

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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ZBA 2024-12

Petition of Aaron & Sumie Lamport  
36 Bay View Road

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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 Aaron & Sumie Lamport requesting a Variance and a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1, Section 5.3, Section 6.2 and Section 6.3 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required left side yard setbacks, and construction of a new three-story structure with a garage underneath with less than required left side yard and right side yard setbacks, at 36 Bay View Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District, 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., and Aaron Lamport, the Petitioner and Architect.

Mr. Himmelberger said that the request is for a variance and a special permit to raze and reconstruct an existing home with a nonconforming left side yard setback of 9.9 feet. He said that the request for a variance is because if the house as designed had maintained the 9.9 left side yard setback, it could have maintained a compliant 20 foot right side yard setback. He said that he appeared before the Board last year with a request for a special permit for a similarly situated house at 34 Bay View Road where there was a 10 foot setback on one side and a 20 foot setback on the other side. He said that the Board suggested that the Applicant withdraw the request for a special permit and come back for a variance, noting that would be attainable due to the steep slope drop off at the rear of the property, which is the case at 36 Bay View Road as well. He said that the Board thought that it made more sense to split the difference to center the house on the lot. He said that the current request is to create a new right side nonconformity and a special permit to continue the left side yard setback that will be improved to 15.85 feet, similar to the proposed right side yard setback.

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Mr. Himmelberger said that his client intends to make this an all-electric home utilizing geothermal technology, with all heating and cooling located within the house. He said that an abutting neighbor's shed is shown on the site plan as encroaching onto 36 Bay View Road. He said that his client met with the neighbors and decided that he will allow them to maintain it. He said that additional screening is proposed along the side, flanking either side of the shed.

Mr. Lamport displayed the proposed plans. He said that the grade on the first half of the site is reasonably flat and the entire back half of the lot drops off 30 feet. He said that he tried to keep the front of the house aligned with the neighbors. He said that they will maintain the same width of the building and garage, re-centering it in the middle of the lot. He said that the front of the house will be moved back slightly.

Mr. Lamport said that he is planning to live in the proposed home with his family. He displayed and discussed the architectural plans. He said that the intention is to have geothermal wells at the front of the house and pumps below grade. He said that he was in talks with his vendor about the possibility of a limited solar array on the south facing portion of the house. He said that the house will be 100 percent electric but he may have a generator for backup.

Mr. Himmelberger said that two stormwater infiltration systems are proposed. Mr. Lamport said that he may install a rainwater harvesting system for the irrigation needed for the site.

Mr. Lamport described the enhanced planting along the shed. He discussed tree removal and 150 percent tree replacement.

A Board member asked about the two sheds that are shown on the plan. Mr. Lamport said that one of the sheds is his and he plans to demolish it. He said that the neighbor's shed straddles the property line but he is comfortable with it staying there. He said that the neighbors put up a nice shed with stone pavers around it. The Board member said that the survey plan does not show that Mr. Lamport's shed is to be removed.

A Board member asked about the cupolas. Mr. Lamport said that the cupola that is up high is for ventilation, with one side for exhaust and one side for fresh air intake. He said that the lower cupola is a visual one that will let a little bit of light into the study space and will not be illuminated. He said that because the exhaust will be low flow and will run 24/7 but there will be no appreciable noise. He discussed the geothermal system. He said that there is no exhaust from that because no fossil fuel is used.

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

#### Statement of Facts

The subject property is located at 36 Bay View Road, in a 10,000 square foot Single Residence District and a Water Supply Protection District, with a minimum left side yard setback of 9.9 feet where 20 feet is required.

The Petitioner is requesting a Variance and a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1, Section 5.3, Section 6.2 and Section 6.3 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required left side yard setbacks, and construction of a new

three-story structure with a garage underneath with less than required left side yard and right side yard setbacks, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 12/26/23, stamped by George Edward Smith III, Professional Land Surveyor, Proposed Site Plan, Original 1941 House & Garage Permit Cards, Assessor's Parcel Map, Floor Plans and Elevation Drawings, dated 12/26/23, prepared by Aaron Lamport, AIA, LEED AP, and a TLAG Affidavit 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.

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 3.8 of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition of an existing nonconforming structure with less than required left side yard setbacks, and construction of a new three-story structure with a garage underneath with less than required left side yard 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 with less than required left side yard setbacks, and construction of a new three-story structure with a garage underneath with less than required left side yard, in accordance with the submitted plans.

