

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

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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 sona 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 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.

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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 (km)  
Robert W. Levy, Acting Chairman

David G. Sheffield (km)  
David G. Sheffield

Walter B. Adams (km)  
Walter B. Adams

ZBA            2025-15  
Applicant    Sohail Sayed  
Address      7 Kirkland Circle

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

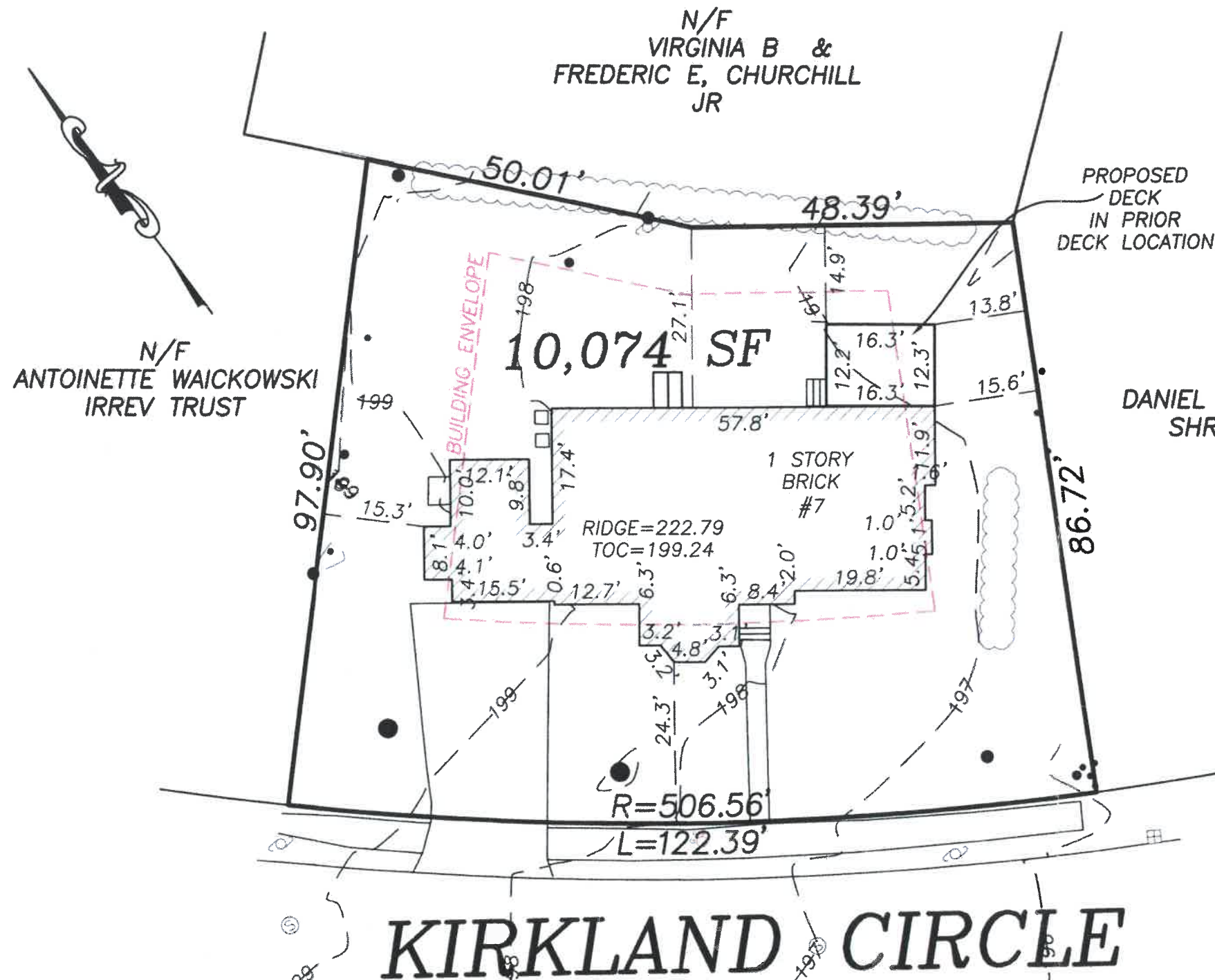
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

\_\_\_\_\_  
Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrn



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

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

Field Resources, Inc.  
LAND SURVEYORS

SEPTEMBER 25, 2024 SCALE 1"=20'  
P.O. BOX 324 281 CHESTNUT ST.  
AUBURN, MA NEEDHAM, MA.  
781 444 5936

office@fieldresources.net

ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)

	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA	10,000 SF	10,074 SF	10,074 SF
MINIMUM LOT FRONTAGE	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)
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

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

GRAPHIC SCALE



063-24

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

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

DOC	DESCRIPTION	TRANS AMT
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	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	-----
	Total fees:	106.00
	*** Total charges:	106.00
	CHECK PM 529	106.00



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