

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5918

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2021 FEB 18 P  
WELLESLEY MA

ZBA 2021-12  
Petition of Mathew LaConte  
40 Park Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Remote Public Hearing on Thursday, February 4, 2021 at 7:30 pm, on the petition of Mathew LaConte requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing structure and construction of a new two story structure that will meet setback requirements, on a 19,726 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, at 40 Park Avenue, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On December 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.

Present at the public hearing were David Himmelberger, Esq., David Silverstein, Copper Leaf Development, LLC, Dustin Nolan, Architect, and Alan Aukeman, Landscape Architect.

Mr. Himmelberger said the request is for a special permit for a nonconforming lot with 19,726 square feet in a 20,000 square foot Single Residence District. He said that the proposal is to raze the existing home and build a new home that is fully dimensionally compliant. He said that TLAG for the new home will be 5,874 square feet, which is under the 5,900 square foot threshold for the district. He said that lot coverage will be 18 percent, building height will be 32.31 feet, and there will be two drywell chambers to handle stormwater.

Mr. Himmelberger said that Mr. Silverstein lives on Park Avenue and has built two other homes on the street. He said that Mr. Silverstein had conversations with the abutters about the project. He said that three abutters across and to the right fully support the project and provided emails. He said that abutters to the rear and to the left side discussed and agreed to additional screening to be installed, specifically, two large canopy trees augmenting existing screening at the back two rear corners as well as significant evergreen screening along the back.

Mr. Himmelberger said that the Applicant would like to retain the existing nonconforming garage that the Planning Board requested be removed. He said that the abutter on the right side would like to have it remain because it provides screening from her deck. Mr. Nolan said that the intention is to repurpose the garage as a covered eating pavilion with possible grill and entertaining space at the back. He said that they have not drawn up plans for a structure that they may not be able to keep. The Board discussed starting with a clean canvas and building the outdoor entertainment structure outside of the setback area. A Board member said that the birch grove could be extended up to the corner.

Mr. Nolan displayed renderings, described the design of the proposed home, and discussed TLAG calculations.

The Board discussed emails that it received about agreements, objections and withdrawal of objections. Mr. Himmelberger said that the abutter issues were resolved. He said that the only lingering issue is the garage. He said that the abutter at the rear does not want it continued in its present place.

The Chairman said that the Board received a planting plan that was attached to a letter from Pamela Brown, dated February 1 2021. He asked if the planting plan should be part of the ZBA record. Mr. Himmelberger said that Mr. Silverstein made a commitment to the abutters to plant two large canopy trees and 10 to 12 foot tall arbor vitae screening. Mr. Silverstein asked that he not be held to the landscaping that is shown on the plan around the house so that he can work on that with the client that he is building the house for. He said that the screening around the perimeter of the lot is set in stone but they would like to review the foundation plantings and some of the other plantings that would not affect the neighbors as much. Mr. Himmelberger suggested that a condition be that planting within the side and rear setback will be in accordance with the submitted plans. He said that the focus of the agreement with the two abutters at the rear and side rear was the arbor vitae screening and the two tall canopy trees.

The Chairman asked if there is a private agreement with the abutter. Mr. Himmelberger said that Mr. Silverstein made a verbal agreement with the abutters. He said that they have a letter from Attorney Brown withdrawing an objection from the rear abutter, based on the commitment to install the screening.

Alberto Ramirez, 37 Whiting Road, said that his property abuts the rear of 40 Park Avenue. He said that he objected to construction of the nonconforming structure. He said that the house will be so big. He questioned the need for more space. He said that it is not clear what kind of structure will be built so close to his property. He said that he agreed with the landscape plan. The Chairman confirmed that the structure that Mr. Ramirez was referring to is the existing garage. He said that the Board will add a condition that the garage be removed. The Chairman confirmed that Mr. Ramirez is satisfied with the condition that requires the landscaping that is within the setback, as shown on the landscaping plan.

#### Statement of Facts

The subject property is located at 40 Park Avenue, on a 19,726 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet.

The Petitioner is requesting a Special Permit/Finding pursuant to the provisions of Section 17 and Section 25 of the Zoning Bylaw that demolition of an existing structure and construction of a new two story structure that will meet setback requirements, on a 19,726 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Plan of Land and Allowable Height Plan of Land, dated 12/17/20, revised 2/1/21, stamped by Bradley J. Simonelli, Professional Land Surveyor, Floor Plans and Elevation Drawings, dated 12/30/20, prepared by DNA Architecture, Planting Plan, 12/23/20, revised 1/25/21 and Landscape Plan, dated 12/23/20, revised 1/29/21, prepared by Ryan Associates, 40 Park Avenue – Plant List, and photographs were submitted.

