



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

141-13(2)
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

Date: October 8, 2013
To: Land Use Committee of the Board of Aldermen
From: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Daniel Sexton, Senior Planner
Cc: Petitioner

In response to questions raised at the Land Use Committee public hearing and/or staff technical reviews, the Department of Planning and Development is providing the following information for the upcoming working session. This information is supplemental to the staff analysis previously provided at the public hearing.

PETITION #141-13(2)

74 Newtonville Avenue

Request to develop retaining walls in the setback with a maximum height of 12 feet and to locate two parking spaces with the front yard setback.

The Land Use Committee held a public hearing on September 10, 2013.

Development and Enforcement History. At the last Land Use Committee meeting, the Committee asked staff to review the status of all enforcement and permitting activities for the subject property in question. Per records from the Inspectional Service Department, it appears numerous enforcement actions and permits have been issued for the property (**ATTACHMENT A**).

Since 2012, five permits have been obtained to renovate the interior of the existing single-family dwelling, all of which have been closed except for Building Permit #1205008. The outstanding building permit is for interior renovations, which the petitioner is still working on. The petitioner was cited once in 2012 for a code violation concerning the construction of retaining walls in combination exceeding four feet in height in the rear yard and again in 2013 for property damage caused on adjacent properties. According to the Inspectional Services Department, all the enforcement actions have been closed. The issue regarding damage to the abutting property was determined to be a civil matter.



Petition Supplements. In response to the items requested by the Land Use Committee at the public hearing, the petitioner submitted the following supplemental information:

- a revised site plan showing the location and specifications of the proposed retaining walls and area for the two parking spaces, and a cross-section drawing of the proposed construction **(ATTACHMENT B)**; and
- a draft Construction Management Plan **(ATTACHMENT C)**.

According to the revised site plan, the proposed retaining walls appear not to exceed 12 feet in height at its highest point. The petitioner has shown adequate area to contain the two proposed parking spaces within the front yard setback, while maintaining the required five-foot setback from the street, and proposed location of the infiltration system under the new driveway. Per the cross-section drawing, the petitioner has tried to better explain how the retaining walls will be constructed on the site. Specifically, the drawing indicates that the highest retaining wall, at 12 feet, will be located approximately seven feet from the front façade of the house. The revised site plan was not reviewed by the Engineering Division of Public Works, but does take into consideration comments raised through earlier reviews.

Based on the concerns raised by abutting properties, the petitioner has developed a Construction Management Plan (CMP) for the proposed construction activities. Through the different provisions of the preliminary CMP, the petitioner has incorporated safeguards and best management practices to address many of the concerns raised by adjacent property owners at the public hearing. Should the Committee choose to approve this petition, the Department of Planning and Development recommends a condition requiring the submission of a final Construction Management Plan to be reviewed and approved by the Inspectional Service Department, Engineering Division of Public Works and Department of Planning and Development prior to issuance of any building permit.

Engineering Review. Should the Committee choose to approve this petition, a condition is recommended that requires the review and approval of the final Site Plan by the Engineering Division of Public Works and the Department of Planning and Development prior to issuance of any building permit for the project.

Recommendation. Based on these submittals, the Department of Planning and Development recommends **approval with conditions**.

ATTACHMENTS

Attachment A: Enforcement/Permit History Assessment
Attachment B: Revised Site Plan w/Cross-section Drawing
Attachment C: Draft Construction Management Plan

Attachment A

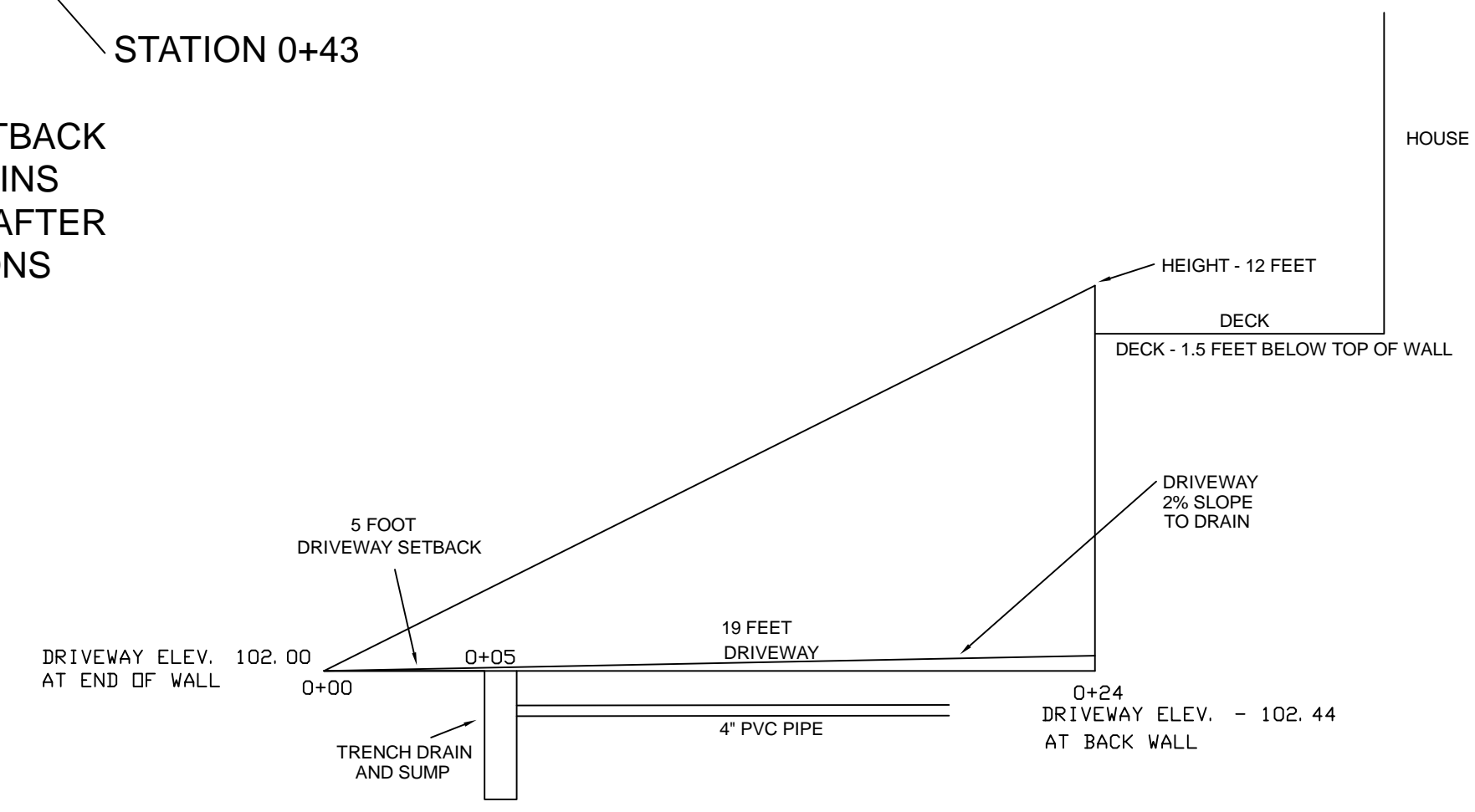
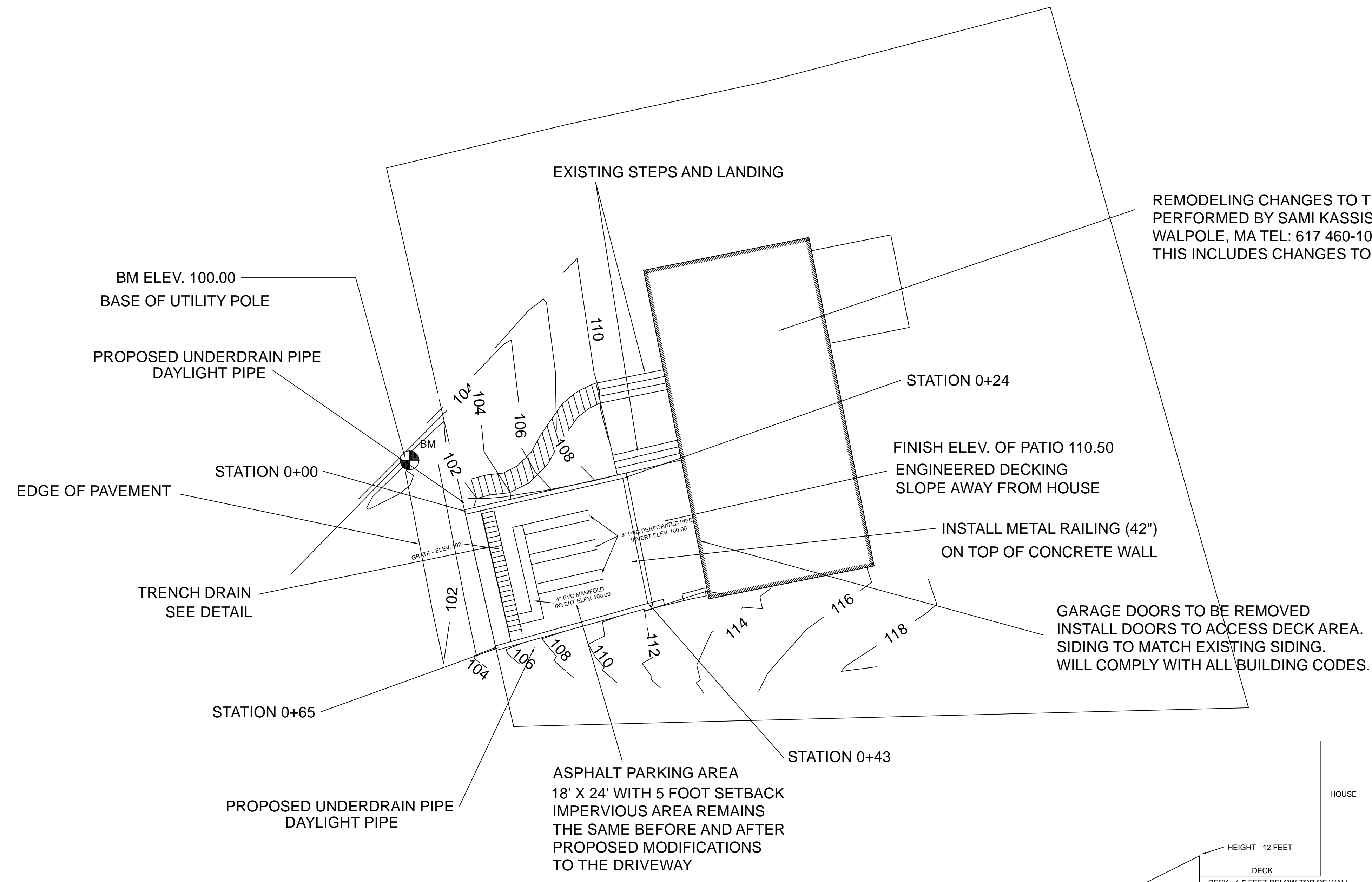
Enforcement/Permit History Assessment: 74 Newtonville Avenue

