

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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

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ZBA 2020-34

Petition of Guy & Maya Yehiav
1 Pickerel Road

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, October 1, 2020 at 7:30 pm, on the petition of Guy & Maya Yehiav requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure and reconstruction of a two-story structure with basement, on the existing footprint with less than required front yard, left and right side yard setbacks, on a 4,029 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, in a Water Supply Protection District, at 1 Pickerel Road, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to construct a deck with less than required side yard and rear yard setbacks and for relocation of a hot tub with less than required setbacks.

On March 31, 2020, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication. In accordance with Chapter 53 of the Acts of 2020, the hearing was scheduled for October 1, 2020.

Present at the public hearing were David Himmelberger, Esq., Guy and Maya Yehiav, the Petitioner. Mr. Himmelberger said that the request is to raze and rebuild the existing home on a nonconforming lot with insufficient setbacks. He said that also present at the hearing were Greg Legault, Architect, Kevin O'Leary, Engineer, and John Sullivan, Builder.

Mr. Himmelberger said that the lot is 4,092 square feet and is reached via Natick. He said that existing setbacks are 11.6 feet in the front, 8.1 feet on the left side and 10.1 feet on the right side. He said that an air conditioning unit is located in the setback area. He said that the request is for a special permit for a new home that will maintain the existing setbacks and add a second story. He said that in 2006 the Board approved a special permit to add a second story over the existing home but the project was not done. He said that the existing home has a height above finished grade at the front of 23.4 feet and the new home will be 34.11 feet from average finished grade due to the drop off of approximately eight feet from the front to the back of the lot. He said that the height at the street will present at approximately 27 feet tall. He said that a variance or modification of a variance is sought to permit a rear first floor deck with a 7.7 foot setback to replace a patio. He said that the requested 7.7 foot setback is only to the property line and there is another 25 feet of land owned by the town before getting to Morses Pond. He said that ZBA decision 55-24 characterized the relief granted for the setbacks as a variance but called it an exception. He said that they do need a variance for the rear deck and for relocation of the hot tub to the rear, according to Michael Grant, Building Inspector.

Mr. Himmelberger said that existing lot coverage will decrease from 1,964 square feet to 1,607 square feet due to removal of other decking on site. He said that the project was reviewed by the Wetlands Protection Committee (WPC) and an Order of Conditions was recorded at the Registry of Deeds. He said that the property is located in a flood plain and a wetlands buffer. He said that a supplemental plan was submitted that shows a decrease in ground coverage, so the flood plain bylaw does not apply.

Mr. Himmelberger said that this is a tight knit neighborhood. He said that six to seven letters or emails were submitted in support of the project. He said that the request for a variance for the hot tub and deck is based on the unusual trapezoidal shape of the lot and the eight foot drop off from front to back. He requested that a special permit for the reconstruction of the pre-existing nonconforming structure be granted, based on a finding that it will not be substantially more detrimental to the neighborhood than the existing nonconformity.

The Chairman said that it is a unique neighborhood and the Board has seen a number of petitions over the years. He said that it was originally a neighborhood of summer camps. He said that the property is located in a 10,000 square foot district and is 60 percent smaller than what is zoned for the district. He said that the proposed TLAG is 20 percent larger than what is permitted in a 10,000 square foot district. Mr. Himmelberger said that over 1,000 square feet will be in the basement. He said that the proposed house will retain the existing footprint. He said that the prior approval for a second floor probably pre-dated TLAG. He said that this is a unique neighborhood and the neighbors are supportive of this project.

A Board member said that this is an appropriate addition to the community. He said that the house presents itself as a narrow house to Pickerel Road. He said that it would appear to not be as large as some of the adjacent houses that are oriented in a different fashion.

A Board member discussed concerns about the appearance of a three story structure on three sides. Mr. Himmelberger said that the you do not get a full side on view from the street. He said that the abutter directly to the left at 9 Pickerel Road is supportive, as well as other neighbors up and down the street.

John Thompson, 10 Pickerel Road, said that he strongly supports the project. He said that as you drive down the street, the house appears small from Pickerel Road because of the slope of the lot. He said that the house next door in Natick has a lot of trees that obscure the side of the house. He said that most of the houses are taller from the pond side. He said that he was speaking on behalf of the neighbors and they hope that the Board will allow the project.

