

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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TOWN ENGINEER'S OFFICE  
WELLESLEY MA 02482  
2022 DEC 15 PM 12:34

ZBA 2022-82  
Petition of 48 MacArthur LLC  
36 Avon Road

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, December 1, 2022, at 7:30 pm in the Juliani Room, 525 Washington Street, Wellesley, on the petition of 48 MacArthur LLC requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of a single family dwelling that will meet setback requirements, on an 8,426 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District, at 36 Avon Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On November 1, 2022, 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 48 MacArthur LLC, and Justin DePietri, Manager, JBJ Construction. Mr. Himmelberger said that the request is for a special permit to raze and reconstruct a pre-existing nonconforming dwelling located at 36 Avon Road, in a Water Supply Protection District. He said that the existing home is otherwise dimensionally compliant but sits on an 8,426 square foot lot in a 10,000 square foot Single Residence District. He said that proposed TLAG will be less than the 3,600 square foot threshold for LHR, at 3,432 square feet. He said that the house will be approximately 24 feet tall.

The Chairman said that the plans were hard to understand what is existing and what is proposed. Mr. Himmelberger said that they submitted a second Existing Conditions Plan because the original was difficult to read. He said that they submitted an updated and revised Proposed House Plan that shows an infiltration system in the front yard to take roof runoff.

Mr. Himmelberger said that he spoke with Mrs. Hatch, who is an abutter to the rear on Weston Road, about her concerns. He said that she requested some screening at the rear. He said that there is some natural screening there already. He said that an existing fence is falling down. He said that the Petitioner would accept a condition to replace the existing six foot solid stockade fence. He displayed photographs

that show trees across the rear line of the property. He said that photos taken from the front to the rear show the fence. He said that there are substantial trees on the sides.

Ms. Hatch said that she would like to have a fence that is as tall as the fence next door. She said that she wants it to be as tall as the one behind 32 Avon Road. She said that she needs a little bit of privacy.

A Board member asked about exterior lighting. Mr. Depietri said that there will be a light at the main door and two flood lights on the first floor that are not on a sensor at the rear of the house. The Board member discussed concerns about light spillage. Mr. Himmelberger said that the Petitioner would accept a condition that lighting be dark sky compliant.

The Board discussed adding trees, such as arbor vitae, in front of the fence. Mr. Depietri said that it is 14 feet to the back of the house. He said that they can put up an 8 foot fence instead of the arbor vitae.

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 36 Avon Road, on an 8,426 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, in a Water Supply Protection District

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 3.8, Section 5.1 and Section 6.3 of the Zoning Bylaw that demolition and reconstruction of a single family dwelling that will meet setback requirements, on an 8,426 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square 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 10/25/22, from David J. Himmelberger, Letter to Justin Depietri, dated 11/2/22, from Michael J. Burke, PE, re: Height Calculation, Existing Conditions Plan, dated 10/24/22, Proposed House Plan, dated 9/29/22, revised 10/24/22, stamped by Robert E. Constantine, II, Floor Plans & Elevation Drawings, dated 8/19/22, prepared by HPA Design, Inc. Architects, and photographs were submitted.

On November 16, 2022, the Planning Board reviewed the petition and recommended that the ZBA delay action.

#### 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 3.8 of the Zoning Bylaw for Water Supply Protection Districts.

22 DEC 15 PM 2:04  
TOWN CLERK'S OFFICE  
WILLESTEAD MA 02463

It is the opinion of this Authority that demolition and reconstruction of a single family dwelling that will meet setback requirements, on an 8,426 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet will not result in the intensification of an existing nonconformity, will not result in additional nonconformities, and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition and reconstruction of a single family dwelling that will meet setback requirements, subject to the following conditions:

1. A new eight (8) foot solid stockade fence be installed and maintained at the rear of the property.
2. Exterior lighting shall be dark sky compliant.

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.

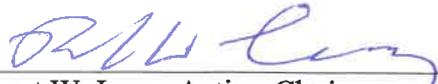
If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

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WINTERBURY MA 02461  
2022 DEC 15 PM 12:34

ZBA 2022-82  
Petition of 48 MacArthur LLC  
36 Avon Road

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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.

