



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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ZBA 2021-41

Petition of Rajeev & Marcell Bhangoo
12 Princeton Road & 32 Upson Road

2021 MAY 20
RECEIVED
ZONING BOARD OF APPEALS
TOWN OF WELLESLEY

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, May 6, 2021 at 7:30 pm, on the petition of Rajeev & Marcell Bhangoo requesting a Special Permit/Finding pursuant to the provisions of Section 17, Section 19 and Section 25 of the Zoning Bylaw that reconfiguration of the lots at 12 Princeton Road & 32 Upson Road that will result in the lots being subject to Table 3, Section 19 of the Zoning Bylaw, for which conforming frontage is 90 feet and rear setbacks are 18 feet, shall not be substantially more detrimental to the neighborhood than the existing nonconformities. The existing structure at 12 Princeton Road has a nonconforming side yard setback of 18.2 feet. The existing structure at 32 Upson Road has a nonconforming left side yard setback of 6 feet. The nonconforming setback at 32 Upson Road will be eliminated with the reconfigured lot line.

On March 18, 2021, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

WITHDRAWN WITHOUT PREJUDICE

Present on behalf of the petition was David Himmelberger, Esq. and Rajeev Bhangoo, who is the record owner of 12 Princeton Road and 32 Upson Road.

Mr. Himmelberger said that the request is connection with reconfiguration of a common line through the ANR process. He said that 12 Princeton is a nonconforming lot due to insufficient side yard setback of 18.2 feet. He said that a special permit was approved in 2016 for a rear addition. He said that the Bhangos recently purchased 32 Upson Road, which shares a common lot line. He said that 32 Upson Road is a nonconforming lot, as it received a variance in 1973 to construct a left side addition with a 6 foot setback. He said that they would like to reconfigure the common line between the two properties through an ANR process. He said that through that reconfiguration, 32 Upson Road will become a conforming structure, as the nonconforming left side yard setback will be eliminated. He said that a special permit is required because both lots were created prior to 1985 and are subject to Table 1 and would now be Table 3 for which conforming frontage is 90 feet and rear setbacks are 18 feet, rather than the Table 1 dimensions of 65 feet of frontage and 10 foot rear yard setbacks. He said that currently 12 Princeton Road does not have 90 feet of frontage.

Mr. Himmelberger said that the Board has previously granted on similar matters. He said that the bylaw amendment that gave rise to the Table 3 lots and the increase in dimensional requirements was designed to pertain to newly created lots upon which no prior development had occurred, as opposed to pre-existing lots upon which houses were already located and were compliant with Table 1 dimensions.

Mr. Himmelberger said that by allowing reconfiguration of the lot line, 2,245 square feet will be removed from 12 Princeton and added to 32 Upson, and the existing left side yard setback will be eliminated. He said that 12 Princeton Road remain a nonconforming lot, as it currently exists, with insufficient side yard setback and frontage of 65 feet.

The Chairman asked about the purpose of the subdivision. Mr. Himmelberger said that his client is exploring a range of options that include building on, renovating or building a new house at 32 Upson Road. Mr. Bhangoo said that all of those options are for himself. He said that he would move from 12 Princeton to 32 Upson. Mr. Levy can do that on a nonconforming lot with a Section 6 finding. He discussed the authority of the Board under Section 24 of the Zoning Bylaw. He asked Mr. Himmelberger to point out where in the bylaw the Board as the Special Permit Granting Authority (SPGA) is permitted to authorize a change in lot lines. Mr. Himmelberger said that they will be removing the nonconformity at the left side of 32 Upson Road and creating a new one. He said that there is a pre-existing nonconforming structure at 12 Princeton Road and at 32 Upson Road and by making the change, they will make one of them conforming. The Chairman asked if the request is for the Board to make a Section 6 finding. He said that lot line changes are authorized for approval by the Planning Board.

A Board member said that the applicant should get the lot line changed first and then come back before the Zoning Board. Mr. Himmelberger said that the Board has the authority to grant a special permit for allowing the reconfiguration even though it would not be conforming under Table 3. The Chairman said that there needs to be a place in the bylaw where authority is delegated to the Board to grant special permits for certain delineated circumstances.

A Board member said that the Board reviewed a similar case and concluded that it was a Planning Board issue. Mr. Himmelberger said that in the case that A Board member was referring to, both homes were fully conforming and would remain fully conforming and the lot line reconfiguration. He said that it was the build factor that they were seeking relief for. He said that in this case, both houses are pre-existing nonconforming due to setbacks and therefore, this is different as it eliminates a nonconformity and makes 32 Upson Road a fully conforming lot and structure.

