



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2022 APR 22 AM 10:12
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 170524

General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: _____ Variance: X Appeal: _____

PETITIONER: Thaddeus & Juliana Davis C/O Peter Bemis, Engineering Design Consultants, Inc.

PETITIONER'S ADDRESS: 32 Turnpike Road, Southborough, MA 01772

LOCATION OF PROPERTY: 11 Gray Gdns E., Cambridge, MA

TYPE OF OCCUPANCY: Single Family Residence **ZONING DISTRICT:** Residence A-2 Zone

REASON FOR PETITION:

/Side Yard Setback Relief - As-built Location Spa Pool Structure/

DESCRIPTION OF PETITIONER'S PROPOSAL:

To modify the spa plans approved in BZA Case no. BZA-107421 that does not comply with minimum side yard setback. Spa was constructed substantially in conformance with the Approved 6'x10' Spa Location Plan by Jean Brooks Landscape in that the contractor observed the minimum setbacks granted from the existing dwelling and it was the geometry of the approved plan as drafted was flawed.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 5.000	Section: 5.31 (Table of Dimensional Requirements),
Article: 8.000	Section: 8.22.3 (Non-Conforming Structure).
Article: 4.000	Section: 4.21.H (Accessory Structure).
Article: 10.000	Section: 10.30 (Variance),

Original
Signature(s):



(Petitioner (s) / Owner)

PETER BEMIS

(Print Name)

Address: EDC 32 TURNPIKE RD. SOUTH BARNSTABLE, MA
 Tel. No. 5083809922
 E-Mail Address: pbemis@edcma.com

01772

Date: 4-19-22

BZA Application Form

DIMENSIONAL INFORMATION

Applicant: Thaddeus & Juliana Davis
Location: 11 Gray Gdns E, Cambridge, MA
Phone: 5083809922

Present Use/Occupancy: Single Family Residence
Zone: Residence A-2 Zone
Requested Use/Occupancy: Single Family Residence

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		3310	no change	4212.5 (.5 FAR 8425)	(max.)
<u>LOT AREA:</u>		8425	no change	6,000 min.	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA:</u> ²		.39	no change	.5	
<u>LOT AREA OF EACH DWELLING UNIT</u>		8425	no change	4500	
<u>SIZE OF LOT:</u>	WIDTH	83	no change	65	
	DEPTH	115.21	no change	n/a	
<u>SETBACKS IN FEET:</u>	FRONT	17.5 house	no change	20	
	REAR	40.2 house	no change	25	
	LEFT SIDE	23.4 house	no change	10/5	
	RIGHT SIDE	5.9 house, 3.7 wall spa, 2.6 deck	no change house, 3.7 wall spa, 2.6 deck	10 house, 5 side yard	
<u>SIZE OF BUILDING:</u>	HEIGHT	no change	no change	no change	
	WIDTH	no change	no change	no change	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		no change	no change	no change	
<u>NO. OF DWELLING UNITS:</u>		1	1	1	
<u>NO. OF PARKING SPACES:</u>		no change	no change	no change	
<u>NO. OF LOADING AREAS:</u>		no change	no change	no change	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		no change	no change	no change	

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.:

no change

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.

I/We THADDEAUS + JULIANA DAVIS
(OWNER)

Address: 11 GRAY GARDENS EAST CAMBRIDGE MA

State that I/We own the property located at 11 GRAY GARDENS which is the subject of this zoning application.

The record title of this property is in the name of THADDEAUS JULIANA DAVIS

*Pursuant to a deed of duly recorded in the date 11/19/15, Middlesex South County Registry of Deeds at Book _____, Page _____; or Middlesex Registry District of Land Court, Certificate No. 260947 Book 1481 Page 71.

Thaddeus Davis
SIGNATURE BY LAND OWNER OR AUTHORIZED TRUSTEE, OFFICER OR AGENT*


*Written evidence of Agent's standing to represent petitioner may be requested.

Commonwealth of Massachusetts, County of Suffolk

The above-name THADDEUS DAVIS personally appeared before me, this 12th of April, 2022, and made oath that the above statement is true.

Gina Koprowski Notary

My commission expires 1/10/2025 (Notary Seal).

 **GINA L. KOPROWSKI**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 10, 2025

• If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.