Case #	Action Type	Date	Item	Status
12050008	Building Permit	5/1/2012	Remodel kitchen and bathrooms on 1st & 2nd floors.	Open
12050194	Gas Permit	5/10/2012	Replace stove.	Closed
12050195	Building Permit	5/10/2012	Revised remodel plans for basement, 1st and 2nd floor (includes changes to bathroom and kitchen).	Closed
12060288	Building Permit	6/11/2012	Remodel bathroom	Closed
12090345	Electrical Permit	9/14/2012	Electrical work (finishes Case #12060288).	Closed
12090023	Enforcement	9/27/2012	Construction of retaining walls and grading without permits within setback (rear).	Closed
12110540	Building Permit	11/16/2012	Permit for retaining walls (revised).	Closed
13040025	Enforcement	5/3/2013	Unauthorized work on private property (cutting of trees).	Closed
141-13	Special Permit / Site Plan Approval	4/23/2013	Allow construction of retaining walls in the setback at a maximum height of 6 feet and to place 2 parking spaces in the front setback.	Withdrawn
141-13(2)	Special Permit / Site Plan Approval	8/6/2012	Allow construction of retaining walls in the setback at a maximum height of 12 feet and to place 2 parking spaces in the front setback.	Open

Attachment B

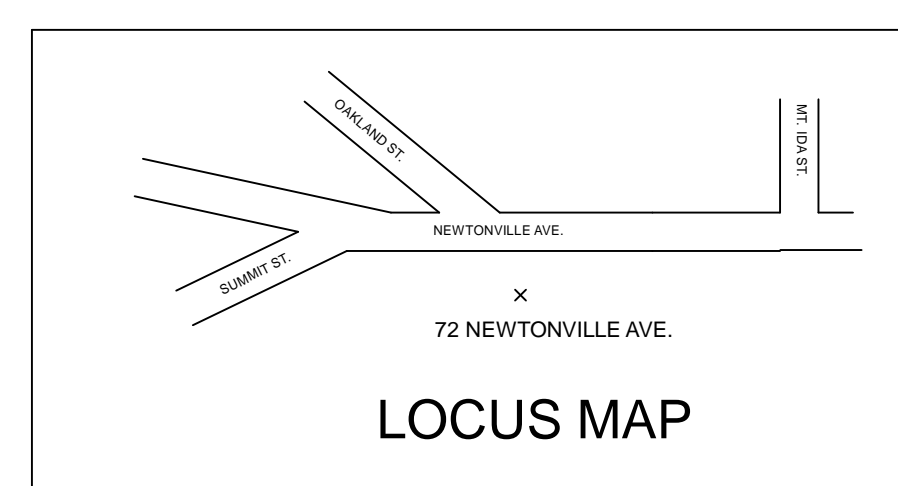
SITE PLAN

SCALE: 1" = 10'



