

DiStefano Request for Dimensional Waiver

Prepared by Phil McDuffie 02Aug 2022

Timeline Of Events

- Boynton property sold to DiStefano on 2/18/2020
- Distefano subdivides property into two parcels 1/25/2022
- Certified mail sent to abutting property owners 2/14/2022 indicates proposed septic and water well restrictions will overshadow adjacent properties (McDuffie/Boynton-Stover/Weitzel)
- “Building Permit” Submitted to town office on 3/30/2022
 - No Building Plan was submitted
 - ANR Septic Plan Approval Letter (dated 3/30/2022) was submitted
 - ANR Septic Site Plan was not submitted
- Building Permit Granted on 4/6/2022, Effective on 4/20/2022
- Setback violation (approx. 25 feet) was discovered on or before morning of 7/6/2022
- ZA visited site on morning of 7/6/2022
- Foundation was poured during late afternoon on 7/6/2022

Where Do I Fit Into This?

- Upon receipt of the Certified Letter, I visited the proposed building on 2/16/2022
 - I left with a strong impression that the site isn't suitable for building on. Getting out of the car, I felt like I was standing at the top of a gorge. Wheeler Brook is at the bottom of the site and is approximately 50 feet below Wheeler Road.
 - My major concerns
 - Slope of the property is very steep and poses runoff threat
 - Wheeler Brook is at the bottom of the building site, and I consider it as an ecologically sensitive area
- I reported my concerns to the Planning Commissioner (PC), the ZA, and a lister who works in the office with the ZA.
 - PC and Lister visited the site
 - Lister wrote an email sharing his concerns
 - PC gave me the name of a contact with ANR
- I proceeded to contact officials at ANR to learn about the process of Septic Plan Approval and share my concerns over the suitability of the site for development

Lister's impression of building site

- From Email sent by lister on 2/17/2022 to me, the PC, and the ZA
 - Phil and Ellen sent me the septic preliminary design for the Distefano proposed house site. Some concerns are the closeness of the building to the property line of John Boynton. The steepness of the land and the proximity to the brook. The line indicated as "septic isolation field" appears to include sections of the brook? I am amused that the brooks location is not indicated on the septic site plan? I am going to make a site visit today to eyeball the survey stakes and take a few photos, My initial reaction is to review the site and engage in a discussion concerning alternatives.
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The ANR Rabbit Hole

- Using the ANR contact that the PC sent to me, I proceeded to spend over a week calling a sizable group of individuals in an effort to learn about the approval process, and hopefully speak to the individual who would examine and approve the septic plan.
- I found that individual, and in the process, I came up with the following impressions that I related in an email to the PC, Lister, and ZA on 2/25/2022
 - The site plan will be reviewed for conformance to the W/WW “stay-out” zones that have been stipulated by ANR. The site plan **is not** reviewed in terms of runoff potential, or for the potential of long-term environmental impact outside of the W/WW system.
 - Impact to the aesthetics of the location around the site, or “common sense” suitability of the proposed location for the building(s) **are not** reviewed by ANR. In other words, ANR will only approve or deny the plan based on conformance of the W/WW design to ANR requirements.
 - Actual site visits by the ANR engineer are very rare these days, due to staffing shortages and the fact that most of the staff are working from home.
 - The designer of the site plan is responsible for evaluating the potential for storm-runoff during construction and must address it in the plan if he or she determines that the construction site meets the ANR criteria for invoking a stormwater management plan. If so, the plan designer must obtain a permit from the Storm Water Management office of the ANR.
 - Jeff said he will keep an eye out for the site plan in question, and assured me he will review it with due diligence for conformance to the W/WW design requirements.

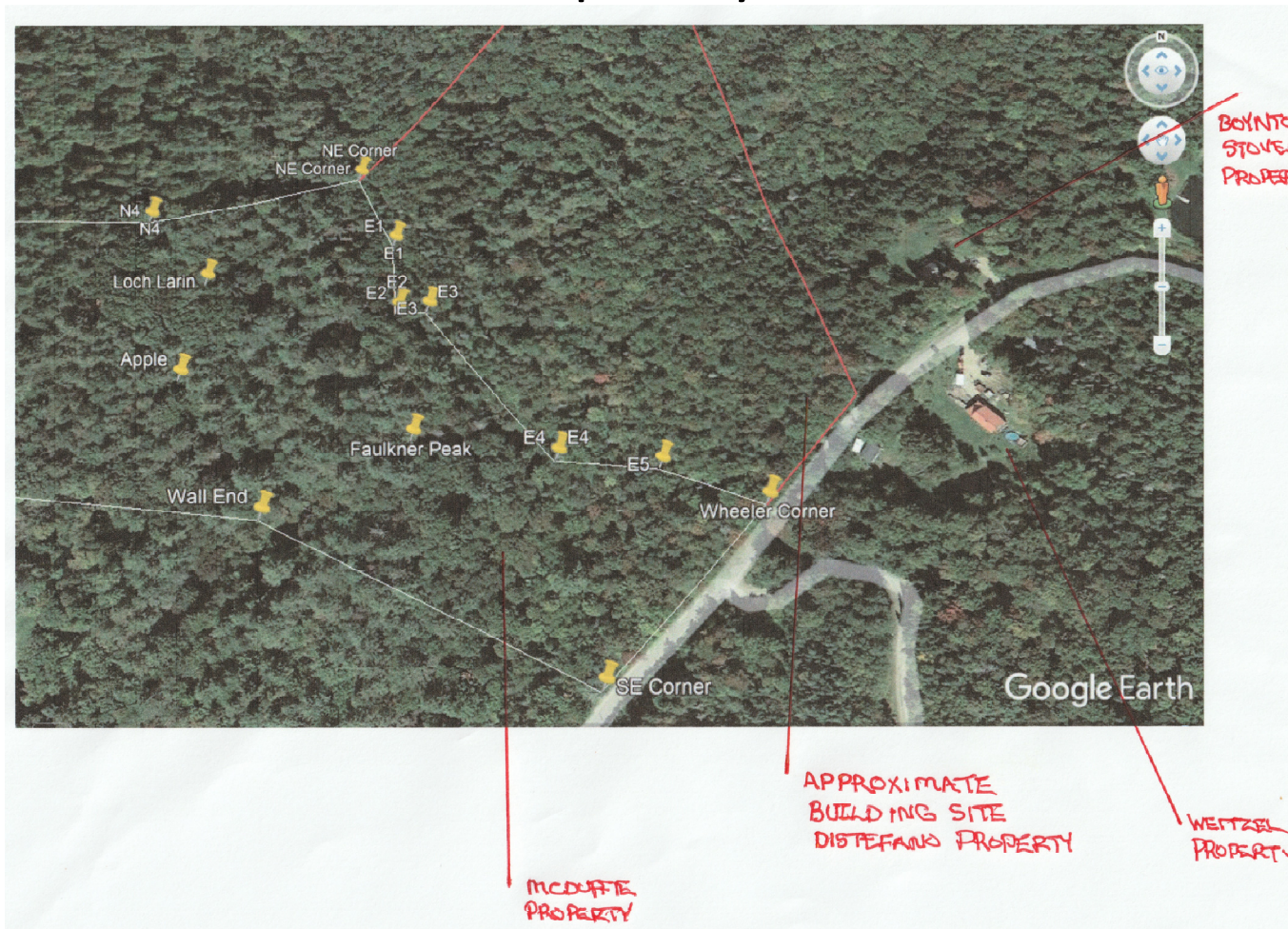
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- On 3/30/2022, ANR approved the septic plan, and I then assumed the town would follow normal procedure in granting a Building Permit (i.e. inspect the site plan for conformance to Windham Zoning regulations)

Fast Forward to 7/6/2022

- I am informed that the foundation on the site is in violation of the setback requirements with respect to Wheeler Road, and possibly the Boynton-Stover property
- I proceed to analyze the approved ANR site plan (a building site plan had never been submitted to the town office)
 - My findings verified the setback violation (foundation was approximately 41 from center of Wheeler Road), requirement is 65 feet
 - The ANR site plan appears to show the house in the location that it currently sits at (i.e. the plan submitted to ANR shows the foundation is in violation of the setback requirement)
 - Revised analysis estimates setback from Boynton-Stover property at approximately 16 feet, requirement is 25 feet
 - Further analysis shows the slope of the site (grade) exceeds the 20% limit specified in Windham's zoning regulations, and should have been considered as an unacceptable location for building a home

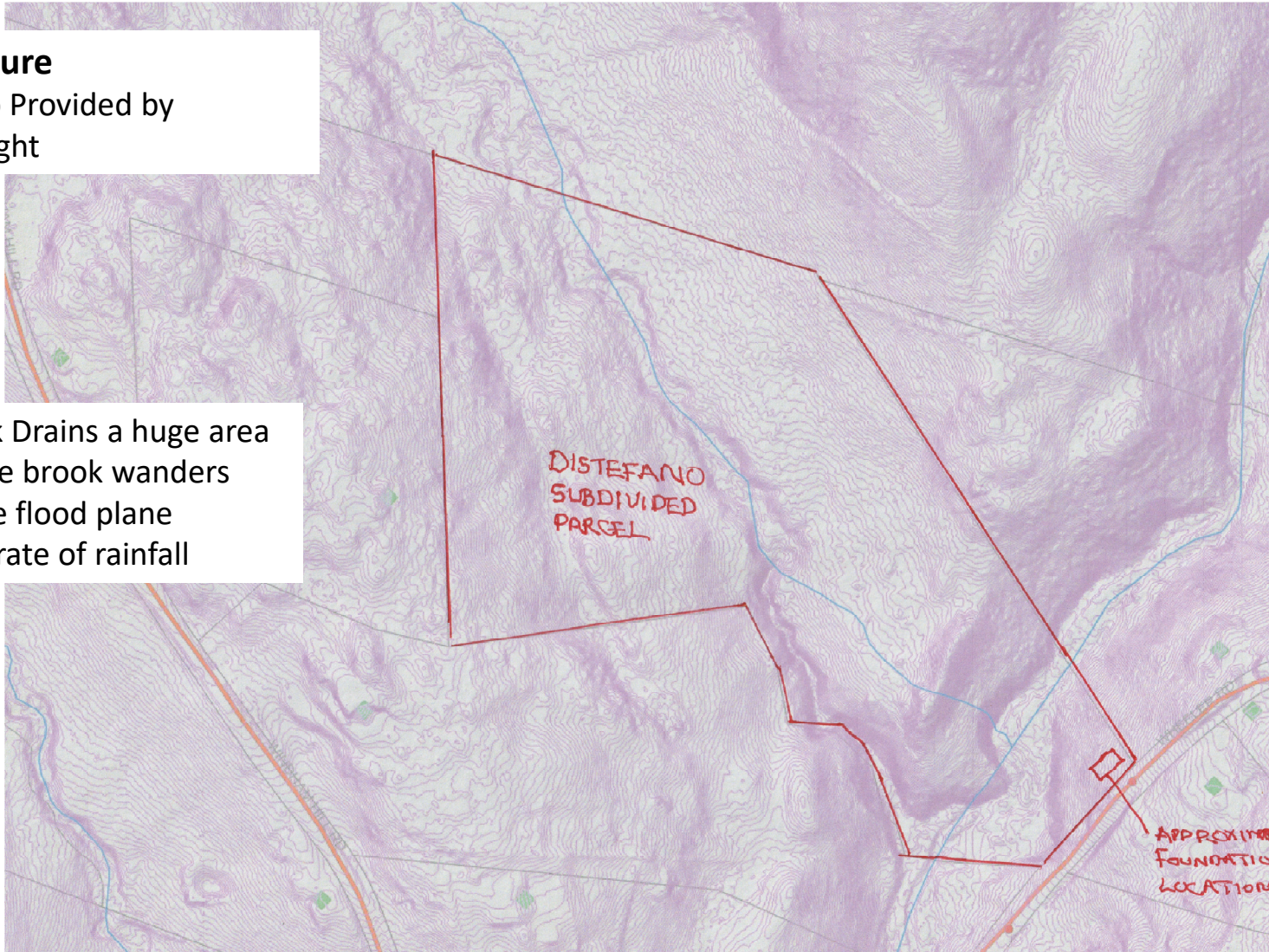
So Where is this Property?



The Big Picture

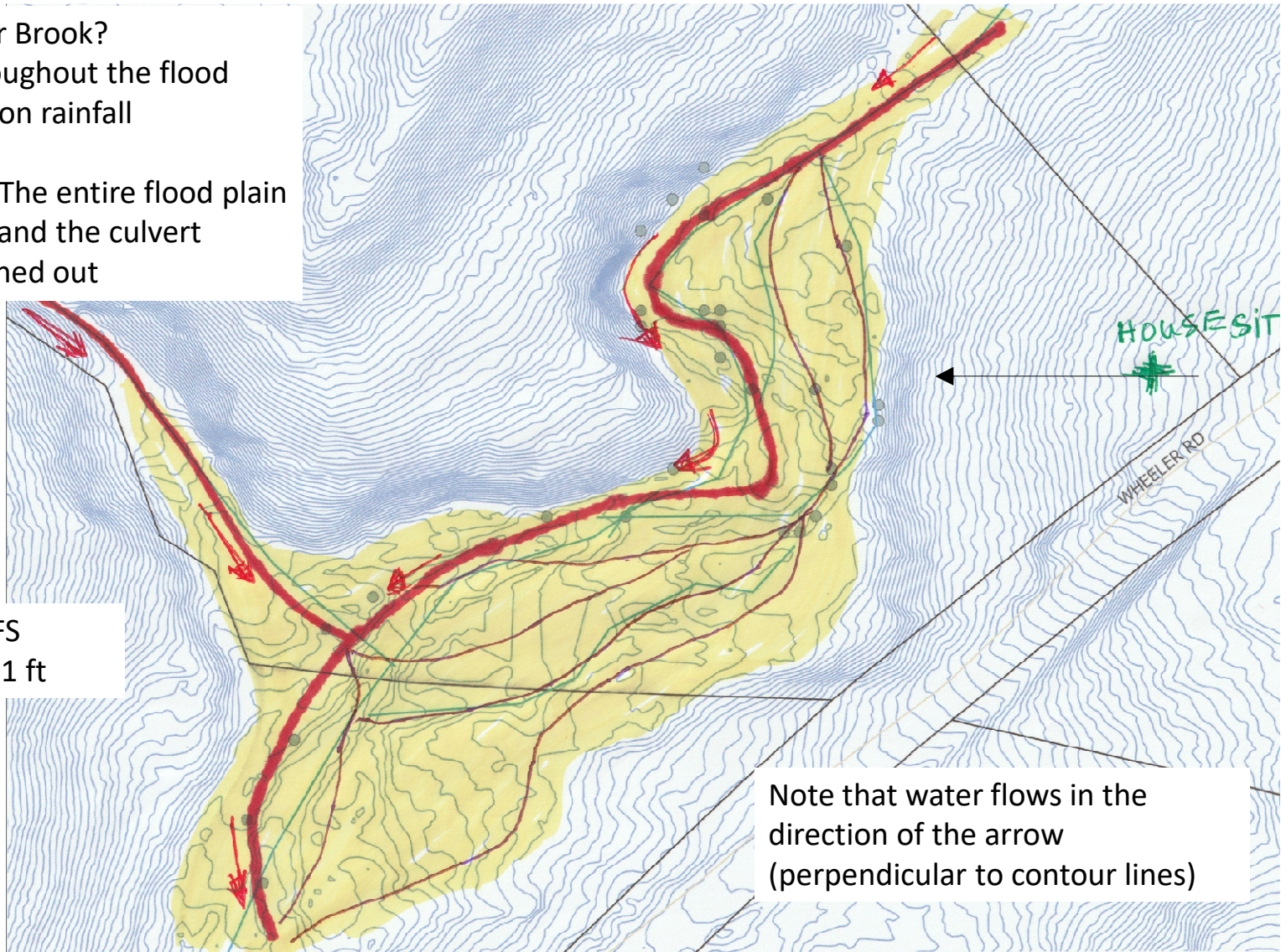
Contour Map Provided by
Frank Seawright

Wheeler Brook Drains a huge area
of land, and the brook wanders
throughout the flood plane
depending on rate of rainfall



Where is Wheeler Brook?
Well, it flows throughout the flood
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Last June (2021), The entire flood plain
was under water and the culvert
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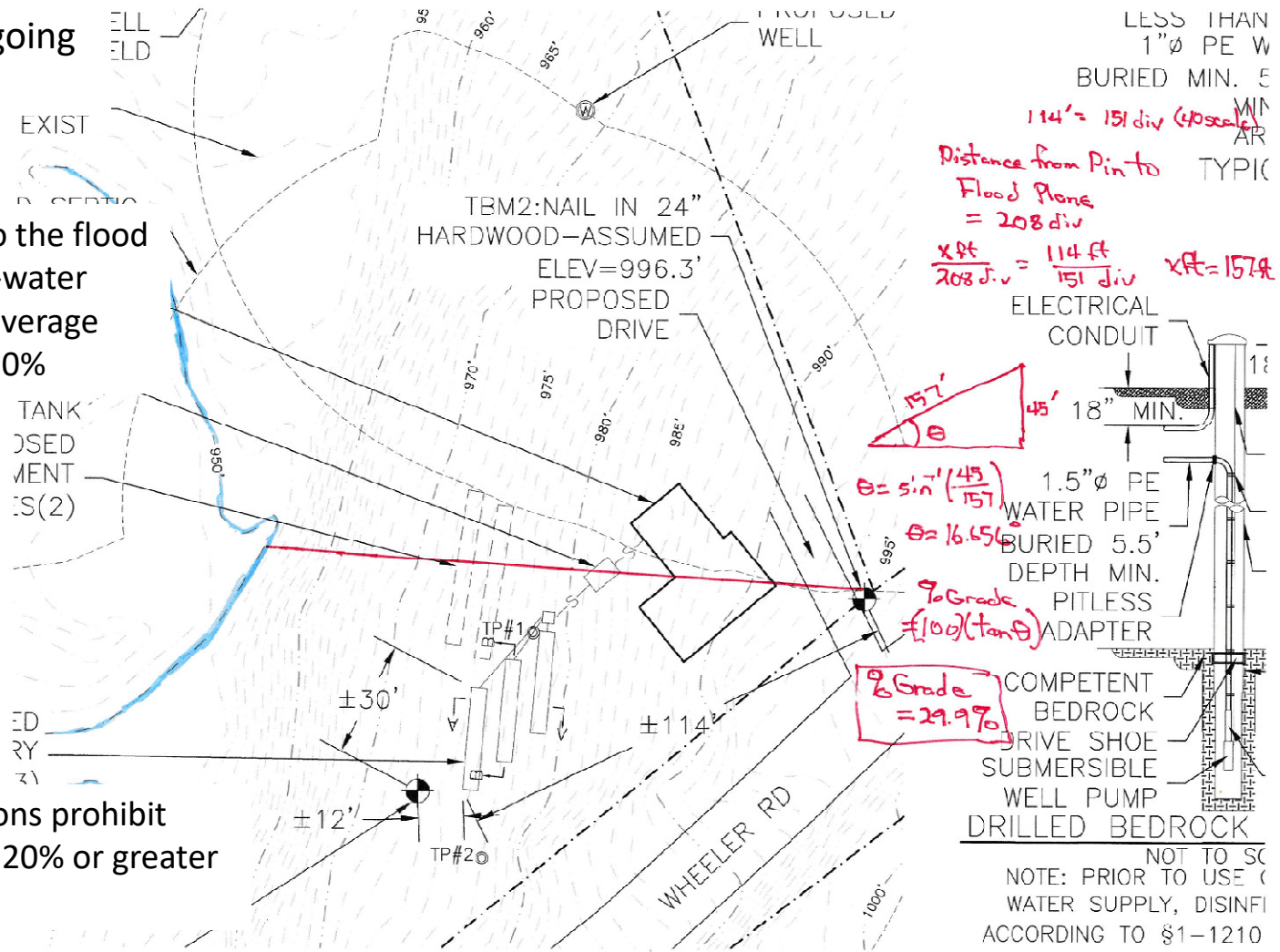
Contour Map by FS
Contour Spacing: 1 ft

Note that water flows in the
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So, what is the slope going across this property?

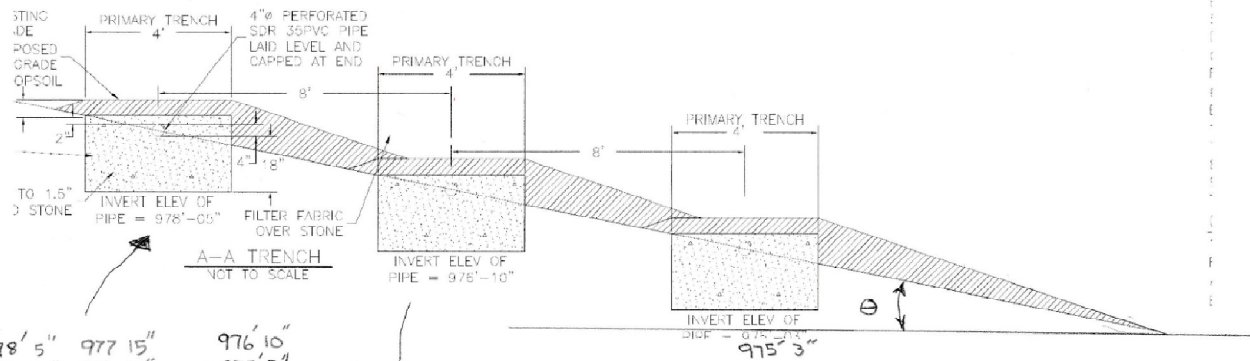
From the property pin to the flood plane (which is the high-water mark of the brook) the average grade is approximately 30%

Windham Zoning Regulations prohibit development on slopes of 20% or greater (Section 207)



LEVEL SLOPE LINE TO DISTRIBUTION BOX UNLESS INSULATED.

NOT TO SCALE



$$\begin{array}{r} 978' 5'' \\ - 976' 10'' \\ \hline 1' 5'' \end{array} \quad \begin{array}{r} 977' 15'' \\ - 976' 10'' \\ \hline 1' 5'' \end{array} \quad \begin{array}{r} 976' 10'' \\ - 975' 3'' \\ \hline 1' 7'' \end{array}$$

$$1' 5'' = 1.4167' \quad 1' 7'' = 1.5833'$$

$$\frac{1.4167}{8} = \tan \theta_1 \quad \frac{1.5833}{8} = \tan \theta_2$$

$$\theta = \tan^{-1}(.1771) \quad \theta_2 = \tan^{-1}(.1979)$$

$$\theta = 10.04^\circ \quad \theta_2 = 11.2^\circ$$

$$\text{Percent Grade}_1 = 17.7\% \quad \text{Percent Grade}_2 = 19.8\%$$

Ave Grade Across Primary Leach Field = $\frac{17.7\% + 19.8\%}{2} = 18.8\%$ grade

$$\frac{\text{Percent Grade}}{100} = \tan \theta$$

$$\theta \approx 12^\circ \text{ (from angular measurement)}$$

$$\tan(12^\circ) = .213$$

$$\text{Percent Grade} = 21.3\%$$

Even the slope going across the primary leach field is calculated at 20%

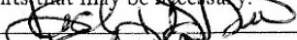
Concluding Remarks

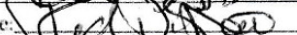
- I feel like the town zoning office, as well as the owner/builder of the property made serious mistakes that skirted the intent of the zoning regulations, and has resulted in a foundation being poured after a zoning violation was observed by the ZA.
 - No building site plan was submitted to the ZA for review to conformance to Windham Zoning Regulations (In spite of Item 7 on the Zoning Permit Appli

7. Please attach a sketch of property on separate sheet that shows dimensions of Property, location of existing structures and relationship of proposed project. Include setbacks (distance between property lines and the structures), driveway locations, parking and fences. Identify location of septic and well where appropriate.

Certification of Applicant /Owner

The undersigned applicant/owner hereby certifies that all information submitted on this application is true, accurate and complete. The undersigned applicant/Owner has full authority to request approval for the proposed use of the property and for any proposed improvements. This authorization allows Town of Windham Officials access to the property for the purpose of reviewing all aspects of this application. Applicant/Owner understands that a permit issued by the Town of Windham does not include any other governmental permits that may be necessary.

Owner Signature:  Date: 2/20/22

Applicant Signature:  Date: 2/28/22

- If upon inspection of the site, any of the above information is found to be incorrect, the Owner shall be held solely responsible.

- Applicant must obtain Certificate of Conformance from town of Windham Zoning Administrator prior to

Concluding Remarks (continued)

- Building Permit was approved without reviewing any site plan, including the ANR Septic Plan
- Foundation was poured after the ZA became aware of the setback violation, hence, if a stop-work order was issued prior to the foundation being poured, the owner did so at his own risk
- Despite the setback violations, the grade on this building site greatly exceeds Windham zoning regulations
- A grade limit of 20% is important to adhere to, especially considering that this property is immediately above Wheeler Brook and its flood plane.

Finally, I respectfully ask the Zoning Board of Adjustment to consider the criteria specified for dimensional waivers. I don't believe this request meets Item 3, Item 4b, 4d, and 4e. I also think the board should consider whether Item 5 is applicable.

Section 304 DIMENSIONAL WAIVERS

Dimensional Waivers under Section 304B of these Regulations dimensional waivers may be applied for when seeking approval for development that is not otherwise allowed under these Regulations. In applying for a waiver, the burden of proof is on the Applicant to demonstrate that the waiver request meets waiver criteria of Section 304 A. The Zoning Board of Adjustment may require a survey if essential to verify the location of property lines.

In the event that the Zoning Board of Adjustment grants a waiver, the permittee must comply with all other requirements of these Regulations.

Section 304 A Dimensional Waivers Criteria

The Zoning Board of Adjustment may grant a waiver to a dimensional requirement, other than density, after considering the criteria below:

1. Reasonable use of the property is only possible if the Zoning Board of Adjustment grants a waiver of the dimensional requirement.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. The proposed project will still conform to the Town Plan and the purpose of the zoning district in which the land development is located.
4. The proposed project will not have an undue adverse effect on the following:
 - a) The appropriate use or development of surrounding properties;
 - b) The character and aesthetics of the neighborhood, as defined by the purpose of the district in which it is located;
 - c) Traffic patterns and circulation;
 - d) Public health, safety, and utility services;
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 - g) The preservation of open space or scenic vistas;
 - h) Historic resources identified in the Windham Town Plan.
5. The need for a waiver was not intentionally self-created by past decisions of the applicant.
6. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.
7. Structural enlargements that do not increase the degree of nonconformity do not require a waiver.

