



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2013-79
 Petition of Sheila Greenfield
 5 Emerson Road

NOV 21 P 3:02
 WELLESLEY MA 02482

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, November 7, 2013, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of SHEILA GREENFIELD requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a two-story structure with basement and attic that will meet all setback requirements, on a 14,610 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, at 5 EMERSON ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On October 21, 2013, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Laurence Shind, Esq. and Roger Kane, Kane Built, Inc. Mr. Shind said that the property has been subsequently sold to Mr. Kane.

Mr. Shind said that the request is for a Special Permit/Finding. He said that the lot is 14,610 square feet in a district in which the minimum lot size is 15,000 square feet. He said that the house was built in 1937 and is a two-story colonial with approximately 2,700 square feet of living area. He said that the right side yard setback is 17 feet and the left side yard setback is 14 feet. He said that the house has not had any recent updates and there is no garage.

Mr. Shind said that the proposed new structure will comply with Zoning requirements. He said that lot coverage will increase from 11% to 17%. He said that the Total Living Area plus Garage (TLAG) calculation is 3,925 square feet, which is below the 4,300 square foot threshold for the district. He said that careful consideration was given to the design of the house to be consistent with the prevailing design in the neighborhood.

The Board said that there are large piles of fill in the front yard. Mr. Kane said that the piles may have been there because of a gas disconnect. He said that there was an emergency of some sort. He said that he is not currently doing any work on the lot.

The Board said that on the left elevation drawing there is a very large expanse of exterior wall at the second floor level that could benefit with another window. The Board said that a window could break up

the mass without interfering with potential bed placements. Mr. Kane said that he can add two windows to match the windows below on the first floor.

The Board asked about the TLAG calculations, especially as they relate to the basement. The Board said that the basement area was excluded because the average is 0.245 as opposed to 0.25. The Board said that it was not clear that the elevations that are shown on the basement calculation are the same as those that are shown on the plot plan. The Board said that the calculation shows that the basement just barely achieves the exclusion. The Board said that it appears that the plot plan elevations should be lower. The Board said that if that is the case, the 0.245 would be higher and the TLAG of 3,925 could be significantly larger. The Board said that 3,925 square feet is bigger than almost all of the other houses in neighborhood, except for three or four. The Board said that there are only two houses that are reasonably close to the 3,925 square feet that the calculations show. The Board said that if the 0.245 calculation is too low and the 1,893.67 square feet or some portion of the basement area is added in, it pushes the numbers up.

The Board said that the lowest point appears to be the rear left corner at an elevation of 150.03. The Board said that the other rear corner is at 157.5. The Board said that the contours show the lot sloping from north to south and not staying constant at the back wall.

Mr. Kane said that there is a piece of retaining wall halfway along the back wall where it takes a drop down to 154. He said that there is a little piece of walkout 15 -20 feet at the rear left corner. He said that the lot really slopes off there.

The Board said that the plot plan shows a 4 foot difference in elevation. The Board said that the retaining wall is at 158. The Board said that the TLAG calculation asserts that it is flat.

Mr. Kane said that the grade is higher on the right side of the retaining wall. He said that the grade tapers from the top of the retaining wall to the flat area. The Board said that the plan shows that they will be taking out a couple of feet there. The Board said that at one point the elevation goes from 156 to 158. Mr. Kane said that there is an existing small piece at 160.

The Board said that the elevation of 158 is at the 14 inch pine that is west of the 2.5 foot retaining wall. The Board said that beneath that 158 contour is a 156 contour that goes up to the back of the house. The plan shows the back of the house at 157.5. Mr. Shind said that the plan may be off by six inches.

Steven List, 9 Emerson Road, said that he had not seen the proposed plans. He said that it sounded like the plan is to build a 4,000 square foot house next to his home, which is approximately 2,000 square feet. He said that it will probably be very overwhelming.

