TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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TELEPHONE
(781) 431-1019 EXT. 2208

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2020 JAN 23 P 2:
TOWN CLERK'S OFFICE
WELLESLEY MA 02482

ZBA 2020-03
Petition of 32 Cranmore Road LLC
32 Cranmore Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 9, 2020 at 7:30 pm in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of 32 Cranmore Road LLC requesting a Special Permit pursuant to the provisions of Section 14E, Section 22D and Section 25 of the Zoning Bylaw for construction of a retaining wall that is greater than four feet in height, located within ten feet of the property line, at 32 Cranmore Road, in a 20,000 square foot Single Residence District and a Water Supply Protection District.

On December 12, 2019, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing were David Himmelberger, Esq., representing 32 Cranmore Road LLC, the Petitioner, and Paul Beaulieu, Field Resources.

Mr. Himmelberger said that the request is for a special permit for a retaining wall. He said that the Applicant is building a single family home at 32 Cranmore Road. He said that the house was exempt from Large House Review due to its size. He said that the Building Department issued permits and construction began. He said that when it was determined that a portion of the right side neighbor's fence was on the property, his client agreed to move the fence at his own cost for the benefit of the neighbor. He said that during construction of the wall on the property line that was designed to be less than four feet tall, it was determined that a portion of it will need to be built to five feet. He said that they stopped work on the wall and applied for a special permit. He said that the right side abutter sent an email in support of the wall.

Mr. Himmelberger said that an issue arose about the bylaw requirement for Design Review Board (DRB) review. He said that based on Section D of the Zoning Bylaw, the Building Inspector determined that the wall will retain less than seven feet of unbalanced fill and does not require DRB review. A Board member read Section 22D, E.2, Required Findings. Mr. Himmelberger said that the interpretation is that the report of the DRB, if required, has been received. The Chairman said that his interpretation is that if under Section 22D.D a permit is required, as determined by the Building Inspector, and the wall retains seven or more feet of unbalanced fill, then DRB review is required. He said that walls between four and seven feet do not require DRB review. He said that Section 22D.C has an implied parenthetical clause at the beginning that says that if you need a report from the DRB, that report has been received and the retaining wall is consistent with that report.

The Chairman said that the plans were stamped by a registered landscape surveyor, not an engineer. He said that there is nothing that indicates that a structural engineer has looked at it. Mr. Beaulieu said that an engineer has been supervising construction of the wall.

Mr. Himmelberger said that photographs of what is behind the wall show that it is ledge and may not be considered to be unbalanced fill. Mr. Beaulieu said that the wall almost serves as a veneer rather than a retaining wall.

The Chairman said that the Planning Department staff recommendation raises two issues about tree protection and lighting. Mr. Himmelberger said that, because this is an as of right construction, it has already been reviewed for Tree Bylaw compliance and a building permit was issued. Mr. Beaulieu said that no additional trees were impacted by the wall. The Chairman said that the Lighting Bylaw does not apply because it is a single family dwelling.

Mr. Beaulieu said that making the wall level is more for the neighbor's benefit. A Board member asked about weep holes in the wall. Mr. Beaulieu that he believes that there are weep holes. The Chairman further discussed his concerns about design of the wall. He said that he did not see anything that said that somebody had looked at making sure that the wall does not tip over. Mr. Himmelberger said that the project is being overseen by a structural engineer and will accept that as a condition. He said that the wall is facing ledge. Mr. Beaulieu said that when they submit for a building permit, they are required to submit a land survey and a professional engineer's design for a wall. A Board member said that it is possible for water to get behind the wall and push it out. He discussed the possibility of tying the wall to the ledge.

The Chairman discussed the Planning Department's concerns about a side facing garage. Mr. Himmelberger said that he took issue with the implication that it is unreasonable to have a side facing garage if it requires seeking a special permit. Mr. Beaulieu discussed the slope of the lot. He said that the thought process was to try to get a yard. He said that they knew it was ledge and thought that they may not need a wall. He said that they found that it was ledge with till on top. He said that even with a front facing garage, the top of concrete would have still have warranted cutting the side yard so that you can pass and repass without having water coming towards this or neighboring houses. The Chairman said that the property owner has a right to have a side entrance garage, should it meet the requirements.

Mr. Himmelberger said that they submitted cut sheets for the landscape lighting. The Chairman said that the issue is light spillage on neighbors' land. A Board member said that if the lighting is in the wall, spillage will not be an issue.

Mr. Himmelberger said that they have been in constant discussion with the abutter and his last communication was on January 4, 2020 in which he stated that he supports the construction of a wall that is no higher than five foot, has a cap on top and no plantings.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 32 Cranmore Road, in a 20,000 square foot Single Residence District and a Water Supply Protection District.

