



ZONING BOARD OF APPEALS

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

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ZBA 2017-82

Petition of Robert Nascimento

15 River Glen Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, October 5, 2017, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Robert Nascimento requesting a Special Permit pursuant to the provisions of Section XXIID and Section XXV of the Zoning Bylaw for construction of a retaining wall that will exceed four (4) feet in height and be located within ten (10) feet of a property line, at 15 River Glen Road, in a 10,000 square foot Single Residence District.

On August 30, 2017, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Robert Nascimento, the Petitioner. He said that the request is for a special permit for a retaining wall that will be over four feet at the rear property line. He said that the wall will span 100 feet and vary in height from 4.5 to 7.5 feet. He said that the neighbor behind is a contractor who tried to develop a plan to terrace the two properties. Mr. Nascimento said that he felt more comfortable coming before the Board for relief for the height of the wall.

A Board member said that he was concerned about a 7 + foot wall right on the property line. He said that it is his understanding that the neighbor will grant access. He asked if any consideration was given to not being granted access if the neighbor's property is sold. He said that it could be difficult to maintain the retaining wall. He asked about siting the wall in two feet. Mr. Nascimento said that they were looking to gain as much yard space as possible. He said that they would be happy to follow any recommendation of the Board.

The Chairman read excerpts from Section XXIIB of the Zoning Bylaw regarding swimming pools. Mr. Nascimento said that the pool will be 11 feet from the side property line. He said that he spoke with Michael Grant, Building Inspector, and his interpretation of the bylaw was that because it will be an in ground pool, it would be ten feet. Mr. Nascimento said that his calculations were based on Googling what the walkway railings would be and they appeared to be at the edge of the water. The Board said that those dimensions are not shown on the plans that were submitted but the Petitioner is not seeking any relief for the pool. Mr. Nascimento said that he has not applied for the pool permit yet.

The Chairman discussed the elevations from the adjacent property. He said that there will be a four foot protective railing on top of a seven foot high wall. He said that at least, a six foot fence will be required around the pool. He asked if the height of fences and walls was coordinated in the design of the pool. Mr. Nascimento said that the pool was shown on the plans because they may have to go down three feet or so. He said that if he has to rebuild a wall, he would have to come back before the DRB. He said that

at the northeast corner of the home down to Mr. Malafaia's property, the wall would have to be rebuilt if they go down to put the pool in. He said that he would like to have a special permit for all of the walls and make a decision about the pool later. He said that the rear and side walls will be the same whether they build the pool or not.

A Board member said that fencing will come under the Building Inspector's jurisdiction. He said that most of the walls will require fencing where there is more than a 30 inch variation. He said that there is a separate law for retaining wall fencing and anything that is adjacent to a walking surface, whether it is grass or sidewalk. He said that is a building permit issue.

A Board member said that he was concerned that the wall will be on the property line. The Board said that is the Petitioner's risk.

The Board identified the nonconformities and made findings in accordance with Section XXIID of the Zoning Bylaw.

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 15 River Glen Road, in a 10,000 square foot Single Residence District.

The Petitioner is requesting a Special Permit pursuant to the provisions of Section XXIID and Section XXV of the Zoning Bylaw for construction of a retaining that will exceed four (4) feet in height and be located within ten (10) feet of a property line.

Letter in support of Application for Special Permit, dated 8/16/17, from Robert Nascimento, a Plot Plan, dated 7/26/17, revised 8/15/17, stamped by Bradley J. Simonelli, Professional Land Surveyor, S.1 Details Plan, stamped by Richard J. Testa Jr., Registered Professional Structural Engineer, and photographs were submitted.

On September 12, 2017, the Planning Board reviewed the petition and recommended that the petition be granted.

On September 20, 2017, the Design Review Board reviewed the petition and recommended approval of the retaining walls as proposed.

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.

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

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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.

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, July 26, 2017.

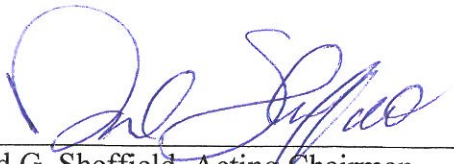
The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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

2017 OCT 19 PM 3:13
CLERK OF BOARD

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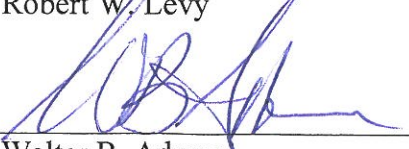
APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.