Joel Lunger, 25 Pickerel Road, said that there is a wall on the right side of the house. He said that the house sinks down and is really hidden as you head down Pickerel Road. He said that there is a wall on the driveway side, so you do not see a massive house either way. He said that he went through the process with the Board years ago. He said that he has a small lot and the town owns property in back of it. He said that he has a basement, first and second floors and an attic. He said that the house height from the rear elevation is consistent with houses on Pickerel Road and several houses around the pond because all of the houses have the same issue with narrow lots with houses that look tall in the back with a small street side façade because of the hill. He said that he is supportive of the project and thinks that it will be a great addition and consistent with the neighborhood.

Mr. Yehiav confirmed that the neighbor in Natick is aware of the proposed plans.

A Board member said that the height of the house is mitigated by the hill coming down to this neighborhood from Natick.

Mr. Himmelberger discussed Mr. Sullivan's experience working on 11 and 9 Pickerel Road. Mr. Sullivan said that because there are no lay down areas, they bring materials in as needed. He said that they had a fire detail when the road was blocked and removed all debris and fill off site. Mr. Lunger said that the neighbors are used to construction on tight sites on their street. He said that they have learned to cope with it and respect each other with the road. He said that Mr. Sullivan has been good about communicating with the neighbors and lets them know when there will be activities that might impact them. Mr. Thompson said that the builder has demonstrated with two projects the ability to do the construction on small lots with minimal disruption to the neighborhood.

A Board member asked about flood elevations. Mr. O'Leary said that re-grading the property slightly increases the flood capacity. He said that they will add approximately 150 cubic yards of flood capacity, so at project build out the floor levels will not be as high around the pond by a small incremental amount.

Mr. Legault discussed roof treatment, window elements and materials.

The Chairman discussed the legal standards for granting a special permit and consideration of the neighbors' comments.

The Chairman discussed legal standards for granting a variance. He said that the drop off does not affect the setback. He said that this is one of the smallest lots in town and is less than half the required size for the district. Mr. Himmelberger said that the lot is trapezoidal, which is an unusual shape.

Statement of Facts

The subject property is located at 1 Pickerel Road, on a 4,029 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, with a minimum front yard setback of 11.6 feet where 30 feet is required, a minimum left side yard setback of 8.1 feet and a minimum right side yard setback of 0.4 feet where 20 feet is required, and 50 feet of frontage where 60 feet is required.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 14E, Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing nonconforming structure and reconstruction of a two-story structure with basement, on the existing footprint with less than required front yard, left and right side yard setbacks, on a 4,029 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet, with less than required frontage, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Petitioner is requesting a Variance pursuant to the provisions of Section 19 and Section 24 of the Zoning Bylaw to construct a deck with less than required side yard and rear yard setbacks and relocation of a hot tub with less than required setbacks.

An Existing Zoning Petitioner's Plan, a Proposed Zoning Petitioner's Plan, Existing Conditions Petitioner's Plan, Proposed Conditions Petitioner's Plan, Roof Design Petitioner's Plan, dated 3/20/20, stamped by Todd P. Chapin, Registered Land Surveyor, an Existing & Proposed Ground Coverage Plan, dated 6/18/20, prepared by the Jillson Company, Existing Floor Plans and Elevation Drawings, dated

8/22/19, revised 3/26/20 and Proposed Floor Plans and Elevation Drawings, dated 8/22/19, revised 3/26/20 & 9/14/20, prepared by Legault Design LLC, and photographs were submitted.

On January 24, 2020, the Wetlands Protection Committee issued an Order of Conditions, DEP 324-0934.

On September 23, 2020, the Planning Board reviewed the petition and recommended that action on the Special Permit and the Variance be delayed.

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 XIVE of the Zoning Bylaw for Water Supply Protection Districts.

It is the opinion of this Authority that demolition of an existing nonconforming structure and reconstruction of a two-story structure with basement, on the existing footprint with less than required front yard, left and 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 nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for demolition of an existing nonconforming structure and reconstruction of a two-story structure with basement, on the existing footprint with less than required front yard, left and right side yard setbacks, in accordance with the submitted plot plan and construction drawings.

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 shape 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 to construct a deck with less than required side yard and rear yard setbacks and for relocation of the hot tub with less than required setbacks, in accordance with the submitted plot plan and construction drawings.

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.

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

ZBA 2020-34
Petition of Guy & Maya Yehiav
1 Pickerel 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.

Robert W. Levy (L.M.)

Robert W. Levy, Acting Chairman

David G. Sheffield (L.M.)

David G. Sheffield

Derek B. Redgate (L.M.)