The Petitioner is requesting a Special Permit pursuant to the provisions of Section 14E, Section 22D and Section 25 of the Zoning Bylaw for construction of a retaining wall that is greater than four feet in height, located within ten feet of the property line, in a Water Supply Protection District.

Plan View Details, dated 12/3/19, stamped by Bradley J. Simonelli, Professional Land Surveyor, Elevation View Detail, dated 12/3/19, prepared by Field Resources, Inc. WAC Landscape Lighting Hardscape – 12" Dual CCT, and photographs were submitted.

On January 8, 2020, the Planning Department staff reviewed the petition and recommended that the special permit be denied.

2020 JAN 23 P 2:17
TOWN CLERK
WELLESLEY MA 02482

Decision

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

The Board found that the Design and Operation Standards in Part F are adequately satisfied and not otherwise prohibited in Part D.1, of Section XIVE of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that construction of a retaining that will exceed four (4) feet in height and be located within ten (10) feet of a property line will otherwise be in compliance with the provisions of Section XXIID, will not adversely impact adjacent property or the public, that the report of the Design Review Board has been received and that requested retaining wall is consistent with that report and those criteria contained in Section XXII, Design Review, Part C., Design Criteria, of the Zoning Bylaw; and the proposed retaining wall is the minimum structure necessary to allow a subject property to be reasonably utilized.

The Board finds that a report from the Design Review Board is not required.

Therefore, a Special Permit is granted for construction of a retaining that will exceed four (4) feet in height and be located within ten (10) feet of a property line, in accordance with the plans dated, subject to the following conditions:

1. A wall design plan that is stamped by a registered engineer shall be submitted.
2. There shall be no planting at the top of the wall.
3. The Board makes no findings regarding the Tree Preservation or Lighting bylaws

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

ZBA 2020-03
Petition of 32 Cranmore Road LLC
32 Cranmore Road

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.

J. Randolph Becker, Chairman

David G. Sheffield

Robert W. Levy

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2020 JAN 23 P 2:17

ZBA	2020-03
Applicant	32 Cranmore Road LLC
Address	32 Cranmore Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

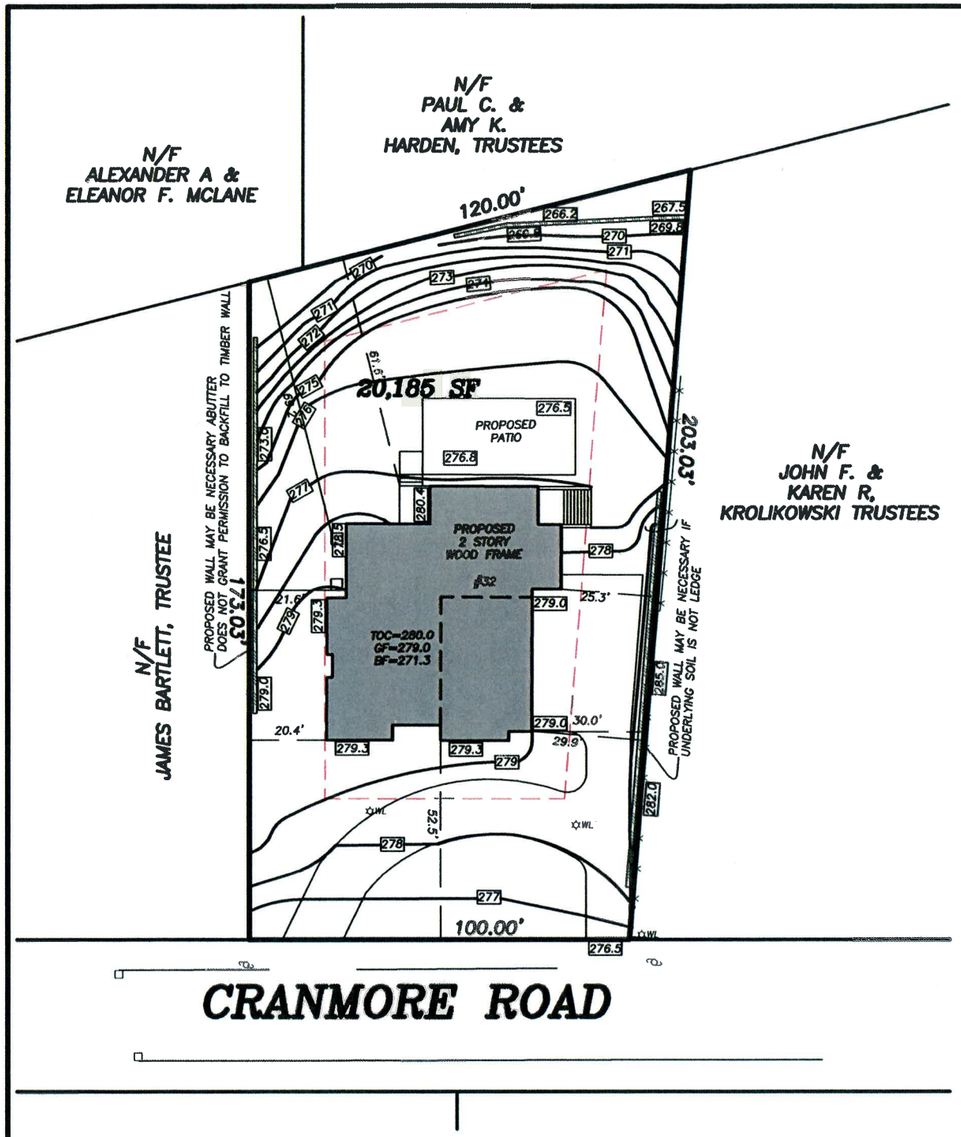
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