Mr. List said that another concern is the huge slope in the lot at 5 Emerson. He said that his lot slopes severely as well. He said that at the bottom of his property is a drain easement. He said that he was concerned about a house of that proposed size and the water runoff onto his property. He said that there is already a bad situation there because the drain is not adequate. He said that during severe rainstorms they get several inches of water back there that take days to dissipate. He said that runoff from Emerson Road and properties on the other block flows there.

The Board said that the Developer must take sufficient action so that no stormwater will run off onto 9 Emerson Road. The Board said that there will be a lot more impervious surface than the existing house. The Board said that the property is located in a Water Supply Protection District.

The Board said that the petition is before the Board because the lot is undersized by 390 feet. The Board said that they are allowed to build a bigger house. The Board said that the proposed structure will maintain complying setbacks. The Board said that it would be difficult to build further back because of the steep grade.

Mr. Kane said that he will consult with his engineer about controlling runoff. The Board said that the project should meet the requirements for properties located in the Water Supply Protection District.

Statement of Facts

The subject property is located at 5 Emerson Road, on a 14,610 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, with a minimum left side yard setback of 14 feet and a minimum right side yard setback of 17 feet for the dwelling and 16 feet for the shed.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a two-story structure with basement and attic that will meet all setback requirements, on a 14,610 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

An Existing Plot Plan and a Proposed Plot Plan, dated 10/1/13, stamped by Russell D. Wilson, Professional Land Surveyor, Proposed Floor Plans and Elevation Drawings, dated 9/25/13, prepared by R.C. Searles Associates, and photographs were submitted.

On October 31, 2013, the Planning Department Staff reviewed the petition and recommended that the Special Permit be granted.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the opinion of this Authority that although demolition of an existing nonconforming structure and construction of a two-story structure with basement and attic that will meet all setback requirements, on a 14,610 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

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PLANNING DEPARTMENT
OFFICE
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Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure and construction of a two-story structure with basement and attic that will meet all setback requirements, on a 14,610 square foot lot in a Water Supply Protection District in which the minimum lot size is 15,000 square feet, subject to the condition:

1. Water retention mitigation measures shall be enacted to comply with the Water Supply Protection District guidelines.
2. Water retention mitigation measures shall ensure that no water drains onto neighboring parcels. Future owners shall be required to maintain such preventative measures.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed constructions plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

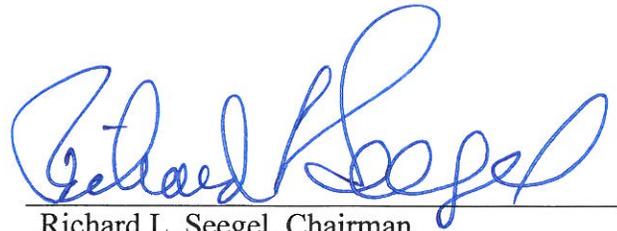
2013 NOV 21 P 3:021

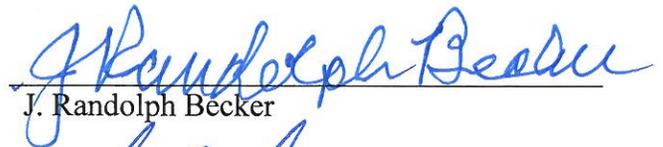
INSPECTOR'S OFFICE
WILMINGTON MA 02482

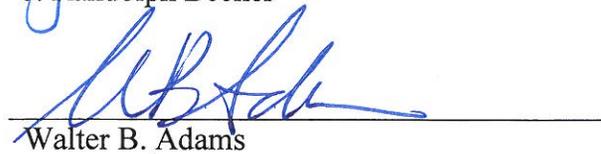
ZBA 2013-79
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5 Emerson Road

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TOWN CLERK'S OFFICE
MILLISLEY MA 02482

