



Town of Belmont

**APPLICATION FOR A SPECIAL PERMIT**

Date: 4-14-2016

Zoning Board of Appeals  
Homer Municipal Building  
19 Moore Street  
Belmont, MA 02478

To Whom It May Concern:

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, as amended, and the Zoning By-Laws of the Town of Belmont, I/we the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on 155 DEAN Street/Road, hereby apply to your Board

EXPAND REAR DECK

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Signature of Petitioner *Edin Insanic*

Print Name EDIN INSANIC

Address 155 DEAN ST  
BELMONT MA 02478

Daytime Telephone Number 781 859 9171

Edin and Nina Insanic  
155 Dean St.  
Belmont, MA 02478

Office of Community Development  
Town of Belmont  
Special Permit Application for 155 Dean St.

March 20<sup>th</sup>, 2016

RE: Special Permit Application for 155 Dean St.

To Whom It May Concern:

Our family of four have been Belmont residents since 2009. My wife Nina Insanic is a CPA and I am a scientist at Raytheon BBN at Concord Avenue in Cambridge and have been a volunteer coach in Belmont Soccer Association for the past five years. Our two kids, Victor and Hannah Sage, are students of the Belmont school system.

Our family likes to barbeque, eat outdoors and work in the garden, so we enjoy our yard very much. However, our approximately 8'x12' sized deck is too small to accommodate a b grill and a small patio table both at the same time. So, we decided to expand our deck to a size that better matches our needs. Last year we applied for a deck expansion, but it was unfortunately denied (rejection letter enclosed). The denial was based on the ground that our proposed deck design, violated the rear setback regulation, specified at thirty (30) feet.

With this letter we would like to apply for the Special Permit to expand our deck, as per attached drawings. We believe that the Special Permit should be granted for the following reasons: 1) Shape, Position and History of the Lot, 2) Lack of Practical Alternatives, 3) Interpretation of the Bylaws, and, 4) Aestheticisms of the overall residence.

1. *The Lot Shape*

Our land at 155 Dean St., lot 19, is irregularly shaped. While the house itself is parallel to Dean Street, the main portion of rear lot line is at around 40 degrees from the residence. As one can see from a copy from surveyor's plot (please refer to Figure 1, and the original copy is enclosed with our application), the difference between vertical projections from two house corners to the rear plot line is 35 feet.

The reason behind our lot's irregular shape was explained by our next door neighbor Mr. Vincent DiGiovanni of 151 Dean Street. Mr. DiGiovanni told us that he and his brother had originally had developed the residences at 151, 155 and 165 Dean St back in the sixties of the last century. Mr.

DiGiovanni explained that as they started developing 165 Dean St they lacked sufficient lot size to develop a house. So they transferred a sliver of 155 Dean St. (next camera position B highlighted in yellow in Figure 3) to 165 Dean St. (Lot 20). That way the lot 23 (165 Dean St.) had sufficient size to meet the town requirements for residence building. As a result, lot 20 (165 Dean Street) now encroaches our lot (lot 23, 155 Dean Street) from the side *and* from the rear. Please note that without the “vertex” in the boundary it would be very hard to establish which part of the lot 20 lies on the side of our lot and which part on the rear.

The “encroachment” piece of Lot 20, wedged in between Channing St and our lot is not buildable, does not have any manmade structures and is landscaped with evergreen trees and hedges, as it can be seen in photo in Figures 4, 5 and 6. This piece of land is being landscaped by us, which was the case since 155 Deans St. residence was developed (as we were told). One of the reasons that rear setback regulation exists is to provide some separation buffer between common areas of adjacent properties. This reasoning do not apply here since this land wedge is not buildable and Channing Road is adjacent to it.

## 2. Lack of Practical Alternatives

More than 30% of our existing deck, including two of its sides, do not conform to the specified 30 feet setback regulation. This severely limits deck expansions options. To expand the deck under the 30 feet setback constraint, our deck can only be extended sideways to the opposite side of the house. However, this approach has severe impediments. First, the deck would block the first floor windows. These windows are important as they are the only first floor windows on that side of the house. Placing a deck above them would block the light into the first floor bathroom and the first floor family room. Second, it would block the view of the yard, as one of the windows is directly seen from the front entrance doors. Third, such expansion would require that the existing deck stairs be relocated to the opposite side, which would result in unnecessary cost increases and require additional deck footage to accommodate the traffic to the yard.

A ground-level patio can be considered as a feasible alternative to our deck expansion. However, to reach the ground level patio, there are 11 stairs to climb. This number of stairs represents a challenge when we have our older family members visiting. Moreover, because we are planning to grow old in this home the deck stairs will represent a challenge in the future for us as well.

## 3. Bylaw Interpretation

Our lot is irregular lot and its depth varies across the rear of the house. Across approximately two fifths (2/5) of the lot width, the lot depth is less than one hundred feet. According to Town of Belmont Bylaw section 4.2.2, footnote 2: “*On lots having depth of less than 100 feet, dwelling setback from the rear lot line shall equal (...), not less than 30% of lot depth in Single Residence B and C Districts, (...); but in no event shall the rear setback equal less than 25 feet in Single Residence Districts (...)*”. As illustrated in the Figure 3, our proposed deck resides in the area that is less than 100 feet and,

therefore, 4.2.2, footnote 2, should apply. Note that the lot depth at the point where our proposed deck is the closest to the rear lot line is 83 feet. 30% of 83 feet is 25 feet which is less than our proposed deck setback of 25.3 feet. Therefore, if this bylaw interpretation is correct, then our proposed deck expansion conforms to the setback requirement.