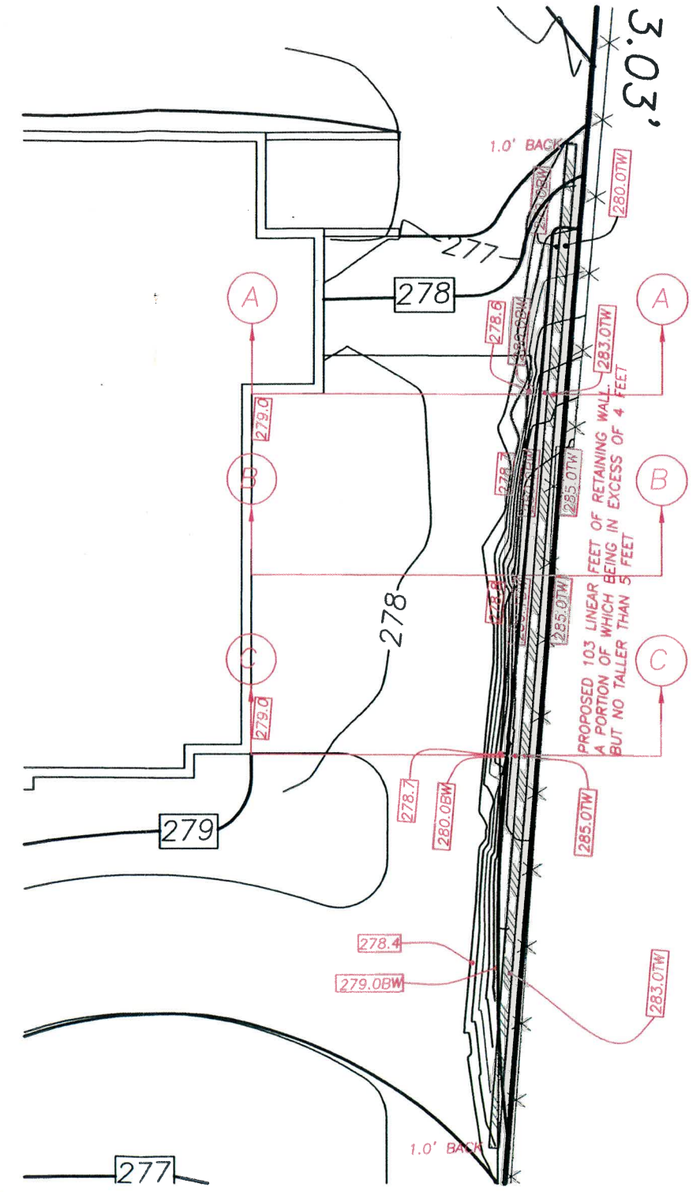


ORIGINAL PERMITED SITE

1"=40'

GRAPHIC SCALE

40 0 20 40 80



PLAN VIEW DETAIL

1"=20'

GRAPHIC SCALE

20 0 10 20 40

COMMONWEALTH OF MASSACHUSETTS
BRADLEY J. SIMONELLI
#47581
03DEC19
PROFESSIONAL LAND SURVEYOR

ZONING INFORMATION: SINGLE RESIDENCE 20 (SR20)

MAXIMUM BUILDING COVERAGE.....4000 SF .....3397 SF(16.8%)

009–19

SHEET 1 OF 2

ZONING BOARD OF APPEALS
SECTION VIEWS OF THE DRIVEWAY
SHOWING ADDITIONAL WALL DESIRED
32 CRANMORE ROAD

WELLESLEY, MASS.

