

TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS APPLICATION

2016 DEC 16 AM 8:42

TO BE COMPLETED BY STAFF

Case Number: #3317

Town Clerk Stamp

Submittal Accepted: E.S. Date 12/16
Signature of Planning Dept. Staff for minimal requirements

Determined to be complete and may now be filed with Town Clerk: _____
Signature of Principal Planner or Director

PROPERTY INFORMATION - TO BE COMPLETED BY APPLICANT

PROJECT / PROPERTY STREET ADDRESS: 249 Ralph Talbot Street

Assessor's Map Sheet, Block, & Lot: 46-534-9

Zoning District: R-1 Residential District Overlay District: Watershed Protection

OWNER OF RECORD (S) (print & sign): Kevin & Laura Fall
(The owner of record is the person or entity who owns title to the property as of today's date)

Address of owner of record: 249 Ralph Talbot Street

Norfolk County Registry of Deeds Book and Page No. Book 23663 page 195

Or registered in Land Registration Office under Certificate No. n/a

NAME OF APPLICANT (S) (print & sign): Kevin Fall and Laura Fall

Applicant's Address: 249 Ralph Talbot Street

Contact Information: Email kevin.fall@icloud.com Phone 781-771-6955

Check if you are an: owner(s) ☒ lessee(s) ☐ optionee (s) ☐

NAME & AFFILIATION OF REPRESENTATIVE: _____

Address: David A Kelly Attorney at Law 45 Braintree Hill Office Park #302 Braintree MA 02184

Contact Information: Email DavidKellyEsq@comcast.net Phone 781-848-6800

NAME OF ENGINEER AND / OR ARCHITECT: Hoyt Land Surveying

Prior to submitting your application you must review this entire package and the Board Rules and Regulations outlining the Board's policies and procedures. Your signature signifies that you have read the required material and you will be expected to adhere to them.

I (we) hereby certify that I (we) have read the Board of Zoning Appeals Rules and Regulations and that the statements within my (our) application are true and accurate to the best of my (our) knowledge.

Kevin Fall Kevin F. Fall Laura Fall 12-6-16
Applicant / Petitioner - Date (sign & print) 12-6-16

NATURE OF REQUEST

Application is for: XXXXX Special Permit _____ Variance _____ Other: _____

Applicable Section of Zoning Ordinance (specify Section (s) of the Zoning Ordinance from which relief is sought):

120-53 Exceptions by the Board of Zoning Appeals -- Minimum lot area and Minimum lot width exceptions by Special Permit

120-122 Special Permit

The above relief and Ordinance sections will be further reviewed after a complete package is submitted. This may be amended by the Planning or Building staff during the application review process after having the benefit of plan to accurately advertise the application before the Board.

PETITIONER'S DESCRIPTION AND NARRATIVE:

To be completed by all Board of Appeals Applicants. Attach additional sheets as necessary.

1. Describe what is presently located on the property (use as much detail as possible including all uses and square footage of each use):

Single Family Dwelling in R-1 Zoning District with Lot Area of 41,650 square feet

2. The applicant seeks to (describe what you want to do on the property in as much detail as possible):

Subdivide the existing 41,650 square foot lot into two lots: Parcel A with 21,605 square feet of lot area and Parcel B with 20,045 square feet of lot area. Parcel B will include the existing single family dwelling. Parcel A will include a single family residence to be constructed.

3. Such a use is permitted by the Town of Weymouth Zoning Ordinance under Article (insert Article, Section of the Zoning Ordinance which permits the proposed use of the property).

120-11 -- Resident District R-1 --permitted use as detached single family residence

4. Are you aware if this property has been previously granted approvals from any Town Board or Commission? If so, please list (provide dates of previous approvals, book and page numbers or any recorded decisions and copies of past decisions).

no

5. Any other additional information as relevant to the Variance or Special Permit:

Applicant submits the attached memorandum as part of this Application in support of the Special Permit requested.

ZONING COMPUTATION WORKSHEET

(To be attached with all Board of Zoning Appeals Applications)

The Zoning Computation Worksheet must be completed by the Applicant / Petitioner. All information should be measured and calculated in accordance with the Weymouth Zoning Ordinance (Section 120-51 Table 1 "Schedule District Regulations" and other applicable sections of the Zoning Ordinance). The information should be based on engineer/surveyor/architectural prepared plans and or calculations. Further guidance can also be provided by the Board's step-by-step application instructions and by contacting the Planning or Building Department while completing this section.