BZA Application Form

SUPPORTING STATEMENT FOR A VARIANCE

EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 40A, SECTION 10.

- A)** A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:
- Approved Site Plan is not dimensionally correct and although contractor observed the minimum 2 and 4.6-foot setbacks to dwelling this pushed the spa further north toward the side yard that was identified as being 5-feet away from spa at a point about midpoint east/west of the spa and this tie distance is not perpendicular to the closest projection of the spa to the lot line, making it mathematically impossible to comply with both the 5-foot minimum sideyard and 2/4.6' offset to existing dwelling setbacks as approved.
- B)** The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures by not affecting generally the zoning district in which it is located for the following reasons:
- As outlined above the geometry of the limited sideyard space that the spa was to be located within made the task of installation challenging and the ability to comply with minimum setbacks impossible without first conducting an on-the-ground survey that was only completed as part of the "post-construction" as-built work completed by Engineering Design Consultants. If the as-built spa is observed in the field by a non-surveyor one would readily conclude that the work was properly executed and setbacks properly satisfied.
- C) DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:**
- 1)** Desirable relief may be granted without substantial detriment to the public good for the following reasons:

The spa was previously granted relief for specifically outlined dimensional relief as identified on the Approved Site Plan with the only 2 reliable tie distances available to the installation contractor: 2-feet off the garage (west) and 4.6-feet off the dwelling north (taken at the foundation bump-out). On the ground it appears that the spa has been properly installed and abutting properties are no more or less adversely affected by the as-built position versus the one that could have resulted from observing the minimum side yard setback that would have adversely affected the rear dwelling egress and put the spa too close to the dwelling and still required a Variance being less than the approved 4.6-feet.
 - 2)** Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

The abutting properties are separated by 6-foot stockade fence and the abutter to the north has a garage that is located about 1-2 feet from the minimum setback boundary that is in question. It appears that the property owner properly executed a contract for the installation of the spa that

they tied to the approved site plan and the contractor to the maximum extent feasible and without benefit of a boundary survey properly executed the contract and truly believed they had properly installed the spa. The intent of the bylaw is to provide both a minimum setback to a side yard of 5-feet and to a dwelling of 10-feet and it was only the dwelling setback that was waived from 10-feet to 4.6-feet and 2-feet and these setbacks were properly observed. Granting side yard relief will not nullify or derogate from the bylaw and should reinforce the need to rely upon only professionally executed and sealed documents when dimensional relief is being granted.

***If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

PLAN NOTES

1. THE PROPERTY LINES AND EXISTING CONDITIONS SHOWN HEREON ARE THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED BY LIGHTHOUSE LAND SURVEYING LLC BETWEEN NOVEMBER 22, 2021 AND JANUARY 24, 2022.
2. SURVEY TRAVERSE POINTS 3 AND 6 WERE OBSERVED WITH A CARLSON BRX6+ GPS RECEIVER USING THE MASSDOT M&CORS RTK NETWORK.

HORIZONTAL DATUM:
 MASSACHUSETTS STATE PLANE – MAINLAND ZONE NAD83 (2011) EPOCH 2010.00 – US FEET

VERTICAL DATUM:
 NORTH AMERICAN VERTICAL DATUM OF 1988 (GEOID 12B) – US FEET
3. ALL ON-THE-GROUND OBSERVATIONS WERE PERFORMED USING LEICA TS12 (3") ROBOTIC TOTAL STATIONS.
4. THE LEGAL STATUS OF THE STREETS AND/OR WAYS SHOWN HEREON, WHETHER THEY ARE PUBLIC OR PRIVATE, WAS NOT MADE PART OF THIS SURVEY.

OWNER

THADDEUS H. & JULIANA V. DAVIS
 11 GRAY GARDENS EAST
 CAMBRIDGE, MA 02138

PLAN REFERENCES

- LC CASE 8769 A
- LC CASE 8769 G
- LC CASE 8769 I
- LC CASE 8769 J
- LC CASE 8769 A

DEED REFERENCE

LC CERT 260947

ASSESSORS REFERENCE

ASSESS. PARCEL ID 207-40

I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS, TITLE 250 CMR 6.00.