The second argument we would like to make is that there is no explicit definition of a deck construction in Belmont Bylaw document [2]. Many towns explicitly define decks as ancillary buildings, keeping its regulation separate from the main residence. Town of Belmont Bylaw section 4.2.2, specifies two setbacks. One is for "Dwellings" and it is 30 feet. Another setback is for "Other" (presumably non-dwelling units) where the rear setback is 25 feet. Whether or not our proposed deck extension belongs to a "dwelling" class, or, to the "other" class of buildings, is debatable. Most likely, the historical interpretation trumps our argument that a deck is actually belongs to the "other" class of buildings, not "dwellings". However, according to Belmont's Bylaw book the definition of the *dwelling* is as follows "*Dwelling - A building containing one or more dwelling units separated by side yards from any other structure or structures except accessory buildings.*". In the same document accessory building is defined as: "*- A building devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.*" Because our proposed deck will not be connected to the principal building through a roof structure one could interpret the proposed deck fits into "Other" category and therefore fall under 25 foot setback regulation.

The third argument we would like to make is that is not very clear where the transition between the side and the rear setback occurs. The "vertex" point, between our lot and the neighboring lot, lot 20, is used as the "marker" between side and rear setback. One could argue that the vertical projection from the corner of the house should've been used instead. Furthermore, as lot 20 encroaches our lot, one could argue that the lot 19 is our actual "rear" neighbor and that lot 19 boundary should've been used for the rear seatback instead.

Accepting either of these three Bylaw interpretation arguments, it can be concluded that our proposed deck should conform to 25-foot setback and not the 30-foot setback requirement and, therefore, our proposed plan should be accepted.

#### 4. Aesthetics

Our home, developed back in 1959, is a mixture of a raised ranch and a split entry house having a strict rectangle shape. In contrast to the backs side of the house, which is uniformly covered with white aluminum siding, our existing deck at its 12x8 feet size looks fairly small, almost as an afterthought. Increasing the deck size would improve the relative scale and overall aesthetics of the residence. A non-rectangle shape of the proposed deck would add another dimension that would provide a natural flow from the upper common areas to the surrounding environment and the back yard, while still being consistent with the raised ranch impression. Figure 8 shows the computer generated rendering of our envisioned deck. Furthermore, as shown in photo in Figure 7, our neighbor's residence at 165 Deans t., Lot 20, protrudes around 5 feet more towards the Channing road in comparison to our existing deck (even though it is closer to the Channing road) . Our proposed

deck expansion would not affect the overall house dimension in contrast to neighboring houses nor affect the neighborhood feel.

Finally, enclosed in this Special Permit Application are two letters from our next door neighbors, Mr. Reagan (Lot 20) and Mr. DiGiovanni (Lot 21), supporting our Special Permit Application. Because of the lot shape, its position, lack of practical alternatives and neighbor's support for the special permit application we ask the special permit review board to accept our application and allow our family to expand our beloved deck.

Sincerely Edin and Nina Insanic

P.S.

*Our dear neighbor Mr. Vincent DiGiovanni passed away in January of 2016, six months after the special permit was considered. In speaking with his family we didn't find any objections to our application and they decided to let us use the Mr. DiGiovanni support letter.*



OFFICE OF COMMUNITY DEVELOPMENT  
TOWN OF BELMONT  
19 Moore Street  
Homer Municipal Building  
Belmont, Massachusetts 02478-0900

Telephone: (617) 993-2650 Fax: (617) 993-2651

Building Division  
(617) 993-2664  
Engineering Division  
(617) 993-2665  
Planning Division  
(617) 993-2666

February 4, 2015

Mr. Edin Insanic  
155 Dean Street  
Belmont, MA 02478

RE: Denial to Expand Rear Deck

Dear Mr. Insanic,

The Office of Community Development is in receipt of your building permit application for your proposed Rear Deck Expansion.

Your application has been denied because it does not comply with the current Town of Belmont Zoning By-Laws. More specifically, Section 4.2.2, of the Zoning By-Laws Dimensional Regulations requires a minimum rear setback of 30' in a Single Residence C Zoning District.

1. The existing and proposed rear setback to your proposed deck expansion is 25.3'.

You may alter your plans to conform to the current Town of Belmont Zoning By-Laws and resubmit for a building permit, or you may request a Special Permit from the Zoning Board of Appeals to construct the addition. If you choose this option, please contact the Office of Community Development to schedule an appointment with Ara Yogurtian, Assistant Director, at (617) 993-2650 in order to begin the process.

Sincerely,

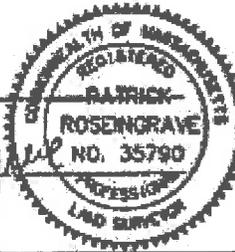
Glenn R. Clancy, P.E.  
Inspector of Buildings