  
Robert W. Levy, Acting Chairman

  
David G. Sheffield

  
Richard L. Seegel

ZBA            2022-82  
Applicant    48 MacArthur LLC  
Address      36 Avon Road

RECEIVED  
TOWN CLERK'S OFFICE  
WELLESLEY MA 02461  
2022 DEC 15 PM 12:34

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

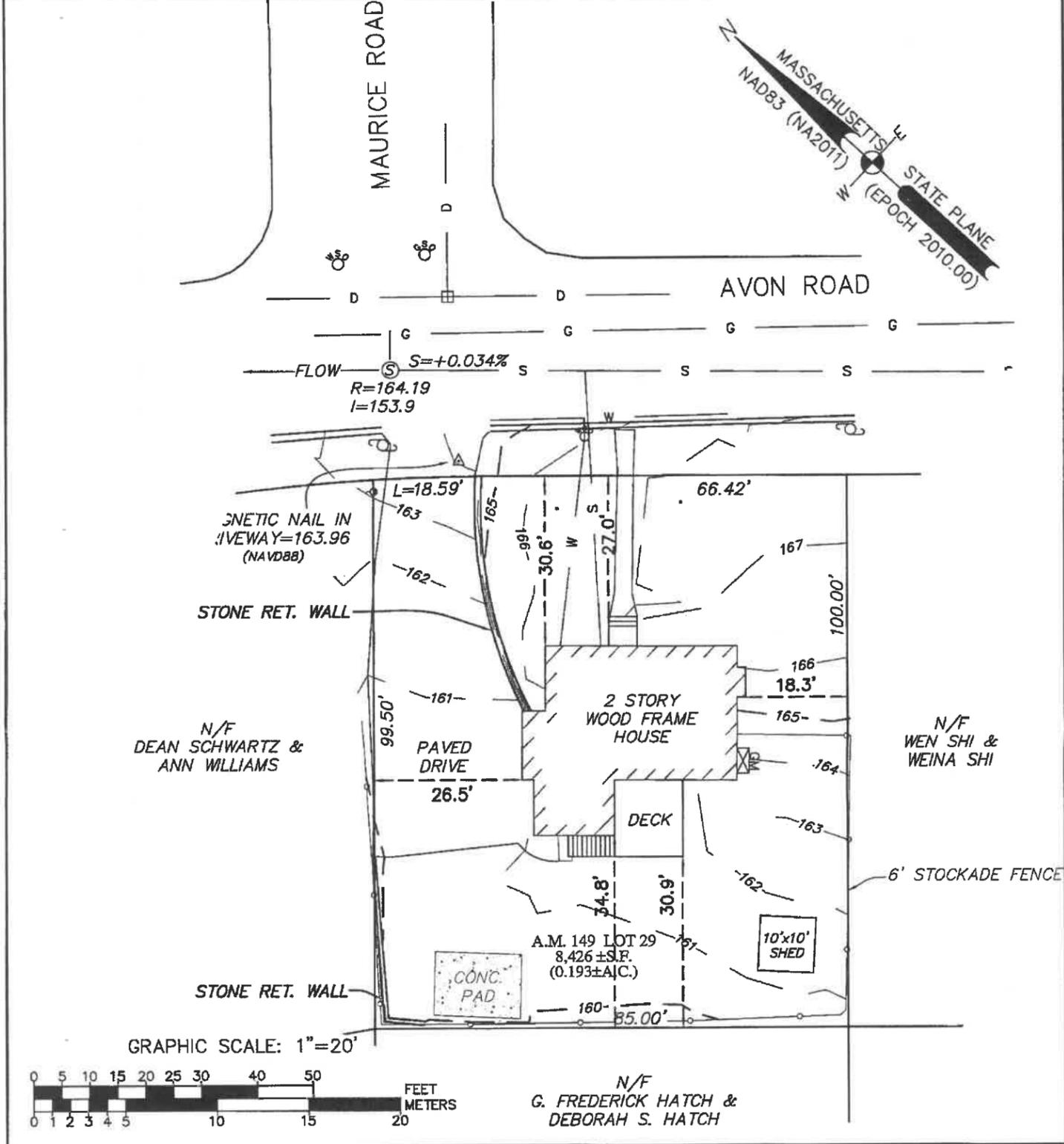
THE BUILDING OFFSETS SHOWN HEREON ARE NOT TO BE USED FOR THE ESTABLISHMENT OF PROPERTY LINES OR FOR THE ESTABLISHMENT OF ANY PROPOSED CONSTRUCTION UNLESS SAID CONSTRUCTION IS SHOWN HEREON.

THIS PLAN WAS PREPARED FOR THE EXCLUSIVE USE AND PURPOSE FOR THE PARTY STATED HEREON AND SHALL NOT BE USED BY ANY THIRD PARTY WITHOUT THE EXPRESSED WRITTEN PERMISSION OF GUERRIERE AND HALNON, INC.

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.