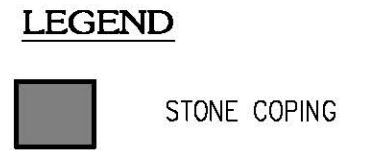
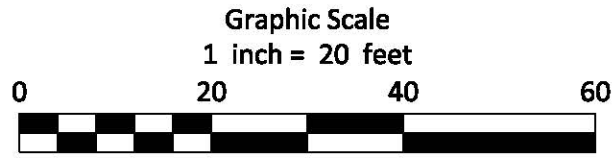
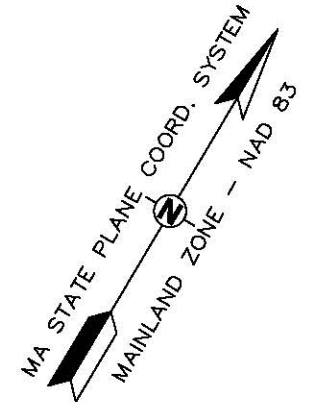
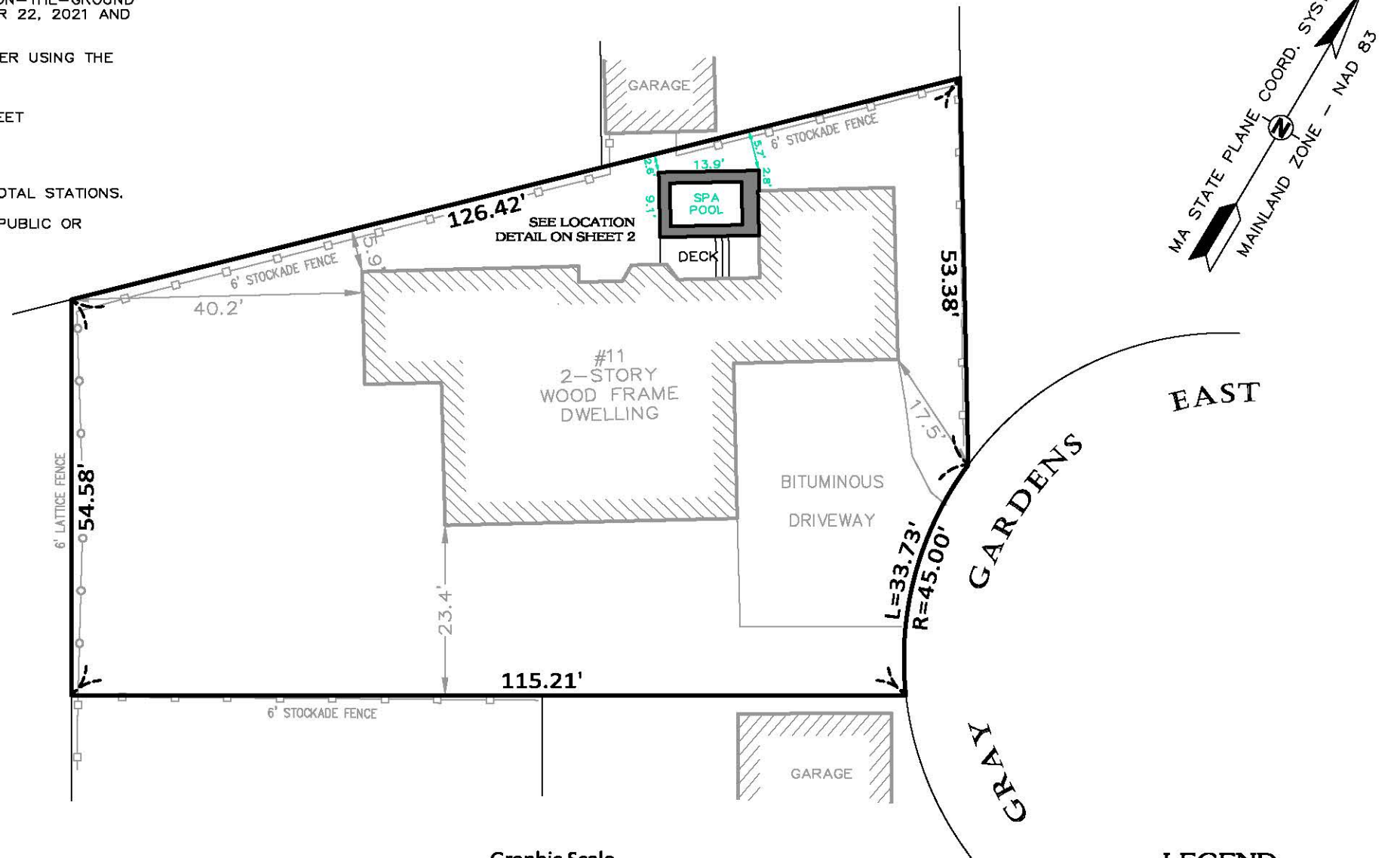


Richard W. Reid, Jr.

JANUARY 24, 2022

PROFESSIONAL LAND SURVEYOR

DATE



PREPARED BY:



Engineering Design Consultants, Inc.
 32 Turnpike Road
 Southborough, Massachusetts
 (508) 480-0225

PROJECT:

DAVIS RESIDENCE
 11 GRAY GARDENS EAST
 (MIDDLESEX COUNTY - SOUTH DISTRICT)
 CAMBRIDGE, MASSACHUSETTS

TITLE:

**SPA POOL
 WITH STONE COPING
 LOCATION PLAN**

PREPARED FOR:

Thaddeus H. & Juliana V. Davis
 11 Gray Gardens East
 Cambridge, Massachusetts 02138

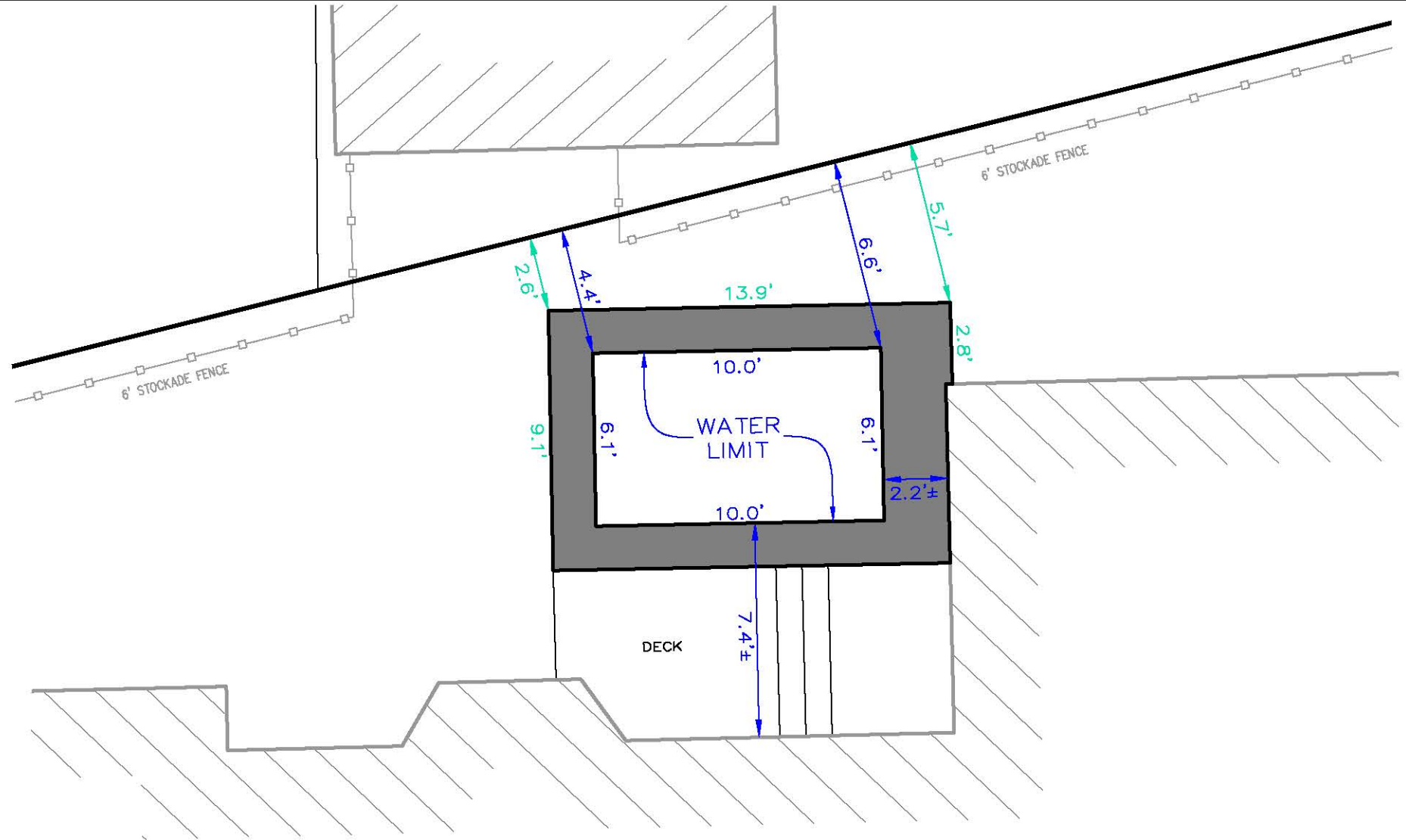
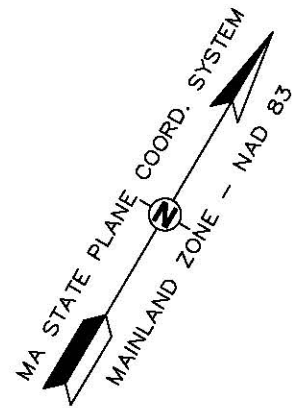
DATE:

JANUARY 24, 2022

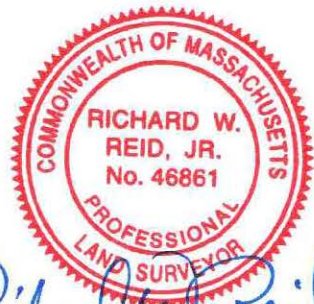
1 OF 2

EDC PROJECT NUMBER

3759



I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS, TITLE 250 CMR 6.00.



Richard W. Reid, Jr.

JANUARY 24, 2022

PROFESSIONAL LAND SURVEYOR

DATE

Graphic Scale
1 inch = 5 feet



LEGEND



PREPARED BY:



Engineering Design Consultants, Inc.
32 Turnpike Road
Southborough, Massachusetts
(508) 480-0225

PROJECT:

DAVIS RESIDENCE
11 GRAY GARDENS EAST
(MIDDLESEX COUNTY - SOUTH DISTRICT)
CAMBRIDGE, MASSACHUSETTS

TITLE:

**SPA POOL
WITH STONE COPING
LOCATION DETAIL**

PREPARED FOR:

Thaddeus H. & Juliana V. Davis
11 Gray Gardens East
Cambridge, Massachusetts 02138

DATE:

JANUARY 24, 2022

2 OF 2

EDC PROJECT NUMBER

3759





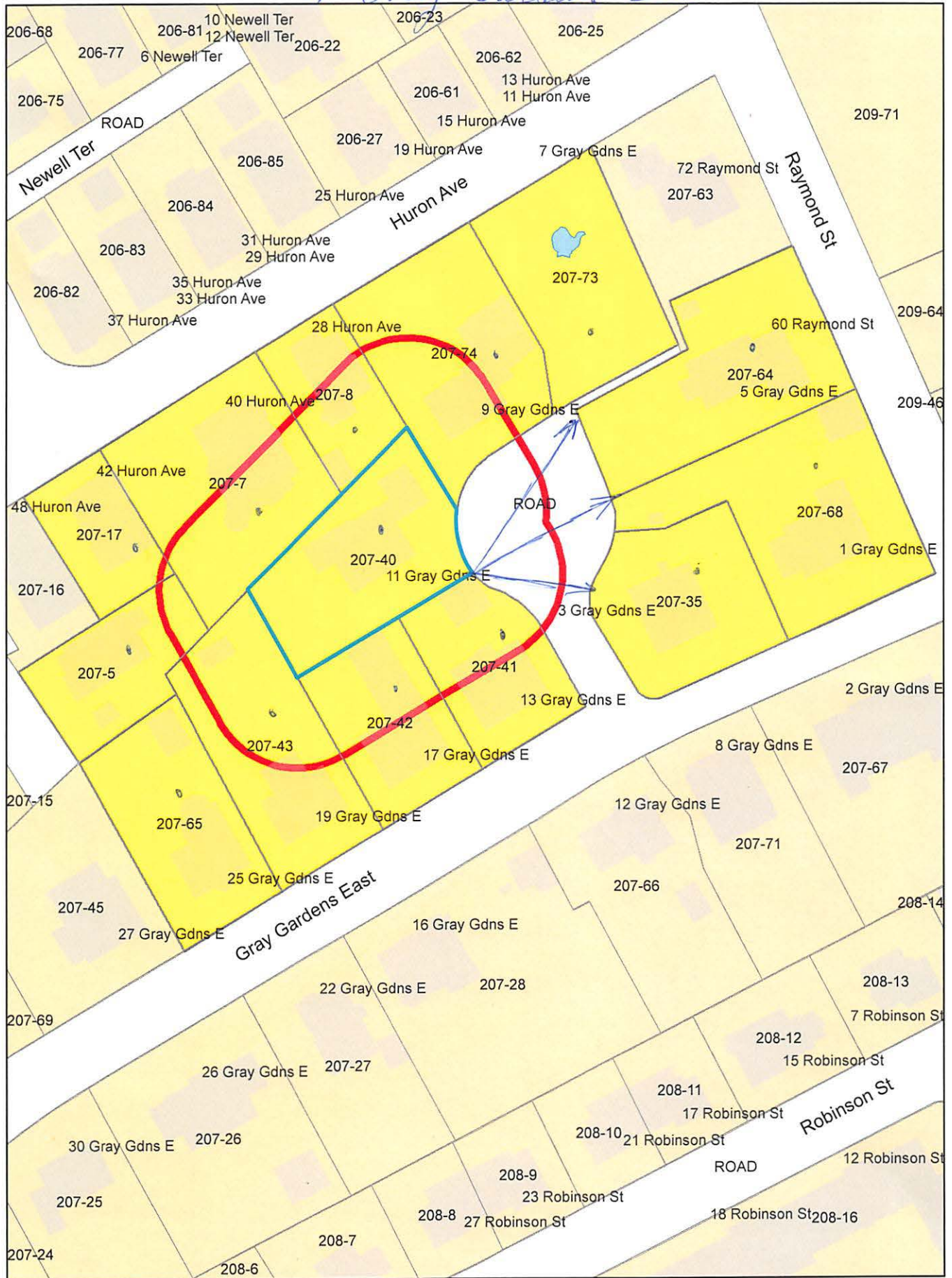








11 Gray Gardens East



11 Gray Gardens East

Petitioners

207-41
HARWOOD, SIBYL Y.
13 GRAY GARDENS EAST.
CAMBRIDGE, MA 02138-1509

207-64
MORIARTY, JOHN J.III &
KATHRYN ROSE MORIARTY
60 RAYMOND ST
CAMBRIDGE, MA 02140

207-40
DAVIS, THADDEUS H. & JULIANA V. DAVIS
11 GRAY GDNS E
CAMBRIDGE, MA 02138

207-74
JOBIN-LEEDS, GREGORY & MARIA JOBIN-LEEDS
9 GRAY GARDENS EAST
CAMBRIDGE, MA 02138

207-35
NATHANSON LARRY & ANNA NATHANSON
3 GRAY GARDENS E
CAMBRIDGE, MA 02138

ENGINEERING DESIGN CONSULTANTS, INC.
C/O PETER BEMIS
32 TURNPIKE ROAD
SOUTHBORO, MA 01772

207-5
SEVERINO, VITTORIO & STEPHANIE HAIMS
6 CUTLER AVE
CAMBRIDGE, MA 02138

207-8
EPSTEIN, ARON & JACQUELINE BELL
28 HURON AVE
CAMBRIDGE, MA 02138

207-43
WEBB, CHARLES & FRANCES T WEBB
19 GRAY GARDENS EAST
CAMBRIDGE, MA 02138

207-65
HOLTZWORTH, ANNE S.
23 GRAY GARDENS EAST
CAMBRIDGE, MA 02138

207-73
JOBIN-LEEDS, GREGORY & MARIA JOBIN-LEEDS
TRUSTEES OF SEVEN GRAY GARDENS REALTY TR
BOX #390109
CAMBRIDGE, MA 02139

207-7
SULIKOWSKI, ALAN V. & MARISA G. SULIKOWS
40 HURON AVE
CAMBRIDGE, MA 02138

207-17
SULLIVAN, MICHAEL A. & DENISE M. SULLIVAN
42 HURON AVE
CAMBRIDGE, MA 02138-6706

207-42