## Zoning Compliance Check List (Registered Land Surveyor)

Property Address: Belmont, Dean Street, 155

Zona: SR-C

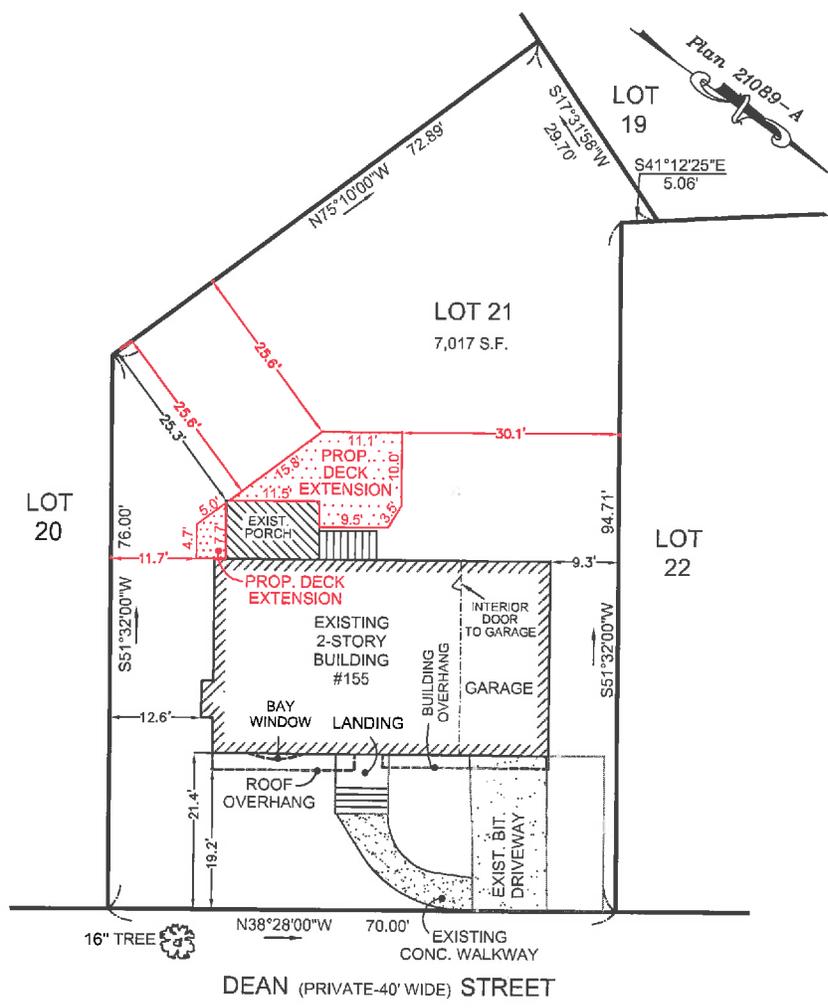
Surveyor Signature and Stamp: *Patrick Rosegrave*



Date: 08/12/2015

	REQUIRED	EXISTING	PROPOSED
Lot Area	min. 9,000 Sq. Ft.	7,071 Sq. Ft.	N/A
Lot Frontage	min. 75'	70'	N/A
Floor Area Ratio	N/A	N/A	N/A
Lot Coverage	max. 25%	21.6%	24.9%
Open Space	min. 50%	75.5%	72.2%
Front Setback	min. 25'	19.2'	N/A
Side Setback	min. 10'	12.6'	11.7'
Side Setback	min. 10'	9.3'	29.4'
Rear Setback	min. 25.6'	25.3'	25.6'
Building Height	N/A	N/A	N/A
Stories	max. 2.5	2	2
½ Story Calculation			

<b>NOTES:</b>



**NOTES:**

- \* Assessors Ref.: Map 37, Lot 21
- \* Deed Ref.: Book 59751, Page 64
- \* Plan Ref.: End of Book 9895
  - End of Book 8955
  - Plan No. 21089-D
  - Plan No. 148 of 1935
  - Book 8418, Page 193
  - Book 8044, Page 422
- \* Zone: Single Residence C
- \* Property is outside of flood zone based on Flood Insurance Rate Map for the town of Belmont #25017C 0418E, effective date June 4, 2010.
- \* Locus lot is not within the wetlands or wetland buffer zone.
- \* No other public shade trees are located within the limits of the property frontage of the subject property.
- \* Distances shown were measured from building clapboard.
- \* Elevations based on assumed datum.

Required	Setbacks			Lot Coverage	Open Space
	Front	Side	Rear (*)		
Required	min. 25'	min. 10'	min. 25.6'	max. 25%	min. 50%
Existing	19.2'	12.6'; 9.3'	25.3'	21.6%	75.5%
Proposed	N/A	11.7'; 30.1'	25.6'	24.9%	72.2%

(\*) MINIMUM REAR SETBACK REQUIREMENT CALCULATION:  
According to Section 4.2.2. Footnote 3) of Town of Belmont Zoning Bylaw:

"On lots having depth of less than 100', dwelling setback from the rear lot line shall equal (...) not less than 30% of lot depth in Single Residence B District (...) but in no event shall the rear setback equal less than 25 feet in Single Residence Districts..."

Lot Depth =  $(76.00' + 94.71') / 2 = 83.35'$   
Min. rear setback =  $83.35' * 30\% = 25.60'$

**Proposed Plot Plan**  
**155 Dean Street**  
**Belmont, MA 02478**

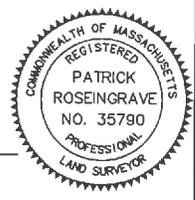
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Owner: Edin & Fadila Insanic  
House No. 155  
Lot No. 21  
App. No. n/a  
Date August 11, 2015  
Scale 1 inch = 20 feet

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Plan Prepared By:  
**LAND MAPPING INC.**  
10 Andrew Square,  
South Boston, MA 02127  
Tel. 857-544-3061