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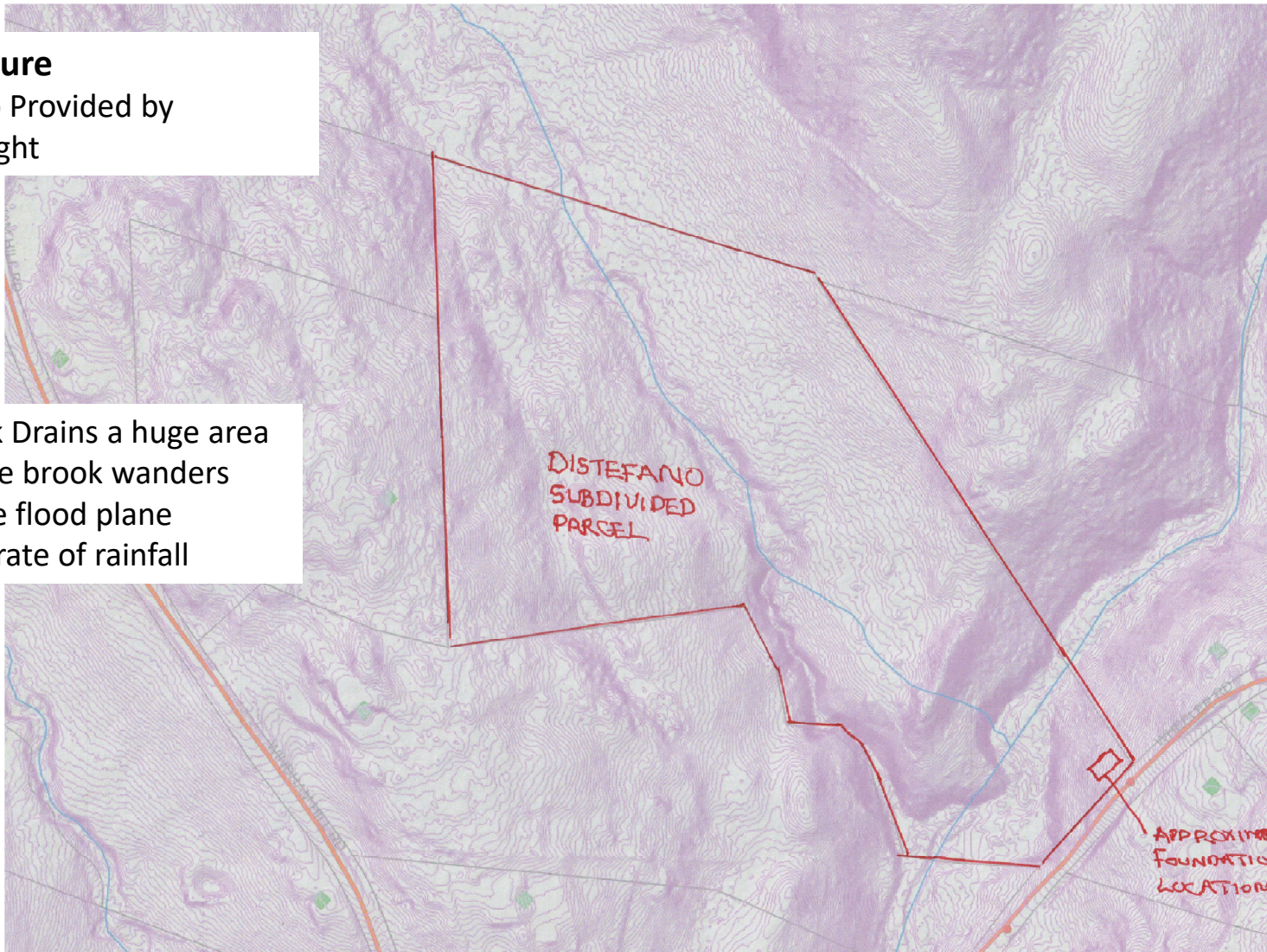
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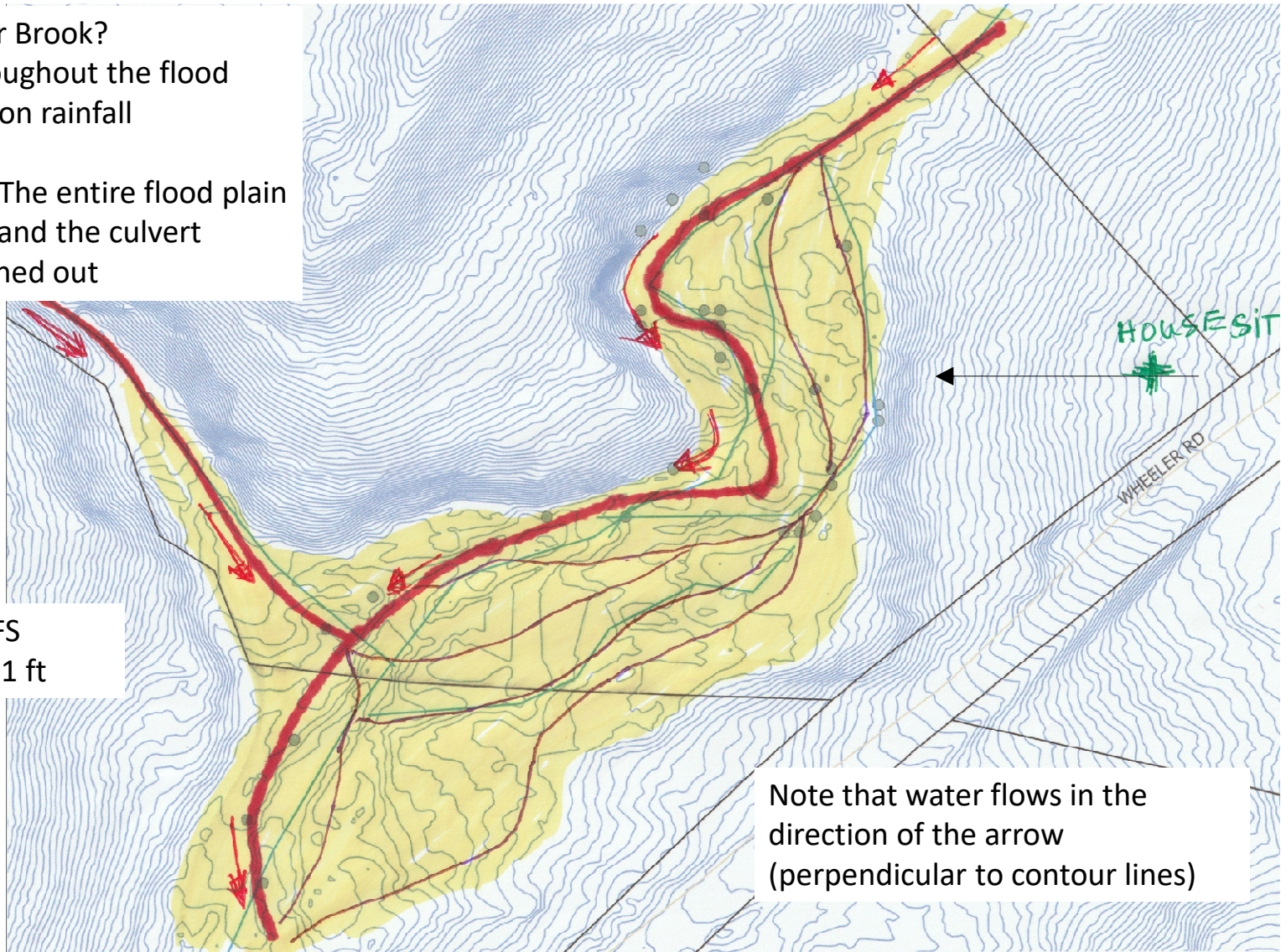
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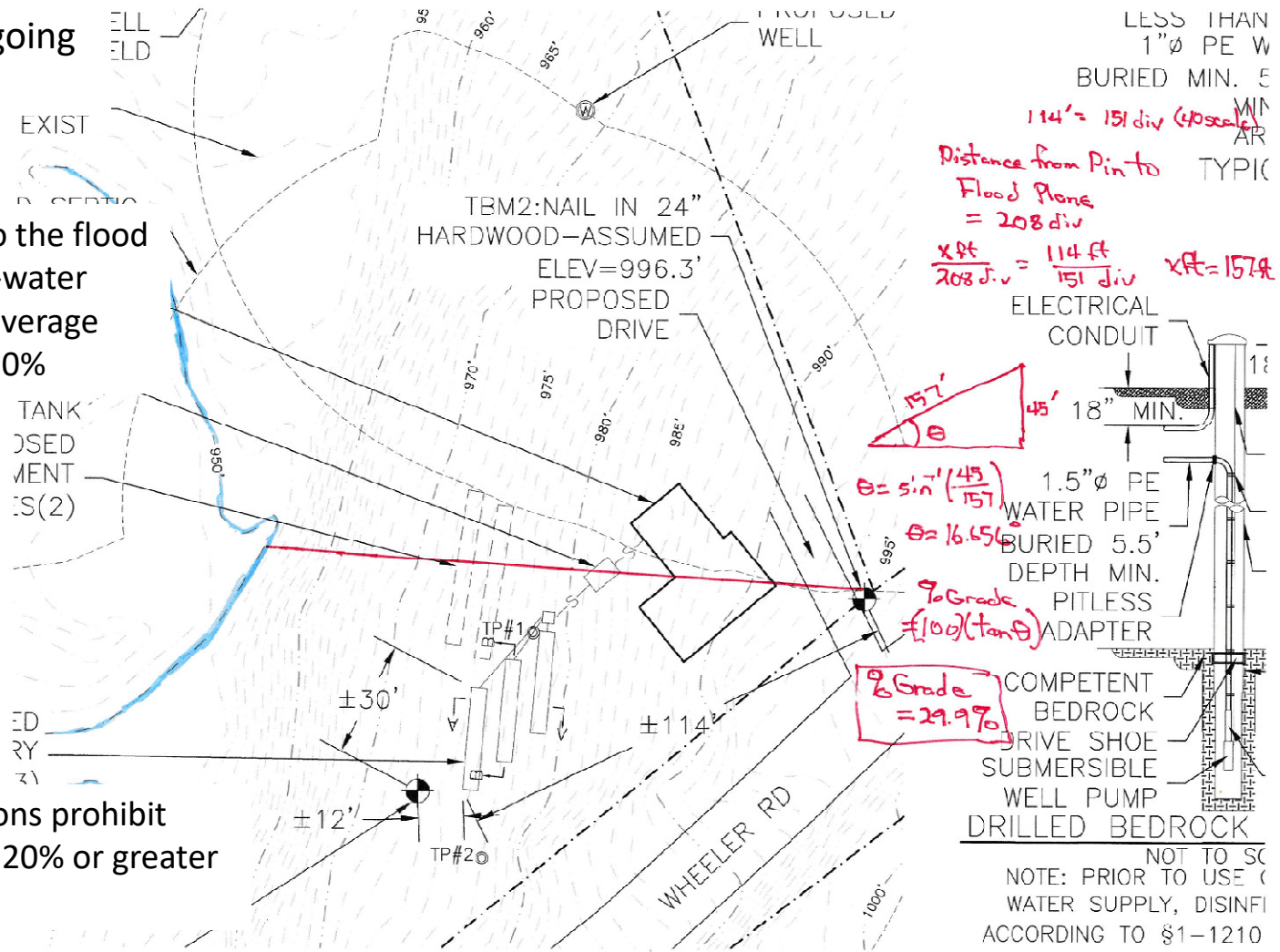
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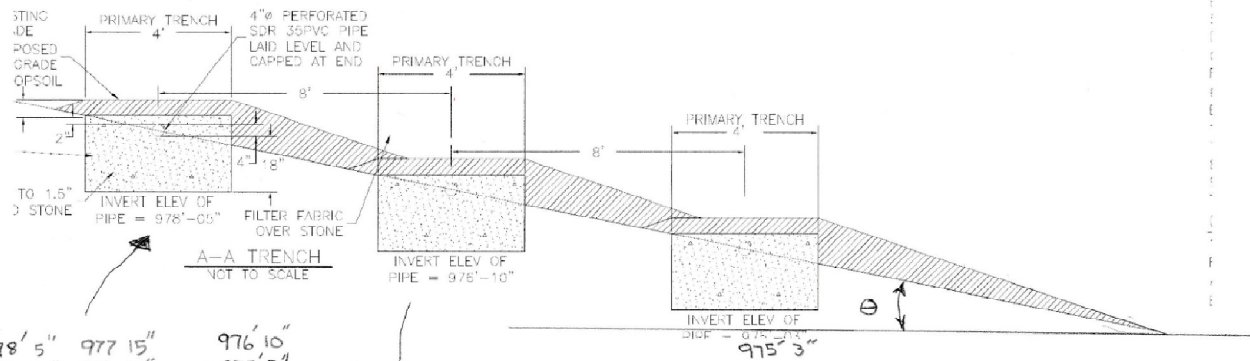
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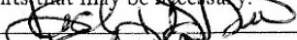
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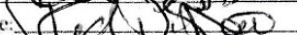