CONTRACTORS (IN ACCORDANCE WITH MASS.G.L. CHAPTER 82 SECTION 40 AS AMENDED) MUST CONTACT ALL UTILITY COMPANIES BEFORE EXCAVATING AND DRILLING AND CALL DIGSAFE AT 1(888)DIG-SAFE{72333}.

F4562



<b>CERTIFICATION</b> I CERTIFY THAT THIS PLAN WAS PREPARED FROM AN ON THE GROUND SURVEY AND THAT THE BUILDINGS AND IMPROVEMENTS ARE LOCATED ON THE LOT AS SHOWN HEREON.	<b>OWNER</b> 48 MACARTHUR, LLC. 259 TURNPIKE ROAD, SUITE 100 SOUTHBORO, MA 01772  DEED BOOK 40537 PAGE 594 PLAN BK. 1680 PAGE 563 A.M. 149 LOT 29	<b>EXISTING CONDITIONS</b> <b>36 AVON ROAD</b> <b>WELLESLEY MASSACHUSETTS</b>					
	<b>NOTES</b> ZONE: SR10: SINGLE RESIDENCE  AREA = 10,000 S.F. MIN (TABLE 1) FRONT YARD - 30' MIN SIDE YARD - 20' MIN REAR YARD - 10' MIN BUILDING HEIGHT= 36' MAX	<b>OCTOBER 24, 2022</b>		<table border="1"> <thead> <tr> <th>DATE</th> <th>REVISION DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	DATE	REVISION DESCRIPTION	
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TLG Station	Proposed Elevation
A	166.25
B	166.25
C	166.25
D	166.25
E	165.50
F	165.50
G	165.50
H	165.50
I	165.50
J	165.00
K	161.00
L	161.00
M	161.00
N	161.00
O	161.00
P	161.00
Q	165.00
R	165.50
S	165.50
T	165.50
U	166.25
V	166.25
W	166.25
X	166.25
Y	166.25

PROPOSED TOP OF CONCRETE = 166.25  
 WITH A PROPOSED 7.5 HIGH FOUNDATION WALL  
 PROPOSED GRADE PLANE =  $4111.25 / 25 = 164.45$   
 $(166.25 - 164.45) / 7.5 = 24.0\%$

24% < 25% THEREFORE THE BASEMENT IS EXEMPTED FROM TLAG BASED UPON PROPOSED GRADING

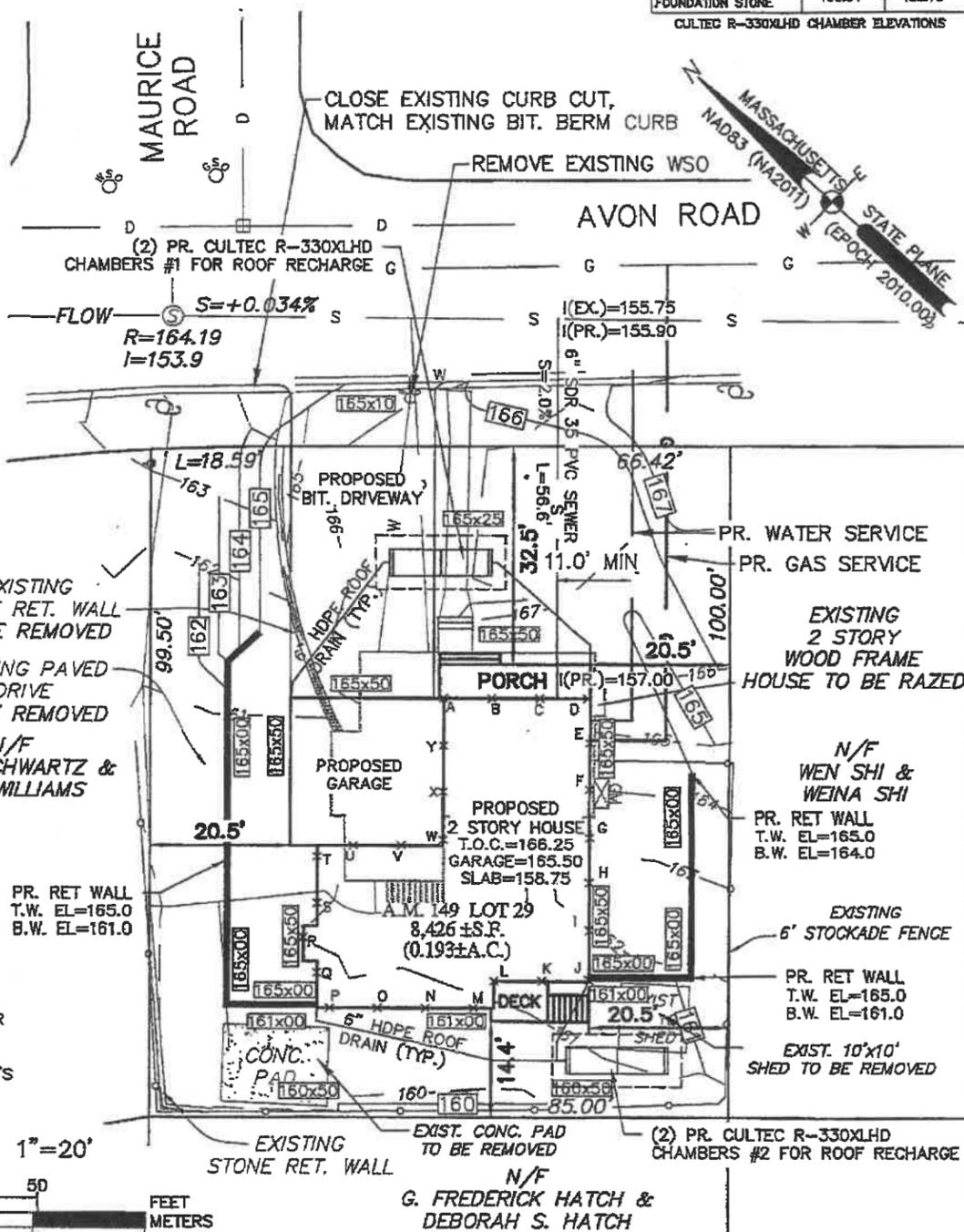
	SYSTEM #1	SYSTEM #2
MINIMUM COVER ELEV.	165.25	160.50
TOP OF STONE	164.05	159.33
6" INLET	162.50	157.80
BOTTOM OF CHAMBER	161.04	156.29
BOTTOM OF FOUNDATION STONE	160.84	155.79

