

TOWN OF WELLESLEY



MASSACHUSETTS

**ZONING BOARD OF APPEALS**

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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ZBA 2024-11

Petition of 41 Audubon Road, LLC  
41 Audubon Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, February 1, 2024, at 7:30 pm, on the petition of 41 Audubon Road, LLC requesting a Special Permit/Finding pursuant to the provisions of Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming structure that will meet setback requirements, on a 15,540 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, at 41 Audubon Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 27, 2023, 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 David Himmelberger, Esq., Michael Lohin, General Contractor, and Michael McKay, Architect.

Mr. Himmelberger said that the request is for a special permit to raze and rebuild a pre-existing home that is nonconforming due to insufficient lot area but will be otherwise conforming to all Zoning dimensional requirements. He said that the existing lot is 15,540 square feet in a 20,000 Single Residence District. He said that the proposed height will be 33.45 feet, lot coverage will be 3,005 square feet or 19.4 percent, and TLAG will be 5,835 square feet, which is beneath the threshold of 5,900 square feet for a SRD 20.

Mr. Himmelberger said that the Planning Board had a question about the TLAG Affidavit. He said that they characterized it as incomplete, saying that it could not determine how much larger the new home would be. He said that there is no provision in the Affidavit for existing TLAG, only for an addition to an existing home. He said that the TLAG Affidavit that was submitted to the Board is complete.

Mr. Himmelberger said that the Applicant will install underground culverts to take roof runoff from the impervious surfaces.

Property Address: 41 Audubon Rd, Wellesley  
Deed Book 41455, Page 316

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TOWN CLERK'S OFFICE  
WELLESLEY MA 02482  
2024 FEB 15 AM 1:23

ZBA 2024-11  
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Mr. Himmelberger said that a letter regarding the 500 Foot Rule letter explains why the home is sited as it is.

No member of the public wished to speak to the petition.

#### Statement of Facts

The subject property is located at 41 Audubon Road, on a 15,540 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of an existing nonconforming structure that will meet setback requirements, on a 15,540 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals, dated 12/26/23 from David Himmelberger, Esq., a Plot Plan, dated 12/22/22, stamped by Christopher C. Charlton, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 11/2/23, and TLAG Calculations, dated 12/19/23, prepared by Michael McKay, Architect, and photographs were submitted.

On January 26, 2024, the Planning Board reviewed the petition and recommended that a Special Permit be approved.

#### 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 demolition and reconstruction of an existing nonconforming structure that will meet setback requirements, on a 15,540 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet 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 and reconstruction of an existing nonconforming structure that will meet setback requirements, subject to the following condition:

- All necessary stormwater runoff mitigation shall be constructed.

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.

Peter Covo (Lm)  
Peter Covo

201 FEB 15 AM 1:22

ZBA	2024-11
Applicant	41 Audubon Road, LLC
Address	41 Audubon 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: 3.7.2024

Attest:

Cathryn J. Katz

Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm