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40 Park Avenue

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On February 3, 2021, the Planning Board reviewed the petition and recommended that a special permit be approved.

On January 13, 2021, Jason Tobin, Civil Engineer, Town of Wellesley, reviewed the petition and submitted comments.

Decision

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

It is the opinion of this Authority that demolition of an existing structure and construction of a new two story structure that will meet setback requirements, on a 19,726 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet will not intensify 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 of an existing structure and construction of a new two story structure that will meet setback requirements, on a 19,726 square foot lot in a Single Residence District in which the minimum lot size is 20,000 square feet, subject to the following conditions:

1. The landscaping agreed upon and shown within the rear and side yard setbacks on a Landscaping Plan, dated January 25, 2021, shall be planted and maintained.
2. No Certificate of Occupancy shall be granted on the new house until the existing detached garage structure is removed.

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.

2021 FEB 18 P 1:02  
WELLESLEY MA 02451  
ZBA 2021-12  
PETITIONING(S) 501100

ZBA 2021-12  
Petition of Mathew LaConte  
40 Park Avenue

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 (Am.)*  
Robert W. Levy, Acting Chairman

*David G. Sheffield (Am.)*  
David G. Sheffield

*Derek B. Redgate (Am.)*  
Derek B. Redgate

2021 FEB 18 P 1:02  
TOWN CLERK'S OFFICE  
WELLESLEY, MASS.

ZBA 2021-12  
Applicant Mathew LaConte  
Address 40 Park Avenue

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

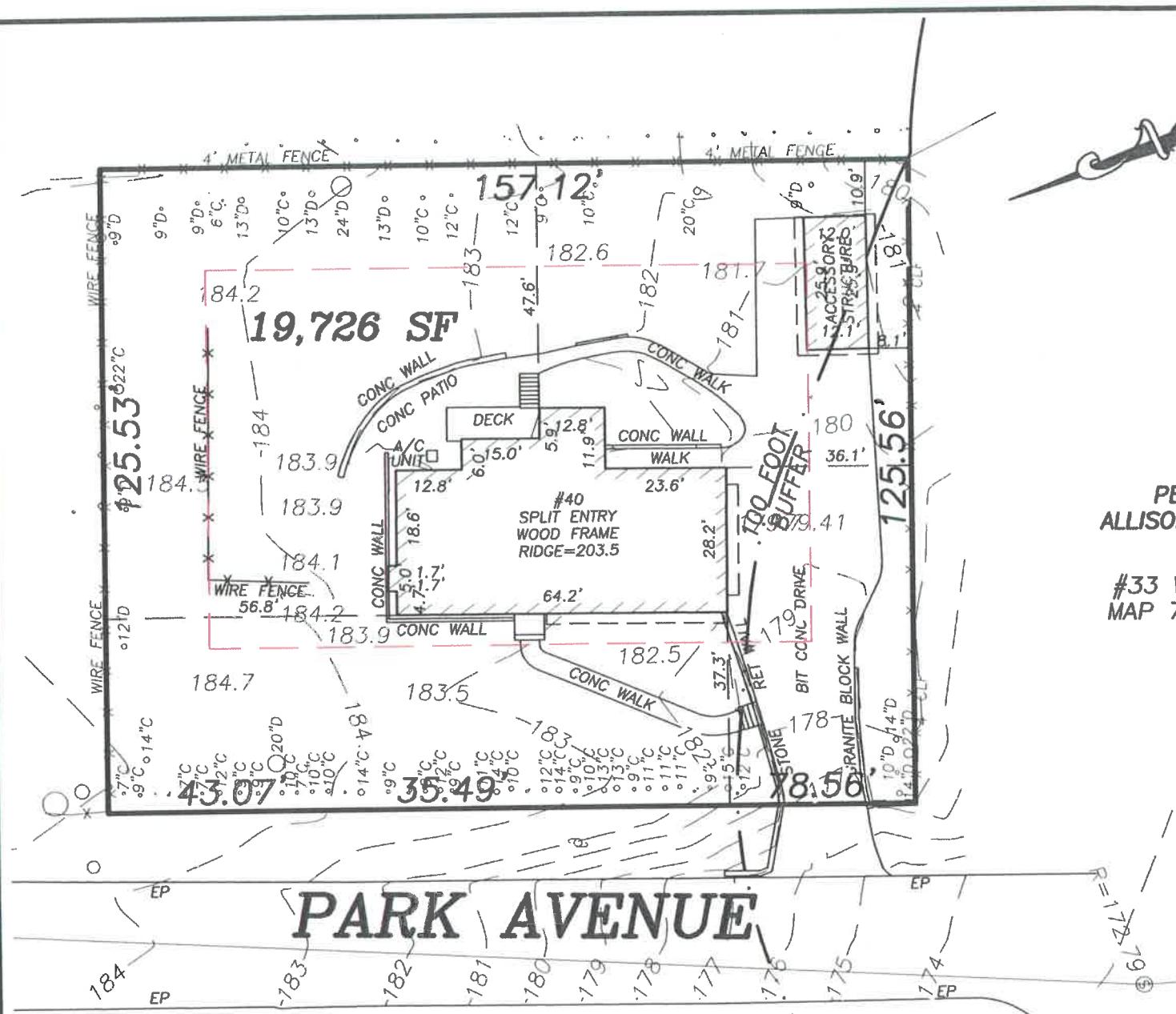
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed,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

