

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

J. RANDOLPH BECKER, CHAIRMAN
ROBERT W. LEVY, VICE CHAIRMAN
DAVID G. SHEFFIELD

LENORE R. MAHONEY
EXECUTIVE SECRETARY
TELEPHONE
(781) 489-7450

WALTER B. ADAMS
DEREK B. REDGATE
PETER COVO

ZBA 2025-15
Petition of Sohail Sayed
7 Kirkland Circle

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, March 6, 2025, on the petition of Sohail Sayed requesting a Special Permit/Finding pursuant to the provisions of Section 5.1 and Section 6.3 of the Zoning Bylaw that replacement of a nonconforming deck with less than required right side yard setbacks that had been demolished with a new deck in the same location, at 7 Kirkland Circle, in a 10,000 square foot Single Residence District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On January 30, 2025, 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 was Sohail Sayed, the Petitioner, who said that the request is for relief for a side yard setback for a deck in the back yard that they are in the process of rebuilding on the same footprint. He said that the existing deck was removed in April of 2024.

The Chairman said that the status of a pre-existing nonconforming structure is lost when it is removed. He said that, typically, one would come before the Board before the deck was removed to seek a special permit, not remove the deck and come in a year later to ask to build a new one. Mr. Sayed said that he intended to repair, not demolish the deck, but due to safety concerns, his contractor thought it best to remove it. He said that the deck did not sit on the foundation properly. He said that town processes took about 10 months before he was able to bring the matter to the Board.

The Chairman said that the right side yard setback for the existing house is 15.6 feet and the deck is two feet closer to the lot line. The Board discussed moving the deck over or slicing a piece off of it. Mr. Sayed discussed concerns about the alignment of the doors that open to the deck. He said that the soffit tubes are already in place. He said that there is no visual impact on the neighbors because the tree line at the back and on the side is so thick. A Board member discussed railing systems and paint color that could help to make the deck hardly noticeable.

The Chairman discussed the Board's authority under State case law, *Bellalta v. Brookline*.

David Himmelberger, said that he is neighbor. He said that a permit was pulled in April of 2024 for renovation of the deck. He said that the work could be done by right by taking it apart board by board but taking all of the boards off at once may be considered demolition. He said that he did not think that the Petitioner ever intended to give up the deck. He said that there is dense evergreen screening on both sides of that corner.

Statement of Facts

The subject property is located at 7 Kirkland Circle, in a 10,000 square foot Single Residence District, with a minimum front yard setback of 24.3 feet where 30 feet is required, a minimum left side yard setback of 15.3 feet and a minimum right side yard setback of 13.8 feet where 20 feet is required.

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 replacement of a nonconforming deck with less than required right side yard setbacks that had been demolished with a new deck in the same location, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan, dated 9/25/24, stamped by Bradley J. Simonelli, Professional Land Surveyor, #47581, Floor Plans and Elevation Drawings, dated 5/30/24, prepared by ARQSTUDIO Drafting, Property Record Card, and photographs were submitted.

On March 4, 2025, the Planning Department Staff 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 replacement of a nonconforming deck with less than required right side yard setbacks that had been demolished with a new deck in the same location will not 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 replacement of a nonconforming deck with less than required right side yard setbacks that had been demolished with a new deck in the same location, in accordance with the submitted plans.

The Building Inspector 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.

