



ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482

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ZBA 2021-31
Petition of Krassen Draganov
148 Walnut Street

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, April 1, 2021 at 7:30 pm, on the petition of Krassen Draganov requesting a Variance/Special Permit/Finding pursuant to the provisions of Section 14E, Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required right side yard setbacks and construction of a new structure with less than required left and right side yard setbacks and a height from original average grade of 45.5 feet, at 148 Walnut Street, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On February 24, 2021, 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 was David Himmelberger, Esq., representing Krassen and Irina Draganov, the Petitioner. He said that the request is to raze the pre-existing nonconforming residence and build a new single family residence with less than required side yard setbacks and greater than permitted building height. He said that the matter was before the Board on two prior occasions, each time given leave to withdraw without prejudice. He said that the first time was because they were seeking a new additional side yard nonconformity and the consensus was that the request should be for a variance. He said that the Petitioner refiled and requested a variance for the side yard setback but overlooked the need for relief on the height from average original grade. He said that the current request now includes the variance for height.

Mr. Himmelberger said that the existing home has a right side yard setback of 12.4 feet. He said that the request for a variance for the left side yard setback and the building height is predicated on the fact that the lot has a 41 foot drop in topography from front to back and is quite irregularly shaped. He said that the new home will increase the right side setback to 13.1 feet, the new left side yard setback will be 16.3 feet, and lot coverage of 1,329 square feet will increase to 2,284 square feet, which is below the permissible amount. He said that proposed TLAG is 5,173 square feet, due to 946 square feet in the basement. He said that the proposed height will be 34.47 feet from new grade. He said that the house sits in a depression and will be less than 25 feet high from Walnut Street. He said that the proposed work on retaining walls that are less than 4 feet will extend onto the abutter's property at 156 Walnut Street. He said that an agreement was reached with the abutter for an easement for the walls. He said that there will be some re-grading of the abutters property.

Mr. Himmelberger said that the property is located in a Water Supply Protection District. He said that the proposed infiltration system will have the capability to mitigate for 1 inch rainstorms.

Mr. Himmelberger said that the property overlooks the Schofield Fields. He said that all of the properties to the east, which formerly had significant drop offs, have been significantly raised up. He said that while this property will raise up a little bit on the right side, it will be beneficial to both 148 and 156 Walnut Street. He

requested favorable action and a finding that this is not substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. He said that it will be a significant improvement.

A Board member said that this seems to be the only solution because of the topography. He said that the height is due to the slope and the exposed basement. He said that the expression of the front of the house on Walnut Street cannot be seen because the roofline does not come up to the street.

Laurence Shind, Esq., said that he represented the Lyle's at 156 Walnut Street, the abutters. He said that they reached a memo of understanding along with an easement agreement with respect to the retaining walls being built partly on their property. He asked the Board to include a condition requiring an engineering report as to the structural integrity, safety of the walls, and drainage as intended be submitted. He said that condition would satisfy his clients' understanding and they would be happy to support the project. Board member questioned whether that was subject to a private agreement between the parties. The Chairman said that the Board's involvement under the retaining wall bylaw is only for special permits that relate to walls that are greater than four feet in height within ten feet of the property line.

Mr. Himmelberger asked if the Board would consider a provision that the Applicant shall obtain an engineering review that is satisfactory to the abutter. Mr. Shind suggested that the condition be that it is satisfactory to the Building Inspector, which is a condition that the Board often imposes. A Board member discussed inserting a condition that requires that the retaining wall be designed by a Civil Engineer and that the Civil Engineer certify the as-built as being in compliance with the plan. He said that the abutters at 156 Walnut can see the plan before it is submitted and a Certificate of Occupancy will not issue until somebody has signed off that it has been built in accordance with the plan.

There was no member of the public who wished to speak to the petition.

Statement of Facts

The subject property is located at 148 Walnut Street, in a 10,000 square foot Single Residence District, in a Water Supply Protection District, with a minimum right side yard setback of 12.4 feet.

The Petitioner is requesting Variance/Special Permit/Finding pursuant to the provisions of Section 14E, Section 17, Section 19, Section 24 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure with less than required right side yard setbacks and construction of a new structure with less than required left and right side yard setbacks and a height from original average grade of 45.5 feet, in a Water Supply Protection District, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Letter to Zoning Board of Appeals, dated 2/23/21, from David Himmelberger, Esq., a Plan of Land, dated 1/3/20, revised 8/4/20, 12/28/20 & 2/18/21, Infiltration System Location Plan of Land, Allowable Height Plan of Land, and Basement TLAG Plan of Land, dated 1/3/20, revised 2/18/21, stamped by Bradley J. Simonelli, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 2/22/21, prepared by John Chapman, Architect, and Elevation Renderings and photographs were submitted.

On March 30, 2021, the Planning Board reviewed the petition and recommended that the special permit and variances be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

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 14E of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition of an existing nonconforming structure with less than required right side yard setbacks and construction of a new structure with less than required right side yard setbacks, will not result in the intensification of existing nonconformities, will not result in additional nonconformities, and will not be substantially more detrimental to the neighborhood than the existing nonconformities.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure with less than required right side yard setbacks and construction of a new structure with less than required right side yard setbacks, subject to the following conditions.

It is the opinion of this Authority that literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner owing to circumstances relating to the topography of such land, which does not generally affect the zoning district in which it is located, the hardship has not been self-created, and desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Therefore, the requested Variance from the terms of Section 19 and pursuant to the provisions of Section 24-D of the Zoning Bylaw is granted for demolition of an existing nonconforming structure with less than required right side yard setbacks and construction of a new structure with less than required left and right side yard setbacks at a height from original average grade of 45.5 feet, subject to the following conditions.

CONDITIONS

1. A plan prepared by a civil engineer pertaining to the retaining wall and its drainage capabilities shall be submitted contemporaneously to the Building Inspector when filing for a building permit.
2. Certification by a civil engineer that the wall has been built in accordance with the plan shall be submitted before a Certificate of Occupancy shall issue.

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.

If construction has not commenced, except for good cause, this Variance shall expire one year after the date time stamped on this decision.

ZBA 2021-31
Petition of Krassen Draganov
148 Walnut Street

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 (A.M.)
J. Randolph Becker, Chairman

Robert W. Levy (A.M.)
Robert W. Levy

David G. Sheffield (A.M.)
David G. Sheffield

ZBA 2021-31
Applicant Krassen Draganov
Address 148 Walnut Street

APR 15 P 1:45

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

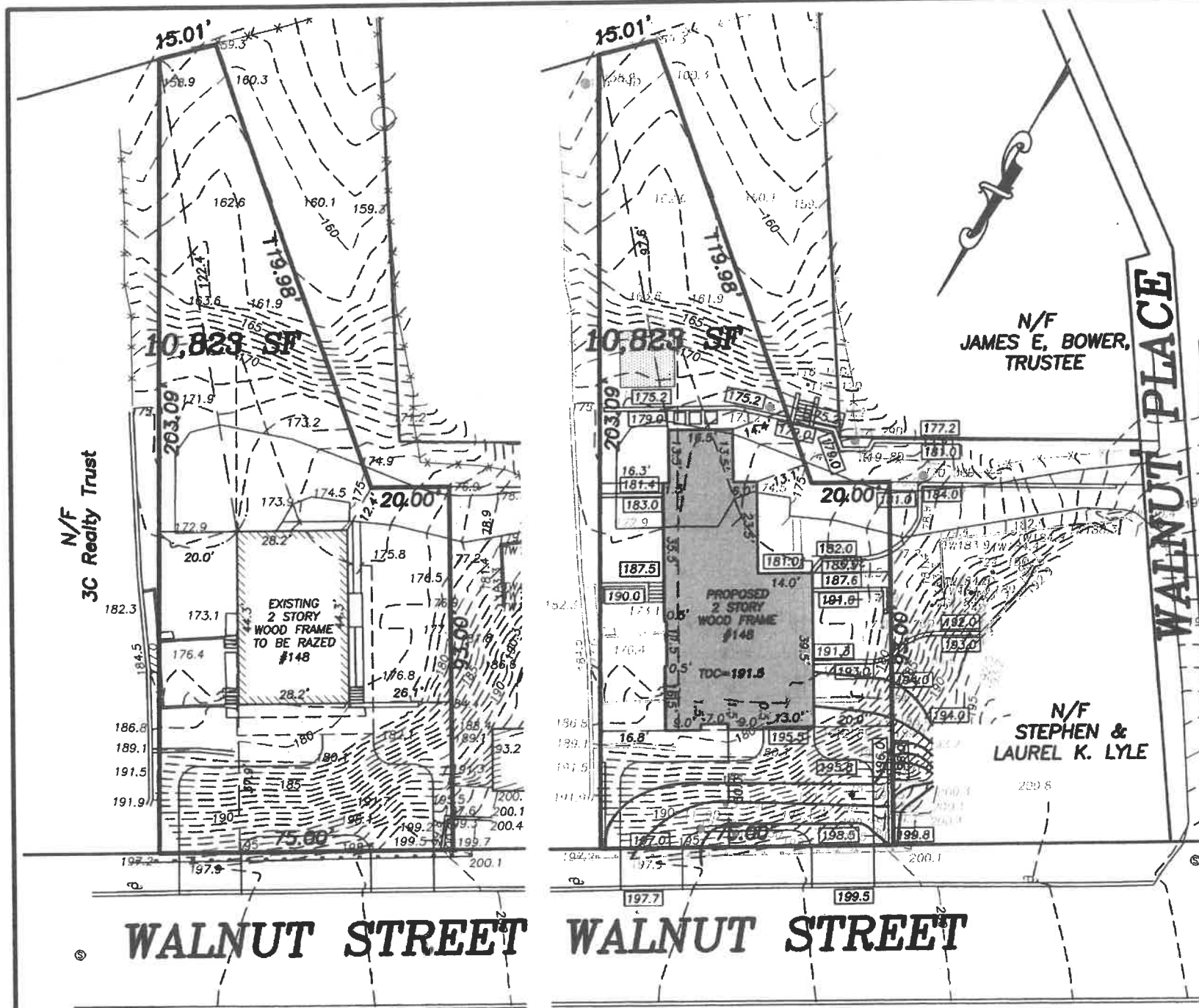
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm



EXISTING SITE
SCALE: 1"=30'

PROPOSED SITE
SCALE: 1"=30'

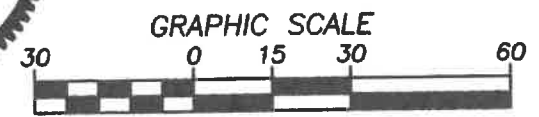
NOTE: ALL PROPOSED WALLS ARE LESS THAN 4 FEET IN HEIGHT

ZONING INFORMATION: SINGLE RESIDENCE 10 (SR10)

	REQUIRED	ACTUAL	PROPOSED
MINIMUM LOT AREA	10,000 SF	10,823 SF	10,823 SF
MINIMUM LOT FRONTAGE	80 FEET	75.00 FEET	75.00 FEET
MINIMUM FRONT SETBACK	30 FEET	37.9 FEET	30.0 FEET
MINIMUM SIDE YARD	20 FEET	12.4 FEET	13.1 FEET
		20.0 FEET	18.3 FEET
MINIMUM REAR YARD	10 FEET	122.4 FEET	97.6 FEET
MAXIMUM BUILDING COVERAGE	2500 SF	12.3%(1329SF)	21.1%(2284 SF)
MAXIMUM BUILDING HEIGHT	36 FEET		45.5 FT / (34.01 FEET)**
MAXIMUM BUILDING HEIGHT	2 1/2 STY	2 STY	2 STY

* FRONT SETBACK DETERMINED BY 500 FOOT RULE

** HEIGHT DETERMINED FROM AVERAGE GRADE PLANE PER ZONING BYLAW SECTION 20 HEIGHT IN PARENTHESIS IS FROM PROPOSED GRADE.



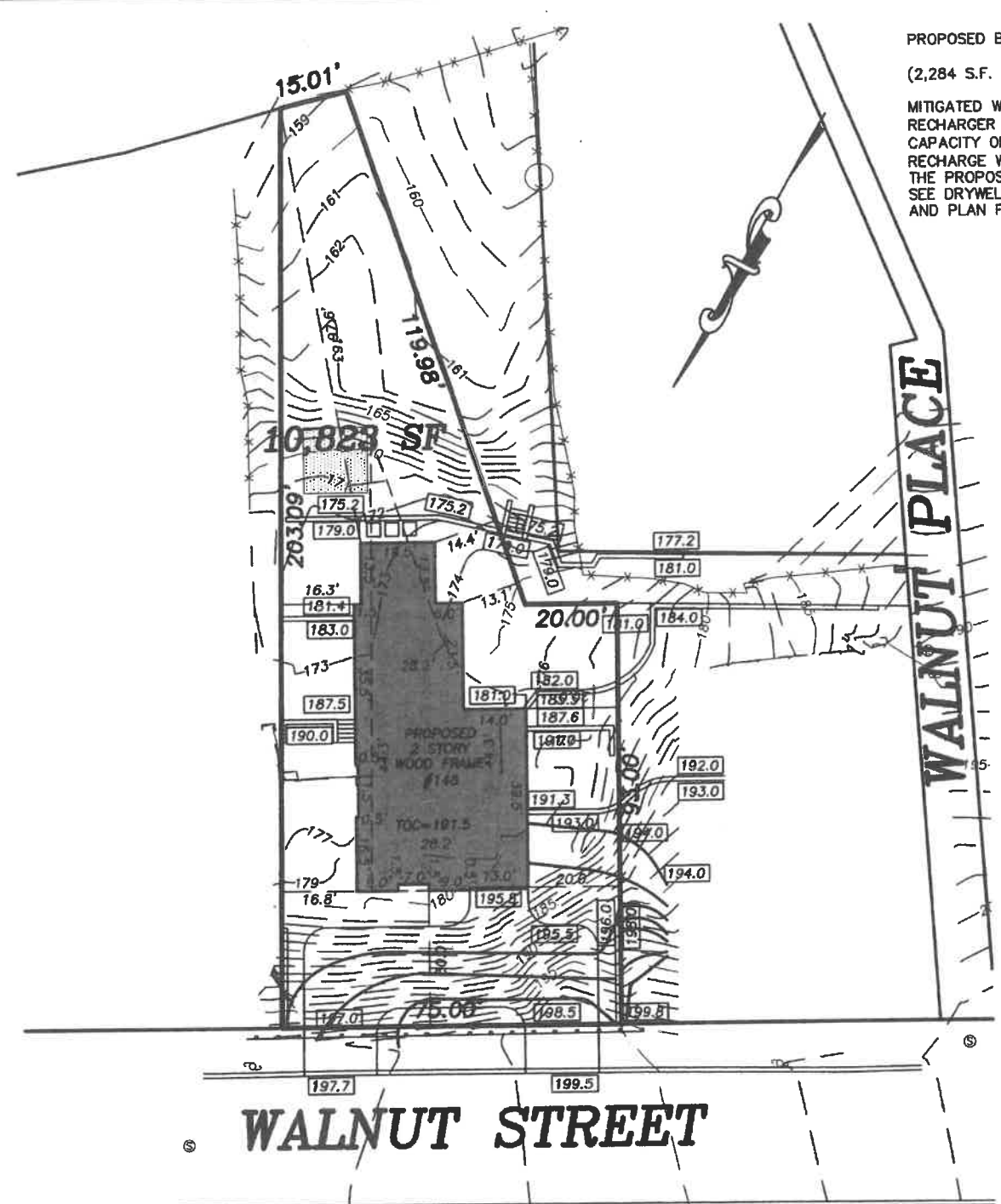
**ZONING BOARD OF APPEALS
PLAN OF LAND
148 WALNUT STREET
WELLESLEY, MASS.**

Field Resources, Inc.
LAND SURVEYORS

JANUARY 3, 2020 SCALE 1"=30'
P.O. BOX 324 281 CHESTNUT ST.
AUBURN, MA NEEDHAM, MA.
508 832 4332 781 444 5936
fieldresources@hotmail.com

REVISED: FEBRUARY 18, 2021
REVISED: DECEMBER 28, 2020
REVISED: AUGUST 4, 2020

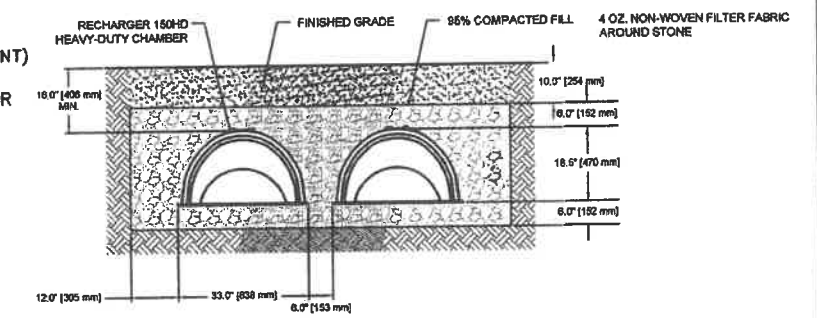
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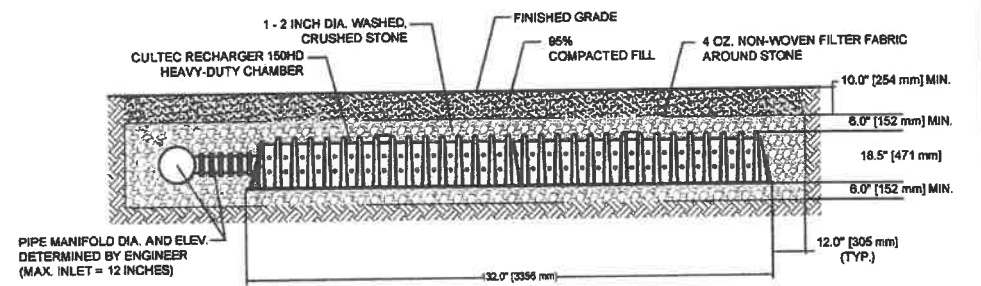
PROPOSED BUILDING FOOTPRINT = 2,284 SF

$(2,284 \text{ S.F.} \times 1") / 12 = 190.3 \text{ Cu. Ft.}$

MITIGATED WITH 4 CULTEC CONTRACTOR 150 HDXL RECHARGER DRYWELL CHAMBERS (OR SUITABLE REPLACEMENT) CAPACITY OF 53.79 CU FT EACH. (11 x 4.89 CU FT) RECHARGE WILL MITIGATE COMPLETELY FOR A 1" STORM FOR THE PROPOSED FOOTPRINT SEE DRYWELL DETAIL FOR SPECIFICATIONS AND PLAN FOR LOCATIONS. LOCATIONS AS SHOWN.



GENERAL NOTES
 RECHARGER 150HD BY CULTEC, INC. OF BROOKFIELD, CT. STORAGE PROVIDED = 4.89 CF/FT PER DESIGN UNIT. REFER TO CULTEC, INC.'S CURRENT RECOMMENDED INSTALLATION GUIDELINES. USE RECHARGER 150HD HEAVY-DUTY FOR TRAFFIC AND/OR H2O APPLICATIONS.
 ALL RECHARGER 150HD HEAVY-DUTY UNITS ARE MARKED WITH A COLOR STRIPE FORMED INTO THE PART ALONG THE LENGTH OF THE CHAMBER. ALL RECHARGER 150 CHAMBERS MUST BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS.



INFILTRATION SYSTEM DETAILS
 NOT TO SCALE

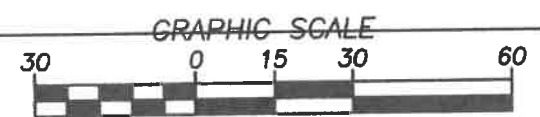


**INFILTRATION SYSTEM LOCATION
 PLAN OF LAND
 148 WALNUT STREET
 WELLESLEY, MASS.**

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 LAND SURVEYORS

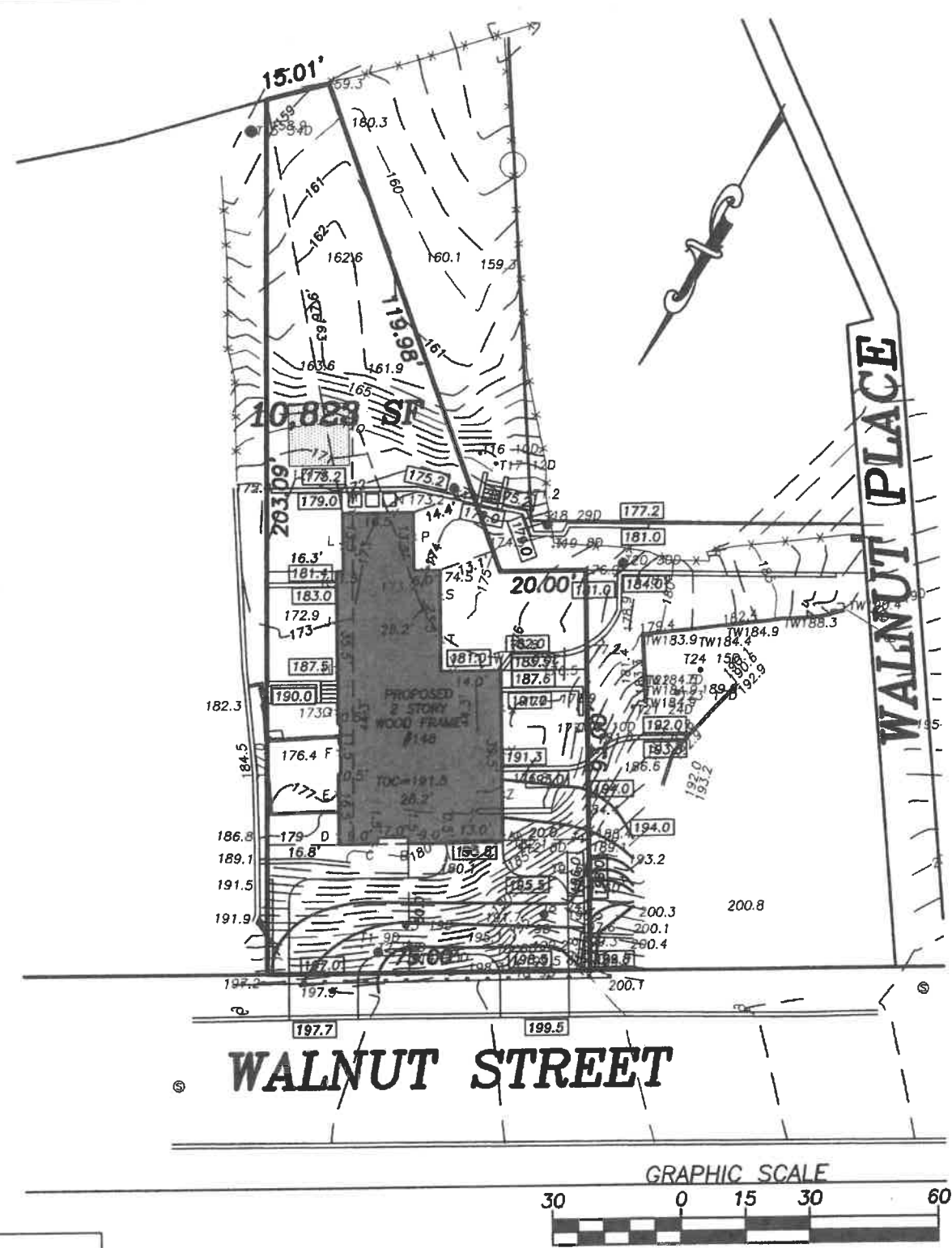
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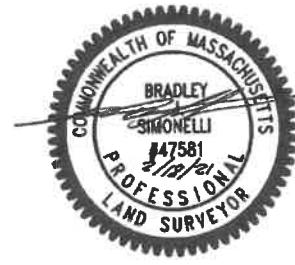
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ELEV STATION	EXISTING ELEVATION	PROPOSED ELEVATION
A	180.5	195.5
B	179.7	195.5
C	179.9	195
D	179.8	194
E	177	192.5
F	176.4	191
G	173.1	190
H	173	187.5
J	173	185
K	172.6	183
L	172.4	180
M	172.3	179.5
N	173.2	179.5
P	173.6	179.8
R	173.9	180
S	174.4	181
T	175	181
V	175.5	181
W	176.3	181
X	176.8	191.1
Y	176.8	191.3
Z	177.4	194.5
AA	181	195.5
BB	180.3	195.5

BASED UPON COMPARATIVE ANALYSIS THE EXISTING GRADE PLANE PROVIDES MORE RESTRICTIVE ENVIRONMENT FOR THE BUILDING HEIGHT THE MAXIMUM ALLOWABLE STRUCTURE ABOVE THE TOP OF CONCRETE IS 20.50 FEET.

THE PROPOSED STRUCTURE FROM TOP OF CONCRETE TO RIDGE IS 30.00 FEET. MAKING THE PROPOSED HEIGHT 45.50 FEET FROM THE EXISTING GRADE PLANE ALTHOUGH 34.01 FEET FROM PROPOSED GRADE PLANE



EXISTING
 GRADE PLANE = $4223.9 / 24 = 176.00$
 TOC TO GRADE = $191.50 - 176.00 = 15.50$
 ALLOWABLE BUILDING = $36.00 - 15.50 = 20.50$

PROPOSED
 GRADE PLANE = $4499.7 / 24 = 187.49$
 TOC TO GRADE = $191.50 - 187.49 = 4.01$
 ALLOWABLE BUILDING = $36.00 - 4.01 = 31.99$

Z.B.A.
 ALLOWABLE HEIGHT
 PLAN OF LAND
 148 WALNUT STREET
 WELLESLEY, MASS.

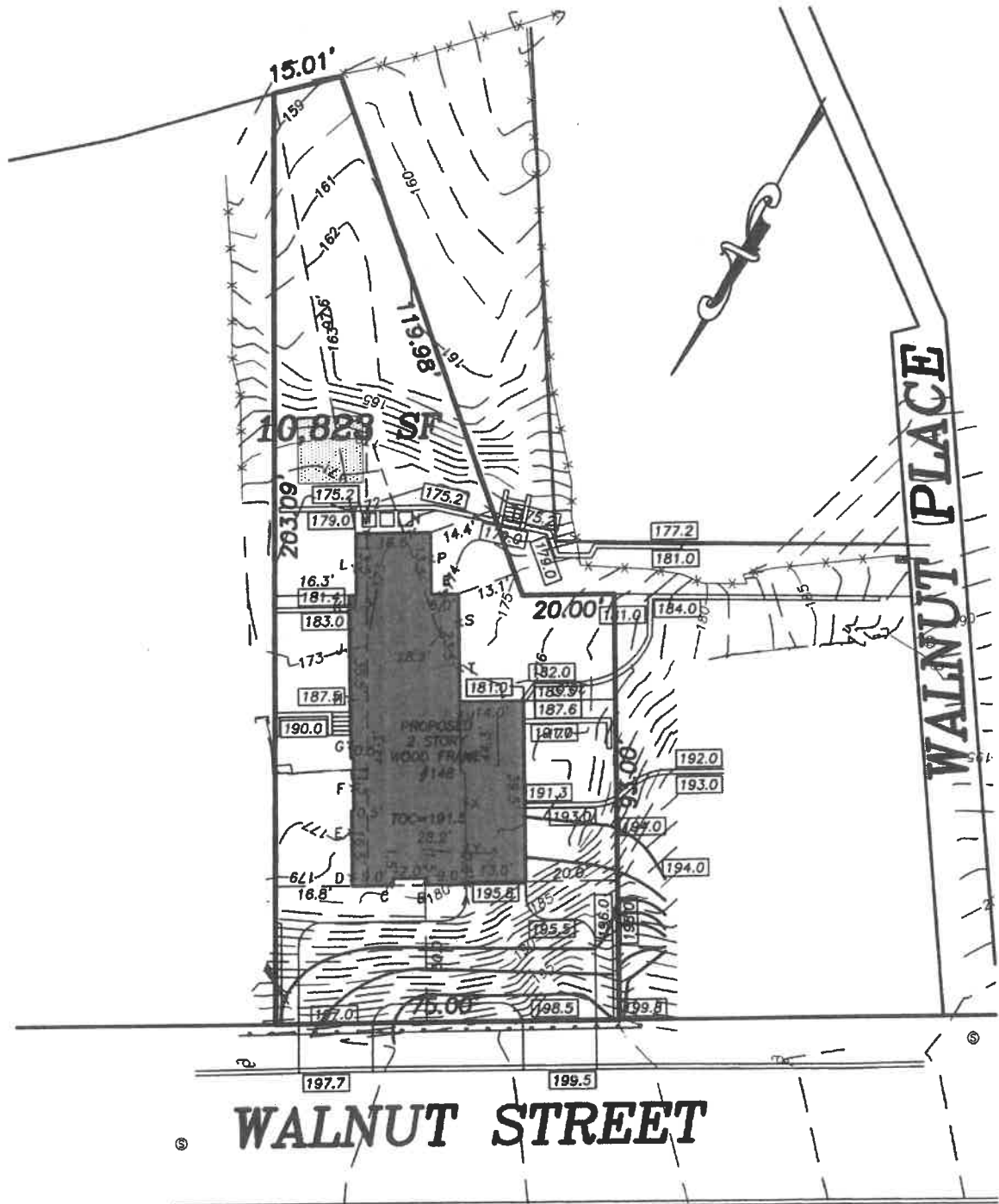
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TLAG STATION	PROPOSED ELEVATION
A.....	195.5
B.....	195.5
C.....	195.0
D.....	194.0
E.....	192.5
F.....	191.0
G.....	190.0
H.....	187.5
J.....	185.0
K.....	183.0
L.....	180.0
M.....	179.5
N.....	179.5
P.....	179.8
R.....	180.0
S.....	181.0
T.....	181.0
V.....	192.5
W.....	192.5
X.....	192.5
Y.....	192.5

PROPOSED TOP OF CONCRETE = 191.5
 WITH A PROPOSED 10.5' HIGH WALL

$191.50 - 187.61 / 10.5 = 37.05\%$

37.05% > 25% THEREFORE THE BASEMENT IS NOT EXEMPT FROM TLAG BASED UPON PROPOSED GRADING.

BASEMENT AREA COUNTING TOWARD TLAG =
 $2287 \text{ SF} \times 37.05\% = 847 \text{ SF}$

PROPOSED GRADE PLANE =
 $3939.8 / 21 = 187.61$

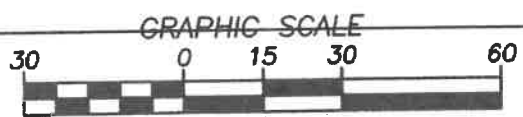


**BASEMENT TLAG
 PLAN OF LAND
 148 WALNUT STREET
 WELLESLEY, MASS.**

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WALNUT STREET



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