Date:

Attest:

Cathryn Jane Kato  
Town Clerk

cc: Planning Board  
Inspector of Buildings  
lrm



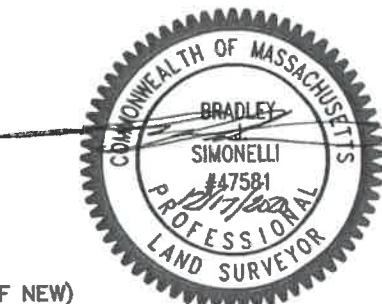
## EXISTING SITE

ZONING INFORMATION: SINGLE RESIDENCE 20 (SR20)

	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA .....	20,000 SF.....	19,726 SF.....	19,726 SF
MINIMUM LOT FRONTAGE.....	60 FEET.....	157.12 FEET.....	157.12 FEET
MINIMUM FRONT SETBACK.....	31.9 FEET*.....	37.3 FEET.....	32.7 FEET
MINIMUM SIDE YARD.....	20 FEET.....	56.8 FEET.....	36.0 FEET
		36.1 FEET.....	33.6 FEET
MINIMUM REAR YARD .....	20 FEET.....	47.6 FEET.....	46.8 FEET
MAXIMUM BUILDING COVERAGE.....	18% (3550 SF).....	2503 SF.....	3518 SF (3207 SF NEW)
MAXIMUM BUILDING HEIGHT.....	36 FEET** .....	22± FEET.....	34.61 FEET
MAXIMUM BUILDING HEIGHT.....	2 1/2 STORIES.....	2 STORIES.....	2 STORIES

\*FRONT SETBACK DETERMINED BY 500 FOOT RULE (#22 PARK AVENUE IS 31.9 FEET FROM PARK AVENUE)

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



## PROPOSED SITE

ZONING BOARD OF APPEALS  
PLAN OF LAND  
40 PARK AVENUE  
WELLESLEY, MASS.

# Field Resources, Inc.

## LAND SURVEYORS

DECEMBER 17, 2020

SCALE 1"=30'