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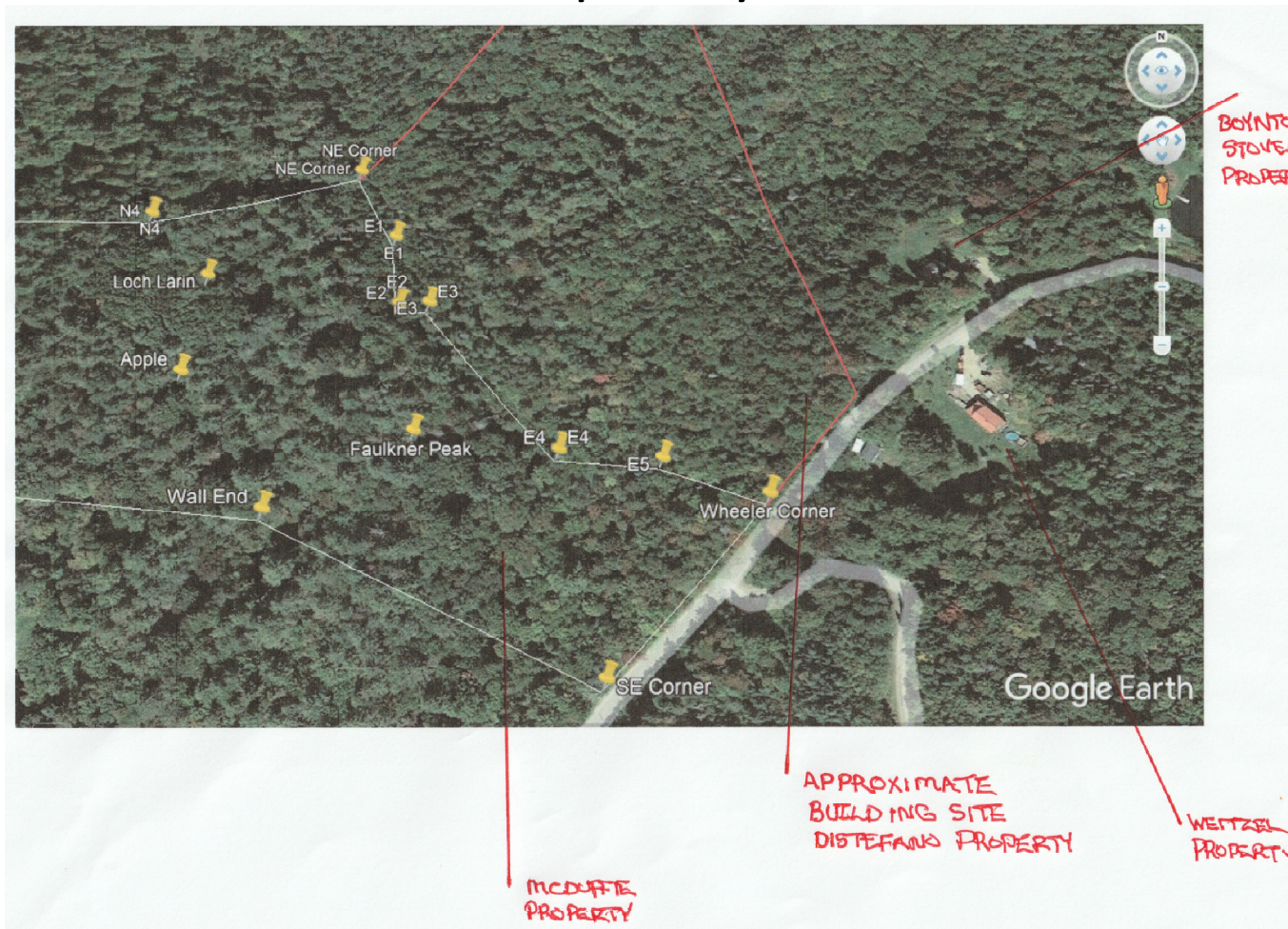
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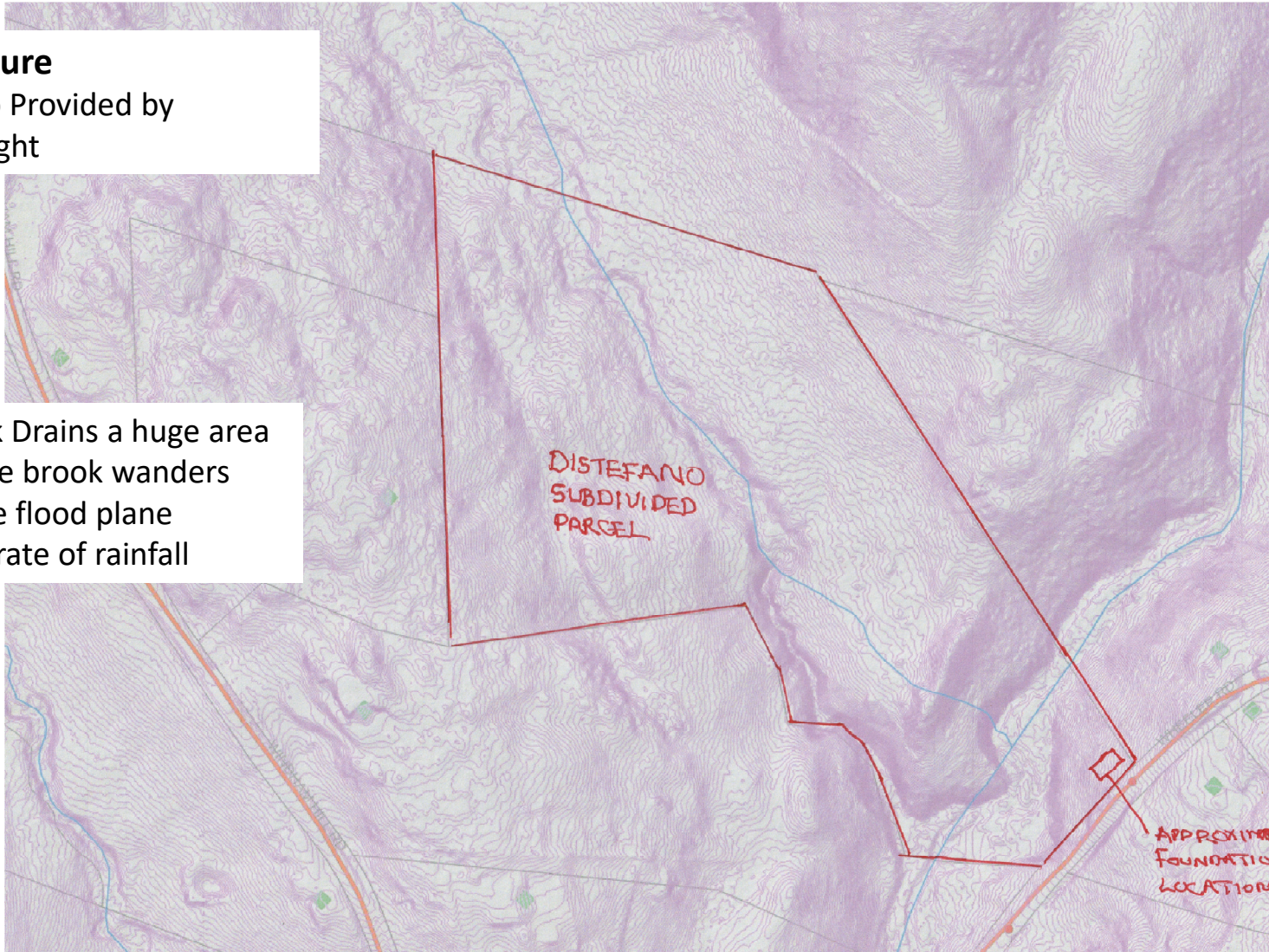
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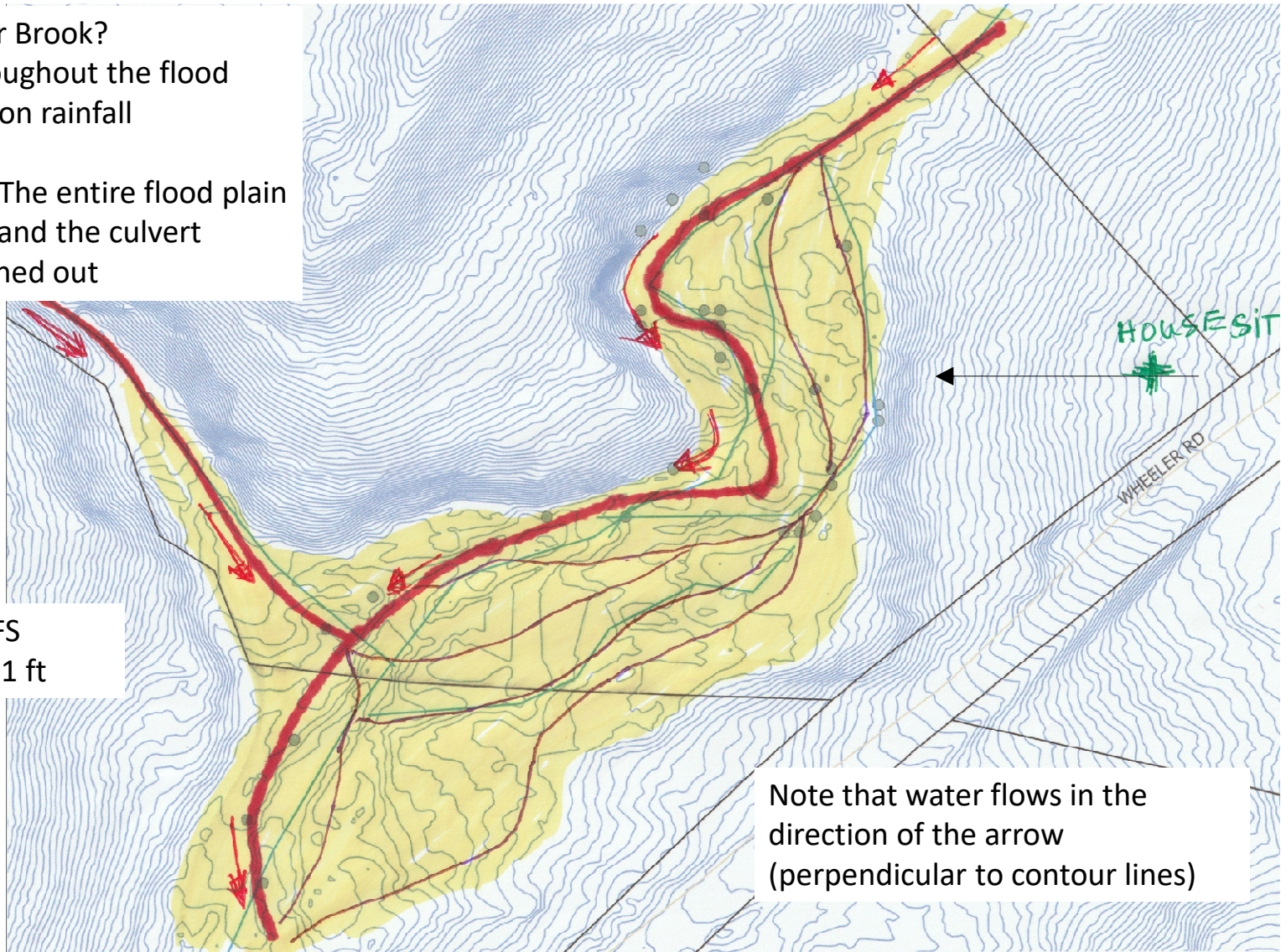
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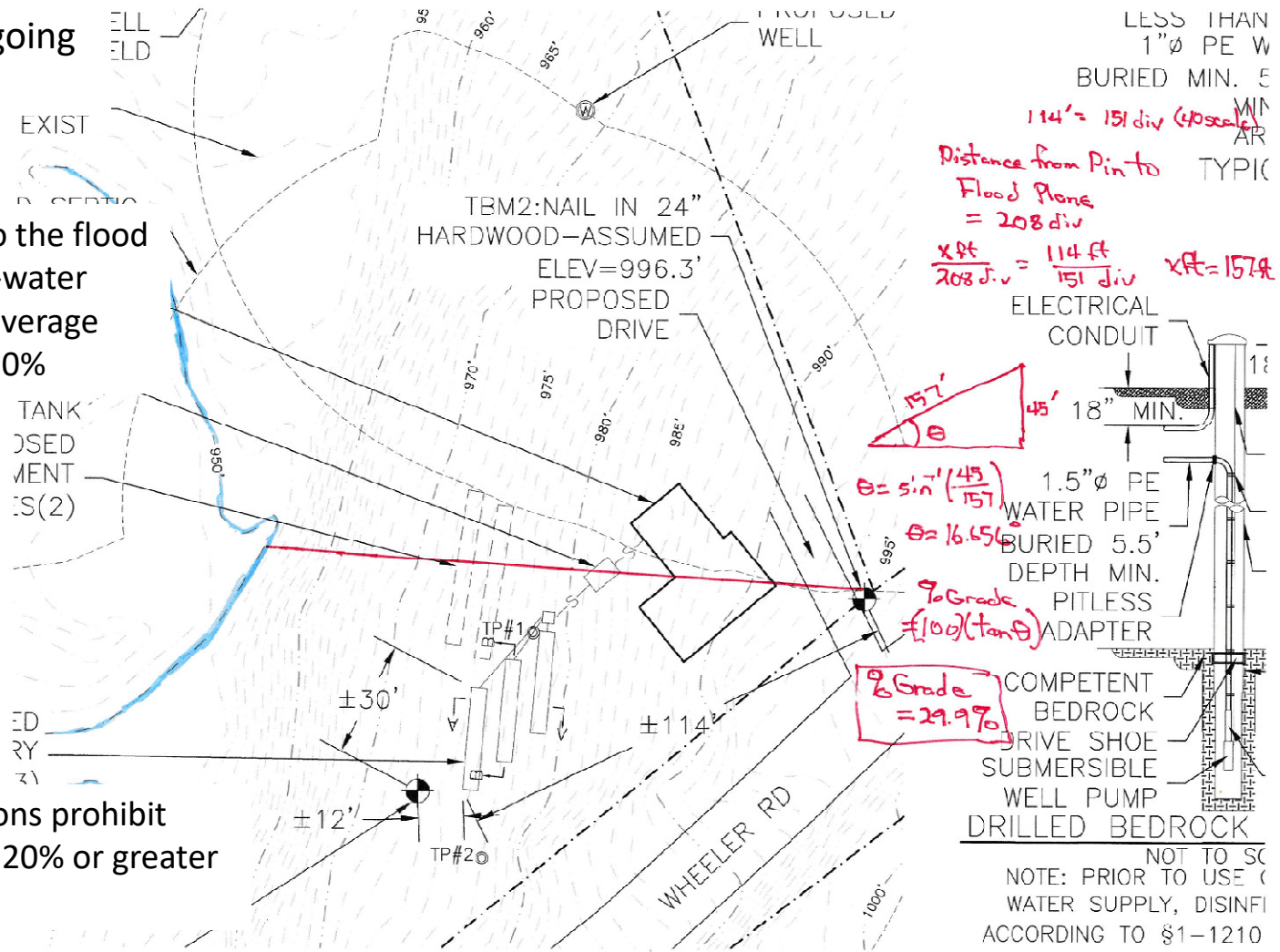
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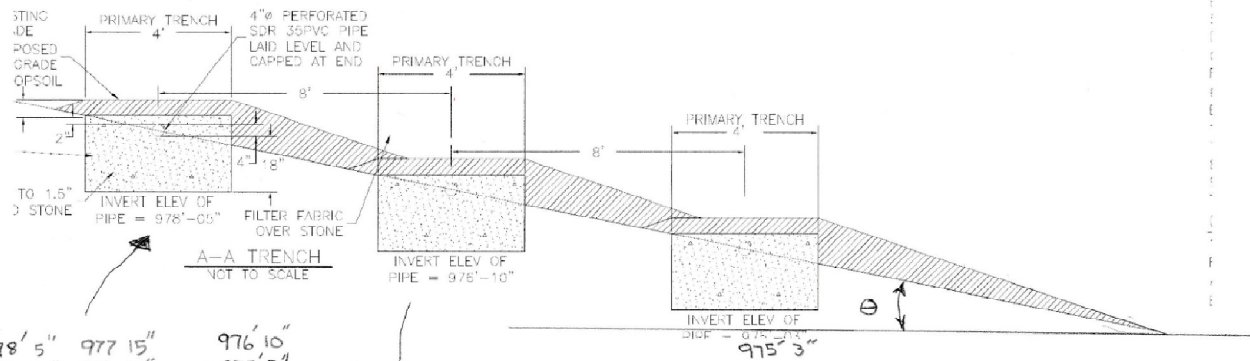
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Windham Zoning Regulations prohibit development on slopes of 20% or greater (Section 207)