Derek B. Redgate

ZBA 2020-34
Applicant Guy & Maya Yehiav
Address 1 Pickerel 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:

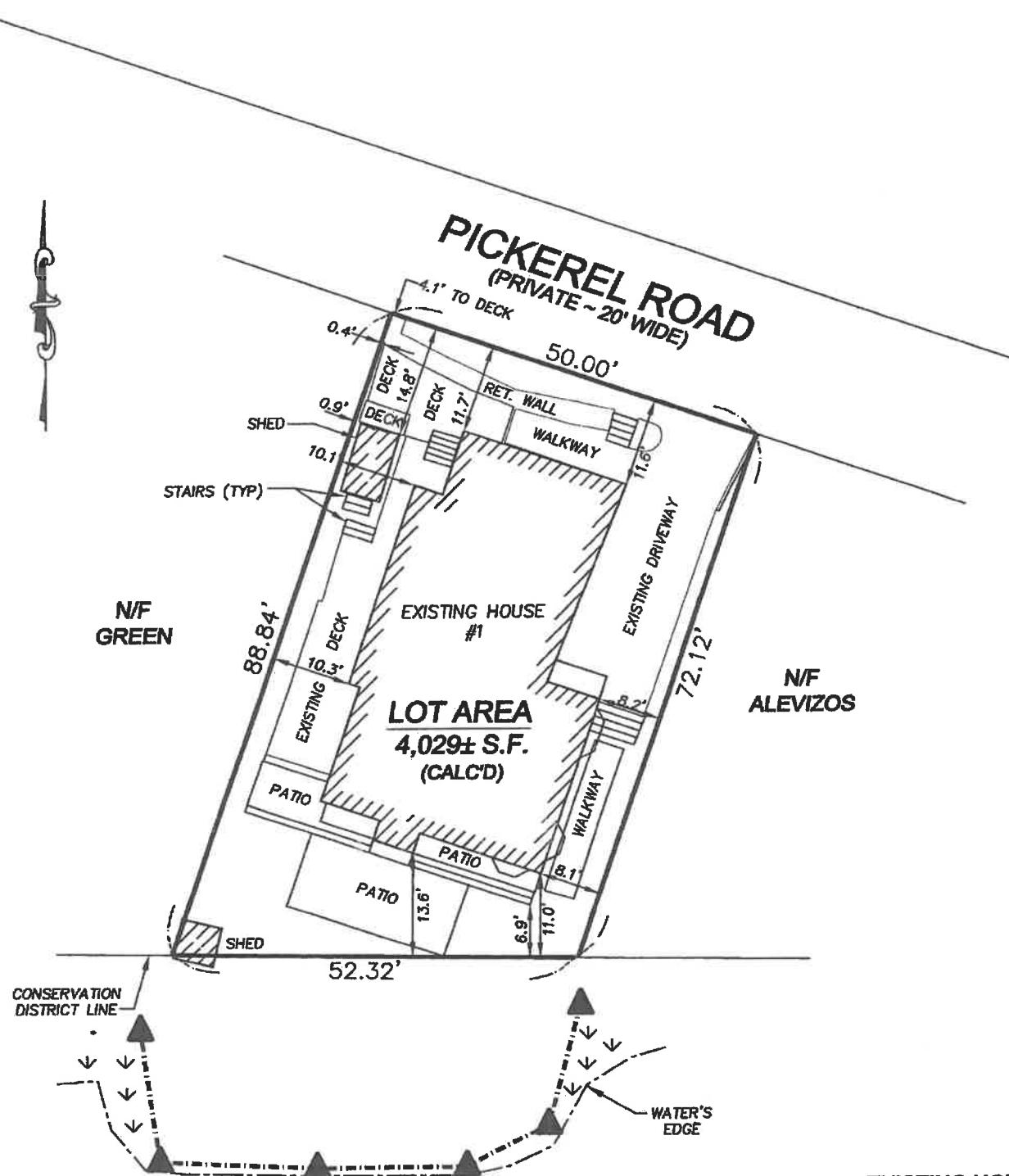
Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm

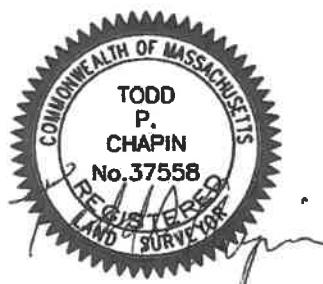
NOTES

1. THIS PLAN SHALL NOT BE RECORDED OR USED TO ESTABLISH PROPERTY LINES.
2. THIS PLAN REFERS TO THE TOWN OF WELLESLEY ASSESSOR'S MAP 201, LOT 9.
3. ZONING CLASSIFICATION: RESIDENCE SR10.
4. ALL ELEVATIONS SHOWN HEREON REFER TO N.A.V.D. OF 1988.
5. ANY EXISTING UNDERGROUND UTILITY LOCATIONS SHOWN HEREON ARE BASED ON TOWN AND FIELD SKETCHES AND SHALL BE CONSIDERED APPROXIMATE. FURTHERMORE, THE TOTAL EXTENT OF THE UNDERGROUND UTILITIES IS UNKNOWN.
6. THE FOLLOWING OVERLAY DISTRICTS ARE APPLICABLE:
 - WATER SUPPLY PROTECTION
 - WATERSHED PROTECTION
 - FLOOD PLAIN
7. DEP FILE #324-0934



EXISTING HOUSE ELEVATIONS

RIDGE	= 147.76
TOP OF FOUNDATION	= 128.72
DIFFERENCE	= 19.04
FIRST FLOOR (THRESHOLD)	= 128.61