NOTES

1. THE 28 DAY COMPRESSIVE STRENGTH OF CONCRETE SHALL BE 4,000 PSI.
2. REINFORCING STEEL SHALL BE ASTM 615 GRADE 60 RE-BAR.
3. CONCRETE SHALL CONFORM TO MASS DOT STANDARDS SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, SECTION M4.
4. BACKFILL SHALL CONFORM TO MASS DOT SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, SECTION M2.
- 5.
6. ALL CONSTRUCTION WILL BE DONE IN CONFORMANCE TO THE MASSDOT STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGES.
6. AS OF JANUARY 1, 2009, ALL TRENCH EXCAVATION CONTRACTORS SHALL COMPLY WITH MASSACHUSETTS GENERAL LAWS 82A, TRENCH EXCAVATION SAFETY REQUIREMENTS, TO PROTECT THE GENERAL PUBLIC FROM UNAUTHORIZED ACCESS TO UNATTENDED TRENCHES. TRENCH EXCAVATION PERMIT REQUIRED.
7. ALL TREE REMOVAL SHALL COMPLY WITH THE CITY'S TREE ORDINANCE.
8. THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE ENGINEERING DIVISION AND SCHEDULING AN APPOINTMENT 48 HOURS PRIOR TO THE DATE WHEN UTILITIES WILL BE MADE AVAILABLE FOR AN INSPECTION OF WATER SERVICES, SEWER SERVICES, AND DRAINAGE SYSTEM INSTALLATION. THE UTILITY IS QUESTION SHALL BE FULLY EXPOSED FOR THE INSPECTOR TO VIEW; BACKFILLING SHALL ONLY TAKE PLACE WHEN THE CITY'S INSPECTOR HAS GIVEN THEIR APPROVAL.
9. THE APPLICANT WILL HAVE TO APPLY FOR SIDEWALK CROSSING PERMIT WITH THE DEPARTMENT OF PUBLIC WORKS PRIOR TO ANY CONSTRUCTION.
10. PRIOR TO OCCUPANCY PERMIT BEING ISSUED, AN AS-BUILT PLAN SHALL BE SUBMITTED TO THE ENGINEERING DIVISION IN BOTH DIGITAL FORMAT AND IN HARD COPY. THE PLAN SHOULD SHOW ALL UTILITIES AND FINAL GRADES, ANY EASEMENT AND FINAL GRADING.
11. IF A CERTIFICATE OF OCCUPANCY IS REQUESTED PRIOR TO ALL SITE WORK BEING COMPLETED, THE APPLICANT WILL BE REQUIRED TO POST A CERTIFIED BANK CHECK IN THE AMOUNT TO COVER THE REMAINING WORK. THE CITY ENGINEER SHALL DETERMINE THE VALUE OF THE UNCOMPLETED WORK.
12. THE DRIVEWAY TRENCH DRAIN WILL NEED TO BE CLEAN TWICE A YEAR OF ANY DEBRIS COLLECTED. THE HOME OWNER TO PROVIDE AN OPERATION, MAINTENANCE AND INSPECTION PLAN FOR THE YEARLY MAINTENANCE OF THE TRENCH DRAIN SYSTEM TO THE CITY. THIS PLAN TO BE RECORDED AT THE MIDDLESEX REGISTRY OF DEEDS.



PARTIAL SITE PLAN 74 NEWTONVILLE AVENUE PROPOSED CHANGES TO DRIVEWAY

PREPARED BY:
HERRICK CONSULTING
JAMES A. HERRICK, P.E.
3 EVERGREEN CIRCLE
LONDONDERRY, NH 03053
603 434-9960
MA. PE NO. 41191

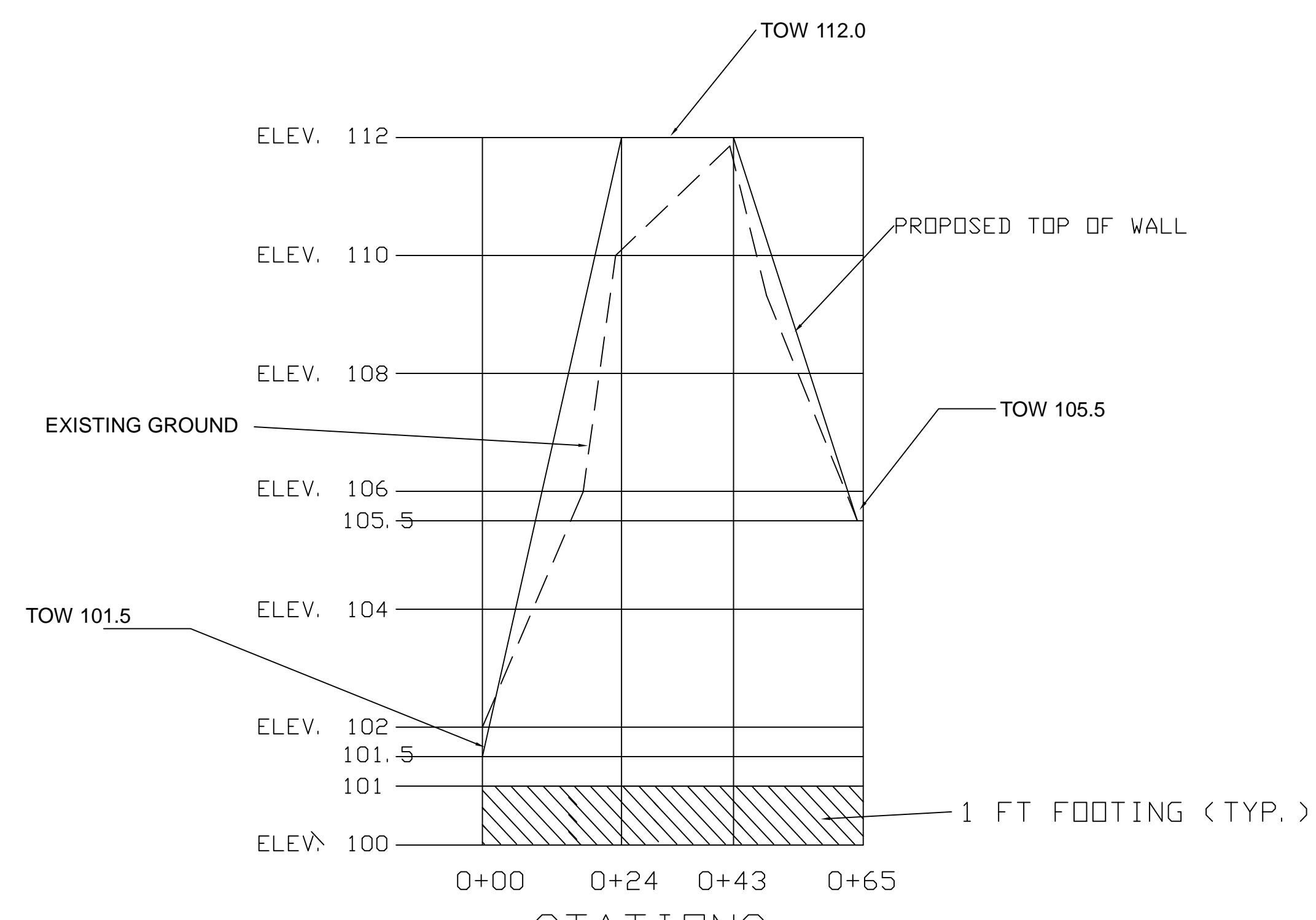
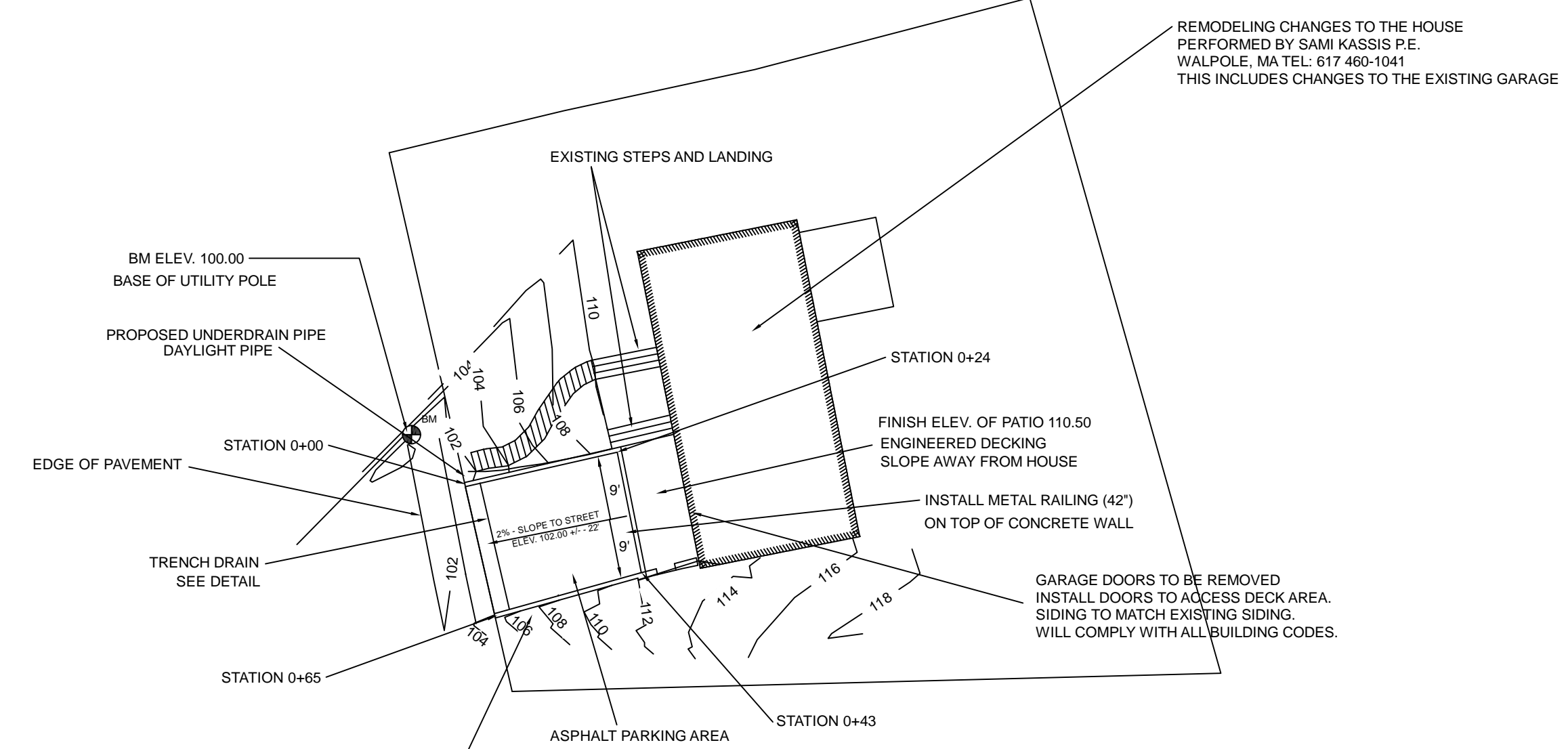
PREPARED FOR:
NITZAN GORDON & ZION YEHOUSHUA
72 NEWTONVILLE AVE.
NEWTON, MA 02458
PROPERTY ID: 12021 0025C
MIDDLESEX SOUTH DISTRICT DEEDS
BOOK: 58983 PAGE: 387