LEVEL SLOPE LINE TO DISTRIBUTION BOX UNLESS INSULATED.

NOT TO SCALE



Even the slope going across the primary leach field is calculated at 20%

$$\begin{array}{r} 978'5'' - 976'10'' \\ \hline 1'5'' \\ 1.5'' = 1.4167' \\ \frac{1.4167}{8} = \tan \theta_1 \\ \theta = \tan^{-1}(.1771) \\ \theta = 10.04^\circ \\ \text{Percent Grade} = 17.7\% \end{array}$$

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Ave Grade Across Primary Leach Field = $\frac{17.7\% + 19.8\%}{2} = 18.8\%$ grade

$$\frac{\text{Percent Grade}}{100} = \tan \theta$$

$\theta \approx 12^\circ$ (from angular measurement)

$$\tan(12^\circ) = .213$$

Percent Grade = 21.3%

Concluding Remarks

- I feel like the town zoning office, as well as the owner/builder of the property made serious mistakes that skirted the intent of the zoning regulations, and has resulted in a foundation being poured after a zoning violation was observed by the ZA.
 - No building site plan was submitted to the ZA for review to conformance to Windham Zoning Regulations (In spite of Item 7 on the Zoning Permit Appli

7. Please attach a sketch of property on separate sheet that shows dimensions of Property, location of existing structures and relationship of proposed project. Include setbacks (distance between property lines and the structures), driveway locations, parking and fences. Identify location of septic and well where appropriate.

Certification of Applicant /Owner

The undersigned applicant/owner hereby certifies that all information submitted on this application is true, accurate and complete. The undersigned applicant/Owner has full authority to request approval for the proposed use of the property and for any proposed improvements. This authorization allows Town of Windham Officials access to the property for the purpose of reviewing all aspects of this application. Applicant/Owner understands that a permit issued by the Town of Windham does not include any other governmental permits that may be necessary.

Owner Signature: _____

Date: 2/20/22

Applicant Signature: _____

Date: 2/28/22

- If upon inspection of the site, any of the above information is found to be incorrect, the Owner shall be held solely responsible.

- Applicant must obtain Certificate of Conformance from town of Windham Zoning Administrator prior to

Concluding Remarks (continued)

- Building Permit was approved without reviewing any site plan, including the ANR Septic Plan
- Foundation was poured after the ZA became aware of the setback violation, hence, if a stop-work order was issued prior to the foundation being poured, the owner did so at his own risk
- Despite the setback violations, the grade on this building site greatly exceeds Windham zoning regulations
- A grade limit of 20% is important to adhere to, especially considering that this property is immediately above Wheeler Brook and its flood plane.

Finally, I respectfully ask the Zoning Board of Adjustment to consider the criteria specified for dimensional waivers. I don't believe this request meets Item 3, Item 4b, 4d, and 4e. I also think the board should consider whether Item 5 is applicable.

Section 304 DIMENSIONAL WAIVERS

Dimensional Waivers under Section 304B of these Regulations dimensional waivers may be applied for when seeking approval for development that is not otherwise allowed under these Regulations. In applying for a waiver, the burden of proof is on the Applicant to demonstrate that the waiver request meets waiver criteria of Section 304

A. The Zoning Board of Adjustment may require a survey if essential to verify the location of property lines.

In the event that the Zoning Board of Adjustment grants a waiver, the permittee must comply with all other requirements of these Regulations.

Section 304 A Dimensional Waivers Criteria

The Zoning Board of Adjustment may grant a waiver to a dimensional requirement, other than density, after considering the criteria below:

1. Reasonable use of the property is only possible if the Zoning Board of Adjustment grants a waiver of the dimensional requirement.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. The proposed project will still conform to the Town Plan and the purpose of the zoning district in which the land development is located.
4. The proposed project will not have an undue adverse effect on the following:
 - a) The appropriate use or development of surrounding properties;
 - b) The character and aesthetics of the neighborhood, as defined by the purpose of the district in which it is located;
 - c) Traffic patterns and circulation;
 - d) Public health, safety, and utility services;
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 - h) Historic resources identified in the Windham Town Plan.
5. The need for a waiver was not intentionally self-created by past decisions of the applicant.
6. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.
7. Structural enlargements that do not increase the degree of nonconformity do not require a waiver.

DiStefano Request for Dimensional Waiver

Prepared by Phil McDuffie 02Aug 2022

Timeline Of Events

- Boynton property sold to DiStefano on 2/18/2020
- Distefano subdivides property into two parcels 1/25/2022
- Certified mail sent to abutting property owners 2/14/2022 indicates proposed septic and water well restrictions will overshadow adjacent properties (McDuffie/Boynton-Stover/Weitzel)
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- ZA visited site on morning of 7/6/2022
- Foundation was poured during late afternoon on 7/6/2022

Where Do I Fit Into This?

- Upon receipt of the Certified Letter, I visited the proposed building on 2/16/2022
 - I left with a strong impression that the site isn't suitable for building on. Getting out of the car, I felt like I was standing at the top of a gorge. Wheeler Brook is at the bottom of the site and is approximately 50 feet below Wheeler Road.
 - My major concerns
 - Slope of the property is very steep and poses runoff threat
 - Wheeler Brook is at the bottom of the building site, and I consider it as an ecologically sensitive area
- I reported my concerns to the Planning Commissioner (PC), the ZA, and a lister who works in the office with the ZA.
 - PC and Lister visited the site
 - Lister wrote an email sharing his concerns
 - PC gave me the name of a contact with ANR
- I proceeded to contact officials at ANR to learn about the process of Septic Plan Approval and share my concerns over the suitability of the site for development

