAL APPROVALS, AND IS NOT TO BE USED OR RELIED UPON AS A CONSTRUCTION DOCUMENT OR ANY OTHER USE BY OTHERS WITHOUT THE WRITTEN CONSENT OF DGT ASSOCIATES.
3. PARCEL FALLS WITHIN ZONING DISTRICT GENERAL RESIDENCE.
4. SEE NORFOLK REGISTRY OF DEEDS FOR RECORD DOCUMENTS.
5. ELEVATIONS REFER TO TOWN OF WELLESLEY DATUM, DETERMINED BY GPS OBSERVATIONS USING GEOID 12B. NAVD88 + 6.15 = TOWN DATUM.
6. SEE SPECIAL PERMIT "ZBA 2000-19" RECORDED AS REGISTERED LAND DOCUMENT 874921 ALLOWING REDUCED SIDE YARD SETBACK.
7. UTILITY RECORDS DO NOT SHOW LOCATIONS OF WATER AND GAS SERVICE LINES TO HOUSE.

LEGEND

- BC=123.30 BOTTOM OF CURB ELEVATION
 - BIT. BITUMINOUS CONCRETE
 - BSW BRICK SIDE WALK
 - BHT + BUILDING HEIGHT
 - CHH CABLE TV HAND HOLE/PULL BOX
 - CONC. CONCRETE
 - CSW CONCRETE SIDEWALK
 - EMH ELECTRIC MANHOLE
 - EOP EDGE OF PAVEMENT
 - FF=123.22 FINISHED FLOOR ELEVATION
 - GC GRANITE CURB
 - GG GAS GATE
 - GM GAS METER
 - LIGHT POLE
 - SHRUB
 - SILL=122.33 SILL ELEVATION
 - SMH SEWER MANHOLE
 - +125.33 SPOT ELEVATION, HARD SURFACE
 - +125.3 SPOT ELEVATION, SOFT GROUND
 - TC=123.30 + TOP OF CURB ELEVATION
 - TOC=125.33 TOP OF CONCRETE ELEVATION
 - TOF=122.33 TOP OF FOUNDATION ELEVATION
 - TOW=122.3 TOP OF WALL ELEVATION
 - THH TELEPHONE HAND HOLE/PULL BOX
 - TMH TELEPHONE MANHOLE
 - VENT PIPE
 - WFN WOOD FENCE
 - WG WATER GATE
- BOUNDARY MONUMENTS OR MARKERS**
- (F) FOUND
 - CBDH CONCRETE BOUND WITH DRILL HOLE
 - IP IRON PIPE
- QUALITY LEVEL "C" INFORMATION ("QLC")**
- G-QLC--- PRODUCT: GAS, OIL, STEAM, PETROLEUM OR GASEOUS MATERIALS
 - S-QLC--- SEWER
 - W-QLC--- WATER: LOW PRESSURE, HIGH PRESSURE, FIRE SERVICE