*Patrick J. Roseingrave*  
Patrick J. Roseingrave  
Professional Land Surveyor



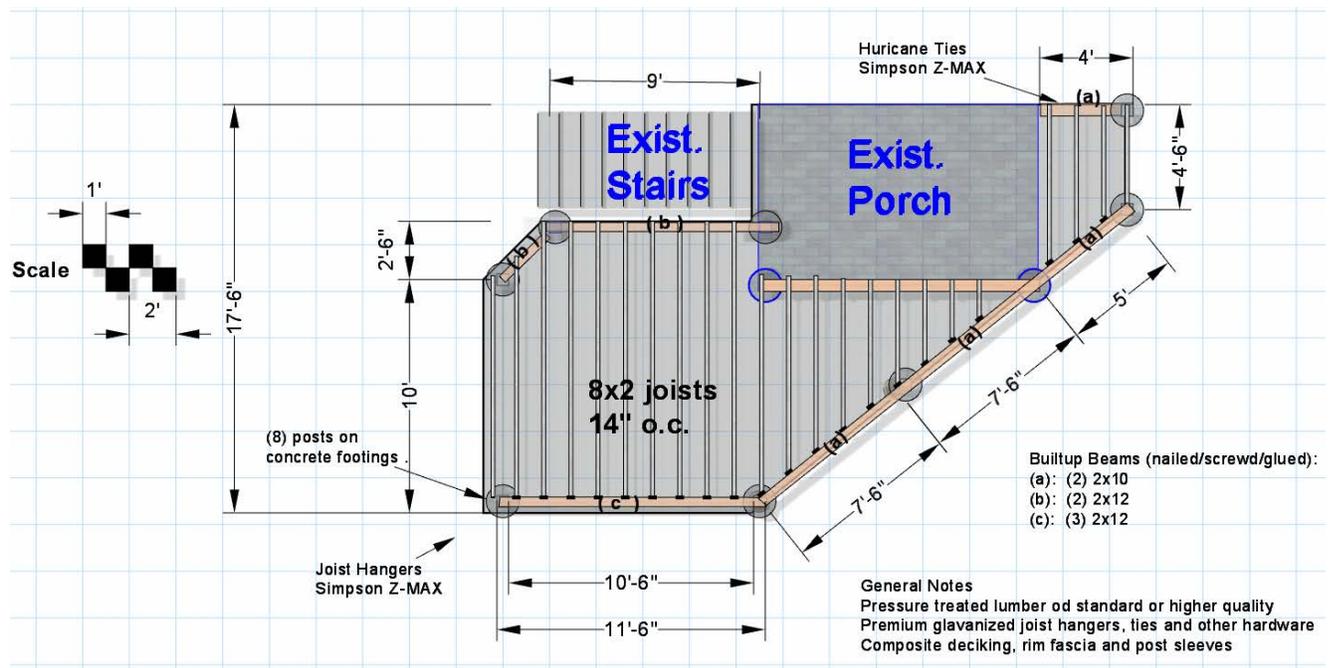


Figure 11. Framing drawing

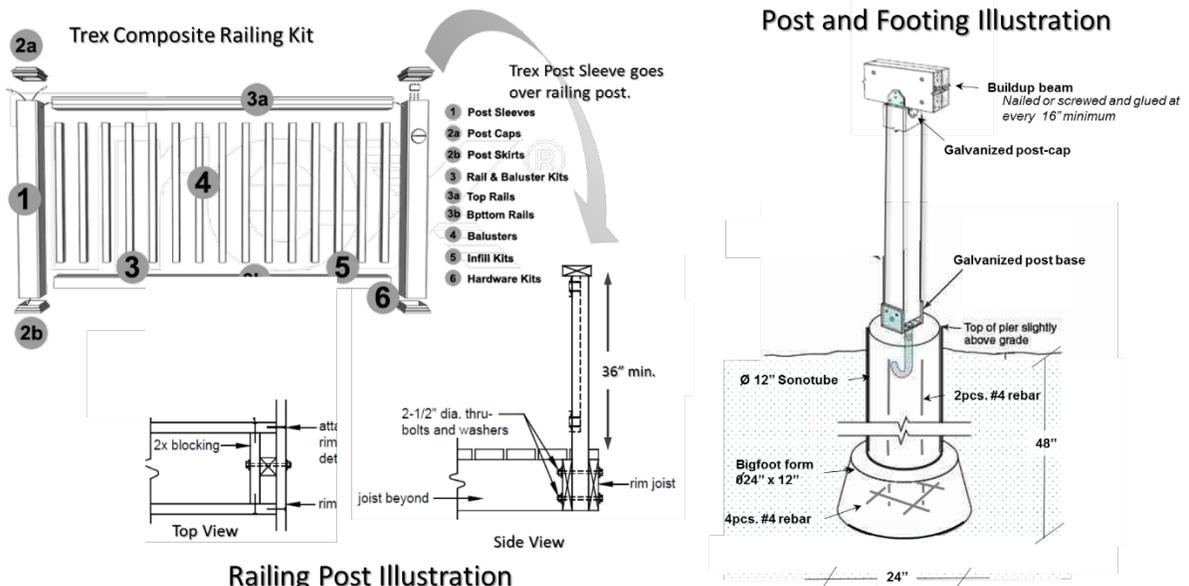


Figure 12. Railing and post and footing detail

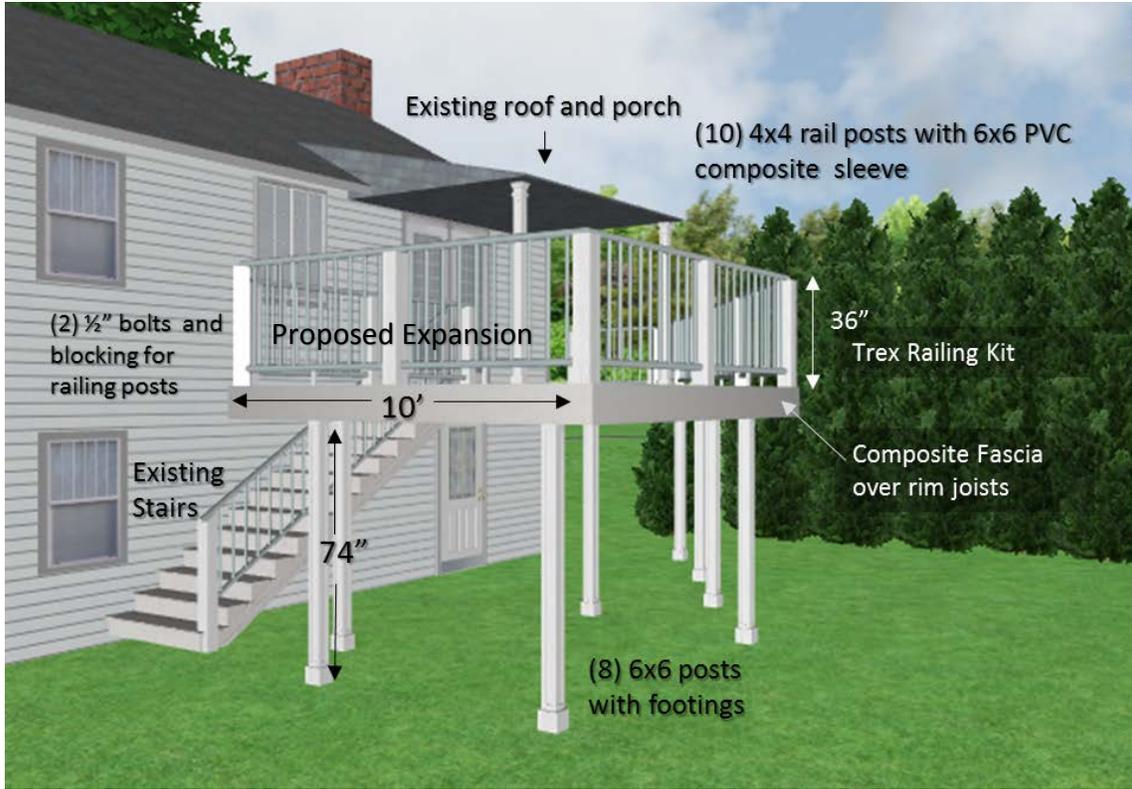


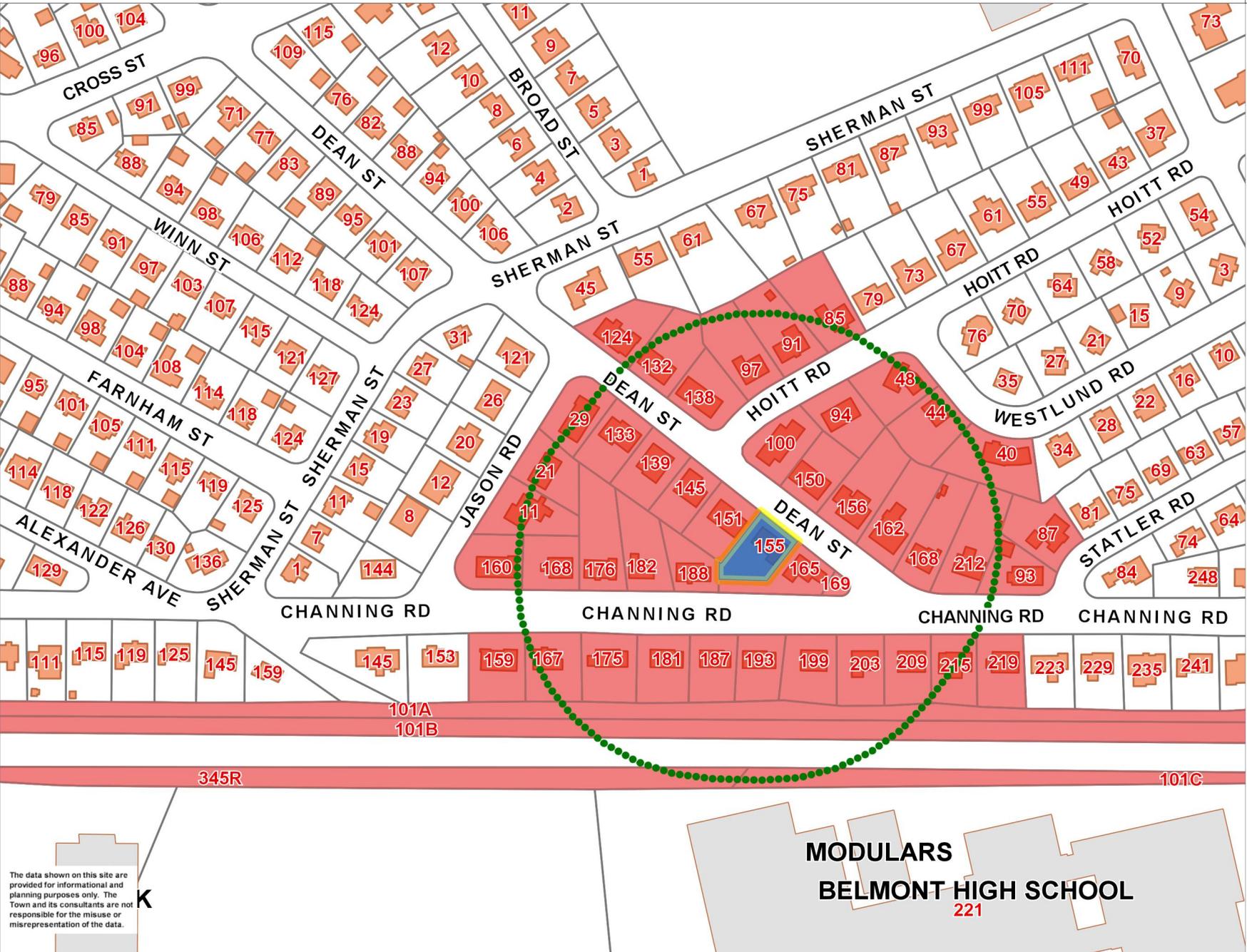
Figure 2 Proposed deck - Elevation view



Figure 3. Zillow lot map to illustrate lot position and camera viewpoints



- Town-Owned Buildings
- McClean Buildings
- Buildings
- Parcels
- Town Boundary
- MA Highways
- Interstate
- US Highway
- Numbered Routes
- Charles\_poly
- Chartes\_arc
- Abutting Town Labels
- Abutting Towns
- Roads
  - Major Road, Collector
  - Minor Road, Arterial



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 04/22/2016 at 09:05 AM

<b>Parcel</b>	<b>Owner</b>	<b>Address</b>	<b>Town</b>	<b>State</b>	<b>Zip</b>	<b>Location</b>
37-48	KIM TE YOUNG TAE	100 HOITT RD	BELMONT	MA	02478	100 HOITT RD
35-14-A	BELMONT CITIZENS FORUM INC	PO BOX 609	BELMONT	MA	02478	101A CHANNING RD
36-1	MBTA	45 HIGH ST	BOSTON	MA	02110	101C CHANNING RD
37-28	SHU TE BO	11 JASON RD	BELMONT	MA	02478	11 JASON RD
37-93	ZHAO TE YONG	124 DEAN ST	BELMONT	MA	02478	124 DEAN ST
37-94	IRION TE REED A	132 DEAN ST	BELMONT	MA	02478	132 DEAN ST
37-25	MUZZIOLI DANTE S	22 HOUGH RD	BELMONT	MA	02478	133 DEAN ST
37-95	ADAMS TRS ALEXANDRE A	138 DEAN ST	BELMONT	MA	02478	138 DEAN ST