The Chairman read an excerpt from Section 17 of the Zoning Bylaw regarding applications for changes to nonconforming one or two family dwellings. He said that the request before the Board is not to change the dwelling but to change the lot lines.

Mr. Himmelberger asked that the Board find that the change of the frontage impacts the dwelling. He said that it is a pre-existing nonconforming structure that they are seeking to eliminate on one ill at 32 Upson Road and allow 12 Princeton Road to remain unchanged. He said that its existing frontage or side yard setback will not change. The Chairman said that he did not think that the Board has the authority to grant the relief that was asked for.

A Board member asked about the area of each lot and how will it change. Mr. Himmelberger said that each existing lot is slightly 15,000 square feet, and as reconfigured, 2,245 square feet will be removed from 12 Princeton Road and added to 32 Upson Road. He said that 12 Princeton Road would go to 11,543 square feet and 32 Upson Road would go to 18,488 square feet. He said that the Zoning District is SRD 10.

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A Board member discussed concerns about the Board's authority and tying the hands of future owners of 12 Princeton Road to do something with the back of the property that they can do today but will not be able to do tomorrow. Mr. Himmelberger said that the area from the rear of 12 Princeton Road coming down to the existing lot line at 32 Upson Road is a slope and not usable back yard space. A Board member said that there is a shed there now. Mr. Bhangoo said that a slope runs north of the shed and goes diagonally across the lot line.

The Chairman said that the property owner can come before the Board for a special permit to do a renovation at 32 Upson Road.

The Chairman read the Planning Board recommendation.

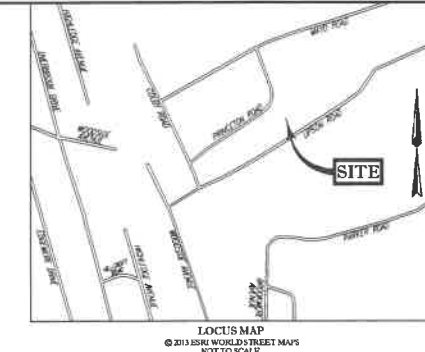
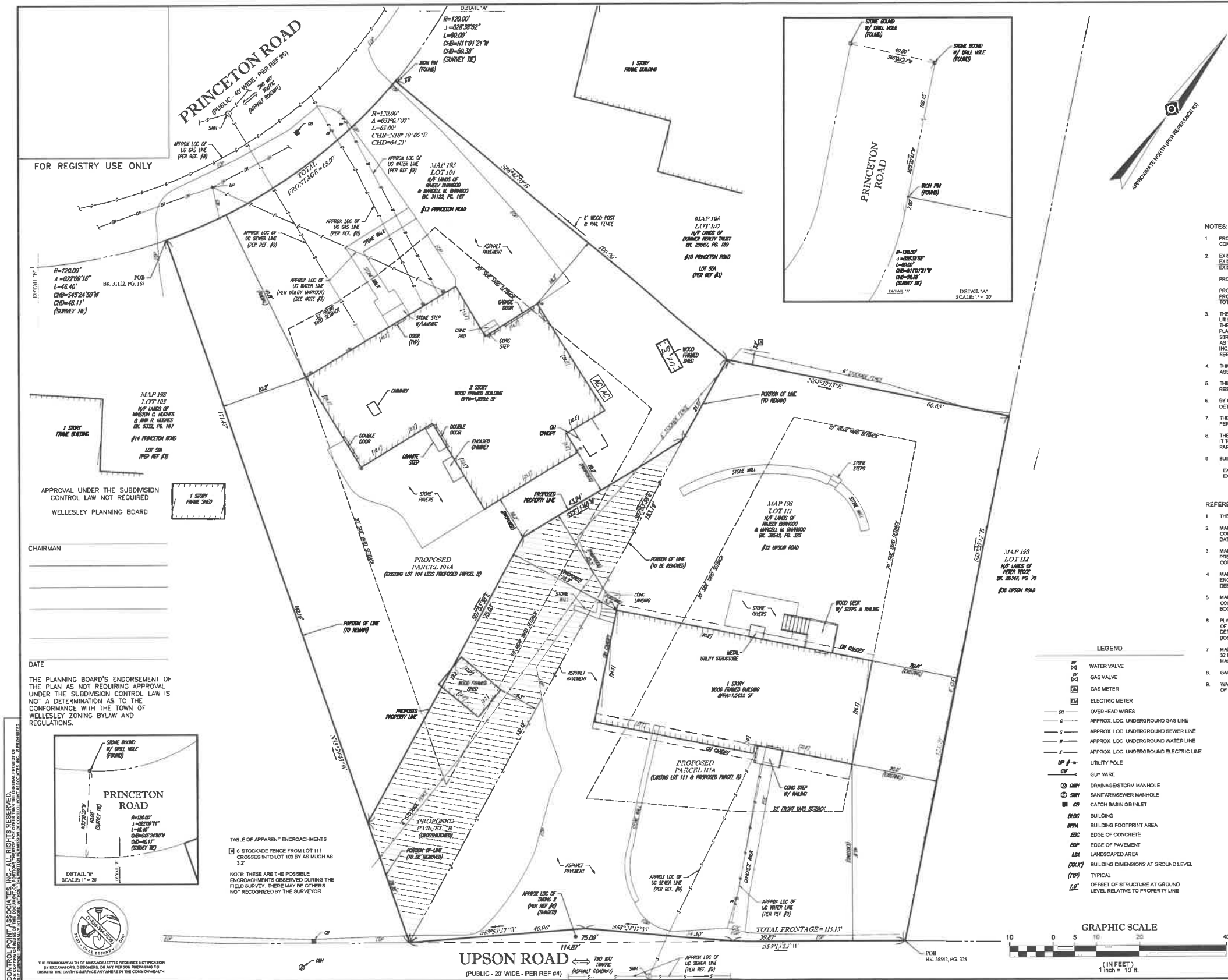
The Chairman said that Board only has the authority to grant special permit under the powers that are delegated to it. Mr. Himmelberger said that by removing the nonconformity at 32 Upson Road, it will make 12 Princeton Road a nonconforming Table 3 lot. The Chairman said that the Board is authorized to grant relief under four matters that are listed in Section 24 of the Zoning Bylaw. Mr. Himmelberger said that none of the Board's powers under Section 17 of the Zoning Bylaw fall within the powers listed in Section 24. B, 1 through 4. He said that the powers are additional. The Chairman said that the Section 17 deals with pre-existing structures. A Board member said that Section does not discuss lots in the body of the text, nor does Chapter 40A, Section 6.