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

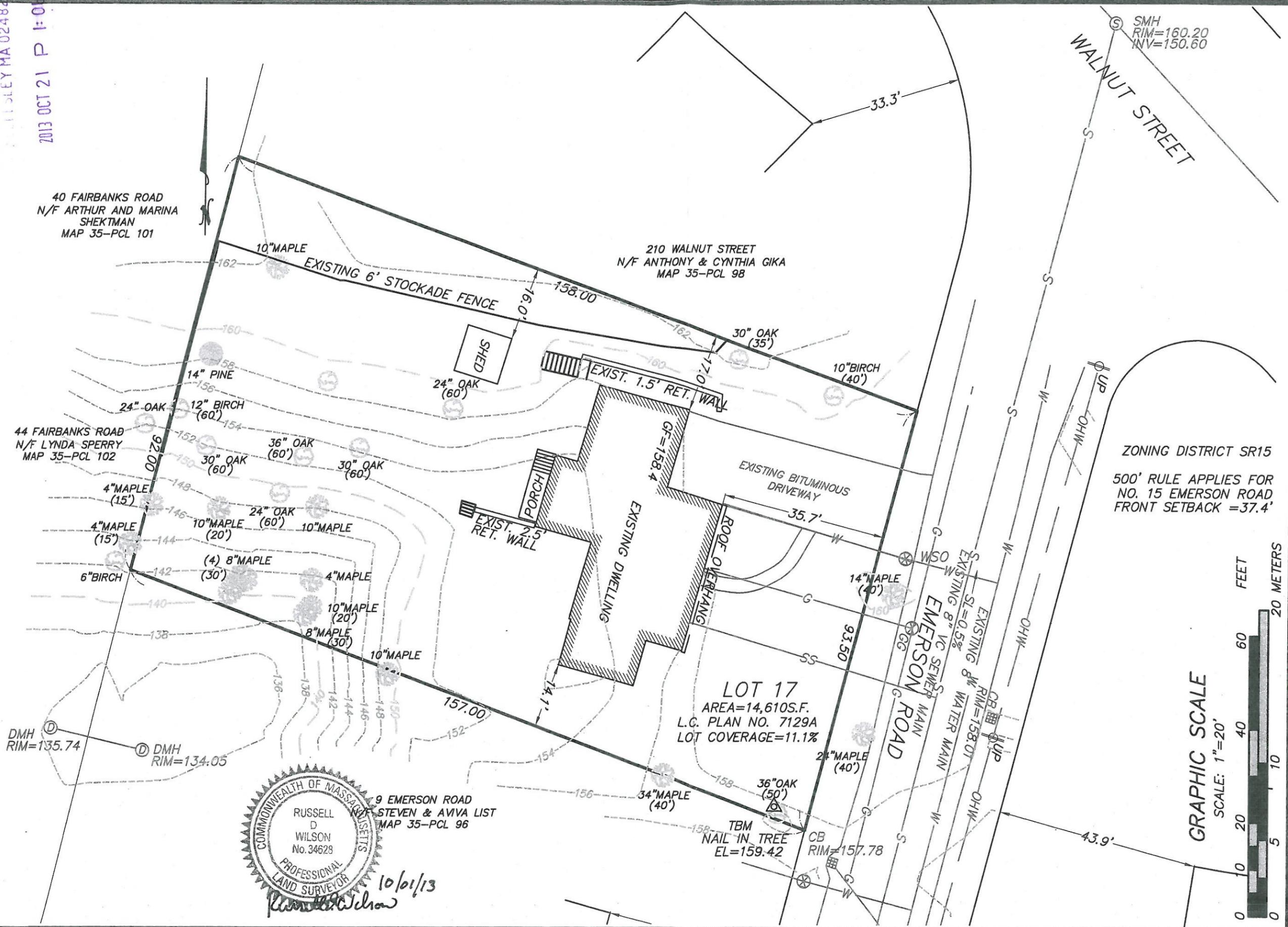

Richard L. Seegel, Chairman


J. Randolph Becker


Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm

2013 OCT 21 P 1:00
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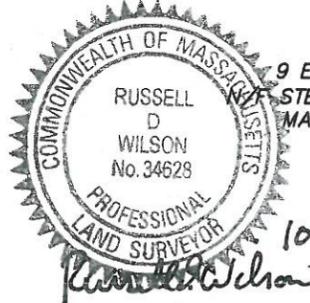


40 FAIRBANKS ROAD
 N/F ARTHUR AND MARINA SHEKTMAN
 MAP 35-PCL 101

210 WALNUT STREET
 N/F ANTHONY & CYNTHIA GIKA
 MAP 35-PCL 98

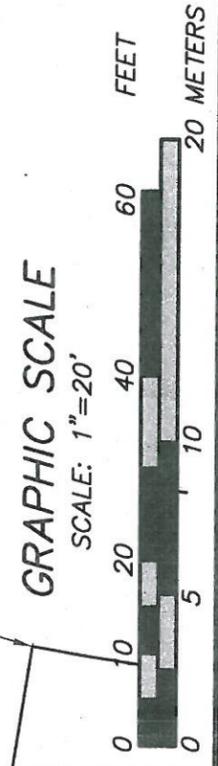
44 FAIRBANKS ROAD
 N/F LYNDA SPERRY
 MAP 35-PCL 102

9 EMERSON ROAD
 STEVEN & AVIVA LIST
 MAP 35-PCL 96



WALNUT STREET
 SMH
 RIM=160.20
 INV=150.60

ZONING DISTRICT SR15
 500' RULE APPLIES FOR
 NO. 15 EMERSON ROAD
 FRONT SETBACK =37.4'