TOP OF FOUNDATION	= 124.13
BASEMENT (THRESHOLD)	= 124.08



"I CERTIFY AN INSTRUMENT SURVEY WAS PERFORMED BY THE JILLSON COMPANY IN 2019 TO LOCATE & PLOT THE LOT LINES & PROPERTY FEATURES SHOWN HEREON."

REVISIONS		
REV	DATE	DESCRIPTION
1	3/30/20	5TH SHEET, INCORPORATE ATTY COMMENTS

"EXISTING ZONING PETITIONER'S PLAN"

LAND IN
WELLESLEY, MASS.

PREPARED FOR: GUY YEHIAV
1 PICKEREL ROAD
WELLESLEY, MA 02481

SCALE: 1" = 20' DATE: 27 MARCH 2020

PREPARED BY: THE JILLSON COMPANY, INC.
32 FREMONT ST. S-200
NEEDHAM HEIGHTS, MA 02494
(781) 400-5946
www.JILLSONCOMPANY.com

NOTES

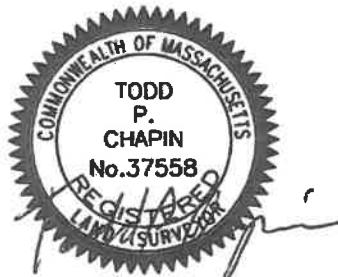
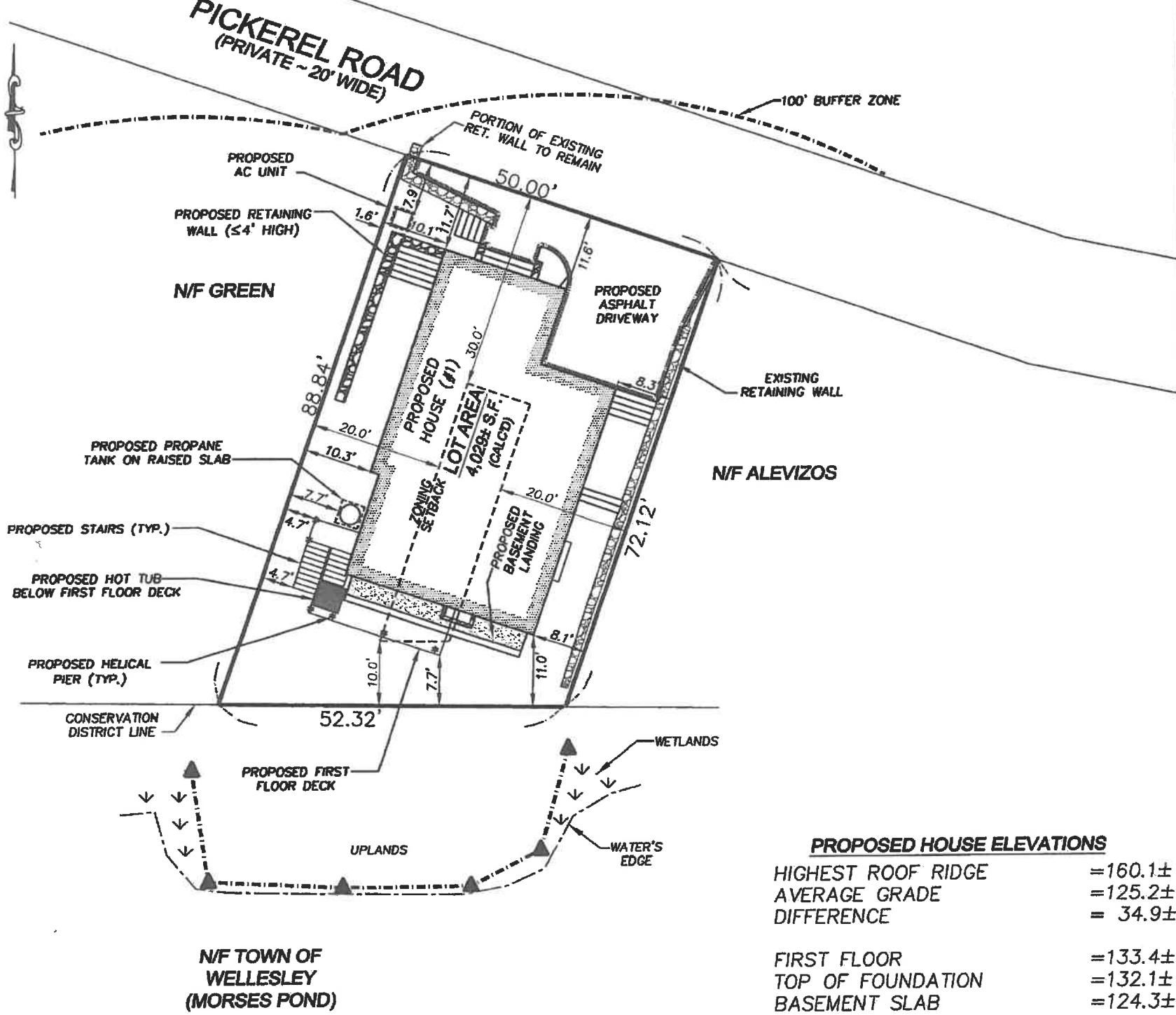
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7. DEP FILE #324-0934