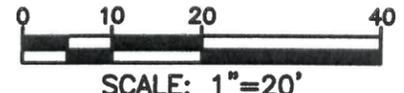
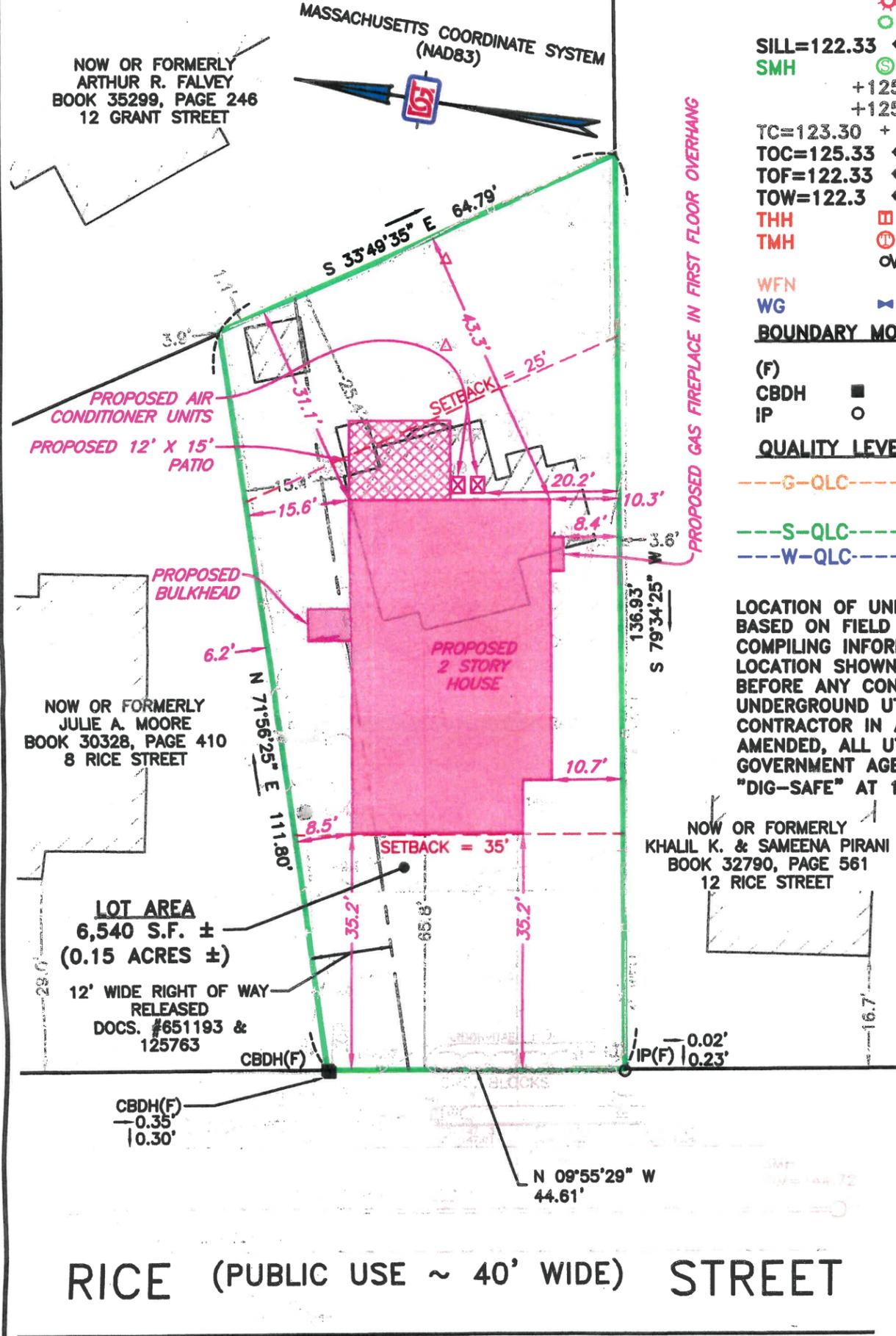
LOCATION OF UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON FIELD LOCATION OF VISIBLE STRUCTURES AND COMPILING INFORMATION FROM UTILITY RECORDS. THE LOCATION SHOWN SHALL BE CONSIDERED APPROXIMATE. BEFORE ANY CONSTRUCTION, THE LOCATION OF UNDERGROUND UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR IN ACCORDANCE WITH CH. 82, SEC. 40 AS AMENDED, ALL UTILITY COMPANIES AND APPLICABLE GOVERNMENT AGENCIES MUST BE CONTACTED CONTACT "DIG-SAFE" AT 1-888-344-7233.

LOT COVERAGE BY BUILDING
 EXISTING BLD. AREA = 859 S.F. ±
 LOT AREA = 6,504 S.F. ±
 859/6,504 = 13.1%

PROPOSED BLD. AREA = 1,507 S.F. ±
 LOT AREA = 6,504 S.F. ±
 1,576/6,504 = 24.1%

PROPOSED BUILDING HEIGHT = 33.1'
 ABOVE EXISTING AVERAGE GRADE

BUILDING FRONT SETBACKS
 6-8 RICE STREET 29 FEET
 10 RICE STREET 66 FEET
 12 RICE STREET 17 FEET
 16 RICE STREET 15 FEET



RICE (PUBLIC USE ~ 40' WIDE) STREET

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IN MY PROFESSIONAL OPINION, I CERTIFY TO JEREMY AND CAROLYN KORNWITZ AND THE TOWN OF WELLESLEY BUILDING INSPECTOR THAT, AS A RESULT OF A SURVEY MADE ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN MASSACHUSETTS, I FIND THAT THE STRUCTURES FALL WITHIN FLOOD ZONE X (UNSHADED) AS SHOWN ON THE F.I.R.M. MAP FOR NORFOLK COUNTY MASSACHUSETTS, PANEL #25021C0017E, DATED 07/07/2012 AND THAT THE LOCATION OF THE STRUCTURES ARE AS SHOWN HEREON.

PROFESSIONAL LAND SURVEYOR

DATE: 11/15/2019



RECORD OWNER(S)
 JEREMY & CAROLYN KORNWITZ
 CERTIFICATE OF TITLE # 189141
 LOT 5 ON LAND COURT PLAN 1193A
 ASSESSOR'S PARCEL ID: 86-12

CERTIFIED PLOT PLAN OF LAND
 10 RICE STREET
 WELLESLEY, MASSACHUSETTS
 NORFOLK COUNTY

PREPARED FOR:
 JEREMY & CAROLYN KORNWITZ

PREPARED BY:

DGT Associates
 Surveying & Engineering
 Framingham • Boston • Worcester
 1071 Worcester Road, Framingham, MA 01701
 508-879-0030 www.DGTassociates.com

RESEARCH:	PAL
FIELD:	ABW
CALCULATION:	HMP
DRAFTING:	HMP
CHECK:	PAL
PROJ. MANAGER:	PAL, PLS
APPROVED:	PAL, PLS
JOB NO.	25515
DATE:	15 NOV. 2019
SHEET NO.	1 OF 1

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