Lister's impression of building site

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The ANR Rabbit Hole

- Using the ANR contact that the PC sent to me, I proceeded to spend over a week calling a sizable group of individuals in an effort to learn about the approval process, and hopefully speak to the individual who would examine and approve the septic plan.
- I found that individual, and in the process, I came up with the following impressions that I related in an email to the PC, Lister, and ZA on 2/25/2022
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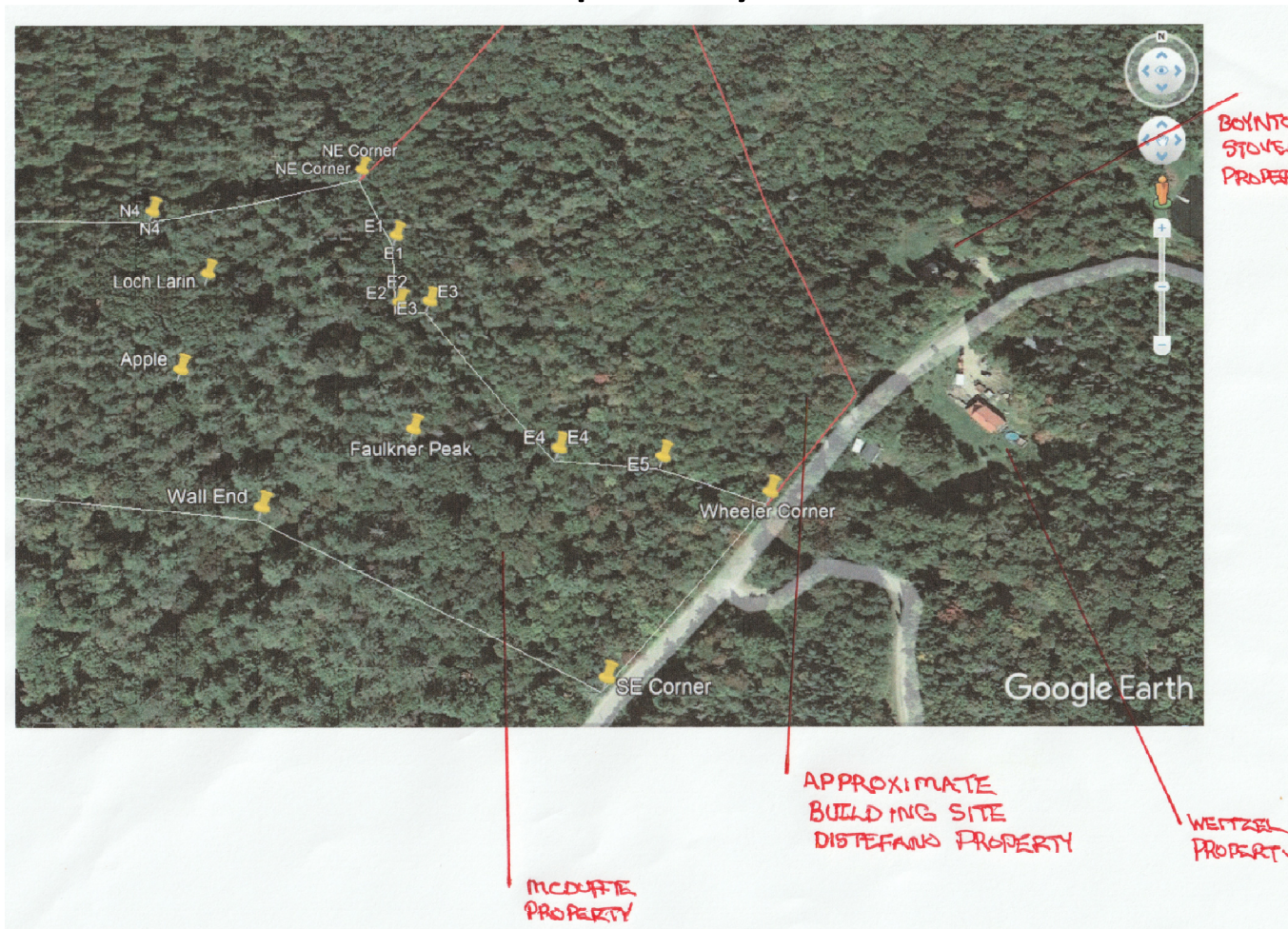
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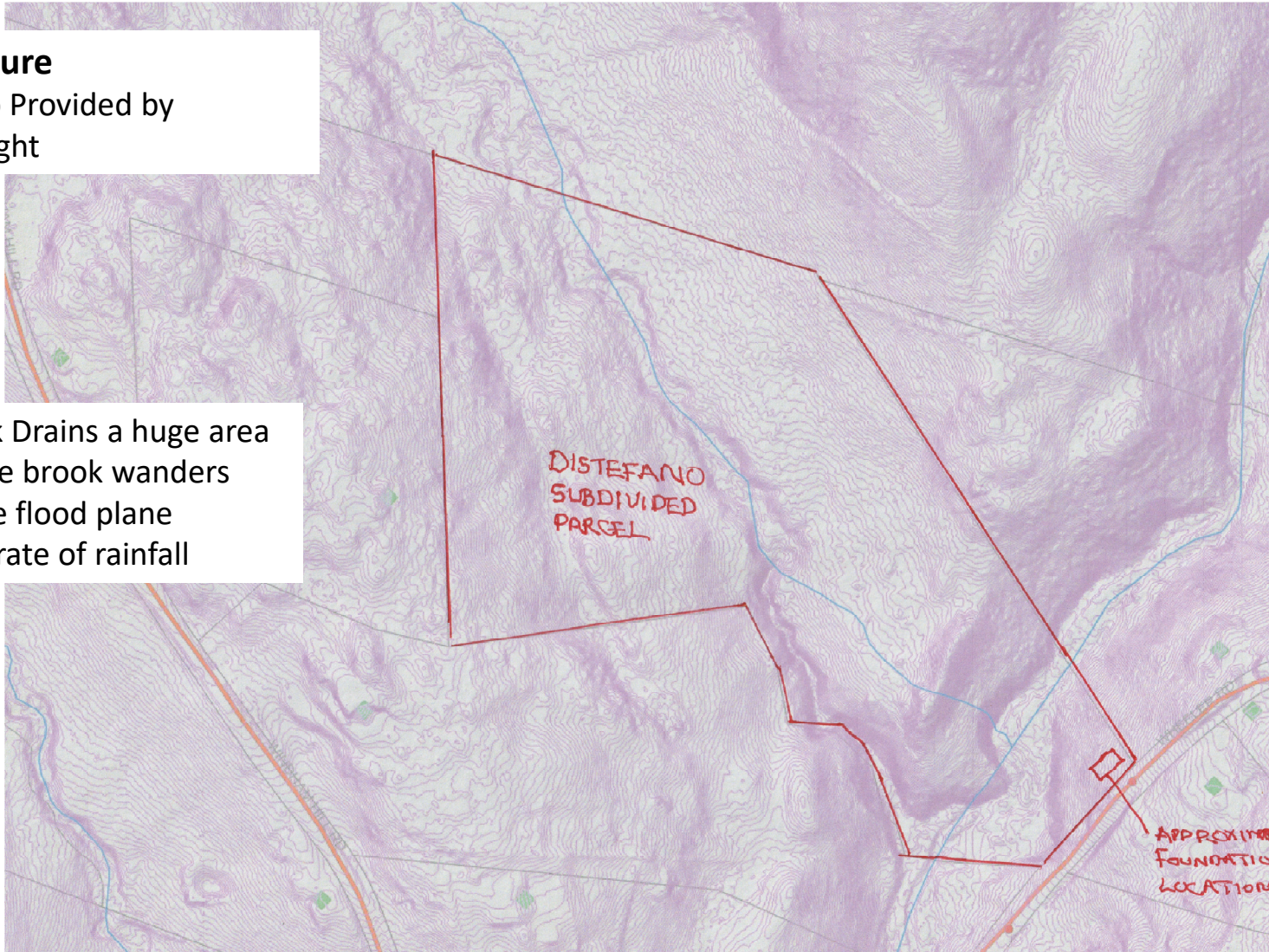
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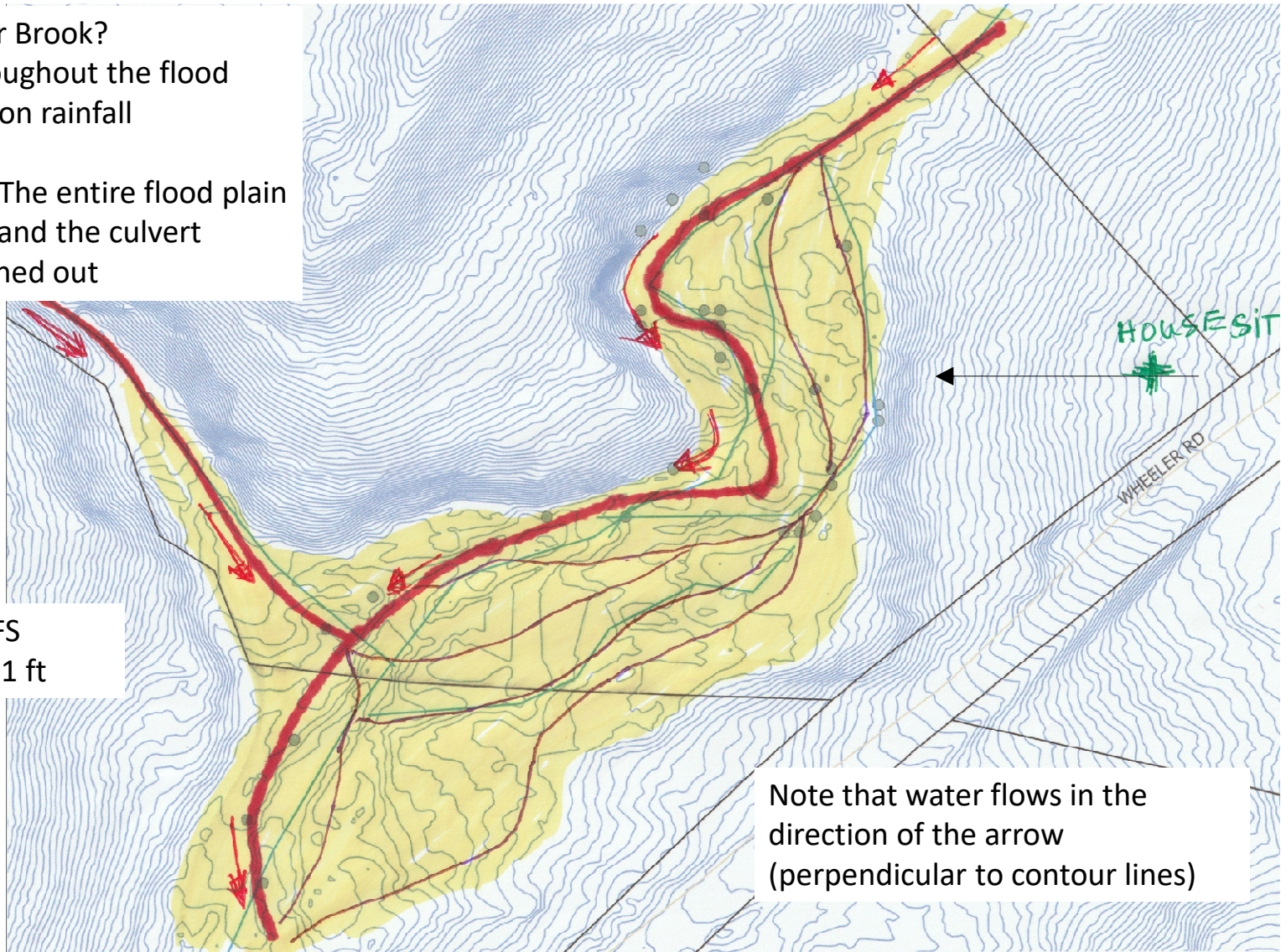
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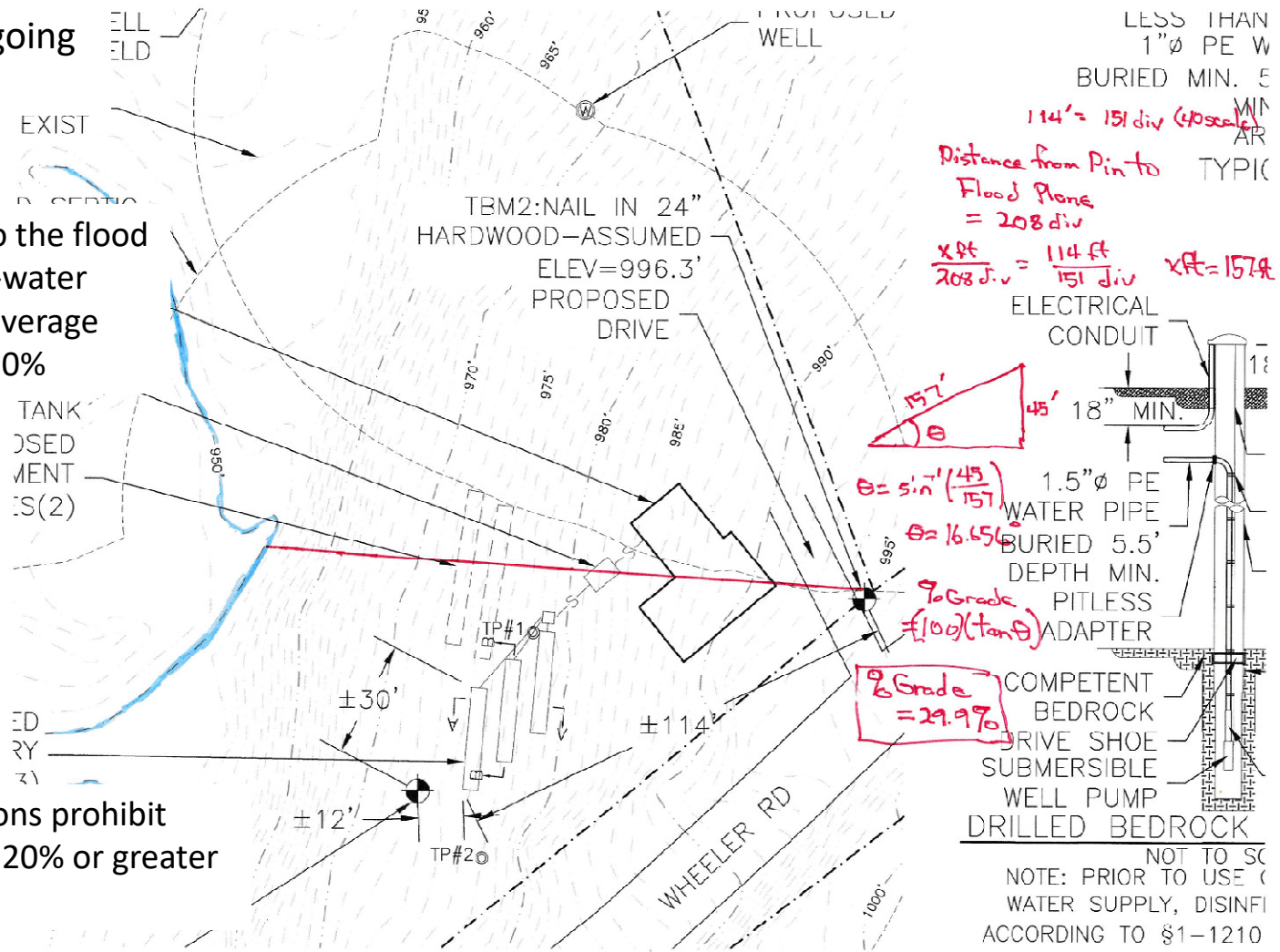
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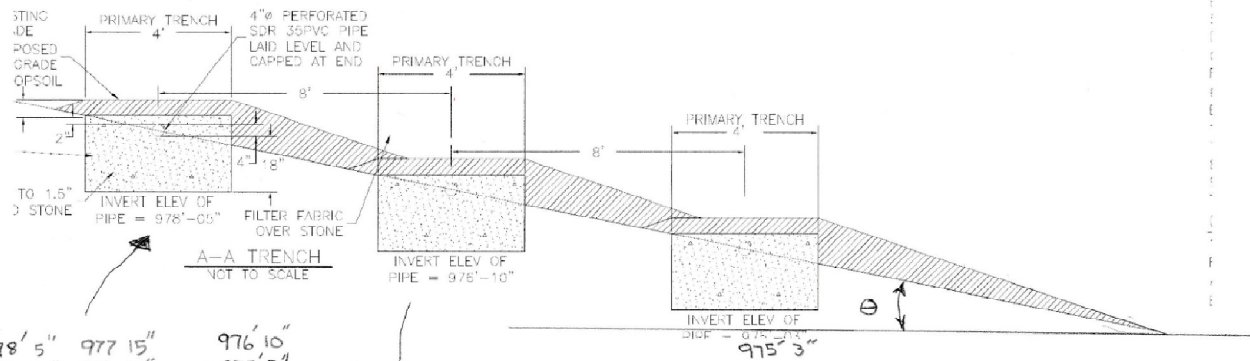
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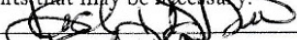
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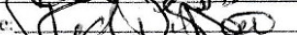
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Prepared by Phil McDuffie 02Aug 2022