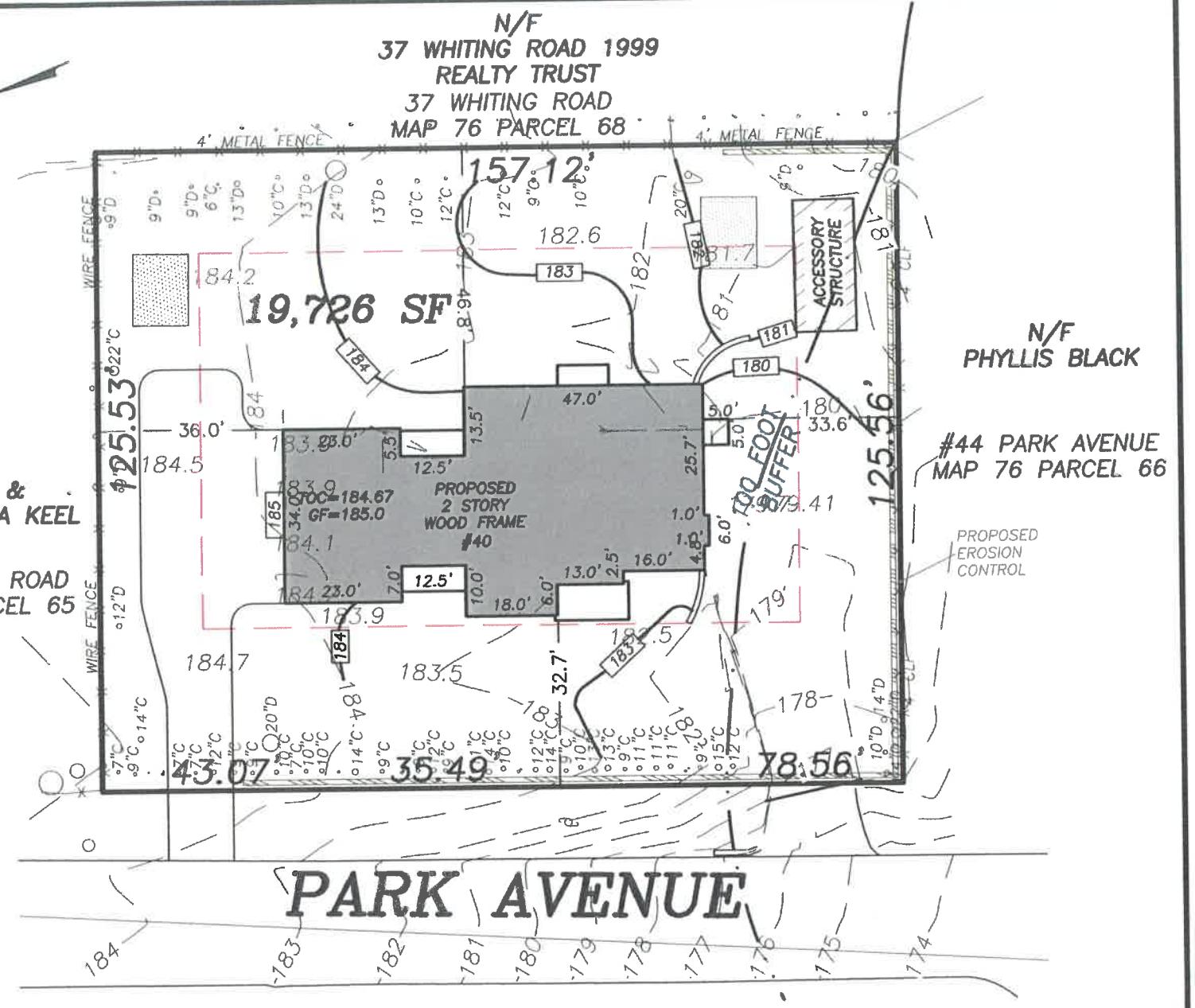
P.O. BOX 324  
AUBURN, MA  
508 832 4332

