

TOWN OF WELLESLEY



MASSACHUSETTS

**ZONING BOARD OF APPEALS**  
888 WORCESTER STREET, SUITE 160, WELLESLEY, MA 02482

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**ZBA 2022-15**  
Petition of Silva Development  
36 Sheridan Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 3, 2022, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Silva Development requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a two story structure that will meet setback requirements, at 36 Sheridan Road, on a 13,350 square foot corner lot in a Single Residence District in which the minimum lot size is 15,000 square feet and a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 4, 2022, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

**February 3, 2022**

David Himmelberger, Esq., on behalf of the Petitioner, requested that the petition be continued. The Board voted unanimously to continue the hearing to April 7, 2022.

**April 7, 2022**

David Himmelberger, Esq., on behalf of the Petitioner, requested that the petition be continued. The Board voted unanimously to continue the hearing to June 2, 2022.

**June 2, 2022**

David Himmelberger, Esq., on behalf of the Petitioner, requested that the petition be continued. The Board voted unanimously to continue the hearing to August 4, 2022.

August 4, 2022

Present at the public hearing were David Himmelberger, Esq., representing Silva Development, LLC, the Petitioner, and Paul Beaulieu, Field Resources. Mr. Himmelberger said that the request is for a special permit to raze and rebuild a pre-existing nonconforming single family home on a nonconforming lot. He said that the existing lot is 13,350 square feet in an SR15 District, which is approximately 11 percent smaller than what is required in the district. He said that the proposed new construction will be fully compliant for setbacks, lot coverage, and building height. He said that the ridge height will be 29 feet from average grade. He said that a TLAG of 4,015 square feet is below the threshold for Large House Review (LHR) in an SR15 District.

Mr. Himmelberger said that the existing house was built prior to 1949 and was subject to Demolition Review by the Historical Commission, who deemed it preferably preserved. He said that on January 18, 2022, the Petitioner submitted a design and a waiver request to the Historical Commission that was not approved. He said that this is a corner lot facing Sheridan Circle and Sheridan Road. He said that the original design located the garage and driveway in front of the house facing Sheridan Circle. He said that the neighbors were concerned that there not be a sixth home facing Sheridan Circle. He said that the project was redesigned following a meeting with the neighbors on the site on May 3, 2022. He said that neighbors expressed strong support for the design but were concerned about the size of the house. He said that further refinements were made, including dropping the height of the house. He said that the Historical Commission voted six to one in favor of the revised design on June 14, 2022.

Mr. Himmelberger said that because the property is located in a Water Supply Protection District, two separate infiltration systems are proposed in the backyard and the side yard. He said that no protected trees in the tree yard will be removed. He said that a landscape plan was submitted that proposed extensive additional planting, particularly along the common lot lines with the abutter on Sheridan Road and the abutter on Sheridan Circle. He said that a Neighborhood Plan was submitted that shows the Total Living Area (TLA) and relative ridge heights of the neighbors. He said that the TLA of the proposed house will be approximately 3,485 square feet. He said that the houses on the other side of Sheridan Circle and across the way on Sheridan Road are situated at a higher elevation than this property.

Mr. Himmelberger said that lot coverage will be 16.6 percent, or 2,222 square feet where 20 percent, or 2,700 square feet would be allowed.

Mr. Himmelberger said that the Applicant believes that the neighbors' primary concerns have been addressed. He said that the architect worked extensively to revise the plans as a result of the meeting with the neighbors and the comments at the three prior Historical Commission meetings. He submitted an unsigned Waiver Agreement for Demolition Delay from the Historical Commission.

The Chairman said that the amount of increase of the TLA to TLAG is about average for the tear downs and rebuilds that the Board sees. He said that of the lots in the neighborhood, ten are nonconforming and nine are conforming. He said that three lots are quite large and a couple are quite small. He said that this is an average teardown and the proposed house complies with the bylaw.

Trish Farnsworth, 40 Sheridan Road, said that she lives next door. She asked if the landscape plan will be incorporated in the Board's decision. The Chairman said that the set of plans that is included with the package that the Board acts on is the set of plans that the Building Inspector will use when a building permit is applied for.

Ms. Farnsworth asked about the lighting plan, 1a1.0, Landscape Master Plan. She said that there will be a patio out back. The Chairman said that the lighting plan has to comply with the Zoning Bylaw.

Ms. Farnsworth asked about the height of the hedges. Mr. Beaulieu said that plants are specked by pot size on the plan. He said that they will grow to be four to six feet tall. The Chairman said that the details are shown on the Layout and Materials Plan.