Data	Required	Existing	Proposed
Use		Single Family	Single Family
Lot Area / Size (Sq. Ft.)	25,000	41,650	21,605 & 20,045
Dwelling Units	one per lot	one	one per lot --two
Frontage (ft.)	40	150	110 & 40
Lot Width (ft.)	120	150	110 & 150.7
Front Yard Setback (ft.)	18	51.8	51.8 & 181.2+
Front Yard Setback (ft.) – corner lots	n/a	n/a	n/a
Side Yard Setback (ft.)	10 / 20 from dwelling	46.3	46.3
Side Yard Setback (ft.)	10/20 from dwelling	64.3	24.3
Rear Yard Setback (ft.)	24 or 1/5 depth	100.32	30 existing & allowed for proposed
Height (ft.) & # of Stories	2.5 stories less than 35	2.5 stories	2.5 stories
Lot Coverage	30%	<30	<30
Off-Street Parking Spaces	n/a		
Off-Street Loading Spaces	n/a		
Parking Setback	n/a		
Accessory Structure Setback	10 / 20	28.9/30	28.9/30 & 28.5/21.2
Landscaping	n/a		
Floor Area Ratio	n/a		
Signage	n/a		
Other:	n/a		

SPECIAL PERMIT APPLICATION

To be completed for Special Permit Applications only.

SPECIAL PERMIT FINDINGS OF FACT

In the spaces below explain how the adverse effects of the proposal will not outweigh its beneficial impacts to the Town with respect to each of the following considerations per Article XXV, Section 120-122 of the Zoning Ordinance. The Special Permit Granting Authority may approve any such application for a special permit **only** if it finds that, in its judgment, all of the following conditions are met. (Attach additional supporting documentation as necessary).

1. Is the specific site an appropriate location for such a use? Please explain.

The site is located in a R-1 Resident District and is appropriate as a permitted use in the R-1 District.

2. Will the proposed use / structure be detrimental or adversely affect the character of the neighborhood or town? Please explain.

The proposed Single Family Lots of 20,045 square feet and 21,605 square feet meet the requirements of Ordinance Section 120-53 and are consistent with the general lot size of 20,000 square feet in adjoining area

3. Is there potential for nuisance or serious hazard to vehicles or pedestrians? Please explain.

No. Single family dwelling in a R-1 District on lot area in excess of 20,000 and consistent with the neighborhood.

4. Will adequate and appropriate facilities, utilities and other public services be provided for the proper operation of the proposed use? Please explain.

Yes. Proposed construction of new home on Parcel A will comply with all Building Code provisions and Town water and sewer service is to be provided to new home. Existing home on Parcel B has appropriate facilities and public services

5. Will the public convenience and welfare be substantially serviced with this proposal? Please explain.

Public convenience and welfare is substantially served by providing a new single family dwelling on a lot area consistent with the established character of the Ralph Talbot Street neighborhood. The tax base of the Town of Weymouth will be enhanced by the fair cash value of the new home construction for tax assessment purposes.

SUPPLEMENTARY QUESTIONS - SECTION 120-40 SPECIAL PERMITS

**Extension, Alteration or Change of a Privileged Pre-existing, Nonconforming Structure or Use
(Article XIII "Nonconforming Uses" Section 120-40 "Extension or Change")**

To be completed by Applicants applying for a Special Permit under Section 120-40 Only.

EXTENSION OR CHANGE FINDINGS OF FACT:

Any lawful structure or use in existences at the time the Zoning Ordinance was adopted or amended may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

1. Describe what is currently nonconforming about this structure (list specific dimensional nonconformities):

2. Indicate how long the nonconforming aspects of the structure have been in existence:

3. At the time the nonconformity was created (the structure or use initiated) was it compliant with the current zoning requirements? Past zoning ordinances are available for research at the Town Clerk's office and Planning Department. Past zoning maps are available at the Planning Department.

4. Explain how the extension, alteration, or change itself complies with the current Zoning Ordinance requirements:

5. Indicate the number of off-street parking spaces currently provided and to be provided for the proposed structure as extended, altered or changed:

6. Explain how the use or structure as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing structure:

VARIANCE APPLICATION

To be completed for Variance applications only.