It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the topography of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 5.3 and pursuant to the provisions of Section 6.2 of the Zoning Bylaw is granted to allow for demolition of an existing nonconforming structure with less than required left side yard setbacks, and construction of a new three-story structure with a garage underneath with less than required left side yard and right side yard setbacks, in accordance with the submitted plans.

ZBA 2024-12  
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36 Bay View Road

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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.

If construction has not commenced, except for good cause, this Variance shall expire one year 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 (L.M.)  
J. Randolph Becker, Chairman

David G. Sheffield (L.M.)  
David G. Sheffield

Peter Covo (L.M.)  
Peter Covo

ZBA                    2024-12  
Applicant        Aaron & Sumie Lamport  
Address           36 Bay View 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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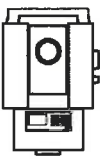


LEGEND

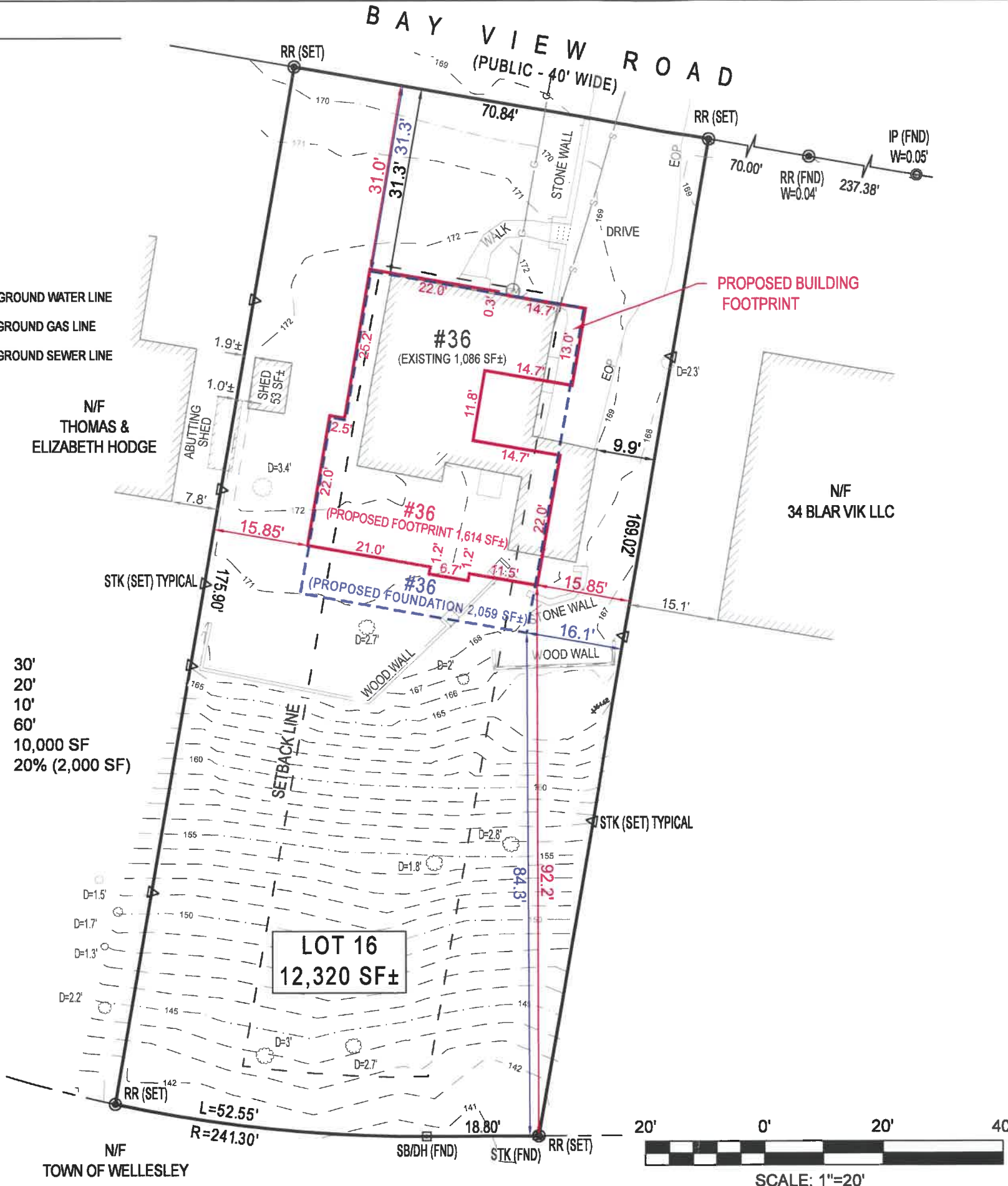
△ STK	STAKE
● IP	IRON PIPE
● RR	RE-ROD
□ SB/DH	BOUND/DRILL HOLE
WG	WATER GATE
GM	GAS METER
D	DIAMETER
☼	TREE TRUNK
— W —	APPROXIMATE UNDERGROUND WATER LINE
— G —	APPROXIMATE UNDERGROUND GAS LINE
— S —	APPROXIMATE UNDERGROUND SEWER LINE