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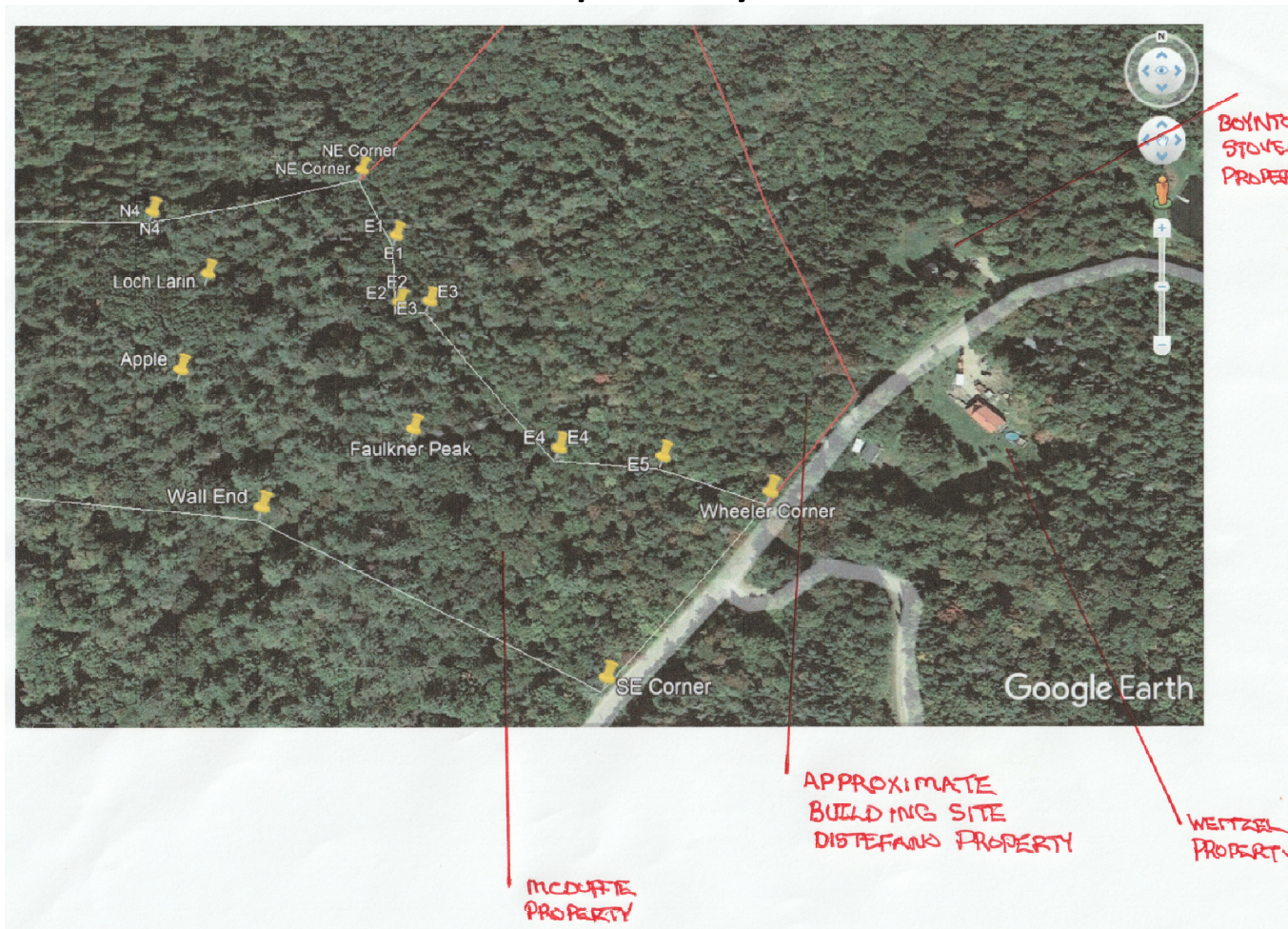
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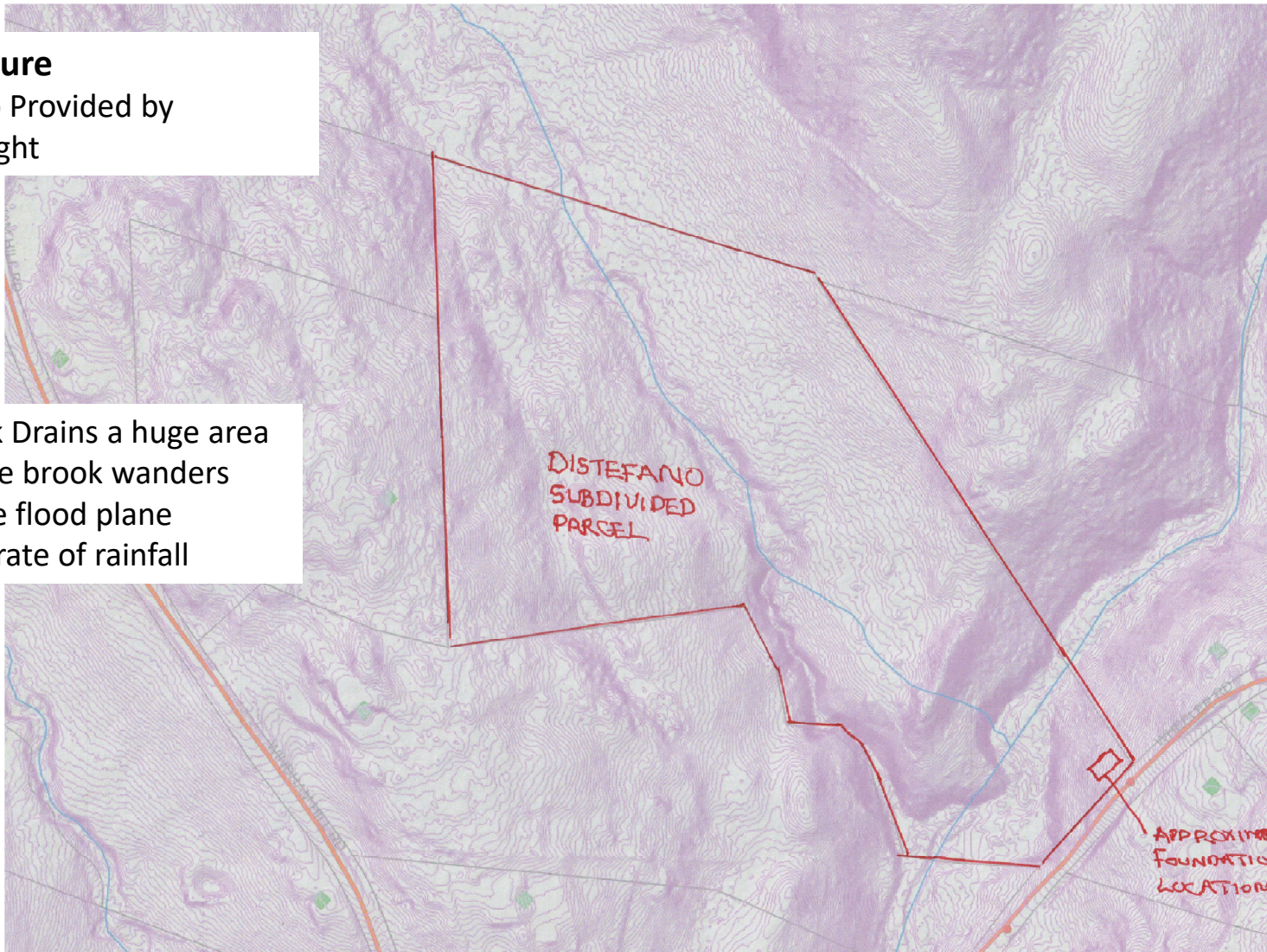
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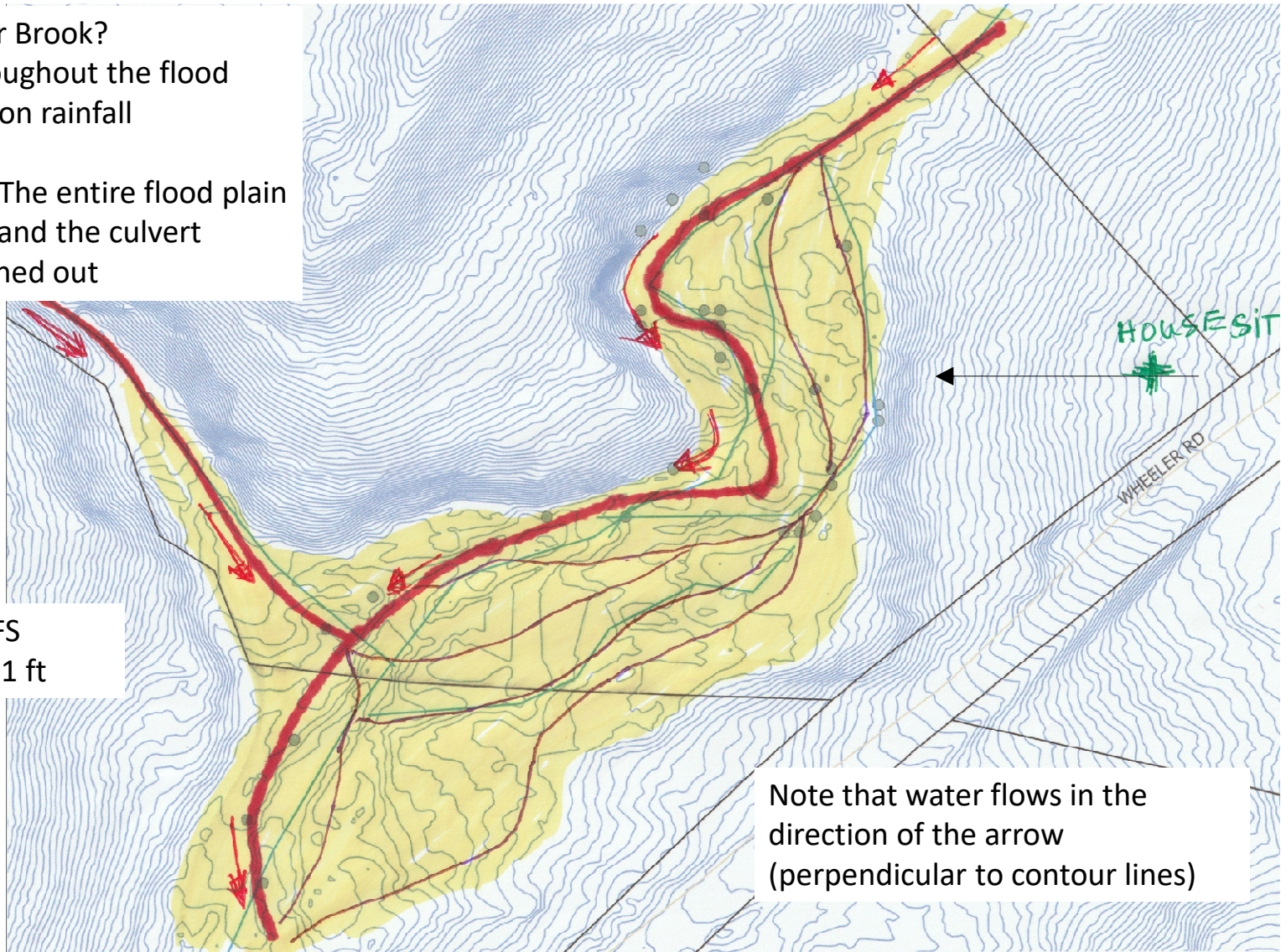
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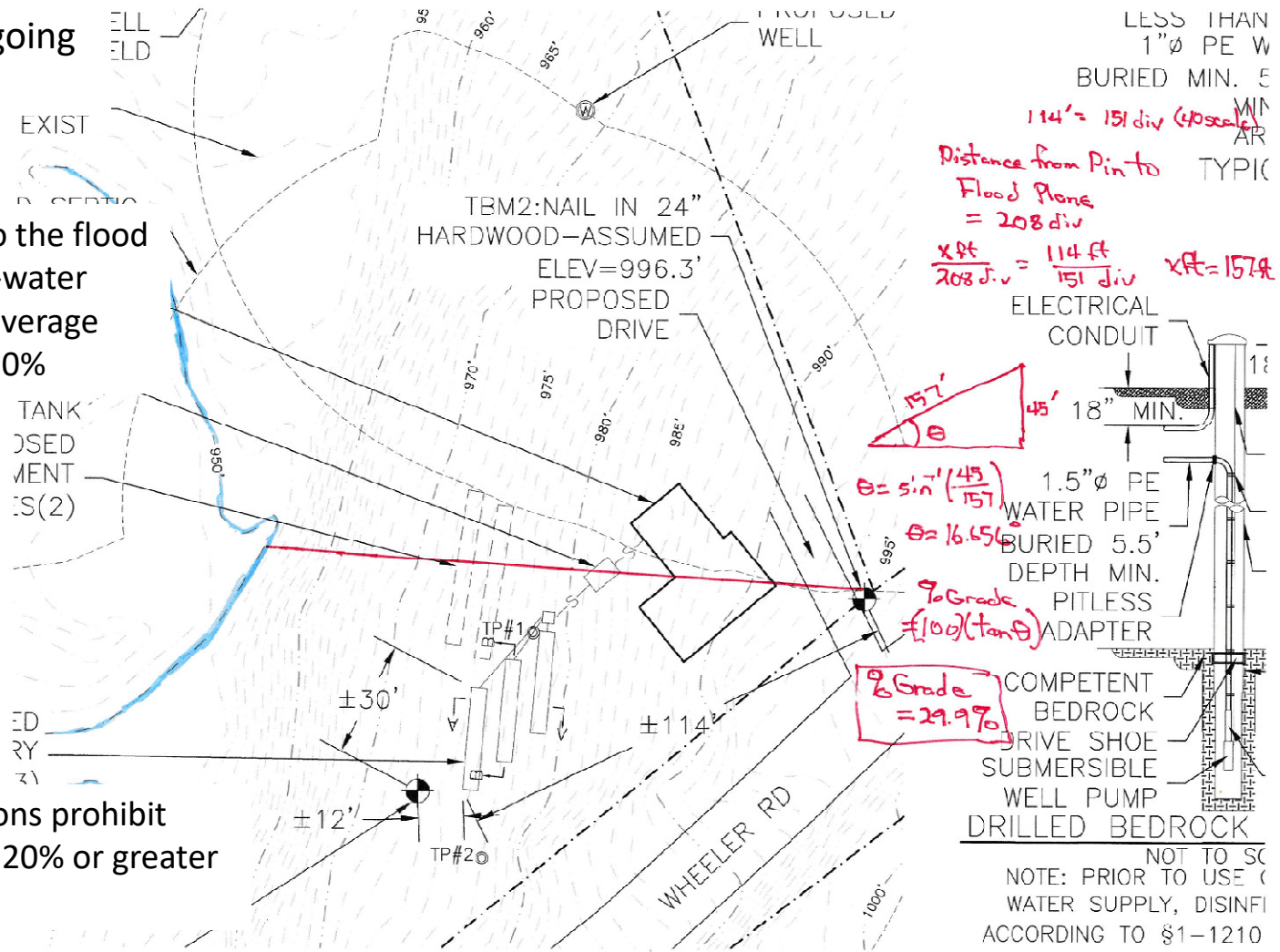
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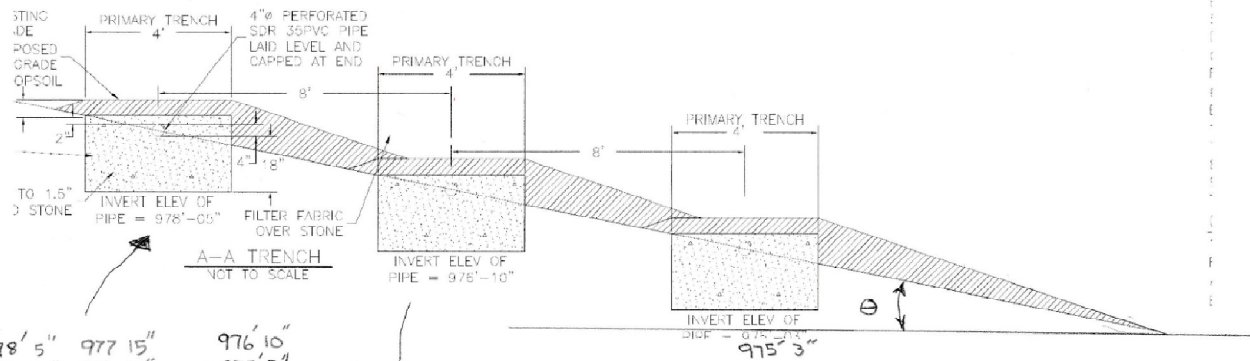
From the property pin to the flood plane (which is the high-water mark of the brook) the average grade is approximately 30%

Windham Zoning Regulations prohibit development on slopes of 20% or greater (Section 207)



LEVEL SLOPE LINE TO DISTRIBUTION BOX UNLESS INSULATED.