IMPERVIOUS AREA

EXISTING 2,907± S.F.
PROPOSED 2,465± S.F.
DECREASE 442± S.F.

LOT COVERAGE

ALLOWED = 1,009± S.F. = 25.0%±
EXISTING = 1,964± S.F. = 48.7%±
PROPOSED = 1,607± S.F. = 39.9%±



"I CERTIFY AN INSTRUMENT SURVEY WAS PERFORMED BY THE JILLSON COMPANY IN 2019 TO LOCATE & PLOT THE LOT LINES & PROPERTY FEATURES SHOWN HEREON."

REVISIONS		
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"PROPOSED ZONING PETITIONER'S PLAN"

LAND IN
WELLESLEY, MASS.

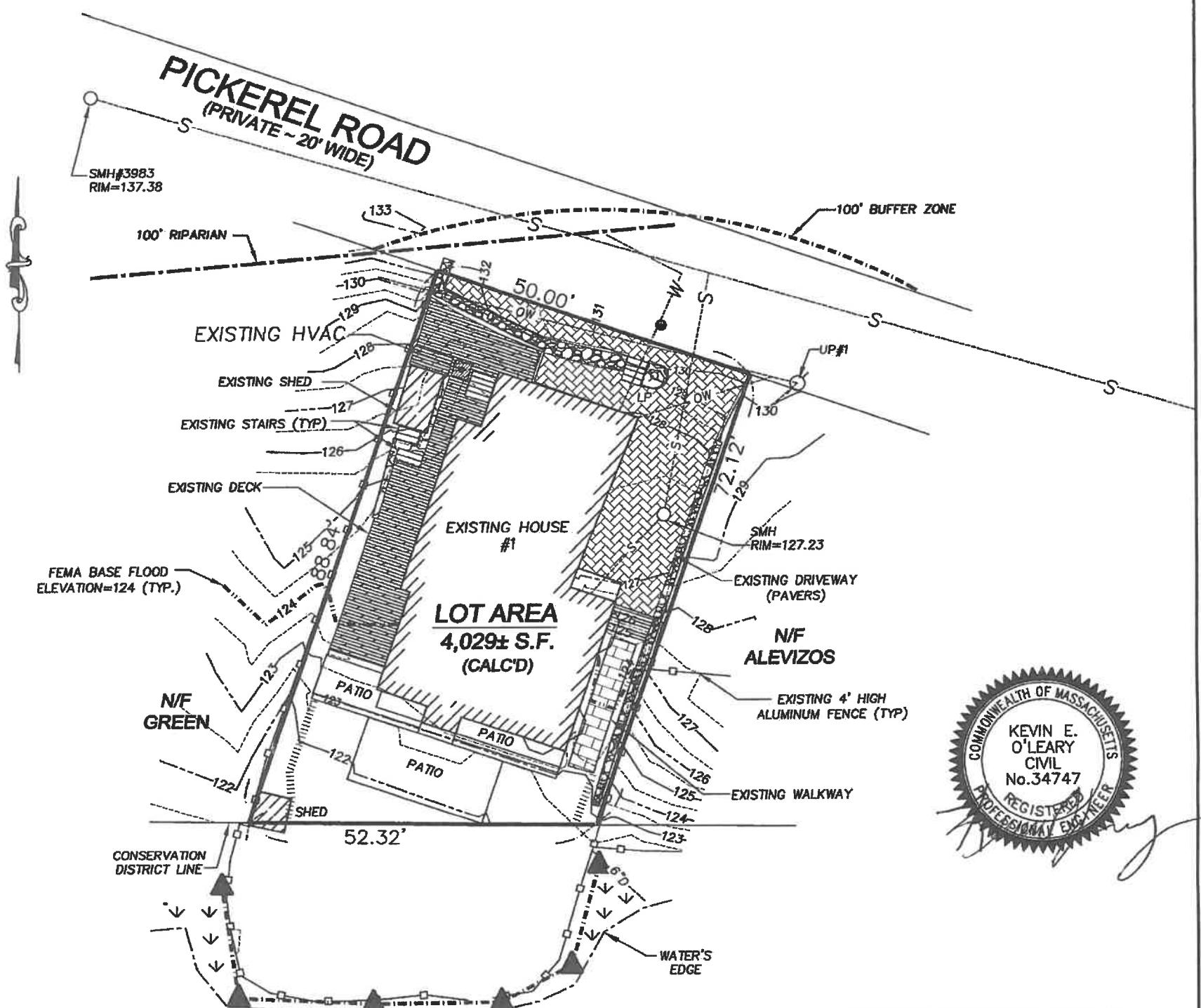
PREPARED FOR: GUY YEHIAV
1 PICKERAL ROAD
WELLESLEY, MA 02481

SCALE: 1" = 20' DATE: 27 MARCH 2020

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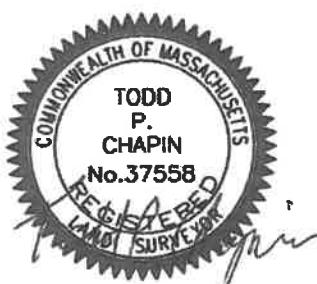
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 - FLOOD PLAIN
7. DEP FILE #324-0934



EXISTING HOUSE ELEVATIONS

RIDGE	= 147.76
TOP OF FOUNDATION	= 128.72
DIFFERENCE	= 19.04
FIRST FLOOR (THRESHOLD)	= 128.61
TOP OF FOUNDATION	= 124.13
BASEMENT (THRESHOLD)	= 124.08



"I CERTIFY AN INSTRUMENT SURVEY WAS PERFORMED BY THE JILLSON COMPANY IN 2019 TO LOCATE & PLOT THE BUILDING, LOT LINES & PROPERTY FEATURES SHOWN HEREON."

REVISIONS		
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"EXISTING CONDITIONS PETITIONER'S PLAN"

LAND IN
WELLESLEY, MASS.