281 CHESTNUT ST.  
NEEDHAM, MA.  
781 444 5936

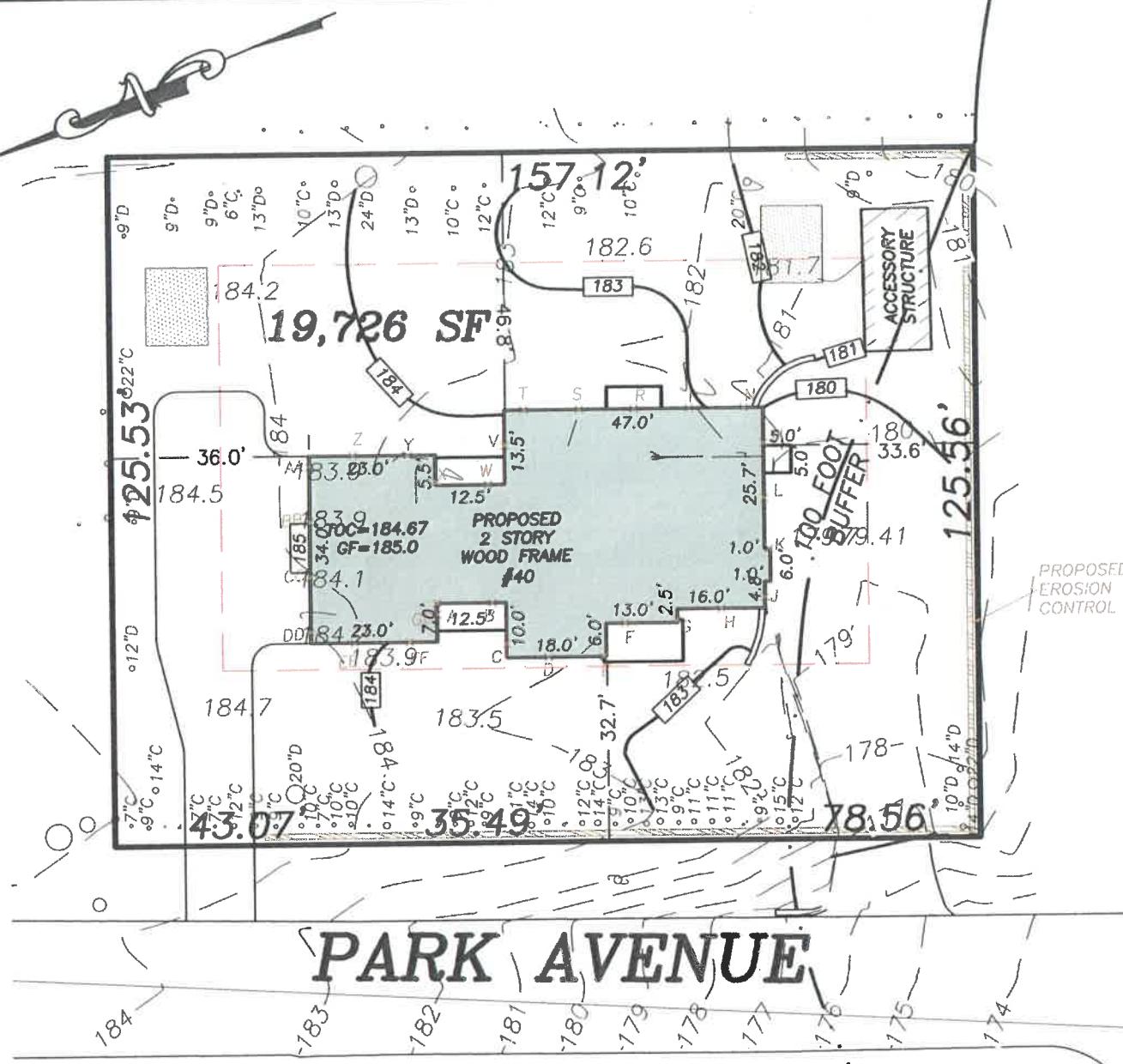
fieldresources@hotmail.com

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REVISED



153-19



ELEV STATION	EXISTING ELEVATION	PROPOSED ELEVATION
A.....	183.7.....	183.7
B.....	183.5.....	183.7
C.....	183.4.....	183.7
D.....	183.2.....	183.7
E.....	182.8.....	183.7
F.....	182.7.....	183.7
G.....	182.6.....	183.7
H.....	179.8.....	183.6
J.....	179.7.....	180.0
K.....	179.7.....	180.0
L.....	179.8.....	180.0
M.....	180.8.....	180.0
N.....	181.0.....	182.8
P.....	182.2.....	183.2
R.....	182.3.....	183.7
S.....	182.7.....	183.7
T.....	182.7.....	183.7
V.....	182.5.....	184.0
W.....	182.9.....	184.0
X.....	182.9.....	184.0
Y.....	182.6.....	184.6
Z.....	183.5.....	184.7
AA.....	183.9.....	185.0
BB.....	183.9.....	185.0
CC.....	184.1.....	185.0
DD.....	184.2.....	185.0
EE.....	183.9.....	184.6
FF.....	183.7.....	183.9
GG.....	183.7.....	183.7

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  
33.89 FEET.

THE PROPOSED STRUCTURE FROM TOP OF CONCRETE  
TO RIDGE IS 32.50 FEET.  
MAKING THE PROPOSED HEIGHT 34.61 FEET FROM  
THE EXISTING AVERAGE GRADE PLANE.

EXISTING  
GRADE PLANE = 5294.3 / 29 = 182.56  
TOC TO GRADE = 184.67 - 182.56 = 2.11  
ALLOWABLE BUILDING = 36.00 - 2.11 = 33.89

PROPOSED  
GRADE PLANE = 5320.1 / 29 = 183.45  
TOC TO GRADE = 184.67 - 183.45 = 1.22  
ALLOWABLE BUILDING = 36.00 - 1.22 = 34.78



ALLOWABLE HEIGHT  
PLAN OF LAND  
40 PARK AVENUE  
WELLESLEY, MASS.

# Field Resources, Inc. LAND SURVEYORS

DECEMBER 17 2020

SCALE 1" = 30'

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NEEDHAM, MA.  
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153-19

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