Betsy Zahniser, 33 Sheridan Road, said that she has lived directly from the property across since 1980. She said that she appreciates that town has a process and Zoning Bylaws in place that put guardrails on tear downs, mansionization and speculative development. She said that she appreciates that the neighbors were allowed to have input in the process and that a number of their strong concerns were considered, which helped to shape the final design. She said that they appreciate that Mr. Himmelberger put together a meeting for the neighbors with the project architect and construction manager and that they listened. She said that the resulting design is more thoughtful and better designed than what they started with. She said that she appreciates the process and the town being careful.

A Board member asked if the infiltration system was designed by an engineer. Mr. Beaulieu said that it was specked out by Field Resources land surveyors to capture the one inch storm, based on the division of the ridge line. He said that 85 percent of all rainstorms are one inch or less and the chamber alone will hold that. He said that four 11 foot long recharge 150 XL's are proposed that each hold 54 cubic feet of water. He said currently water hits the roof and runs across the grass. He said that runoff from the new roof will go into the ground and recharge on the property. He said that it was calculated on a straight capture rate. He said that the project is exempt from stormwater management under the State Regulations. He said that Field Resources works with civil engineers on the projects.

Mr. Himmelberger confirmed that the plans with the May 31, 2022 revision date on the Board of Appeals Plan of Land, L1.1, dated May 23, 2022, Architectural Plans dated May 23, 2022, the Stormwater Infiltration Plan with a revision date of May 31, 2022, and the Landscape Plan with a revision date of May 9, 2022 are the plans to be approved.

A Board said that it is important that the screening be included.

#### Statement of Facts

The subject property is located at 36 Sheridan Road, on a 13,350 square foot corner lot in a Single Residence District in which the minimum lot size is 15,000 square feet and a Water Supply Protection District, with a minimum front yard setback of 25.9 feet where 30 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 an existing nonconforming structure and construction of a two story structure that will meet setback requirements, on a 13,350 square foot corner lot in a Single Residence District in which the minimum lot size is 15,000 square feet and a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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Letters to Zoning Board of Appeals, dated 12/27/21 & 5/31/22, from David J. Himmelberger, Esq., a Plan of Land & Stormwater Infiltration Plan, dated 12/27/21, revised 2/20/22 & 5/31/22, Tree Bylaw Mitigation Plans, Sheets 1 & 2, dated 12/7/21, revised 2/20/22 & 5/31/22, Site Plan Exhibit for Historic Board, dated 12/16/21, revised 2/20/22 & 5/31/22, Neighborhood Delineation Plan, dated 6/1/22, stamped by Bradley J. Simonelli, Professional Land Surveyor, Landscape Master Plan, dated 8/9/21, revised 5/9/22, prepared by Paradigm Landscape, Floor Plans and Elevation Drawings, dated 11/15/21, Floor Plans and Elevation Drawings, dated 5/6/22, A-2.1 Front Elevation & Drawing, L-1.1 Site Plan, dated 5/23/22, Floor Plans and Elevation Drawings, dated 5/23/22, prepared by McKay Architects, TLAG Affidavit, and photographs were submitted.

On March 22, 2022 and May 20, 2022, the Planning Board reviewed the petition and submitted recommendations. On August 2, 2022, the Planning Board reviewed the petition and recommended that a special permit be approved with conditions.

On July 20, 2022, Julie Meyer, Wetlands Administrator, submitted comments.

On August 4, 2022, Rafi Razzaque, Civil Engineer, Town of Wellesley, submitted comments.

#### 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 an existing nonconforming structure and construction of a two story structure that will meet setback requirements will not 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 an existing nonconforming structure and construction of a two story structure that will meet setback requirements, in accordance with the submitted plans.

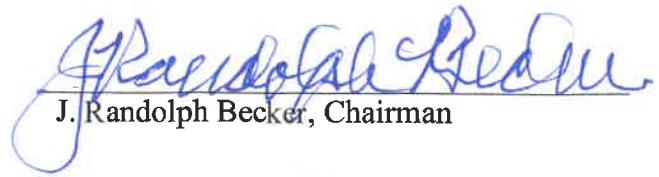
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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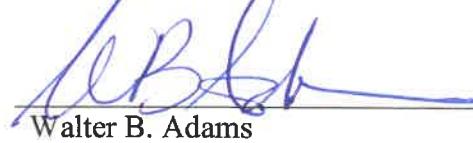
APPEALS FROM THIS DECISION,  
IF ANY, SHALL BE MADE PURSUANT  
TO GENERAL LAWS, CHAPTER 40A,  
SECTION 17, AND SHALL BE FILED  
WITHIN 20 DAYS AFTER THE DATE  
OF FILING OF THIS DECISION IN THE  
OFFICE OF THE TOWN CLERK.