PREPARED FOR: GUY YEHIAV
1 PICKEREL ROAD
WELLESLEY, MA 02481

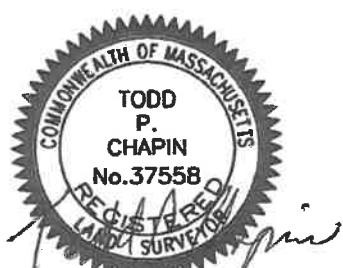
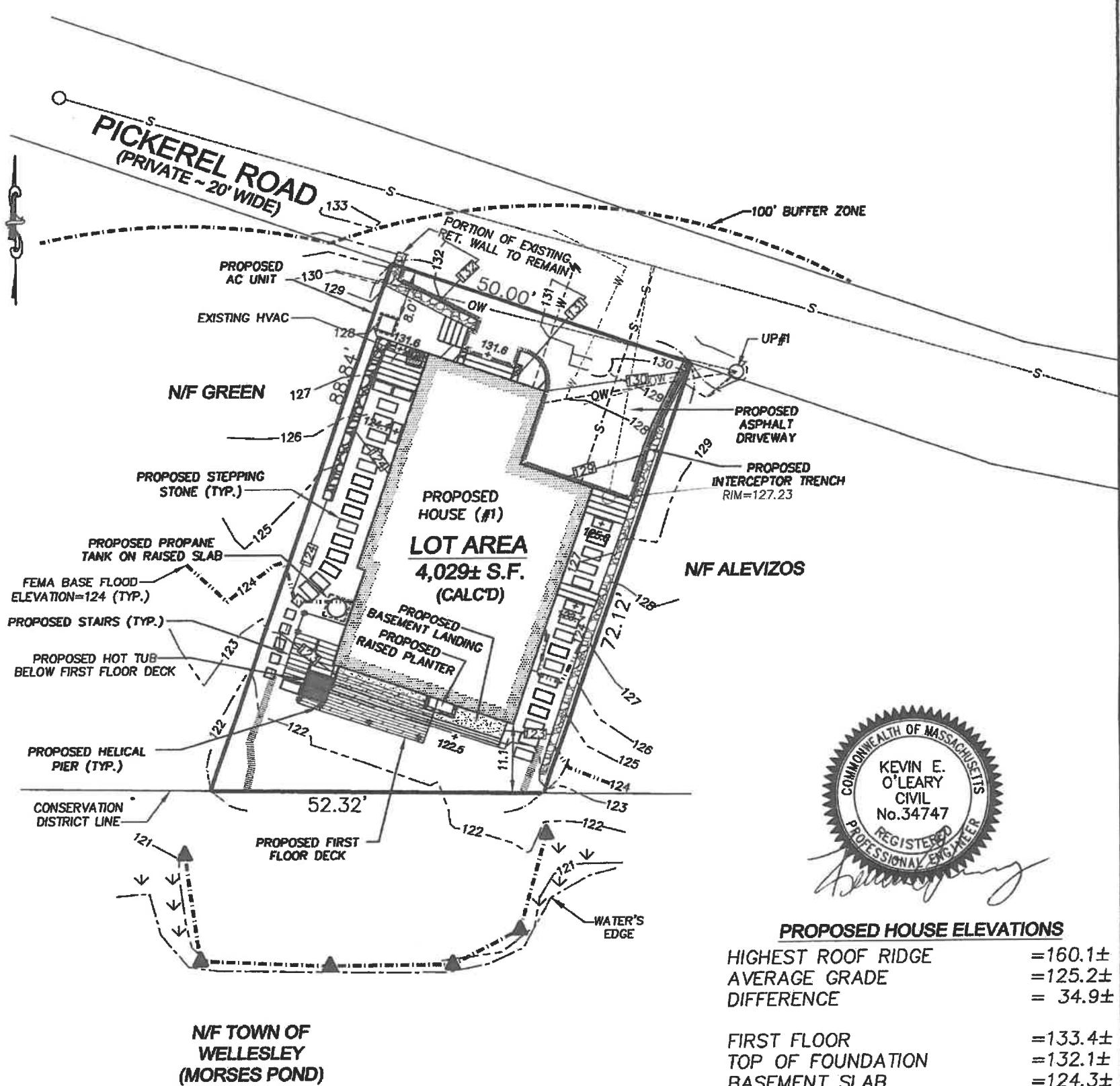
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NEEDHAM HEIGHTS, MA 02494
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www.JILLSONCOMPANY.com JOB #3010

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 - WATER SUPPLY PROTECTION
 - WATERSHED PROTECTION
 - FLOOD PLAIN
7. DEP FILE #324-0934



"I CERTIFY AN INSTRUMENT SURVEY WAS PERFORMED BY THE JILLSON COMPANY IN 2019 TO LOCATE & PLOT THE LOT LINES & PROPERTY FEATURES SHOWN HEREON."

REVISIONS		
REV	DATE	DESCRIPTION
1	3/30/20	5TH SHEET, INCORPORATE ATTY COMMENTS

"PROPOSED CONDITIONS PETITIONER'S PLAN"

LAND IN
WELLESLEY, MASS.