ZONE: SR10

MINIMUM FRONT SETBACK: 30'  
MINIMUM SIDE SETBACK: 20'  
MINIMUM REAR SETBACK: 10'  
MINIMUM FRONTAGE: 60'  
MINIMUM LOT SIZE: 10,000 SF  
MAXIMUM LOT COVERAGE: 20% (2,000 SF)



NEW ENGLAND  
LAND SURVEY, INC.  
710 MAIN STREET  
NORTH OXFORD, MA 01537  
PHONE: (508) 987-0025



RECORD OWNERS:

MAP 192 PARCEL 2  
AARON M. & SUMIE N. LAMPORT  
DEED BOOK 40917, PAGE 62  
PLAN NO. 763 OF 1940

NOTES

1. WE CERTIFY THAT THE BUILDING(S) ARE NOT WITHIN THE SPECIAL FLOOD HAZARD AREA. SEE FEMA FLOOD INSURANCE RATE MAP NUMBER 25021C0012E, REVISED 07/17/2012.
2. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ALL RESTRICTIONS AND ENCUMBRANCES THAT SUCH A REPORT MAY REVEAL.
3. ELEVATIONS REFERENCE THE NORTH AMERICAN VERTICAL DATUM OF 1988.
4. LOCATIONS OF UNDERGROUND UTILITIES ARE APPROXIMATE AND ARE BASED ON UTILITY MARK-OUTS, ABOVE GROUND STRUCTURES THAT WERE VISIBLE AND ACCESSIBLE IN THE FIELD, AND INFORMATION PROVIDED BY REFERENCES AS LISTED, VERIFY BY CONTRACTOR.
5. PROPOSED DWELLING IS NONCONFORMING AND REQUIRES ZBA APPROVAL.

REFERENCES

1. PLAN NO. 763 OF 1940
2. PLAN NO. 400 OF 1941
3. PLAN BOOK 2385 PAGE 587
4. SEWER AND WATER TIE CARDS AS SUPPLIED BY THE TOWN OF WELLESLEY.
5. ROADWAY UTILITY MAP AS SUPPLIED BY THE TOWN OF WELLESLEY.



I CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE LOCATION OF THE BUILDING AND DIMENSIONS AS SHOWN.

*George Edward Smith III*

DATE: December 26, 2023

CERTIFIED PLOT PLAN

(PROPOSED DWELLING)

