



Town of Brookline

Massachusetts

PLANNING BOARD

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Steve Heikin, Chairman
Robert Cook, Clerk
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Linda Hamlin
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Mathew Oudens
Mark J. Zarrillo

To: Brookline Board of Appeals
From: Brookline Planning Board
Date: April 19, 2018
Subject: Legalize fence over seven feet in the rear yard
Location: **41 Cutler Lane**

Atlas Sheet: 127
Block: 437
Lot: 18

Case #: 2018-0006
Zoning: S-25
Lot Area (s.f.): 23,029

Board of Appeals Hearing: **April 26th, 2018 at 7:15 pm**

SITE AND NEIGHBORHOOD

41 Cutler Lane is a large single-family home built in 2005. The parcel is an irregular flag-shaped lot with frontage along Cutler Lane and also a narrow strip of access to Reservoir Road at the rear. To the rear of the home is a parcel owned by Boston Edison Company that contains utility equipment. Also abutting one of the rear lot lines is a commercial property at 70 Reservoir Road/822 Boylston Street containing a retail/office building and parking lot in a G-1.0 zoning district. The neighborhood consists of mostly new single-family homes on large lots and is located close to Route 9 and Heath School.

APPLICANT'S PROPOSAL

The applicants, Amit Rao and Shibani Sain, are seeking to legalize an existing fence. The existing fence ranges from about 12 to 13 feet high, depending on grade, along the portion of their rear yard that abuts 822 Boylston Street. The fence was constructed higher than the seven feet allowable under the Zoning By-Law. The Building Department observed the non-compliant fence and instructed the applicants to apply for a special permit to legalize the fence.

FINDINGS

Section 5.74 – Fences and Terraces in Rear Yards

Fence Height	Allowed	Existing	Finding
Height (rear)	7 feet	~ 12 to 13 feet	Special Permit*

**The Zoning Board of Appeals may allow a fence to exceed 7 feet at the rear by Special Permit if it can determine that it is warranted to mitigate noise or other detrimental impact.*

STAFF ANALYSIS

The staff supports the legalization of this fence. It already exists and shields the single-family home from a commercial parking lot and office building located off of Reservoir Road that abuts the applicant’s property at the rear. Section 5.74 of the By-Law allows special permits for fences over 7 feet in situations where they will mitigate noise or other negative impacts which apply in this case. The applicant has numerous support letters from direct abutters and neighbors including the owner of the commercial property, Chestnut Equity Partners.