The Chairman asked if any member of the public wished to speak to the petition.

Mr. Himmelberger requested that the Board allow the petition to be withdrawn without prejudice.

Upon a motion duly made and seconded, the Board voted unanimously to allow the petition to be withdrawn without prejudice.

2021 MAY 20 P 1:42
OFFICE OF THE
CLERK OF THE
CITY OF BOSTON



- NOTES:**
- PROPERTY KNOWN AS LOT 104 & 111 AS SHOWN ON THE TOWN OF WELLESLEY, NORFOLK COUNTY, COMMONWEALTH OF MASSACHUSETTS MAP NO. 198.
 - EXISTING LOT 104 AREA = 12,830 SQUARE FEET OR 0.290 ACRES
EXISTING LOT 111 AREA = 11,700 SQUARE FEET OR 0.268 ACRES
EXISTING TOTAL AREA = 24,530 SQUARE FEET OR 0.558 ACRES
PROPOSED PARCEL "B" AREA = 2,245 SQUARE FEET OR 0.052 ACRES (TO BE REMOVED FROM LOT 104)
PROPOSED PARCEL 104A AREA = 10,585 SQUARE FEET OR 0.239 ACRES
PROPOSED PARCEL 111A AREA = 9,145 SQUARE FEET OR 0.209 ACRES
TOTAL PROPOSED AREA = 24,530 SQUARE FEET OR 0.558 ACRES
 - THE LOCATION OF UNDERGROUND UTILITIES ARE APPROXIMATE. LOCATIONS AND SIZES ARE BASED ON UTILITY MARK-OUTS ABOVE GROUND STRUCTURES THAT WERE VISIBLE & ACCESSIBLE IN THE FIELD AND THE MAPS AS LISTED IN THE REFERENCES AVAILABLE AT THE TIME OF THE SURVEY. AVAILABLE AS-BUILT PLANS AND UTILITY MARK-OUTS DOES NOT ENSURE THE MARKINGS OF ALL UNDERGROUND UTILITIES AND STRUCTURES. BEFORE ANY EXCAVATION IS TO BEGAIN, ALL UNDERGROUND UTILITIES SHOULD BE VERIFIED AS TO THEIR LOCATION, SIZE, AND TYPE BY THE PROPER UTILITY COMPANIES. CONTROL POINT ASSOCIATES, INC. DOES NOT GUARANTEE THE UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA EITHER IN SERVICE OR ABANDONED.
 - THIS PLAN IS BASED ON INFORMATION PROVIDED BY A SURVEY PREPARED IN THE FIELD BY CONTROL POINT ASSOCIATES, INC. AND OTHER REFERENCE MATERIAL AS LISTED HEREON.
 - THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND IS SUBJECT TO THE RESTRICTIONS, COVENANTS AND/OR EASEMENTS THAT MAY BE CONTAINED THEREIN.
 - BY GRAPHIC NOTING ONLY PROPERTY IS LOCATED IN FLOOD HAZARD ZONE "X" UNSHADED" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER REF. #2
 - THE OFFSETS SHOWN ARE NOT TO BE USED FOR THE CONSTRUCTION OF ANY STRUCTURE, FENCE, PERMANENT ADDITION, ETC.
 - THE PURPOSE OF THIS PLAN IS TO TAKE A PORTION FROM LOT 104, SHOWN HEREON AS PARCEL "B", AND ADD IT TO LOT 111 CREATING TWO NEW LOTS SHOWN HEREON AS PROPOSED PARCEL 104A AND PROPOSED PARCEL 111A.
 - BUILD FACTOR: (LOT PERMETER SQUAREFOOTAL LOT AREA/PROPOSED LOT AREA)
EXISTING LOT 104 = 18.021 PROPOSED LOT 104A = 18.488
EXISTING LOT 111 = 18.348 PROPOSED LOT 111A = 15.643