VARIANCE FINDINGS OF FACT:

Criteria for approval. The Board may approve any such application for a Variance **only** if it finds that, in its judgment, all of the following conditions are met.

Complete the following questions. Your responses should provide justifications as to why the requested Variance(s) should be granted. Attach additional documentation as necessary.

1. Describe how a literal enforcement of the provision of the Town of Weymouth Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner.

2. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located.

3. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Weymouth Zoning Ordinance.

4. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship.

NOTE THAT THE LAW DOES NOT PERMIT THE BOARD TO GRANT A VARIANCE UNLESS ALL OF THE REQUIREMENTS SET FORTH IN CHAPTER 40A SECTION 10 OF THE GENERAL LAWS AND IN ARTICLE XXIV SECTION 120-119 OF THE WEYMOUTH ZONING ORDINANCE ARE SATISFIED. EACH OF THE ABOVE FINDINGS MUST BE ANSWERED IN DETAIL. ATTACH ADDITIONAL SHEETS IF NECESSARY.

DAVID A. KELLY
ATTORNEY AT LAW
45 Braintree Hill Office Park Suite 302
Braintree, Massachusetts 02184
Telephone: 781-848-6800 Facsimile: 617-801-8008
EMAIL: DavidKellyEsq@comcast.net

December 7, 2016

Chairman Richard M. McLeod and Members of the Board of Zoning Appeals
Weymouth Board of Zoning Appeals
75 Middle Street
Weymouth, Massachusetts 02189

Re: Memorandum In Support as Part of Special Permit Application
Applicants: Kevin and Laura Fall
Property: 249 Ralph Talbot Street
Residence Zoning District R-1
Special Permit Application Ordinance Section 120-53
Exceptions by Board of Zoning Appeals – Minimum Lot Area
Minimum Lot Width

Dear Mr. Chairman and Members of the Board:

Mr. Kevin and Mrs. Laura Fall (collectively sometimes the “Falls” or the “Applicants”) reside at 249 Ralph Talbot Street having acquired their residence in May, 2006. The Falls have two children – both students in the Weymouth High School and the other a student in the Weymouth public schools. The Falls seek a Special Permit to subdivide the existing R-1 District 42,650 square foot lot into two separate lots designated as Parcel A being 21,605 square feet and Parcel B being 20,045 square feet per plan submitted. The existing Falls’ residence is situated on proposed Parcel B. Proposed Parcel A will be sold and a newly constructed single family home built. The Falls intend to use to the Parcel A lot sale proceeds for college education for their children. No variance is requested.

ZONING ORDINANCE PROVISIONS AND RELIEF REQUESTED

Article XV Ordinance Section 120-53 – Exceptions by the Board of Zoning Appeals

Town of Weymouth Chapter 120 (“Zoning Ordinance”) Section 120-53 provides the Board of Zoning Appeals special permit granting authority to allow the subdivision of land into lots less than the required R-1 District 25,000 square foot lot area provided the Applicant satisfy the threshold dimensional requirements set forth in the Ordinance set

forth below and the Board of Zoning Appeals makes a finding that the surrounding neighborhood residential lots are non-conforming to the 25,000 square foot required lot area and the new lots proposed are larger or similar to the surrounding neighborhood lots. Ordinance Section 12-53 provides as follows:

§ 120-53 Exceptions by Board of Zoning Appeals.

[Amended May 1989 ATM by Art. 49, approved 7-28-1989; 3-3-2013 by Ord. No. 13-127]

If the average size or area of residential lots in the surrounding neighborhood is nonconforming with respect to lot area and the new lots to be created are larger than or of similar area as the surrounding lots, the Board of Zoning Appeals may consider granting a special permit if all of the following requirements have been met (See Table 1 for applicability.):

- A. A lot shall be in existence in its current configuration prior to December 1, 2013.*
- B. The lot to be subdivided shall be at least 40,000 square feet.*
- C. The proposed new lots shall meet frontage requirements.*
- D. The proposed new lots shall not be less than 17,500 square feet in area.*
- E. The Board of Zoning Appeals shall make a finding that the proposed lots are of a similar lot size configuration to lots in the surrounding neighborhood.*

Here, The Applicant satisfies the threshold requirements:

- A. The Lot to be subdivided has existed since May 12, 2006.
- B. The Lot to be subdivided contains 41,650 square feet
- C. The required frontage is 40 feet and each Lot meets the required frontage.
- D. Each proposed Lot is in excess of 17,500 square feet.