J. Randolph Becker, Chairman



Robert W. Levy



Walter B. Adams

ZBA 2022-15  
Applicant Silva Development  
Address 36 Sheridan 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.

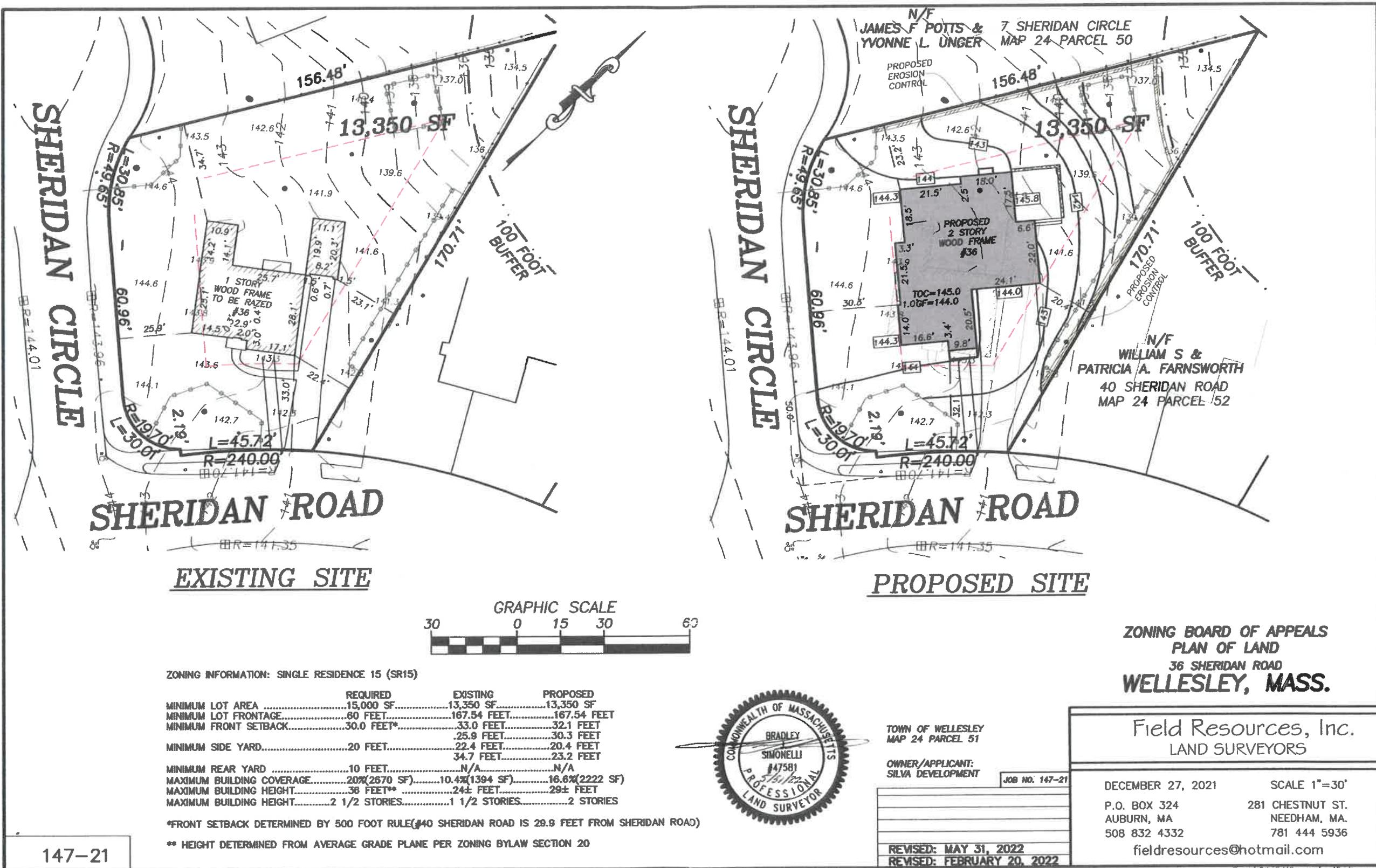
Date:

Attest:

Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm

2022 AUG 8 PM 12:18  
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