NOTES

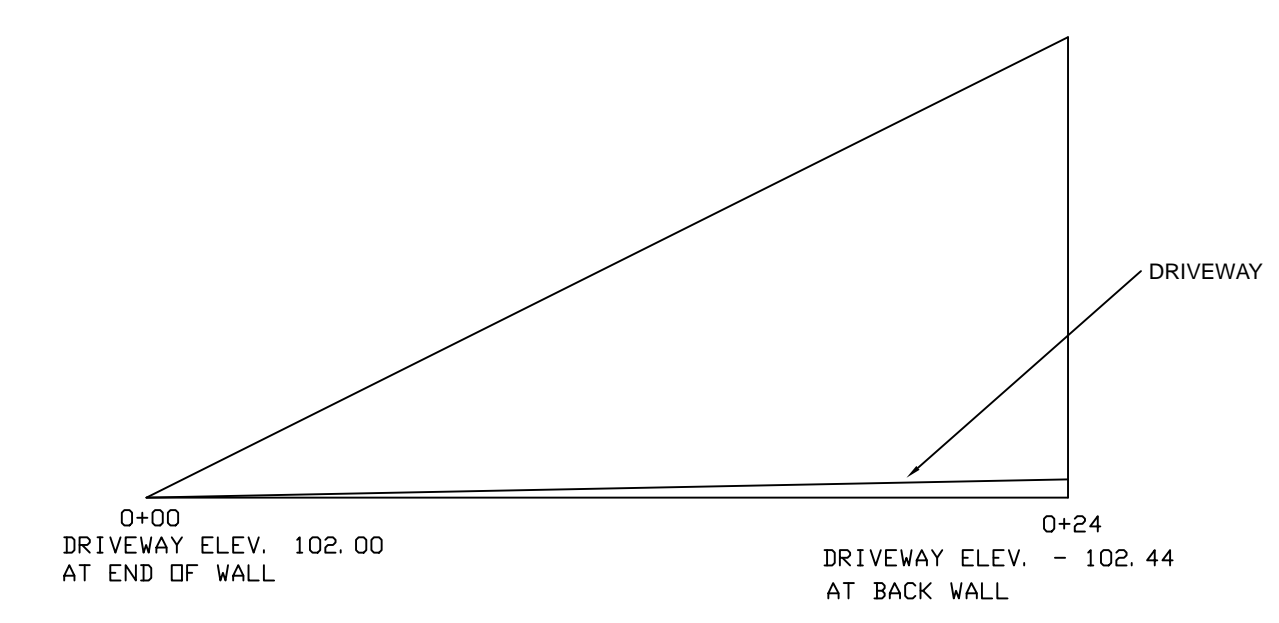
1. THE 28 DAY COMPRESSIVE STRENGTH OF CONCRETE SHALL BE 4,000 PSI.
2. REINFORCING STEEL SHALL BE ASTM 615 GRADE 60 RE-BAR.
3. CONCRETE SHALL CONFORM TO MASS DOT STANDARDS SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, SECTION M4.
4. BACKFILL SHALL CONFORM TO MASS DOT SPECIFICATIONS FOR HIGHWAYS AND BRIDGES, SECTION M2.
- 5.
6. ALL CONSTRUCTION WILL BE DONE IN CONFORMANCE TO THE MASSDOT STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGES.
7. AS OF JANUARY 1, 2009, ALL TRENCH EXCAVATION CONTRACTORS SHALL COMPLY WITH MASSACHUSETTS GENERAL LAWS 82A, TRENCH EXCAVATION SAFETY REQUIREMENTS, TO PROTECT THE GENERAL PUBLIC FROM UNAUTHORIZED ACCESS TO UNATTENDED TRENCHES. TRENCH EXCAVATION PERMIT REQUIRED.
8. ALL TREE REMOVAL SHALL COMPLY WITH THE CITY'S TREE ORDINANCE.
9. THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE ENGINEERING DIVISION AND SCHEDULING AN APPOINTMENT 48 HOURS PRIOR TO THE DATE WHEN UTILITIES WILL BE MADE AVAILABLE FOR AN INSPECTION OF WATER SERVICES, SEWER SERVICES, AND DRAINAGE SYSTEM INSTALLATION. THE UTILITY IS QUESTION SHALL BE FULLY EXPOSED FOR THE INSPECTOR TO VIEW; BACKFILLING SHALL ONLY TAKE PLACE WHEN THE CITY'S INSPECTOR HAS GIVEN THEIR APPROVAL.
10. THE APPLICANT WILL HAVE TO APPLY FOR SIDEWALK CROSSING PERMIT WITH THE DEPARTMENT OF PUBLIC WORKS PRIOR TO ANY CONSTRUCTION.
11. PRIOR TO OCCUPANCY PERMIT BEING ISSUED, AN AS-BUILT PLAN SHALL BE SUBMITTED TO THE ENGINEERING DIVISION IN BOTH DIGITAL FORMAT AND IN HARD COPY. THE PLAN SHOULD SHOW ALL UTILITIES AND FINAL GRADES, ANY EASEMENT AND FINAL GRADING.
12. IF A CERTIFICATE OF OCCUPANCY IS REQUESTED PRIOR TO ALL SITE WORK BEING COMPLETED, THE APPLICANT WILL BE REQUIRED TO POST A CERTIFIED BANK CHECK IN THE AMOUNT TO COVER THE REMAINING WORK. THE CITY ENGINEER SHALL DETERMINE THE VALUE OF THE UNCOMPLETED WORK.
13. THE DRIVEWAY TRENCH DRAIN WILL NEED TO BE CLEAN TWICE A YEAR OF ANY DEBRIS COLLECTED. THE HOME OWNER TO PROVIDE AN OPERATION, MAINTENANCE AND INSPECTION PLAN FOR THE YEARLY MAINTENANCE OF THE TRENCH DRAIN SYSTEM TO THE CITY. THIS PLAN TO BE RECORDED AT THE MIDDLESEX REGISTRY OF DEEDS.