Accordingly, the Applicant seeks a finding by the Board of Zoning Appeals pursuant to Ordinance Section 120-53 E that the surrounding neighborhood lots are generally non-conforming lots of less than 25,000 square feet and that the proposed lots are larger or similar to the lots in existing surrounding neighbor. The Applicant will at Public Hearing demonstrate the factual finding required under Ordinance Section 120-53 to grant the Special Permit requested.

The Special Permit criteria are as follows:

Article XXV Ordinance section 120-122 D

1. The specific site is an appropriate location for such use. Here, the site location is appropriate as located on Ralph Talbot Street in a Residential R-1. The proposed use is single family residence.

2. The use involved will not be detrimental to the established or future character of the neighborhood. Here, the use is a single family dwelling and is a permitted use on lots generally of similar size.

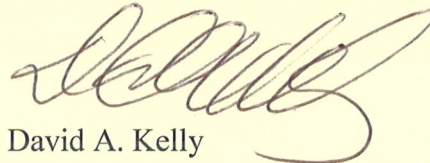
3. There will be no nuisance or serious hazard to vehicles or pedestrians. Here, the use and lot area are appropriate for each single family dwelling presenting no nuisance or hazard to pedestrians or traffic. Frontage requirements are met.

4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Here, the proposed single family dwelling will be constructed according to all Building and Municipal Codes for the proposed use as a single family dwelling. Utilities are provided.

5. The public convenience and welfare will be substantially served. Here, the proposed subdivision of land into Parcel A and Parcel B substantially serves the welfare of the public as the newly created Lots create a higher residential tax assessment basis providing additional real estate tax revenue to the Town as developed and improved by the Lot A proposed dwelling and provides additional single family home in proximity to public schools in which a family may reside.

Based on the foregoing, the Applicant requests that the BZA grant the Special Permit for Parcel A and Parcel B as per plans submitted.

Very truly yours,

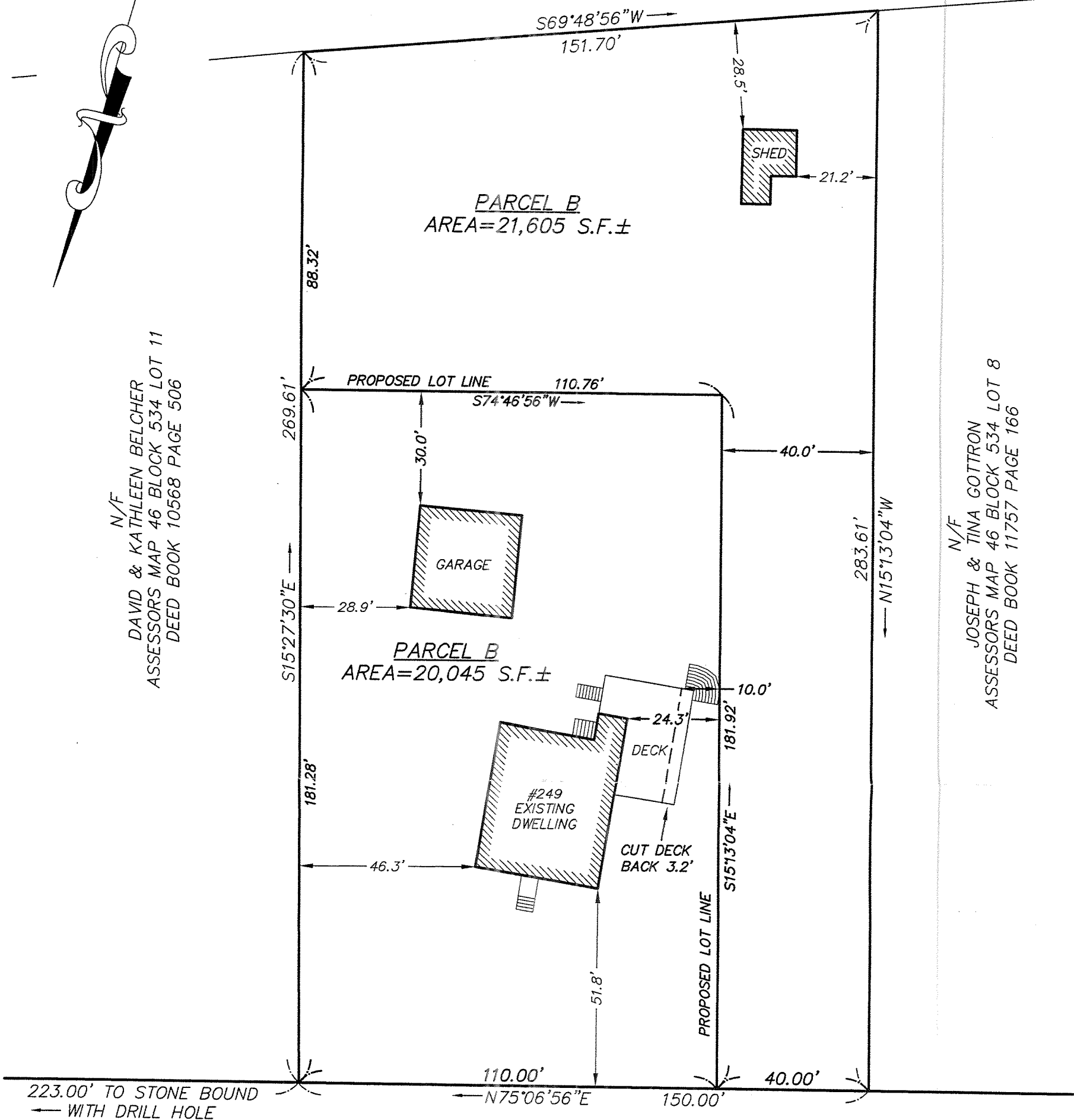
A handwritten signature in dark ink, appearing to read 'David A. Kelly', with a large, stylized flourish extending from the end of the signature.