David G. Sheffield, Acting Chairman

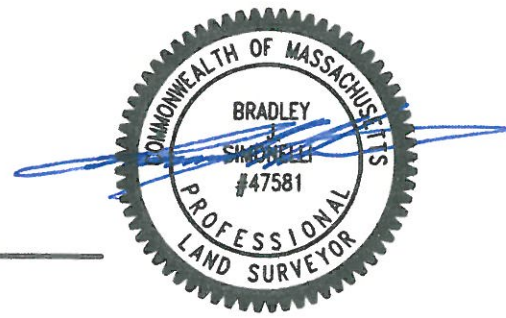
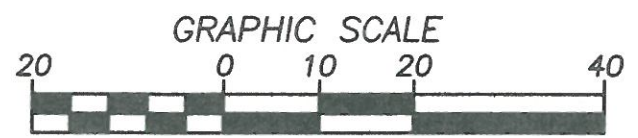
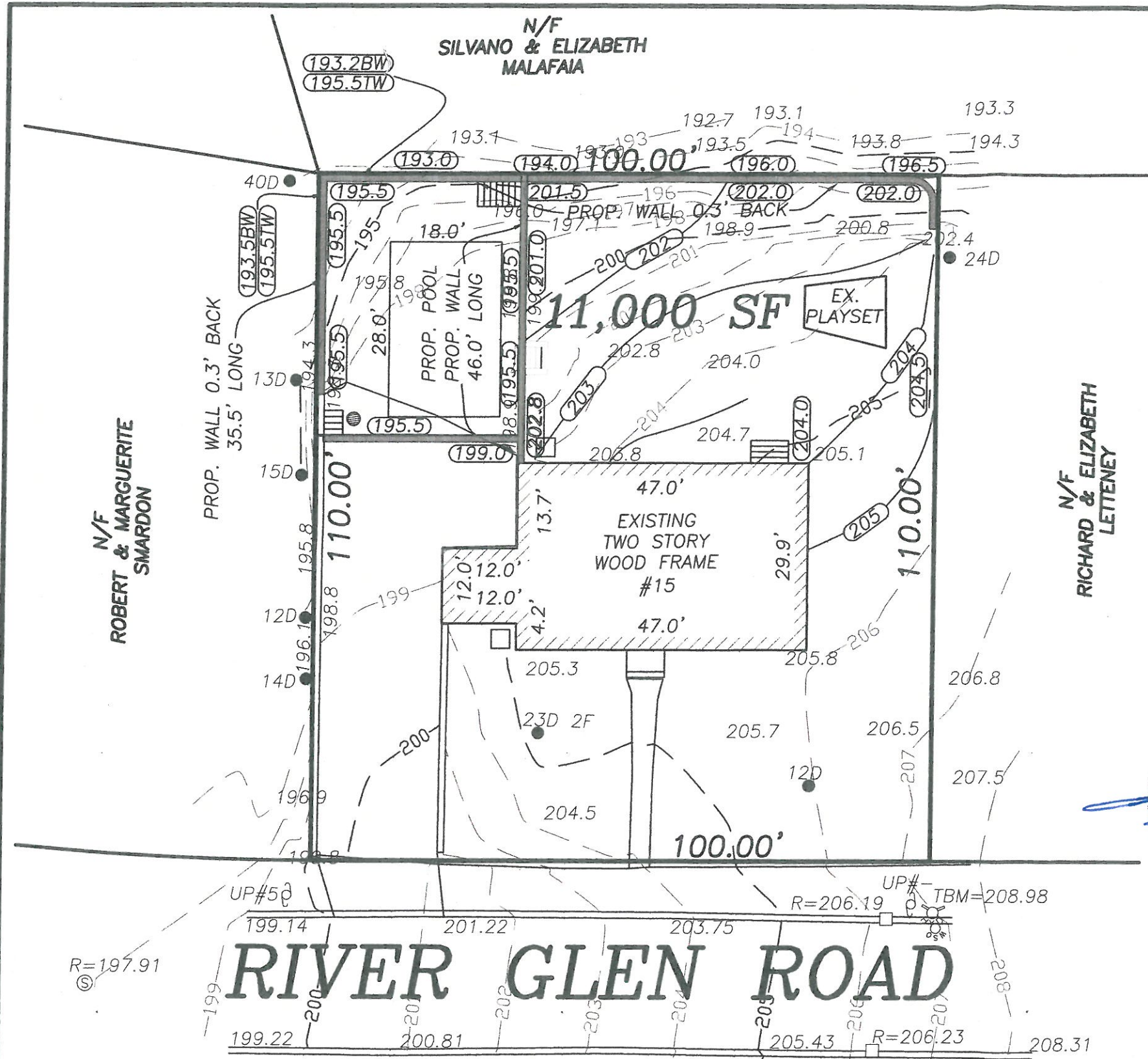


Robert W. Levy



Walter B. Adams

cc: Planning Board
Inspector of Buildings
lrm



ZONING BOARD OF APPEALS
PLAN OF LAND
15 RIVER GLEN ROAD
WELLESLEY, MA

Field Resources, Inc.
LAND SURVEYORS

172-16

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MAP 51 PARCEL 32
BK. 29965 PG. 481

JOB NO. 172-16	
REVISED: AUGUST 15, 2017	

JULY 26, 2017
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