SITE PLAN SCALE: 1" = 20'

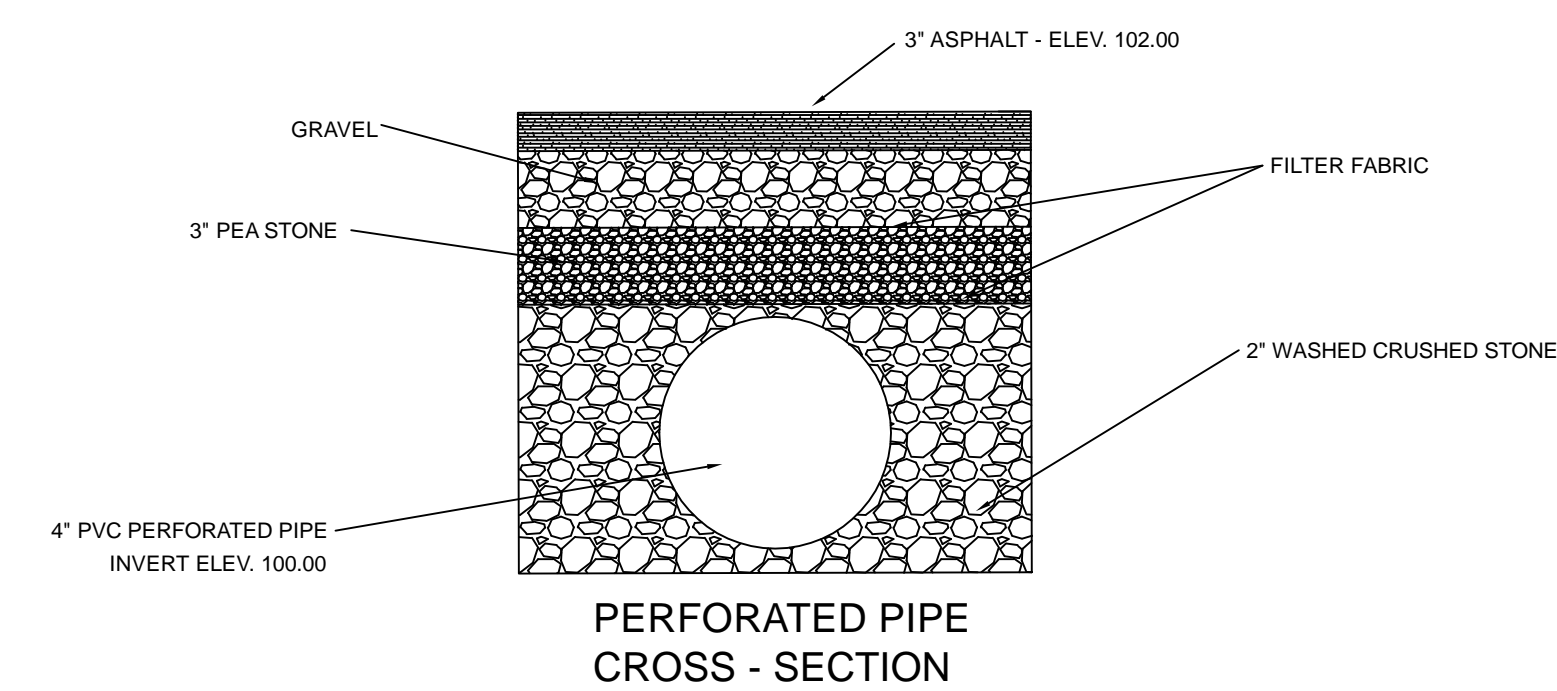


STATIONS
WALL PROFILE

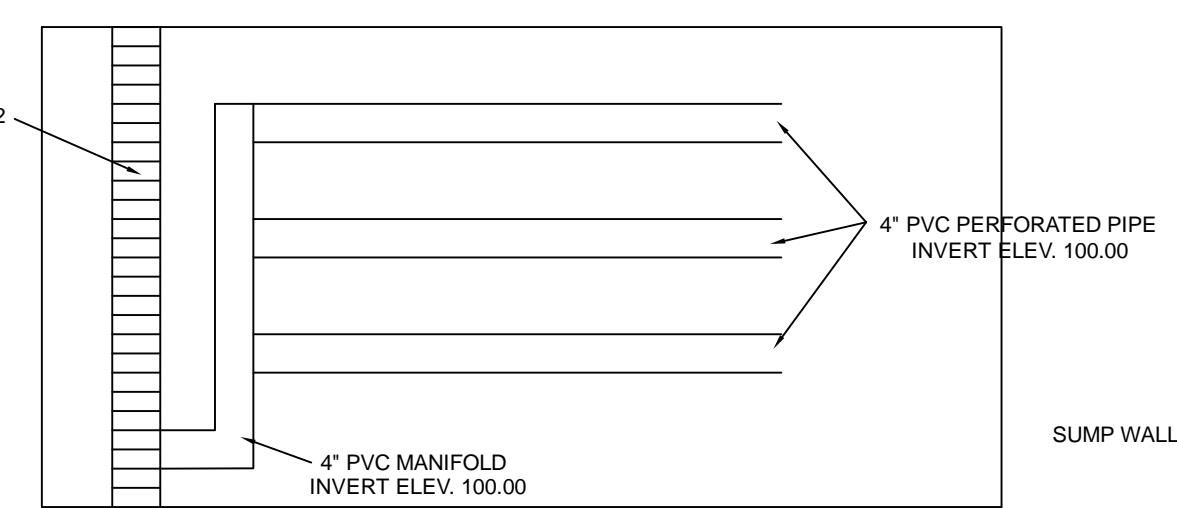
SCALE: 1" = 20' - HORIZONTAL
SCALE: 1" = 2' - VERTICAL