Field Resources, Inc.
LAND SURVEYORS

DECEMBER 2, 2019 SCALE 1"=20'

P.O. BOX 324
AUBURN, MA
508 832 4332

281 CHESTNUT ST.
NEEDHAM, MA.
781 444 5936

fieldresources@hotmail.com

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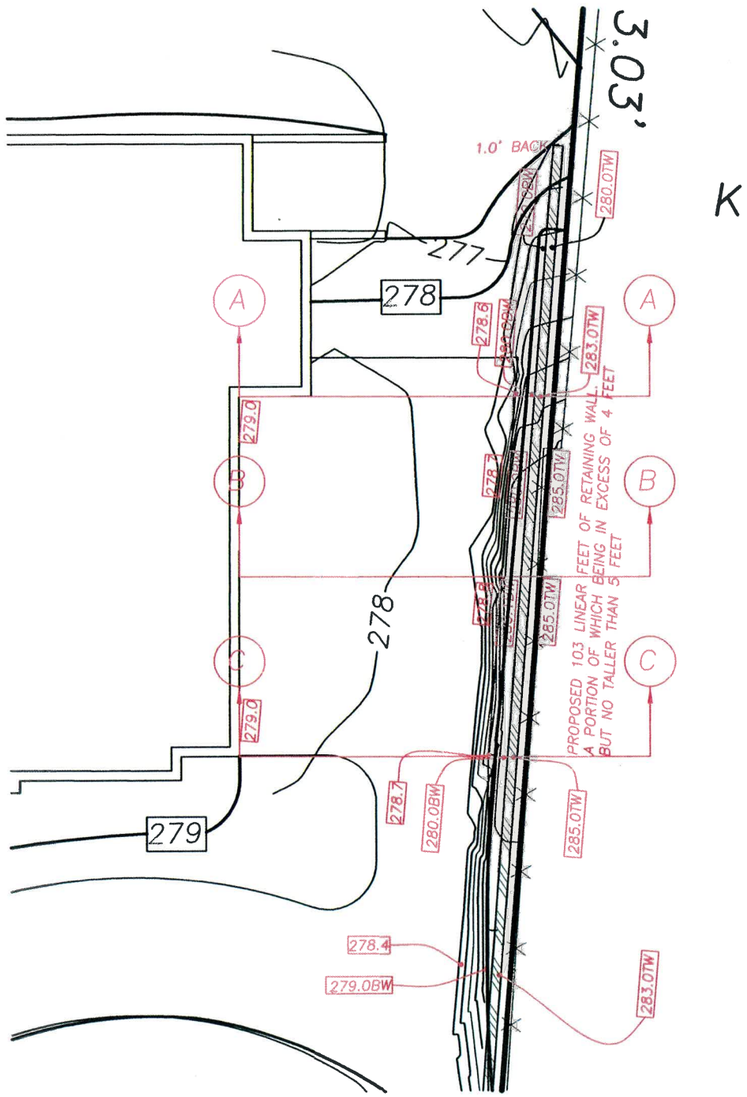

PLAN VIEW DETAIL

1"=20'

GRAPHIC SCALE

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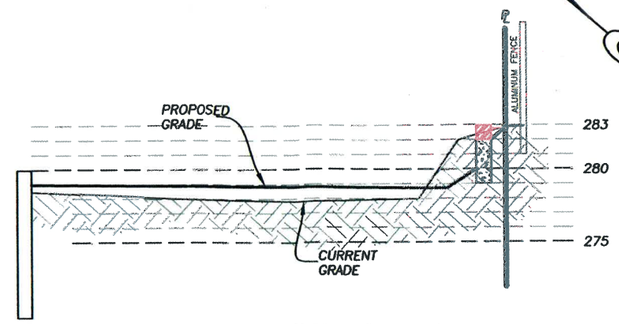
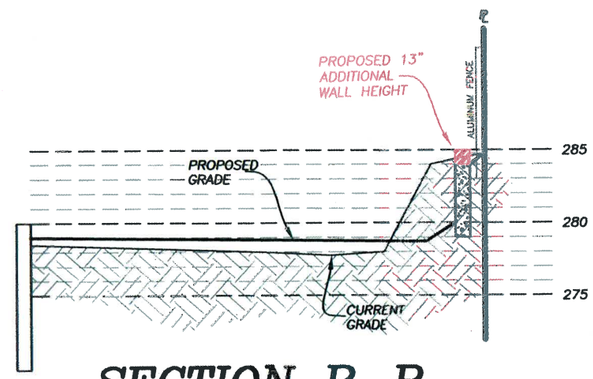