SCALE: 1"=20'
 DATE: 10/01/13
 FILE NO. 5070

KANE BUILT
 P.O. BOX 438
 STOW, MA 01775

EXISTING CONDITIONS PLAN
 5 EMERSON ROAD
 WELLESLEY, MASSACHUSETTS

360 MASSACHUSETTS AVE, SUITE 202
 ACTON, MASSACHUSETTS 01720
 P(978) 264-4600 F(978) 263-0447
 www.MarkeyAndRubin.com

Markey & Rubin
 CIVIL ENGINEERING

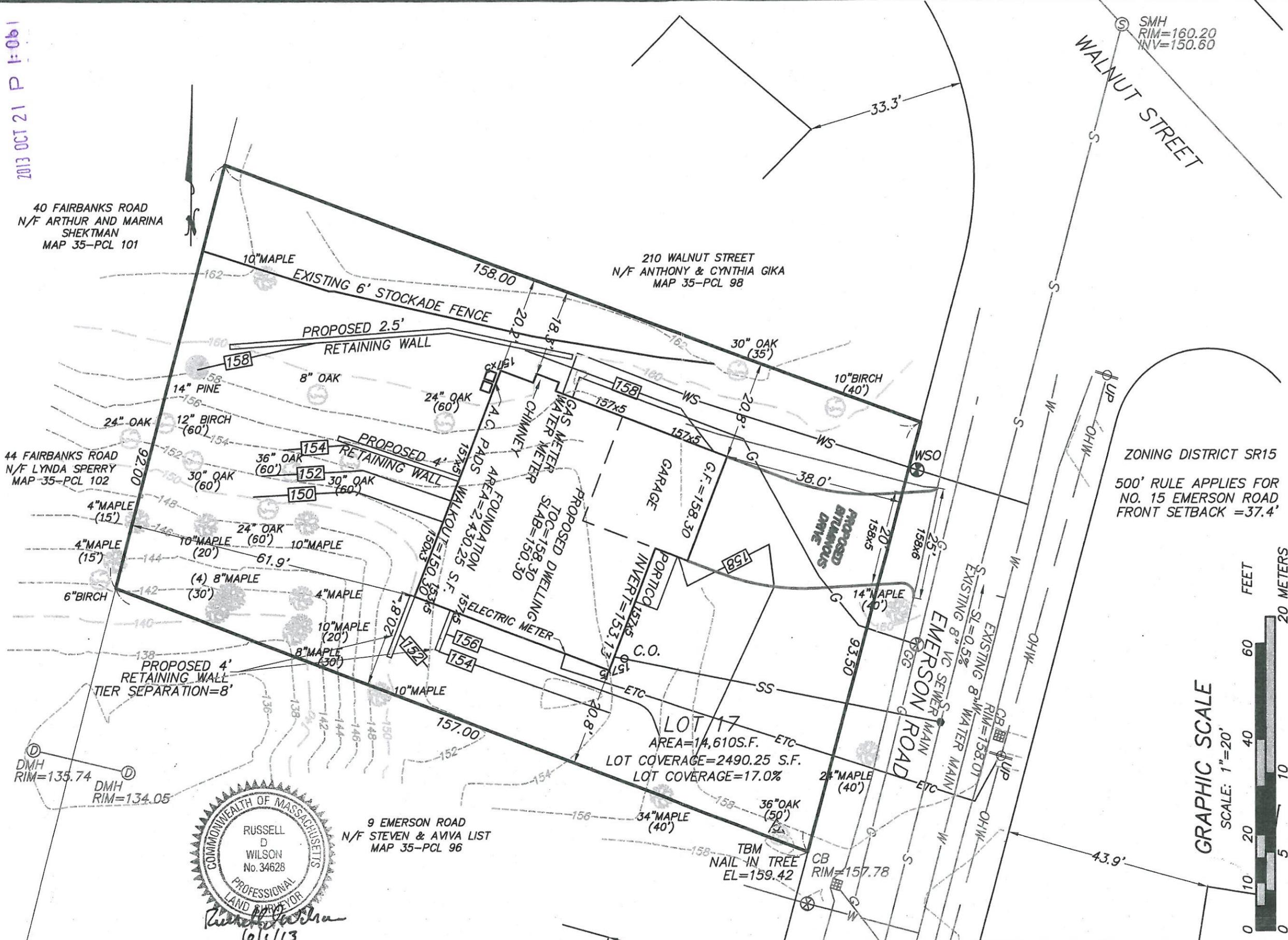
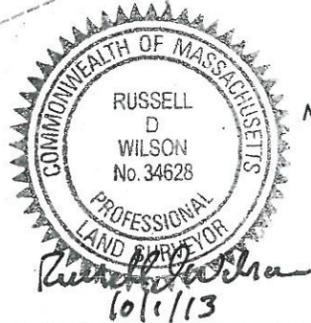
2013 OCT 21 P 1:061
 02482
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40 FAIRBANKS ROAD
 N/F ARTHUR AND MARINA SHEKTMAN
 MAP 35-PCL 101

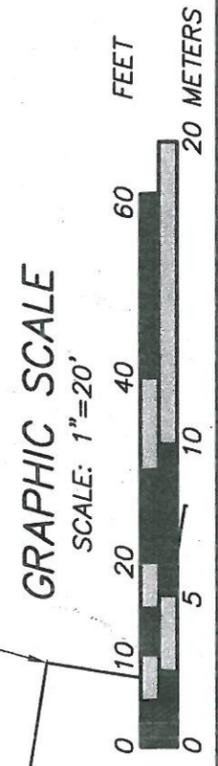
44 FAIRBANKS ROAD
 N/F LYNDY SPERRY
 MAP 35-PCL 102

210 WALNUT STREET
 N/F ANTHONY & CYNTHIA GIKA
 MAP 35-PCL 98

9 EMERSON ROAD
 N/F STEVEN & AVIVA LIST
 MAP 35-PCL 96



ZONING DISTRICT SR15
 500' RULE APPLIES FOR
 NO. 15 EMERSON ROAD
 FRONT SETBACK = 37.4'



SCALE: 1"=20'
DATE: 10/01/13
FILE NO. 5070

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 P.O. BOX 438
 STOW, MA 01775

**PROPOSED CONDITIONS
 PLAN**
 5 EMERSON ROAD
 WELLESLEY, MASSACHUSETTS

360 MASSACHUSETTS AVE, SUITE 202
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