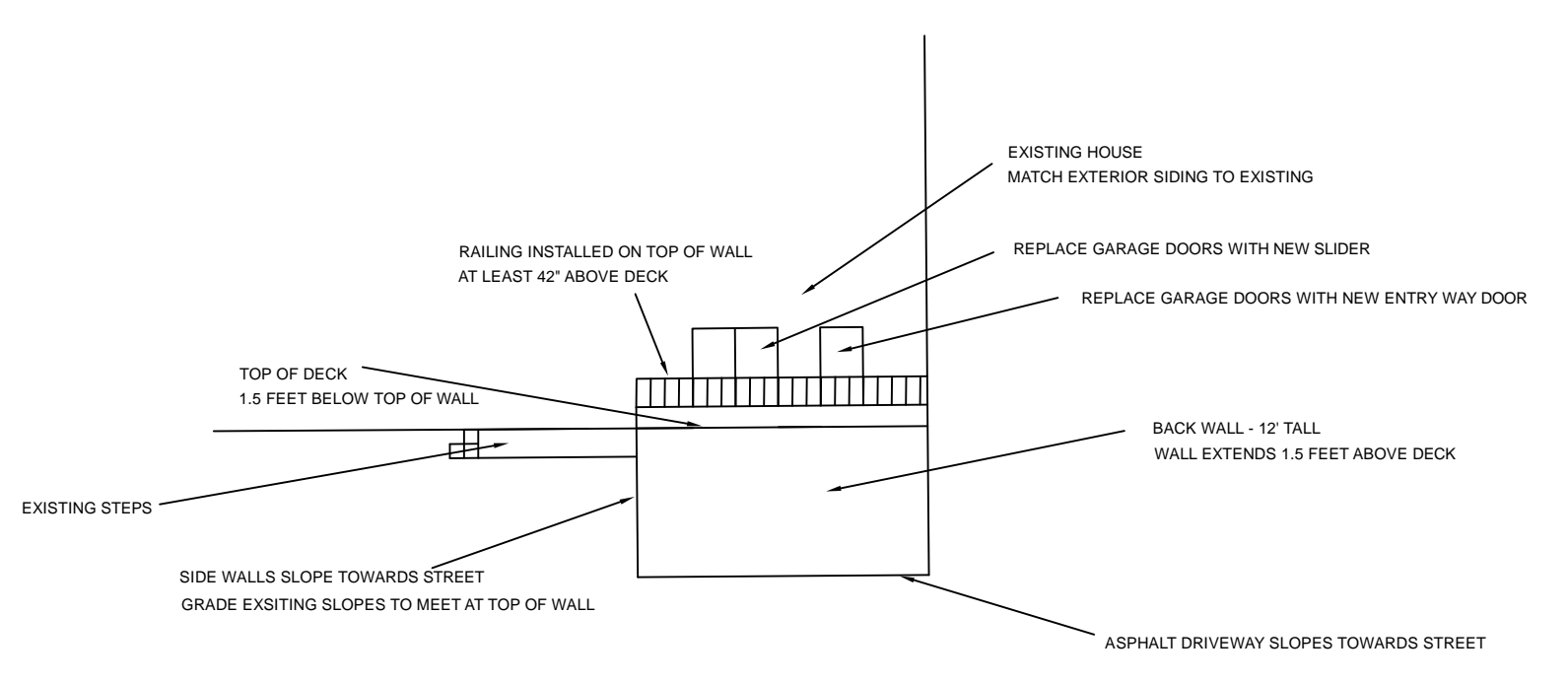
DRIVEWAY PROFILE
SCALE: 1" = 4'



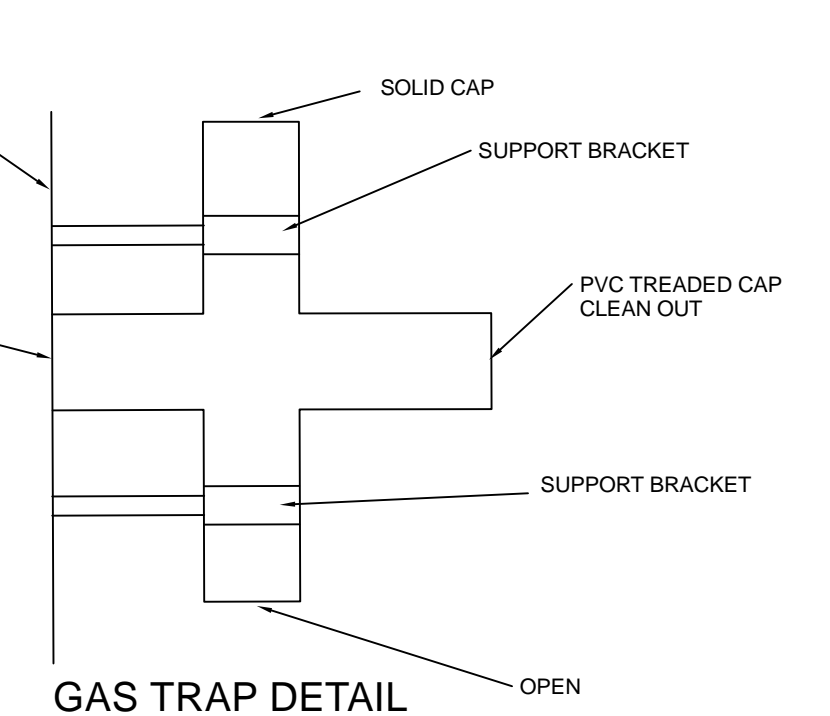
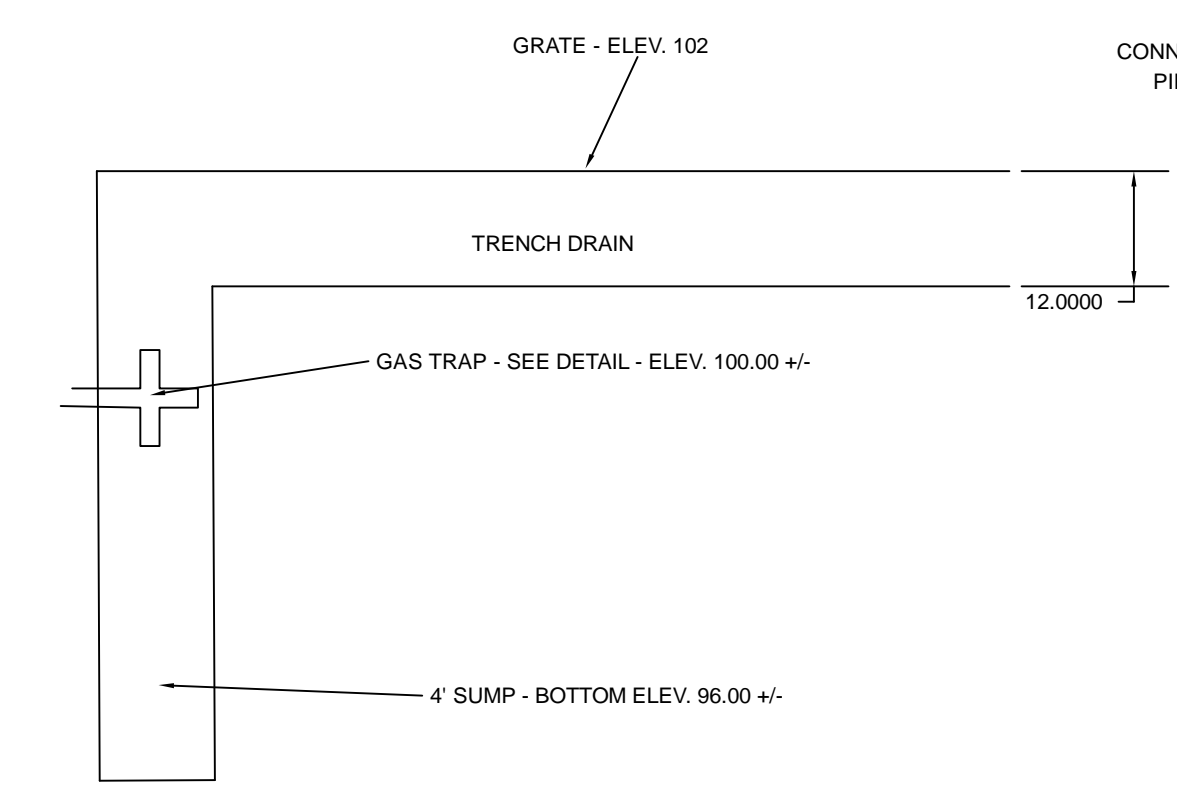
PERFORATED PIPE
CROSS-SECTION