SECTION A–A

1"=10'



SECTION B–B

1"=10'

GRAPHIC SCALE

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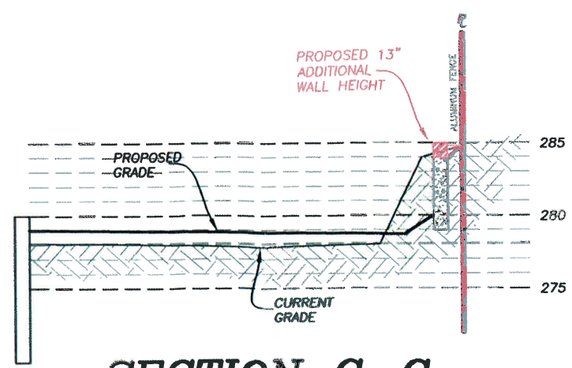

SECTION C–C

1"=10'

COMMONWEALTH OF MASSACHUSETTS
BRADLEY J. SIMONELLI
#47581
03/02/20
PROFESSIONAL LAND SURVEYOR

SHEET 2 OF 2

ZONING BOARD OF APPEALS
SECTION VIEWS OF THE DRIVEWAY
SHOWING ADDITIONAL WALL DESIRED

32 CRANMORE ROAD

WELLESLEY, MASS.

Field Resources, Inc.
LAND SURVEYORS

DECEMBER 2, 2019 SCALE 1"=20'

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781 444 5936

fieldresources@hotmail.com

009–19

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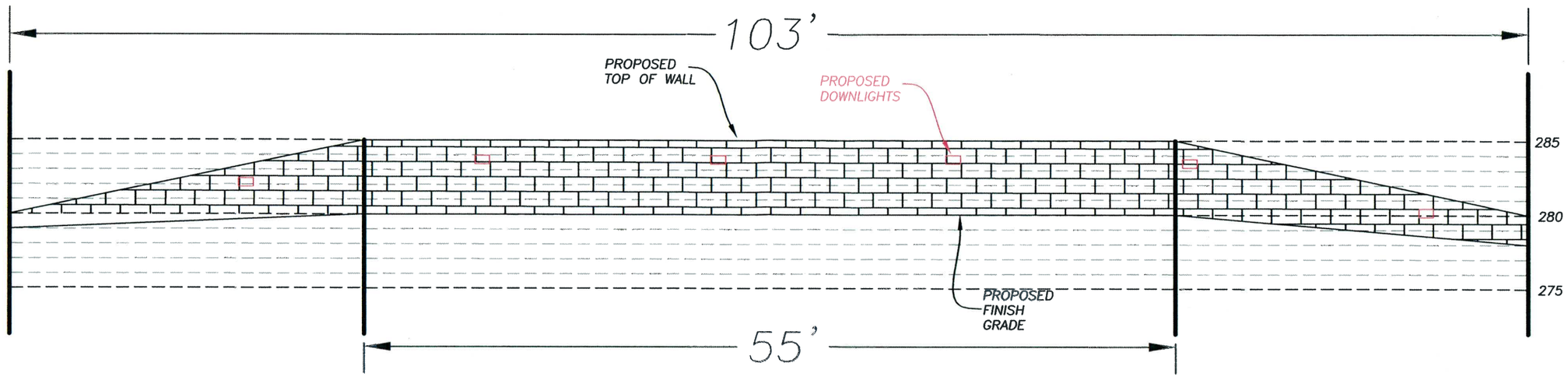

ELEVATION VIEW DETAIL

1"=8'

GRAPHIC SCALE

8 0 4 8 16

ZONING BOARD OF APPEALS
ELEVATION VIEW OF RETAINING WALL
SHOWING ADDITIONAL WALL DESIRED
32 CRANMORE ROAD
WELLESLEY, MASS.

TOWN OF WELLESLEY
MAP 132 PARCEL 6

OWNER/APPLICANT

32 CRANMORE ROAD LLC
DAVID SILVERSTEIN, MANAGER
32 CRANMORE ROAD
WELLESLEY, MA

009–19

Field Resources, Inc.
LAND SURVEYORS

DECEMBER 3, 2019 SCALE 1"=8'

P.O. BOX 324
AUBURN, MA
508 832 4332

281 CHESTNUT ST.
NEEDHAM, MA.
781 444 5936

fieldresources@hotmail.com

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