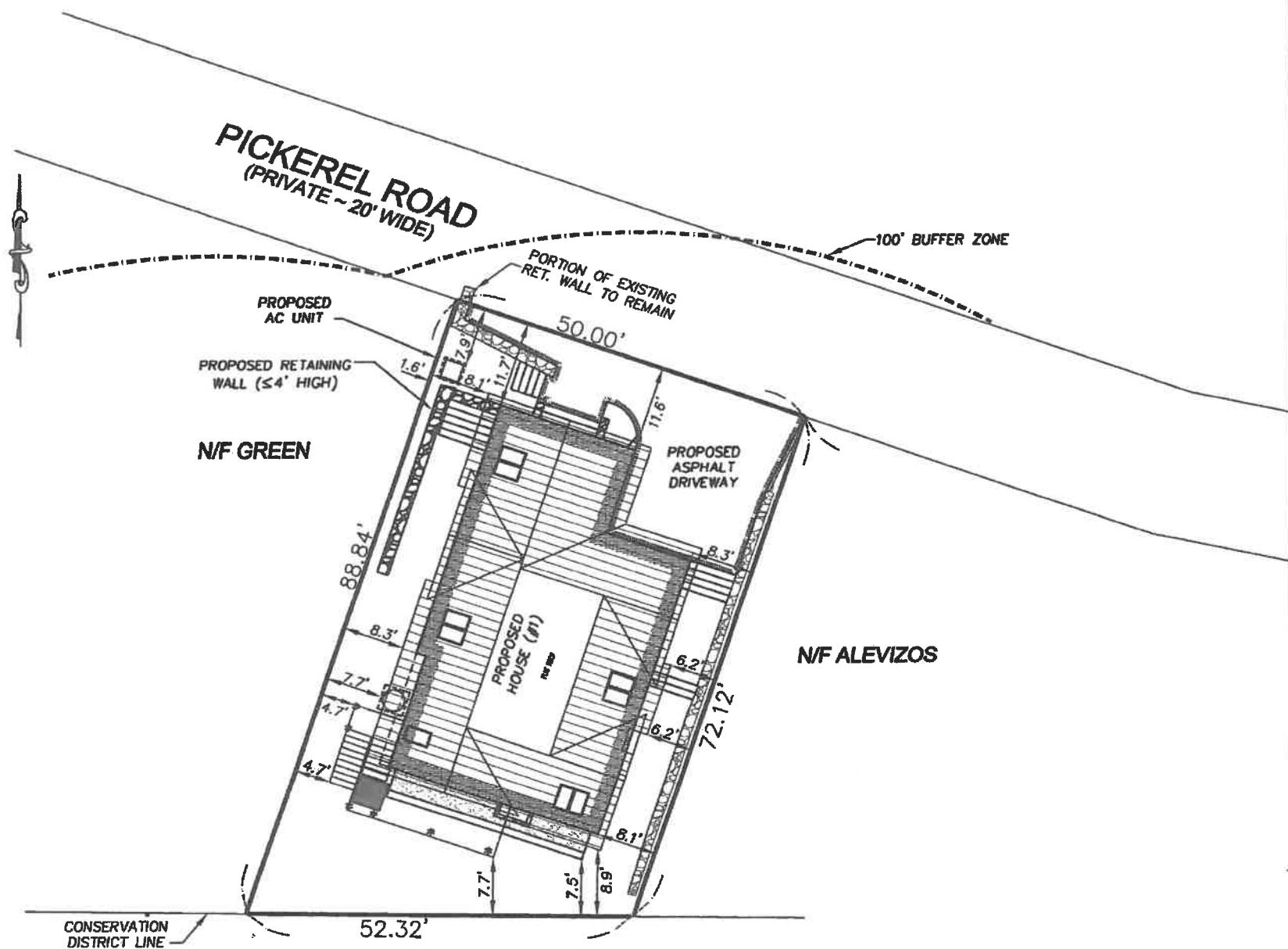
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7. DEP FILE #324-0934



N/F TOWN OF
WELLESLEY
(MORSES POND)

PROPOSED HOUSE ELEVATIONS

HIGHEST ROOF ELEV.	=160.1±
AVERAGE FINISHED GRADE	=125.2±
DIFFERENCE	= 34.9±
FIRST FLOOR	=133.4±
TOP OF FOUNDATION	=132.1±
BASEMENT SLAB	=124.3±



"ROOF DESIGN PETITIONER'S PLAN" LAND IN WELLESLEY, MASS.

PREPARED FOR: GUY YEHIAV
1 PICKERAL ROAD
WELLESLEY, MA 02481

SCALE: 1" = 20' DATE: 27 MARCH 2020

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JOB #3010

REVISIONS

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SHEET 5 OF 5