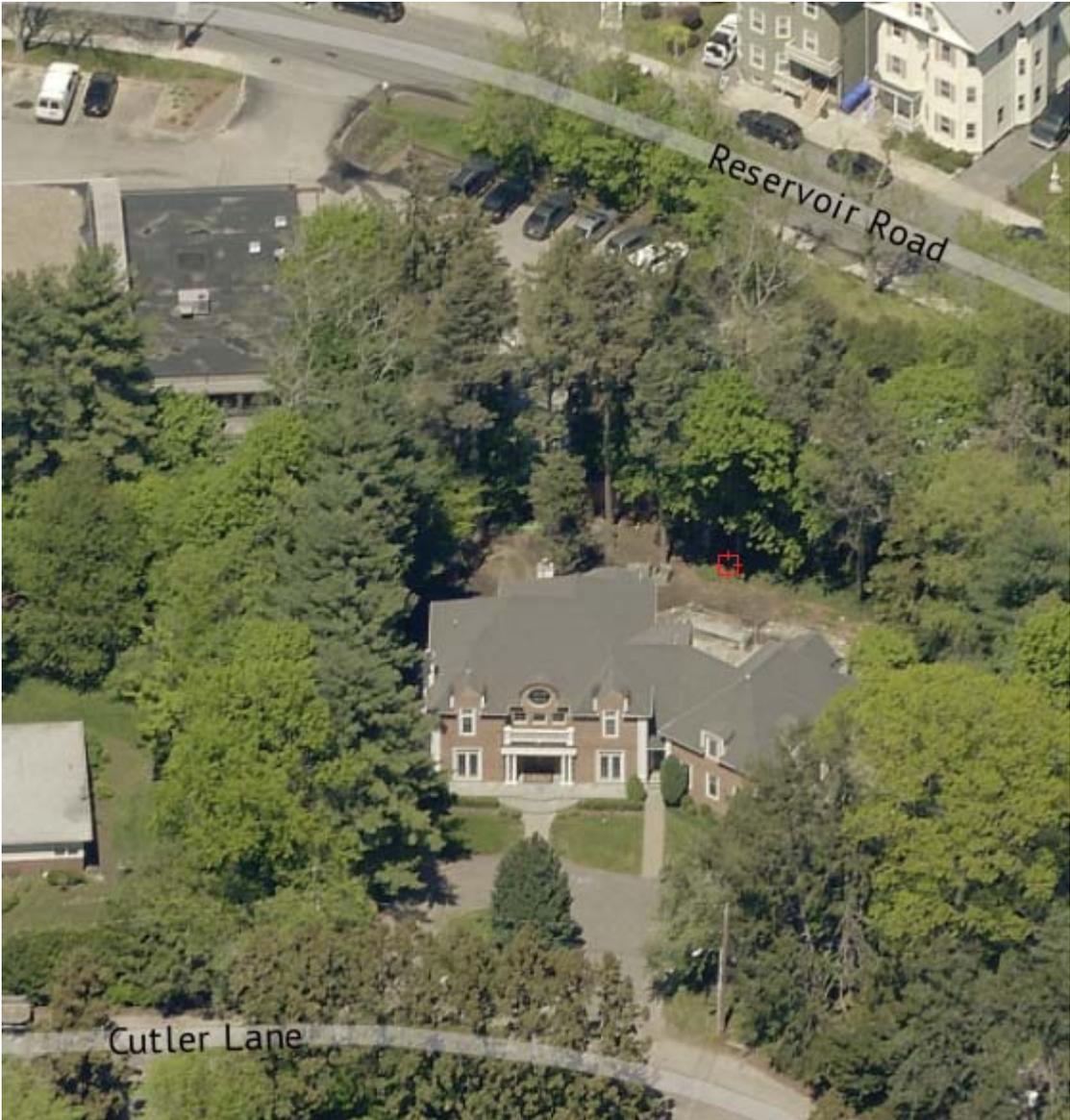
PLANNING BOARD RECOMMENDATION

The Planning Board supported legalizing this existing fence. The Board asked about the fence material, which is bamboo, and questioned the durability of the fence long term, but had no objections.

Therefore, the staff recommends approval of the site plan dated 1/23/2018 by John R. Hamel subject to the following conditions:

1. The applicant shall submit evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

knm





View of applicant's house and fence from Reservoir Road

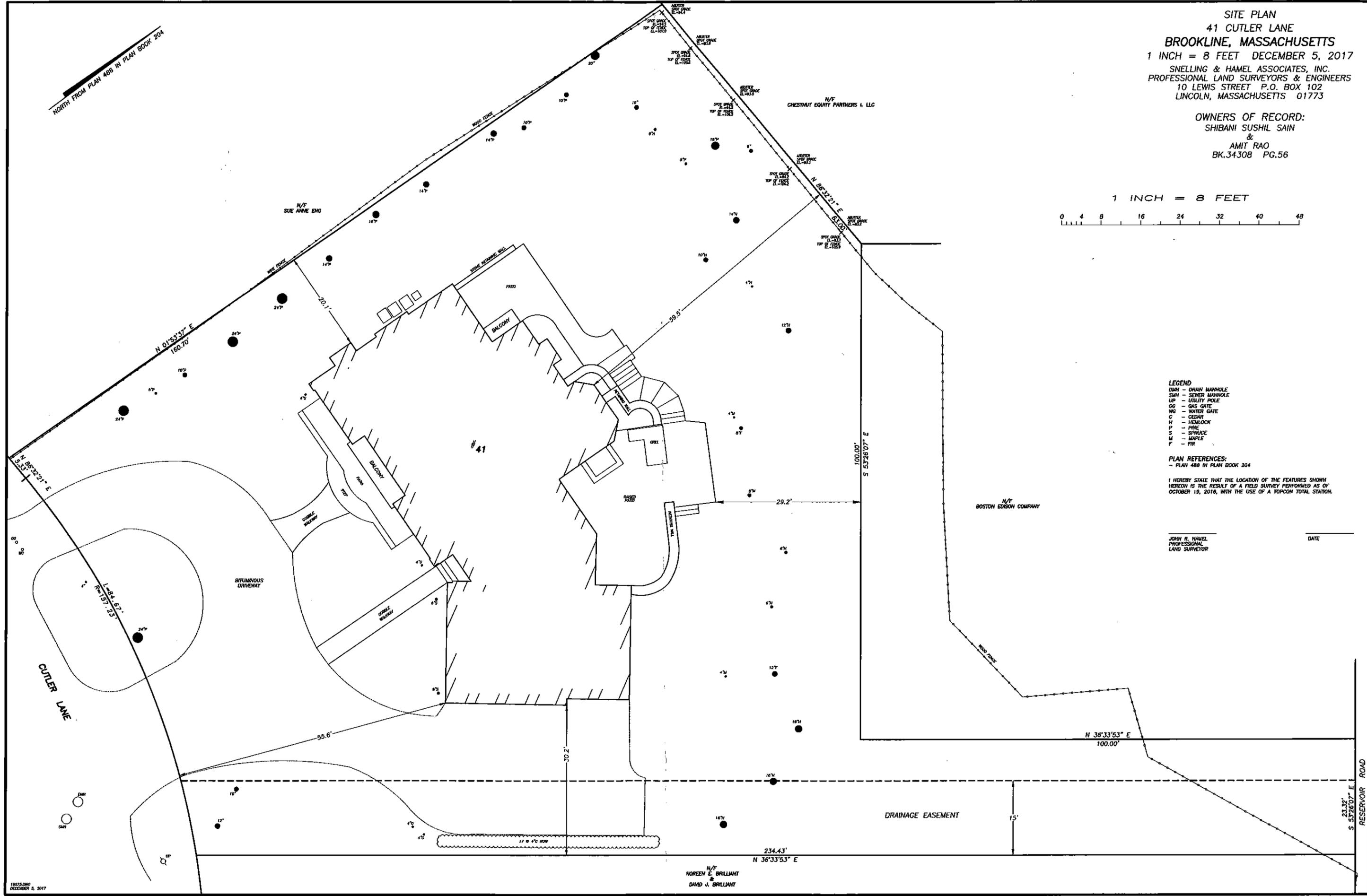
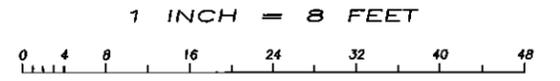


Aerial view of fence from Reservoir Road

NORTH FROM PLAN 486 IN PLAN BOOK 204

SITE PLAN
 41 CUTLER LANE
 BROOKLINE, MASSACHUSETTS
 1 INCH = 8 FEET DECEMBER 5, 2017
 SNELLING & HAMEL ASSOCIATES, INC.
 PROFESSIONAL LAND SURVEYORS & ENGINEERS
 10 LEWIS STREET P.O. BOX 102
 LINCOLN, MASSACHUSETTS 01773

OWNERS OF RECORD:
 SHIBANI SUSHIL SAIN
 &
 AMIT RAO
 BK.34308 PG.56



- LEGEND
- DMH - DRAIN MANHOLE
 - SMH - SEWER MANHOLE
 - UP - UTILITY POLE
 - GG - GAS GATE
 - WG - WATER GATE
 - C - CEDAR
 - H - HEMLOCK
 - P - PINE
 - S - SPRUCE
 - M - MAPLE
 - F - FIR

PLAN REFERENCES:
 - PLAN 486 IN PLAN BOOK 204

I HEREBY STATE THAT THE LOCATION OF THE FEATURES SHOWN HEREON IS THE RESULT OF A FIELD SURVEY PERFORMED AS OF OCTOBER 19, 2016, WITH THE USE OF A TOPCON TOTAL STATION.

JOHN R. HAMEL
 PROFESSIONAL
 LAND SURVEYOR

DATE _____