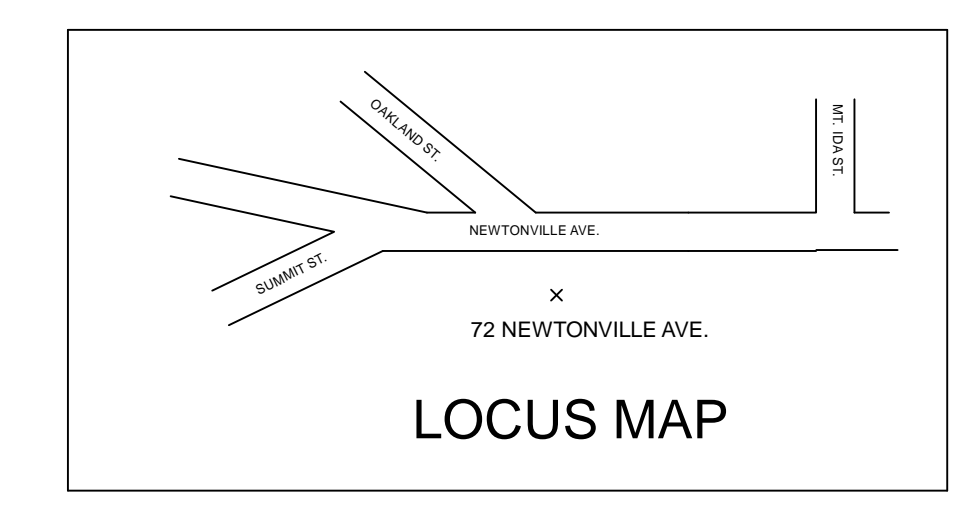
TRENCH DRAIN - PLAN VIEW
NOT TO SCALE



FRONT VIEW OF DRIVEWAY WALL
NOT TO SCALE



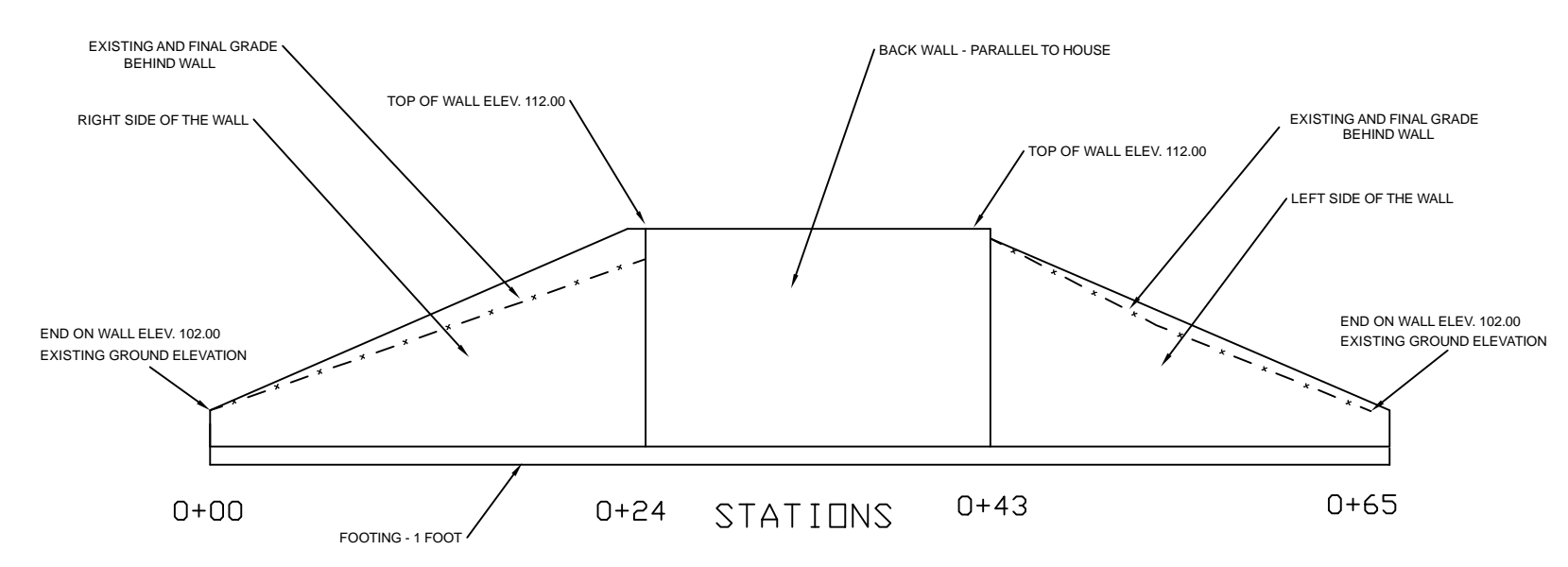
GAS TRAP DETAIL



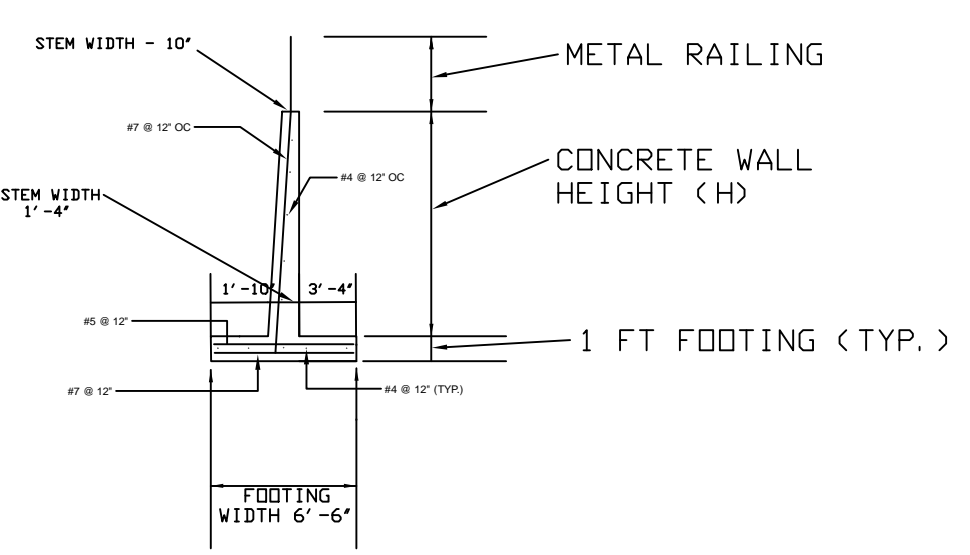
PARTIAL SITE PLAN 74 NEWTONVILLE AVENUE PROPOSED CHANGES TO DRIVEWAY

PREPARED BY:
HERRICK CONSULTING
JAMES A. HERRICK, P.E.
3 EVERGREEN CIRCLE
LONDONDERRY, NH 03053
603 434-9960
MA. PE NO. 41191