- REFERENCES:**
- THE TAX ASSESSOR'S MAP OF TOWN OF WELLESLEY, NORFOLK COUNTY, MAP 198.
 - MAP ENTITLED "NATIONAL FLOOD INSURANCE PROGRAM FIRM FLOOD INSURANCE RATE MAP, NORFOLK COUNTY, MASSACHUSETTS (ALL JURISDICTIONS), PANEL 12 OF 430" MAP NUMBER 2622(2012), EFFECTIVE DATE: JULY 17, 2012.
 - MAP ENTITLED "SUBDIVISION PLAN OF LAND IN WELLESLEY, MASS. OWNED BY ORVILLE REALTY TRUST", PREPARED BY GLEASON ENGINEERING COMPANY, DATED: JUNE 20, 1980, RECORDED WITH THE NORFOLK COUNTY REGISTRY OF DEEDS IN PLANBOOK 2900, PAGE 366, AS PLAN NO. 860 OF 1960.
 - MAP ENTITLED "PLAN OF LAND IN WELLESLEY, MASS. OWNED BY ALICE R. ALLEN, PREPARED BY GLEASON ENGINEERING COMPANY, DATED: MARCH 15, 1937, RECORDED WITH THE NORFOLK COUNTY REGISTRY OF DEEDS IN PLANBOOK 2135, PAGE 488, AS PLAN NO. 239 OF 1937.
 - MAP ENTITLED "LAYOUT OF PRINCETON ROAD IN WELLESLEY, MASS." PREPARED BY GLEASON ENGINEERING COMPANY, DATED: MARCH 15, 1937, RECORDED WITH THE NORFOLK COUNTY REGISTRY OF DEEDS IN PLANBOOK 3012, PAGE 479, AS PLAN NO. 772 OF 1961.
 - PLAN SET ENTITLED "STREET ACCEPTANCE LAYOUT OF UPSON ROAD TOWN OF WELLESLEY - DEPARTMENT OF PUBLIC WORKS BY STEPHEN B. FAHER - TOWN ENGINEER", DATED: JANUARY 13, 2002, ON FILE WITH THE DEPARTMENT OF PUBLIC WORKS AND RECORDED WITH THE NORFOLK COUNTY REGISTRY OF DEEDS IN PLANBOOK 631, PAGE 85.
 - MAP ENTITLED "BOUNDARY SURVEY RAJEEV & MARCELL BHANGOO 12 PRINCETON ROAD LOT 104, MAP 198 & 32 UPSON ROAD LOT 111, MAP 198 TOWN OF WELLESLEY, NORFOLK COUNTY COMMONWEALTH OF MASSACHUSETTS", PREPARED BY CONTROL POINT ASSOCIATES, INC., DATED: JANUARY 26, 2021.
 - GAS MAPPING PROVIDED BY NATIONAL GRID, SHEET WEL 9023.
 - WATER AND SEWER TIE CARDS FOR 12 PRINCETON ROAD & 32 UPSON ROAD, PROVIDED BY THE DEPARTMENT OF PUBLIC WORKS.