WARNER ANIL K & MARK J WARNER &
JOHN P WILKINS TRS
17 GRAY GDNS E
CAMBRIDGE, MA 02138

207-68
IATRIDOU, SABINE & CONSTANTINOS MARINOS
1 GRAY GARDENS EAST
CAMBRIDGE, MA 02138-1547

Pacheco, Maria

From: LARRY NATHANSON <larrymd1@comcast.net>
Sent: Thursday, May 5, 2022 2:58 PM
To: Pacheco, Maria; Thad Davis
Subject: Case # BZA-170524

Maria Pacheco,
Board of Zoning Appeal,
City of Cambridge:

I am a long term (1935) resident at # 3 Gray Gardens East Cambridge, a neighbor of Thaddeus and Juliana Davis at 11 Gray Gardens East.

A surveying technicality has resulted in less than a 5 ft. side yard setback between the Davis' approved plunge pool and their property line. Since the plunge pool itself is entirely on their property, and it will be used for exercise and physical and mental health maintenance, I believe that the Davis' should be granted a variance in this case.

In addition I doubt that the variance will result in any possible infringement on property use by any of the neighbors, or property owners, involved in this case (BZA-170524).

Larry Nathanson, MD
3 Gray Gardens East,
Cambridge MA



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.
(617) 349-6100

BZA

POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: Zachary Beavis Date: 3/2/2022
(Print)

Address: 11 Gray Gardens East

Case No. BZA-170524

Hearing Date: 5/19/22

Thank you,
Bza Members



SHACK LIVES MATTER

Waste Recycling Bin





Notice of Public Hearing

A Petition has been presented to the Board of Zoning Appeal (BZA) on the following matter. If you wish to express your views in favor of or in opposition to the petition, you are invited to attend the public hearing held virtually, or submit a written statement to the Board of Zoning Appeal, 831 Mass Avenue, Cambridge, Mass. or email your comments to Maria Pacheco mpacheco@cambridgema.gov. If you would like further information, please contact the Zoning department at 349-6100 