37-24	SULLIVAN TE PAUL A	139 DEAN ST	BELMONT	MA	02478	139 DEAN ST
37-23	BARBER TE THOMAS W	145 DEAN ST	BELMONT	MA	02478	145 DEAN ST
37-49	CAMPBELL JENNIFER L	150 DEAN ST	BELMONT	MA	02478	150 DEAN ST
37-22	PAYSON STREET LLC	151 DEAN ST	BELMONT	MA	02478	151 DEAN ST
37-21	INSANIC TE EDIN	155 DEAN ST	BELMONT	MA	02478	155 DEAN ST
37-50	WOODLAND JR TE KENNETH M	156 DEAN ST	BELMONT	MA	02478	156 DEAN ST
37-90	LESHANE TRS JOHN & JOHN J JR	428 WHITE BIRCH DR	GUILFORD	CT	06437	159 CHANNING RD
37-15	SMITH FLORENCE	160 CHANNING RD	BELMONT	MA	02478	160 CHANNING RD
37-51	TAYLOR TR CLAIRE ROSE	162 DEAN ST	BELMONT	MA	02478	162 DEAN ST
37-20	REAGAN III TE DANIEL J	165 DEAN ST	BELMONT	MA	02478	165 DEAN ST
37-89	GARDINER JR TE KENNETH G	167 CHANNING RD	BELMONT	MA	02478	167 CHANNING RD
37-16	FALLON LE MARY THERESA	162 CHANNING RD	BELMONT	MA	02478	168 CHANNING RD
37-52	MINGACE MARIA	168 DEAN ST	BELMONT	MA	02478	168 DEAN ST
37-20-A	HULL HARRY D	77 SUMMER ST	ARLINGTON	MA	02474	169 DEAN ST
37-88	QUINN TRS JOHN A	175 CHANNING RD	BELMONT	MA	02478	175 CHANNING RD
37-17	LALIBERTE NICOLETTA	176 CHANNING RD	BELMONT	MA	02478	176 CHANNING RD
37-87	BRANGWYNNE TE RUSSELL F	181 CHANNING RD	BELMONT	MA	02478	181 CHANNING RD
37-18	BANOSIAN TE RAZMIK	182 CHANNING RD	BELMONT	MA	02478	182 CHANNING RD
37-86	CORRIGAN TE PAUL JEFFREY	187 CHANNING RD	BELMONT	MA	02478	187 CHANNING RD
37-19	POIRIER TE O GEORGE	188 CHANNING RD	BELMONT	MA	02478	188 CHANNING RD
37-85	DEORIO LE WILLIAM P & EDITH A	4 COMMONWEALTH AVE	SALISBURY	MA	01952	193 CHANNING RD
37-84	ZHU TE MENG YU	199 CHANNING RD	BELMONT	MA	02478	199 CHANNING RD
37-83	TIERNEY ANN M	203 CHANNING RD	BELMONT	MA	02478	203 CHANNING RD
37-82	HANOYAN TR ELIZABETH J	209 CHANNING RD	BELMONT	MA	02478	209 CHANNING RD
37-27	KOCHEM TE ROBERT C	21 JASON RD	BELMONT	MA	02478	21 JASON RD
37-53	SOUL TE HARWOOD E	212 CHANNING RD	BELMONT	MA	02478	212 CHANNING RD
37-81	CROWLEY TE MICHAEL	215 CHANNING RD	BELMONT	MA	02478	215 CHANNING RD
37-80	PULITANO TE JOSEPH G II	115 CRESTVIEW RD	BELMONT	MA	02478	219 CHANNING RD
37-26	KACHADORIAN JT ESTHER	29 JASON RD	BELMONT	MA	02478	29 JASON RD
37-44	GARABEDIAN DEBRA ANN	40 WESTLUND RD	BELMONT	MA	02478	40 WESTLUND RD
37-45	SOLJACIC MARIN	44 WESTLUND RD	BELMONT	MA	02478	44 WESTLUND RD
37-46	MEGALOUDIS JT LOUKAS	48 WESTLUND RD	BELMONT	MA	02478	48 WESTLUND RD
37-98	READ MARTHA R	85 HOITT RD	BELMONT	MA	02478	85 HOITT RD
37-30	ROLSTON TE PAUL	87 STATLER RD	BELMONT	MA	02478	87 STATLER RD
37-97	ABIDIAN TE PETER J	91 HOITT RD	BELMONT	MA	02478	91 HOITT RD
37-29	TRISCHITTA TRS DONALD P & BARBARA A	93 STATLER RD	BELMONT	MA	02178	91-93 STATLER RD
37-47	LEVINE TE MORTON A	94 HOITT RD	BELMONT	MA	02478	94 HOITT RD
37-96	GUPTA TE VASUDEV	97 HOITT RD	BELMONT	MA	02478	97 HOITT RD