Robert W. Levy (lm)
Robert W. Levy, Acting Chairman

David G. Sheffield (lm)
David G. Sheffield

Walter B. Adams (lm)
Walter B. Adams

ZBA 2025-15
Applicant Sohail Sayed
Address 7 Kirkland Circle

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

2025-20-PH1212

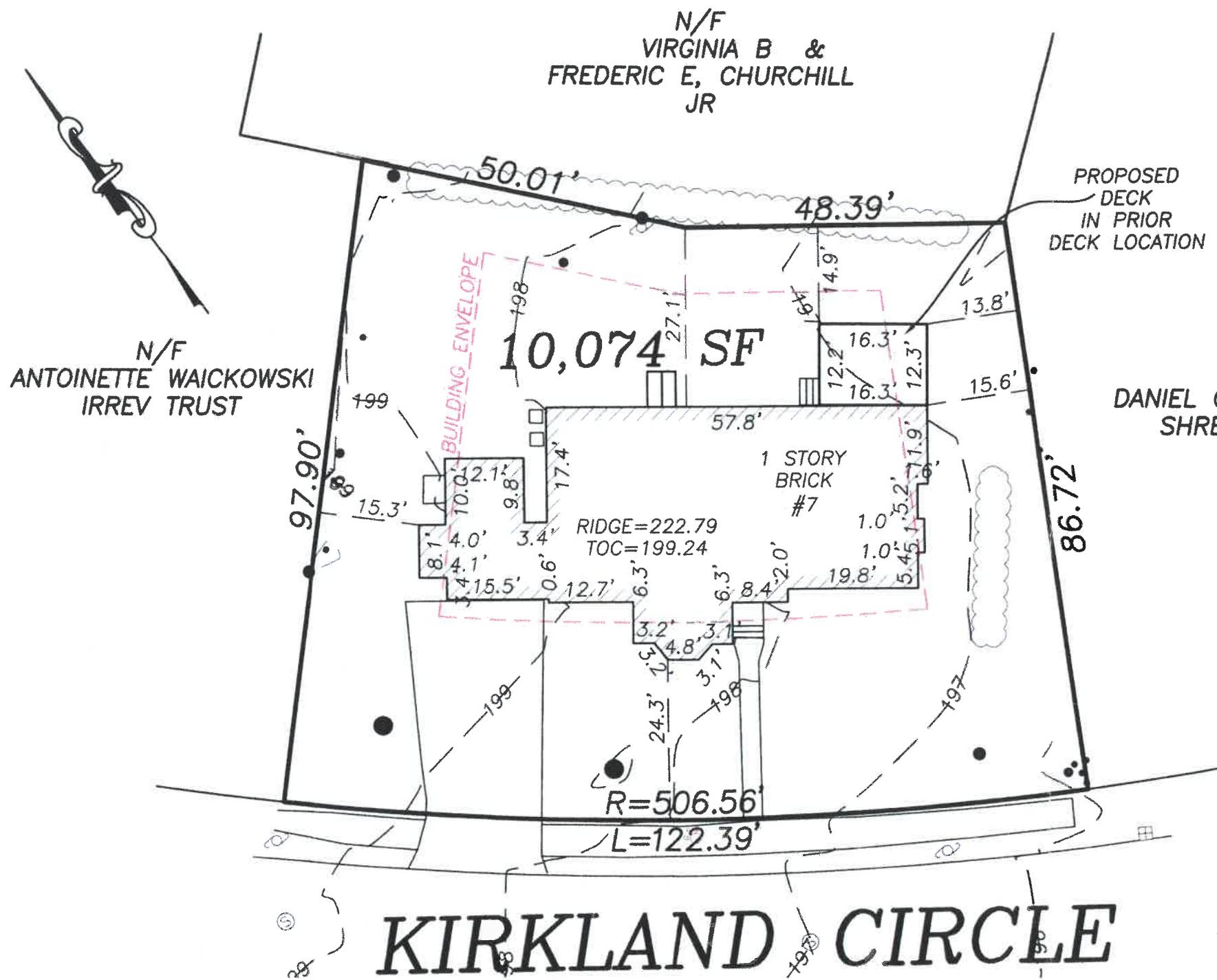
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)

	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA	10,000 SF.....	10,074 SF.....	10,074 SF.
MINIMUM LOT FRONTRAGE.....	60 FEET.....	122.39 FEET.....	122.39 FEET
MINIMUM FRONT SETBACK.....	30 FEET*.....	24.3 FEET.....	24.3 FEET
MINIMUM SIDE YARD.....	20 FEET.....	15.6 FEET.....	15.6 FEET(13.8 FEET 15.3 FEET.....
MINIMUM REAR YARD	10 FEET.....	27.1 FEET.....	14.9 FEET
MAXIMUM BUILDING COVERAGE.....	2500 SF.....	2118 SF.....	2318 SF
MAXIMUM BUILDING HEIGHT.....	36 FEET.....	24.8± FEET.....	NO CHANGE
MAXIMUM BUILDING HEIGHT.....	2 1/2 STORIES.....	1 STORY.....	1 STORY

063-24

*FRONT SETBACK DETERMINED BY 500 FOOT RULE
**SEE CHART BASED UPON AREA.

TOWN OF WELLESLEY
MAP 86 PARCEL 53

NORFOLK COUNTY
REGISTRY OF DEEDS
BOOK 41640 PAGE 481
BOOK 2210 PLAN 9

OWNER/APPLICANT:
SOHAIL SAYED LIVING TRUST

A graphic scale with a horizontal line and tick marks. The scale is labeled "GRAPHIC SCALE" at the top. The tick marks are labeled 20, 0, 10, 20, and 40. The scale is marked with a series of black and white squares, with a solid black bar covering the segment from 0 to 20.



ZONING BOARD OF APPEALS
PLAN OF LAND
7 KIRKLAND CIRCLE
WELLESLEY, MASS.

Field Resources, Inc.

LAND SURVEYORS

office@fieldresources.net

ZBA 2025-15
7 KIRKLAND CIRCLE

RECEIPT

Printed: April 10, 2025 @ 13:53:14
Norfolk Registry of Deeds
William P O'Donnell
Register

Trans#: 22934 Oper:VOGEL

=====
Book: 42337 Page: 580 Inst#: 21829
Ctl#: 472 Rec:4-10-2025 @ 1:53:01p
WELL 7 KIRKLAND CIRCLE

DOC	DESCRIPTION	TRANS AMT
DECISION		10.00
10.00	rec fee	50.00
50.00	Surcharge	5.00
5.00	Tech.Surcharge	1.00
	Postage/Handling Fee	40.00
	State Fee \$40.00	
		106.00
	Total fees:	106.00
	*** Total charges:	106.00

CHECK FM 529

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2025 MAR 20

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