or visit our office at Inspectional Services Department. Please be advised that documents may be submitted, including revisions to plans or documents previously submitted, by the petitioner or any interested party for the BZA's consideration at the hearing if the documents are submitted prior to 5:00 p.m. on the Monday before the public hearing. It is within the BZA's sole discretion whether to accept further revisions to plans or documents at the public hearing.

Members of the public can participate or view the meeting remotely using the Zoom Webinar link: <https://cambridgema.zoom.us/j/8570265517>
Or join by phone: Dial +1 929 436 2866 or +1 301 715 8592 - Webinar ID: 857 026 55517

VIRTUAL HEARING – THURSDAY – MAY 19, 2022 @ 8:00 P.M.

Please Note: If at this hearing, the BZA Chairperson continues the case to a later date, you will not receive further notice. However, dates for continued BZA cases are posted on the notice board at the City Clerk's office, City Hall, and the City's Website.

CASE NO: BZA-170524

LOCATION: 11 GRAY GARDENS EAST
CAMBRIDGE, MA

PETITIONER: THADDEUS & JULIANA DAVIS
C/O PETER BEMIS, ENGINEERING DESIGN CONSULTANT, INC.

ZONING DISTRICT: RESIDENCE A-2 ZONE

PETITION: **Variance:** To modify the spa plans approved in BZA Case no. BZA-107421 that does not comply with minimum side yard setback.

VIOLATIONS: Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements),
Art. 8.000, Sec. 8.22.3 (Non-Conforming Structure), & Art. 10.000, Sec. 10.30 (Variance),
Art. 4.000, Sec. 4.21.H (Accessory Structure).

Copies of the application are on file at the City Clerk's Office, City Hall, 795 Massachusetts Avenue, and at the Inspectional Services Department, Lombard Building, 831 Massachusetts Avenue, Cambridge, Massachusetts.

Address written comments to the Board of Zoning Appeal,
831 Massachusetts Avenue, Cambridge, MA 02139

For more information please call 349-6100. TTY: 349-6112