PREPARED FOR: AARON LAMPORT

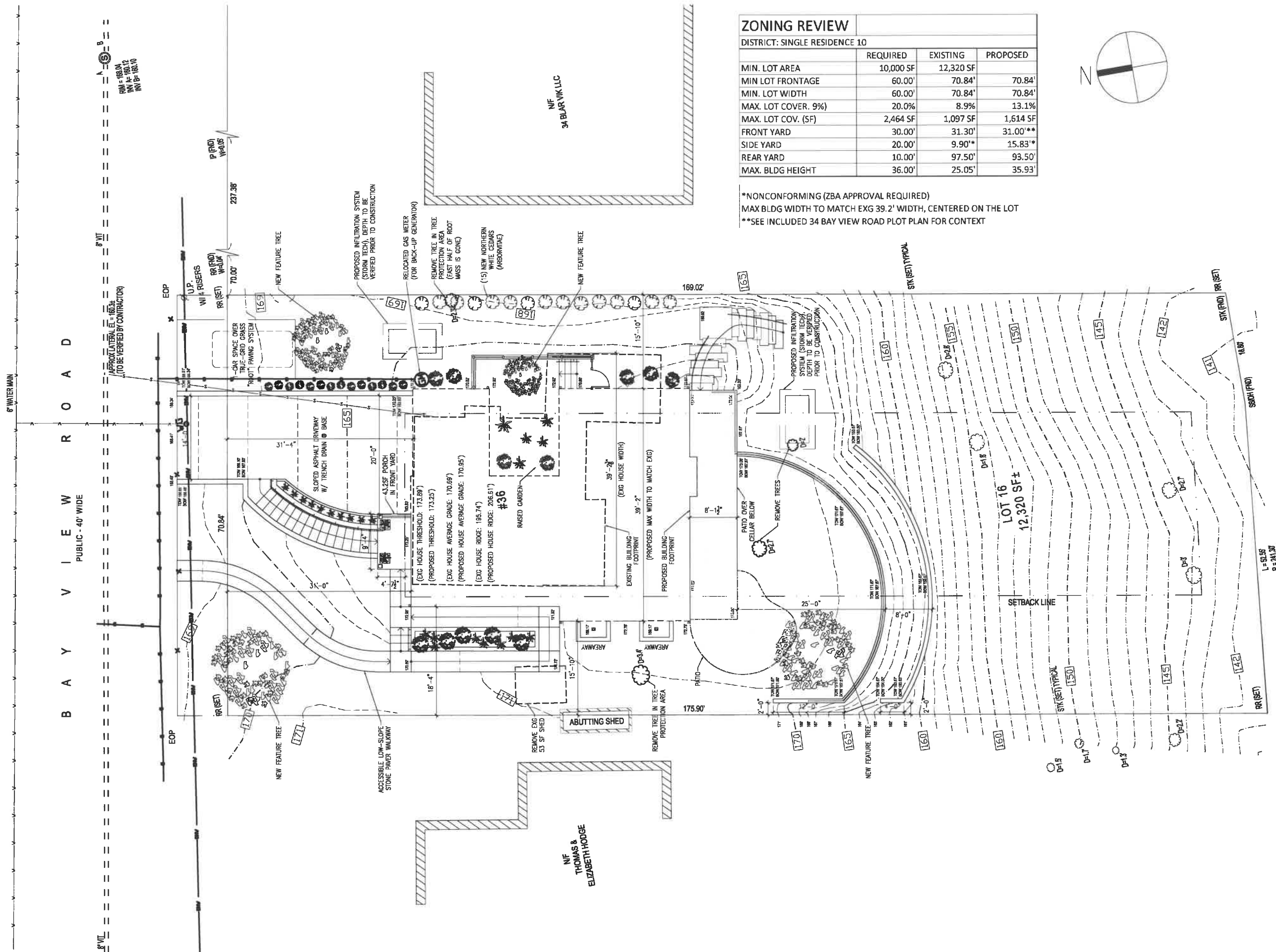
36 BAY VIEW ROAD

TOWN OF WELLESLEY

NORFOLK COUNTY

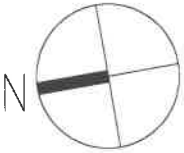
COMMONWEALTH OF MASSACHUSETTS

SCALE: 1"=20' DRAFT: DLM FIELD: JP FILE: 23FS3



ZONING REVIEW			
DISTRICT: SINGLE RESIDENCE 10			
	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	10,000 SF	12,320 SF	
MIN LOT FRONTAGE	60.00'	70.84'	70.84'
MIN. LOT WIDTH	60.00'	70.84'	70.84'
MAX. LOT COVER. 9%	20.0%	8.9%	13.1%
MAX. LOT COV. (SF)	2,464 SF	1,097 SF	1,614 SF
FRONT YARD	30.00'	31.30'	31.00'*
SIDE YARD	20.00'	9.90'	15.83'*
REAR YARD	10.00'	97.50'	93.50'
MAX. BLDG HEIGHT	36.00'	25.05'	35.93'

\*NONCONFORMING (ZBA APPROVAL REQUIRED)  
MAX BLDG WIDTH TO MATCH EXG 39.2' WIDTH, CENTERED ON THE LOT  
\*\*SEE INCLUDED 34 BAY VIEW ROAD PLOT PLAN FOR CONTEXT



36 Bay View Road  
Wellesley, MA 02482  
Aaron & Sumie Lamport

Architect:  
Aaron Lamport AIA, LEED AP  
27 Huntington Ave  
Scarsdale, NY 10583

Issue Date: 12.26.2023

Proposed Site Plan

G1.02

Scale 1/16" = 1'-0"