LEGEND

W	WATER VALVE
G	GAS VALVE
M	GAS METER
E	ELECTRIC METER
OW	OVER-HEAD WIRES
C	APPROX. LOC. UNDERGROUND GAS LINE
S	APPROX. LOC. UNDERGROUND SEWER LINE
W	APPROX. LOC. UNDERGROUND WATER LINE
E	APPROX. LOC. UNDERGROUND ELECTRIC LINE
UP	UTILITY POLE
GW	GUY WIRE
DMH	DRAINAGE/STORM MANHOLE
SMH	SANITARY/SEWER MANHOLE
CS	CATCH BASIN OR INLET
BLDG	BUILDING
FFA	BUILDING FOOTPRINT AREA
EDC	EDGE OF CONCRETE
EOP	EDGE OF PAVEMENT
LSA	LANDSCAPED AREA
DLG	BUILDING DIMENSIONS AT GROUND LEVEL
(TYP)	TYPICAL
LS	OFFSET OF STRUCTURE AT GROUND LEVEL RELATIVE TO PROPERTY LINE

NO.	REVISION PER RECEIPT OF CLIENT COMMENTS	DATE	BY	DATE
1	REVISED PER RECEIPT OF CLIENT COMMENTS	N/A	B.A.V.	3-16-2021
2	DESCRIPTION OF REVISION	FIELD CREW/ DRAWN	APPROVED:	DATE

THIS IS TO CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE REGISTRATION REGULATIONS OF THE REGISTERERS OF DEEDS. NO NEW RIGHT OF WAY LINES ARE BEING CREATED AND THOSE SHOWN ARE EXISTING AND ARE NOT BEING CHANGED OR ALTERED.

NOT A VALID ORIGINAL DOCUMENT UNLESS EMBOSSED WITH RAISED IMPRESSION OR STAMPED WITH A BLUE INK SEAL.

GERRYL HOLDRIGHT, PLS
 MASSACHUSETTS PROFESSIONAL LAND SURVEYOR #48211

3-16-2021
 DATE

APPROVAL NOT REQUIRED PLAN OF LAND
RAJEEV & MARCELL BHANGOO
 12 PRINCETON ROAD & 32 UPSON ROAD
 LOT 104, MAP 198 LOT 111, MAP 198
 TOWN OF WELLESLEY, NORFOLK COUNTY
 COMMONWEALTH OF MASSACHUSETTS

FIELD DATE	1-17-2021	SCALE	1" = 10'	FILE NO.	03-200401-00	DWG. NO.	1 OF 1
FIELD BOOK NO.	20-001 MA	APPROVED	G.L.H.	DATE	3-9-2021	FILE NO.	03-200401-00
FIELD BOOK PG.	74	APPROVED	E-LOC	DATE	3-9-2021	FILE NO.	03-200401-00

FOR REGISTRY USE ONLY

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED
 WELLESLEY PLANNING BOARD

CHAIRMAN

DATE

THE PLANNING BOARD'S ENDORSEMENT OF THE PLAN AS NOT REQUIRING APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT A DETERMINATION AS TO THE CONFORMANCE WITH THE TOWN OF WELLESLEY ZONING BYLAW AND REGULATIONS.

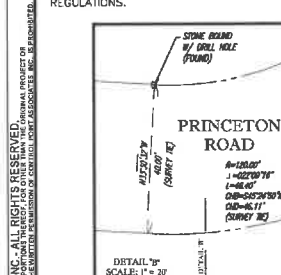


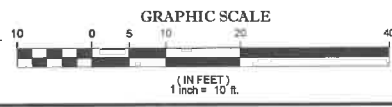
TABLE OF APPARENT ENCROACHMENTS

8' STICK-OR-FENCE FROM LOT 111 CROSSES INTO LOT 104 BY AS MUCH AS 3.2'

NOTE: THESE ARE THE POSSIBLE ENCROACHMENTS OBSERVED DURING THE FIELD SURVEY. THERE MAY BE OTHERS NOT RECOGNIZED BY THE SURVEYOR



THE COMMONWEALTH OF MASSACHUSETTS REQUIRES NOTIFICATION BY REGISTERED SURVEYORS, OR ANY PERSON PREPARING TO OBTAIN THE EARTH'S SURFACE ANYWHERE IN THE COMMONWEALTH



UPSON ROAD
 (PUBLIC - 20' WIDE - PER REF #4)

780 BAY DRIVE
 (ASPHALT ROADWAY)

APPROX. LOC. OF UG SEWER LINE (PER REF. #2)