David A. Kelly

N/F
TOWN OF WEYMOUTH
(RALPH TALBOT SCHOOL)
ASSESSORS MAP 46 BLOCK 534 LOT 14
DEED BOOK 3277 PAGE 484

N/F
DAVID & KATHLEEN BELCHER
ASSESSORS MAP 46 BLOCK 534 LOT 11
DEED BOOK 10568 PAGE 506

N/F
JOSEPH & TINA GOTTRON
ASSESSORS MAP 46 BLOCK 534 LOT 8
DEED BOOK 11757 PAGE 166



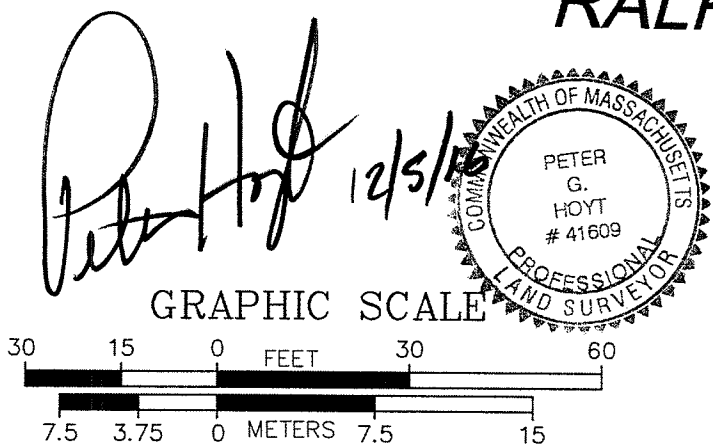
RALPH TALBOT STREET

GENERAL NOTES:

1. THE PROPERTY IS SHOWN AT THE TOWN OF WEYMOUTH ASSESSORS DEPARTMENT ON MAP 46 BLOCK 534 AS LOT 9 THEREON.
2. LOCUS TITLE IS RECORDED AT THE NORFOLK COUNTY REGISTRY OF DEEDS AS FOLLOWS:

OWNERS: KEVIN & LAURA FALL
- DEED BOOK 23663 PAGE 195

3. THE PROPERTY IS LOCATED IN RESIDENTIAL ZONE (R-1).



Sheet Title	Project Name	Prepared for
CONCEPTUAL PLAN	249 RALPH TALBOT STREET WEYMOUTH, MASSACHUSETTS NORFOLK COUNTY	KEVIN FALL
HOYT LAND SURVEYING 1287 WASHINGTON STREET WEYMOUTH, MASSACHUSETTS 02189 TEL: 781-682-9192	Scale 1"=30'	Date DECEMBER 5, 2016
	File No.	Fig. No. 1