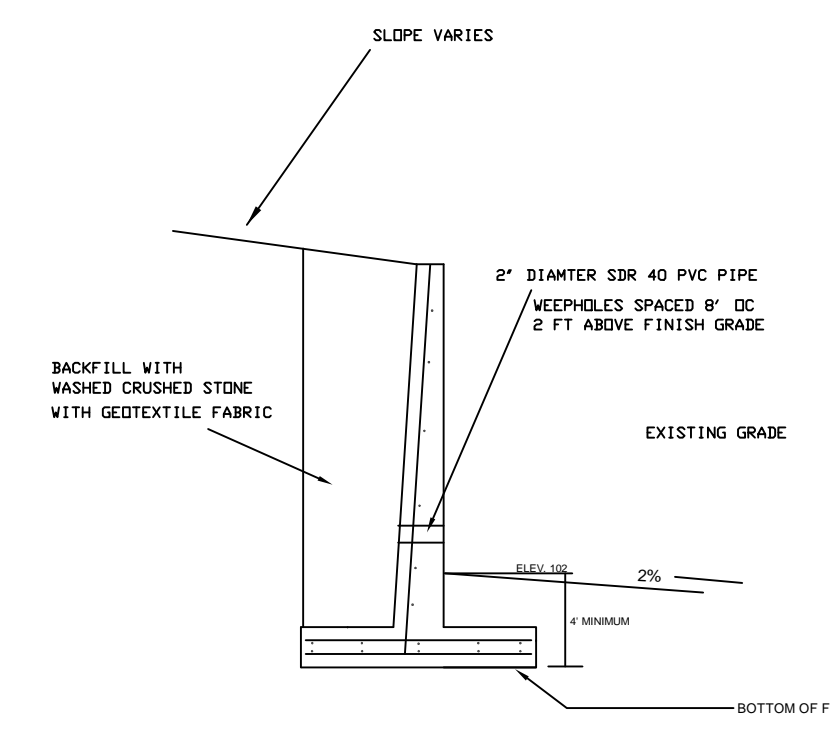
PREPARED FOR:
NITZAN GORDON & ZION YEHOSHUA
72 NEWTONVILLE AVE.
NEWTON, MA 02458
PROPERTY ID: 12021 0025C
MIDDLESEX SOUTH DISTRICT DEEDS
BOOK: 58983 PAGE: 387



WALL PROFILE - 2
SCALE: 1" = 8'



TYPICAL WALL SECTION
N. T. S.



BACKFILL DETAIL
N. T. S.

CONSTRUCTION MANAGEMENT PLAN
Address: 72 Newtonville Ave. Newton MA 02458
Date of Plan: October 1st 2013

PROJECT OVERVIEW

The removal of the existing driving and the construction of the new retaining walls to support a new driveway will only begin after the city provides the working permit to do so. Once this is approved and a permit is obtained, and if time is permitting before the winter, the work will be scheduled. Once dates will be secured, the information will be emailed to the Ward Alderman.

CONSTRUCTION ADMINISTRATION**CONTACT PERSON**

Zion Yehoshua, the home owner, will be the site superintendent on site each day to direct the operation and coordinate the activities of the sub-contractors. He will also be the first line of response to deal with unforeseen circumstances and have overall responsibility for completing the project in a professional and timely manner. Mr. Yehoshua will be available on call day, night and weekends by phone at 617 548-4193.

COMMUNICATION

The home owner will periodically update the Ward Alderman by letters and/or email. The purpose of such communication will be to advise of the schedule and progress of construction, any construction activities that may negatively impact the neighborhood, any changes in plans, or any other matter that may be of interest to the neighborhood.

The Contractor and/or home owners shall respond timely to concerns raised by the community in relation to the construction and its impact on the adjacent neighborhood. The Contractor/ home owner will take actions reasonably necessary to eliminate or mitigate to the greatest extent possible, any concern relating to the impact of the construction on the neighborhood.

DUST, DIRT AND DEBRIS CONTROL

The Site Superintendent will actively supervise the delivery of materials so that trucks spend as not be allowed to idle or stand on Newtonville Street and to ensure that there will be no washout of concrete trucks on public property. To control the possibility that dirt and debris could be tracked from the site onto Newtonville Street, the truck tires will be cleaned off before leaving the site. Once the old buildings have been removed, a bed of crushed stone may be installed, if necessary, just back of the sidewalk. At this location trucks can be cleaned off before entering Newtonville Street. In addition, the Contractor/developer will endeavor to keep the streets as clean as possible by means of a sweeper during the site work phase. Other methods of dust control will include, but not be limited to, covering trucks for transportation of fill material, minimizing storage of debris on-site by regular use and pick-up of dumpsters, use of tarps or other suitable material to cover stored building materials and soil.

HOURS OF OPERATION AND NOISE CONTROL

In accordance with section 20-13 of the City of Newton Municipal Code (The Noise Control Ordinance), the normal work day shall begin no earlier than 7:00 AM and no later than 7:00 PM Monday through Friday, 8:00 AM to 7:00 PM Saturday, and there will not be any construction activities on Sundays and Holidays. Exterior work shall not extend beyond the hours, nor exceed the maximum noise levels, specified in Section 20-13, and all material deliveries shall comply with the work hours and time restrictions noted therein. With the advent of late fall and diminished daylight hours, it may be expected that some work will be performed on Saturdays, to accelerate the project or make up for inclement weather delays. If work is to be done on Saturdays, that work

shall not begin before 8:00 AM. Under no circumstances will work be performed on Sundays or holidays consistent with municipal ordinance. Noise-producing staging activities will be conducted only during the work hours as described in this section.

REFUSE DISPOSAL

Refuse resulting from the demolition activity will either be deposited onto dump trucks with a 20/30-yard capacity or larger for direct haul from the site or where feasible, segregated for recycling purposes prior to transport. During construction, waste materials and debris will be deposited / stored in secure containers for periodic pickup and disposal off-site. At the end of each business day, all such containers shall be securely covered during those periods when not in active use (i.e., night and weekends) and during transport from the site. Said containers will be fitted with a closable lid to protect immediate residents from offensive odors and any breach of the facility. Trash pickups will be scheduled with sufficient regularity to ensure that the containers are not filled beyond their designated capacity

INSURANCE COVERAGE

The general contractor/owner shall carry one million dollars (\$1,000,000) in comprehensive liability insurance to indemnify abutting property owners from potential damage to adjacent structures and other tangible property, real and personal, caused by construction activities. The contractor shall submit a certificate to the Newton Fire Department documenting that the required coverage will be in force for the duration of the work at the site.

TRAFFIC & PARKING

Police details shall be provided when any work on the project may impact the movement of traffic on Newtonville Ave. or as may be required by the Chief of Police, Chief of Fire or the Traffic Engineer. This requirement may apply, but not be limited, to the following activities: deliveries, concrete pours, mobilization of equipment and any work in the street.

On street parking will be required for the period of the construction as the driveway will be demolished and re-build in a graded form. The home-owners will obtain a parking permit for their vehicle for the time of the constructions and subcontractors will be instructed to follow the street's parking restrictions and take into consideration handicap ramp and neighboring homes driveways.

CONSTRUCTION PHASING

Once the applicable building permits and sign-offs have been obtained from the relevant city departments, removal of the existing driveway should be accomplished within a 3-day period. The foundation for the retaining walls excavated, formed, poured and backfilled, likely involving several separate pours over two-week period. After which the installation of the drainage system will be performed and then the finishing work can begin. Based on the timing of when all proper permits from the applicable departments in the city are obtained the actual start date of the project can be determine taking into consideration seasonal implications.

AMENDMENTS TO THE PLAN

This Plan is intended to establish a baseline condition for protection of the neighborhood from the possible adverse effects that may result from, or during, construction. It may be augmented from time to time as circumstances warrant.