CULTEC R-330XLHD CHAMBER ELEVATIONS

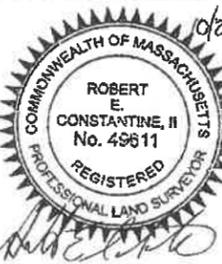
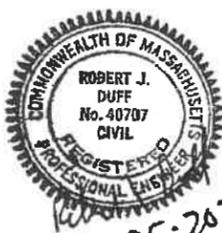
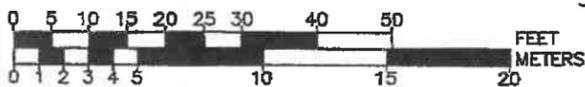
BUILDING LOT COVERAGE:  
 MAX BLDG. LOT COVERAGE=25%  
 EXISTING DWELLING=1,050± S.F.=12.5%  
 PROPOSED DWELLING=2081± S.F.=24.7%

NOTES:

- EXISTING WATER AND SEWER SERVICES TO BE CUT AND CAPPED IN ACCORDANCE WITH TOWN REQUIREMENTS AND REGULATIONS.
- DRAINAGE SIZED TO RECHARGE 100-YEAR STORM. SEE CALCULATIONS PROVIDED UNDER SEPERATE COVER.
- RECHARGE CHAMBERS TO BE INSTALLED PER MANUFACTURER'S SPECIFICATIONS AND INSTRUCTIONS.



GRAPHIC SCALE: 1"=20'



OWNER  
 48 MACARTHUR, LLC.  
 259 TURNPIKE ROAD, SUITE 100  
 SOUTHBORO, MA 01772  
 DEED BOOK 40537 PAGE 594  
 PLAN BK. 1680 PAGE 563  
 A.M. 149 LOT 29

PROPOSED HOUSE  
 PLAN  
 36 AVON ROAD  
 WELLESLEY MASSACHUSETTS  
 SEPTEMBER 29, 2022

NOTES  
 ZONE:  
 SR10: SINGLE RESIDENCE  
 AREA = 10,000 S.F. MIN (TABLE 1)  
 FRONT YARD - 30' MIN  
 SIDE YARD - 20' MIN  
 REAR YARD - 10' MIN  
 BUILDING HEIGHT= 36' MAX

DATE	REVISION DESCRIPTION
10/24/22	ROOF RECHARGE ADDED

**Guerriere & Halnon, Inc.**  
 ENGINEERING & LAND SURVEYING  
 55 WEST CENTRAL ST. PH. (508) 528-3221  
 FRANKLIN, MA 02038 FX. (508) 528-7921  
 www.gandhengineering.com

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