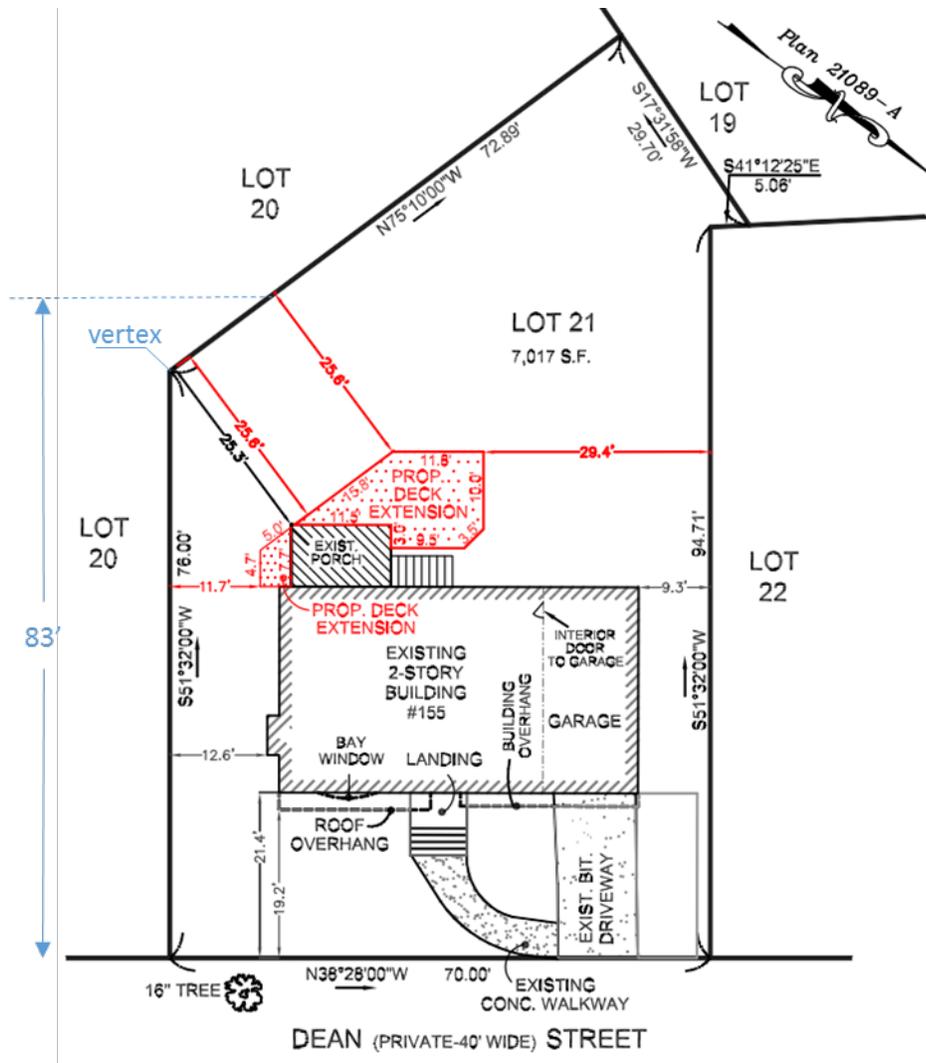


Figure 1. Reference copy of the surveyors plot with annotation



Figure 4. Channing Road view. Position A from camera map in Figure 1

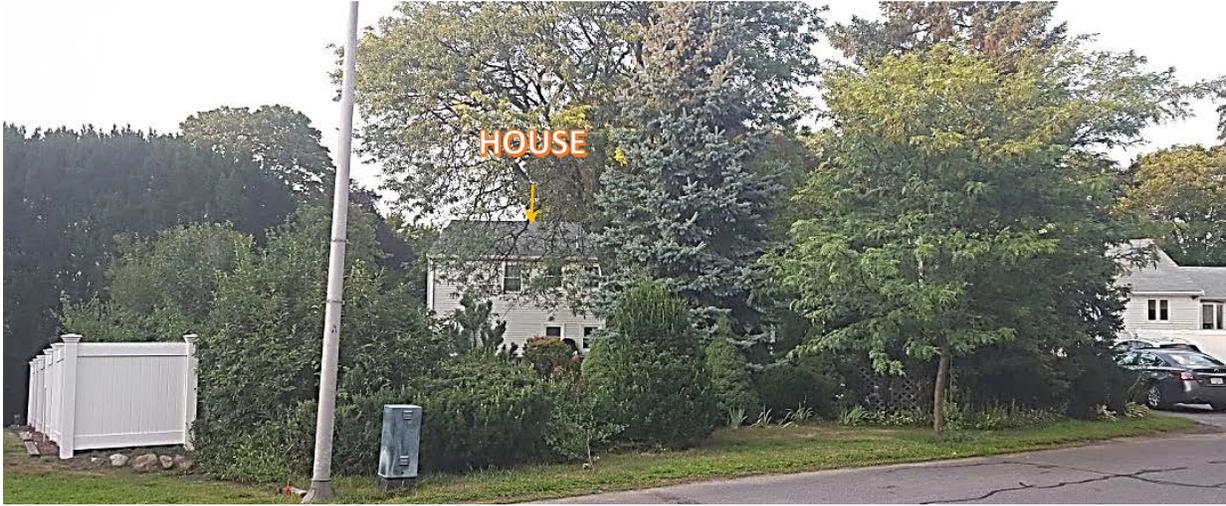


Figure 5. Channing Road view. Position B from camera map in Figure 3



Figure 6. Channing Road view. Position C from camera map in Figure 3



Figure 7. View from camera position D in Figure 1 from the Channing Rd. Picture of our existing deck with the view of the Lot 20 residence in the background. Note that that residence of the Lot 20 is closer to Channing road than our existing deck

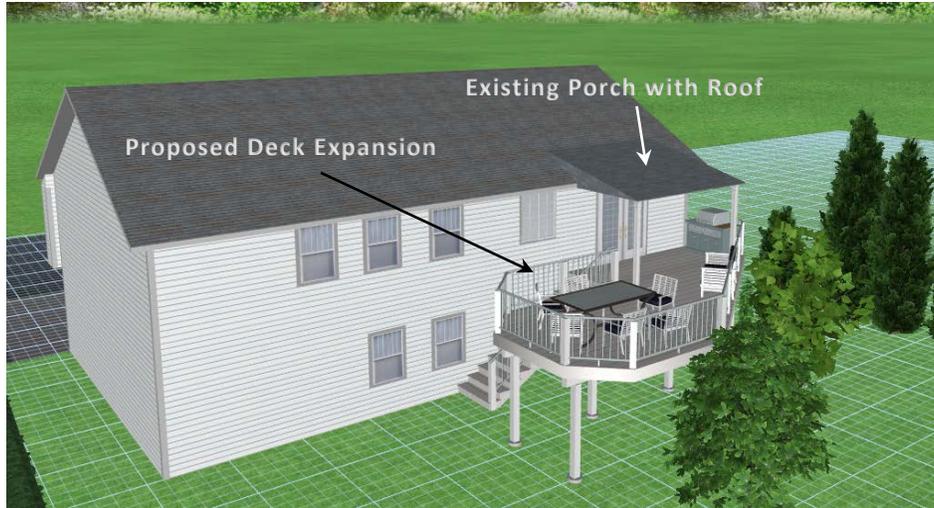


Figure 8. Proposed deck elevated view



Figure 9. Dean Street Google street view



Figure 10. Rendered street with a portion of the planned deck visible.

Vincent Digiovanni  
151 Dean St.  
Belmont, MA 02478

Office of Community Development  
Town of Belmont  
19 Moore Street Belmont, MA 02478

September 27<sup>th</sup>, 2015

RE: Special Permit Application for 155 Dean St.

To Whom It May Concern:

I, Vincent Digiovanni, the next door neighbor to Insanic Family of 155 Dean St., do not object to their deck expansion plans, as per as long as the approval of this special permit does not inhibit potential future building permits for 151 Dean St. residence.

Sincerely, 

Vincent Digiovanni

Daniel Reagan  
165 Dean St.  
Belmont, MA 02478

Office of Community Development  
Town of Belmont  
19 Moore Street Belmont, MA 02478

September 27<sup>th</sup>, 2015

RE: Special Permit Application for 155 Dean St.

To Whom It May Concern:

I, Daniel Reagan, the next door neighbor to Insanic Family of 155 Dean St., do not object to their deck expansion plans, as per as long as the approval of this special permit does not inhibit potential future building permits for 165 Dean St. residence.

Sincerely,

A handwritten signature in black ink that reads "Daniel Reagan". The signature is written in a cursive, slightly slanted style.

Daniel Reagan