NOT TO SCALE



$$\frac{978'5'' - 976'10''}{1'5''} = \frac{1'5''}{8} = 1.4167'$$

$$\frac{976'10'' - 975'3''}{1'7''} = \frac{1'7''}{8} = 1.5833'$$

$$\frac{1.4167}{8} = \tan \theta_1$$

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$$\theta = \tan^{-1}(.1771)$$

$$\theta_2 = \tan^{-1}(.1979)$$

$$\theta = 10.04^\circ$$

$$\theta_2 = 11.2^\circ$$

$$\text{Percent Grade}_1 = 17.7\%$$

$$\text{Percent Grade}_2 = 19.8\%$$

Ave Grade Across Primary Leach Field = $\frac{17.7\% + 19.8\%}{2} = 18.8\%$ grade

$$\frac{\text{Percent Grade}}{100} = \tan \theta$$

$$\theta \approx 12^\circ \text{ (from angular measurement)}$$

$$\tan(12^\circ) = .213$$

$$\text{Percent Grade} = 21.3\%$$

Even the slope going across the primary leach field is calculated at 20%

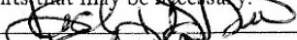
Concluding Remarks

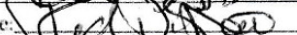
- I feel like the town zoning office, as well as the owner/builder of the property made serious mistakes that skirted the intent of the zoning regulations, and has resulted in a foundation being poured after a zoning violation was observed by the ZA.
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7. Please attach a sketch of property on separate sheet that shows dimensions of Property, location of existing structures and relationship of proposed project. Include setbacks (distance between property lines and the structures), driveway locations, parking and fences. Identify location of septic and well where appropriate.

Certification of Applicant /Owner

The undersigned applicant/owner hereby certifies that all information submitted on this application is true, accurate and complete. The undersigned applicant/Owner has full authority to request approval for the proposed use of the property and for any proposed improvements. This authorization allows Town of Windham Officials access to the property for the purpose of reviewing all aspects of this application. Applicant/Owner understands that a permit issued by the Town of Windham does not include any other governmental permits that may be necessary.

Owner Signature:  Date: 2/20/22

Applicant Signature:  Date: 2/28/22

- If upon inspection of the site, any of the above information is found to be incorrect, the Owner shall be held solely responsible.

- Applicant must obtain Certificate of Conformance from town of Windham Zoning Administrator prior to

Concluding Remarks (continued)

- Building Permit was approved without reviewing any site plan, including the ANR Septic Plan
- Foundation was poured after the ZA became aware of the setback violation, hence, if a stop-work order was issued prior to the foundation being poured, the owner did so at his own risk
- Despite the setback violations, the grade on this building site greatly exceeds Windham zoning regulations
- A grade limit of 20% is important to adhere to, especially considering that this property is immediately above Wheeler Brook and its flood plane.

Finally, I respectfully ask the Zoning Board of Adjustment to consider the criteria specified for dimensional waivers. I don't believe this request meets Item 3, Item 4b, 4d, and 4e. I also think the board should consider whether Item 5 is applicable.

Section 304 DIMENSIONAL WAIVERS

Dimensional Waivers under Section 304B of these Regulations dimensional waivers may be applied for when seeking approval for development that is not otherwise allowed under these Regulations. In applying for a waiver, the burden of proof is on the Applicant to demonstrate that the waiver request meets waiver criteria of Section 304

A. The Zoning Board of Adjustment may require a survey if essential to verify the location of property lines.

In the event that the Zoning Board of Adjustment grants a waiver, the permittee must comply with all other requirements of these Regulations.

Section 304 A Dimensional Waivers Criteria

The Zoning Board of Adjustment may grant a waiver to a dimensional requirement, other than density, after considering the criteria below:

1. Reasonable use of the property is only possible if the Zoning Board of Adjustment grants a waiver of the dimensional requirement.
2. The waiver is the minimum reduction in the dimensional requirement that will enable the reasonable use of the property.
3. The proposed project will still conform to the Town Plan and the purpose of the zoning district in which the land development is located.
4. The proposed project will not have an undue adverse effect on the following:
 - a) The appropriate use or development of surrounding properties;
 - b) The character and aesthetics of the neighborhood, as defined by the purpose of the district in which it is located;
 - c) Traffic patterns and circulation;
 - d) Public health, safety, and utility services;
 - e) Storm water management;
 - f) Water and wastewater capacity;
 - g) The preservation of open space or scenic vistas;
 - h) Historic resources identified in the Windham Town Plan.
5. The need for a waiver was not intentionally self-created by past decisions of the applicant.
6. The waiver is not to the detriment of the public welfare, including the safety and maintenance of the Town and State highways.
7. Structural enlargements that do not increase the degree of nonconformity do not require a waiver.

DiStefano Request for Dimensional Waiver

Prepared by Phil McDuffie 02Aug 2022

Timeline Of Events

- Boynton property sold to DiStefano on 2/18/2020
- Distefano subdivides property into two parcels 1/25/2022
- Certified mail sent to abutting property owners 2/14/2022 indicates proposed septic and water well restrictions will overshadow adjacent properties (McDuffie/Boynton-Stover/Weitzel)
- “Building Permit” Submitted to town office on 3/30/2022
 - No Building Plan was submitted
 - ANR Septic Plan Approval Letter (dated 3/30/2022) was submitted
 - ANR Septic Site Plan was not submitted
- Building Permit Granted on 4/6/2022, Effective on 4/20/2022
- Setback violation (approx. 25 feet) was discovered on or before morning of 7/6/2022
- ZA visited site on morning of 7/6/2022
- Foundation was poured during late afternoon on 7/6/2022

Where Do I Fit Into This?

- Upon receipt of the Certified Letter, I visited the proposed building on 2/16/2022
 - I left with a strong impression that the site isn't suitable for building on. Getting out of the car, I felt like I was standing at the top of a gorge. Wheeler Brook is at the bottom of the site and is approximately 50 feet below Wheeler Road.
 - My major concerns
 - Slope of the property is very steep and poses runoff threat
 - Wheeler Brook is at the bottom of the building site, and I consider it as an ecologically sensitive area
- I reported my concerns to the Planning Commissioner (PC), the ZA, and a lister who works in the office with the ZA.
 - PC and Lister visited the site
 - Lister wrote an email sharing his concerns
 - PC gave me the name of a contact with ANR
- I proceeded to contact officials at ANR to learn about the process of Septic Plan Approval and share my concerns over the suitability of the site for development

Lister's impression of building site

- From Email sent by lister on 2/17/2022 to me, the PC, and the ZA
 - Phil and Ellen sent me the septic preliminary design for the Distefano proposed house site. Some concerns are the closeness of the building to the property line of John Boynton. The steepness of the land and the proximity to the brook. The line indicated as "septic isolation field" appears to include sections of the brook? I am amused that the brooks location is not indicated on the septic site plan? I am going to make a site visit today to eyeball the survey stakes and take a few photos, My initial reaction is to review the site and engage in a discussion concerning alternatives.
- To my knowledge I was the only one who responded to that email

The ANR Rabbit Hole

- Using the ANR contact that the PC sent to me, I proceeded to spend over a week calling a sizable group of individuals in an effort to learn about the approval process, and hopefully speak to the individual who would examine and approve the septic plan.
- I found that individual, and in the process, I came up with the following impressions that I related in an email to the PC, Lister, and ZA on 2/25/2022
 - The site plan will be reviewed for conformance to the W/WW “stay-out” zones that have been stipulated by ANR. The site plan **is not** reviewed in terms of runoff potential, or for the potential of long-term environmental impact outside of the W/WW system.
 - Impact to the aesthetics of the location around the site, or “common sense” suitability of the proposed location for the building(s) **are not** reviewed by ANR. In other words, ANR will only approve or deny the plan based on conformance of the W/WW design to ANR requirements.
 - Actual site visits by the ANR engineer are very rare these days, due to staffing shortages and the fact that most of the staff are working from home.
 - The designer of the site plan is responsible for evaluating the potential for storm-runoff during construction and must address it in the plan if he or she determines that the construction site meets the ANR criteria for invoking a stormwater management plan. If so, the plan designer must obtain a permit from the Storm Water Management office of the ANR.
 - Jeff said he will keep an eye out for the site plan in question, and assured me he will review it with due diligence for conformance to the W/WW design requirements.

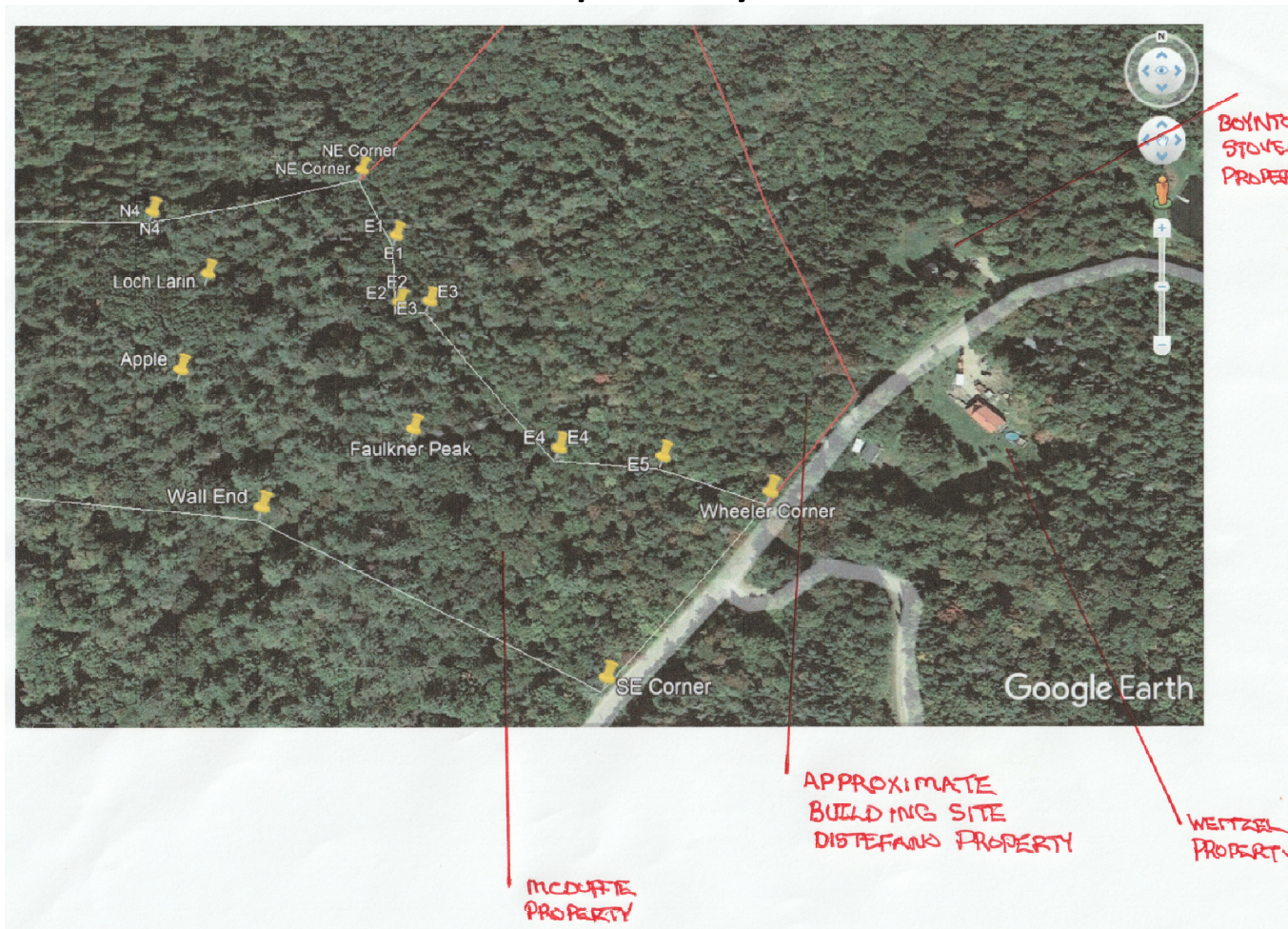
So, I must say I’m disappointed with what I’ve found out. In effect, the ANR does not have the jurisdiction to approve or deny a building plan based on common “common sense” suitability, or environmental impact sensitivity. I believe John was the one who told me that in recent years they are seeing “more and more” submitted site plans, that in previous years would have never been submitted, but that’s because the “easier” locations have already been taken. John did say that in situations like this, the only recourse is rely on the town’s zoning regulations, for the town is the entity that has the final say in the approval of a building permit.

- On 3/30/2022, ANR approved the septic plan, and I then assumed the town would follow normal procedure in granting a Building Permit (i.e. inspect the site plan for conformance to Windham Zoning regulations)

Fast Forward to 7/6/2022

- I am informed that the foundation on the site is in violation of the setback requirements with respect to Wheeler Road, and possibly the Boynton-Stover property
- I proceed to analyze the approved ANR site plan (a building site plan had never been submitted to the town office)
 - My findings verified the setback violation (foundation was approximately 41 from center of Wheeler Road), requirement is 65 feet
 - The ANR site plan appears to show the house in the location that it currently sits at (i.e. the plan submitted to ANR shows the foundation is in violation of the setback requirement)
 - Revised analysis estimates setback from Boynton-Stover property at approximately 16 feet, requirement is 25 feet
 - Further analysis shows the slope of the site (grade) exceeds the 20% limit specified in Windham's zoning regulations, and should have been considered as an unacceptable location for building a home

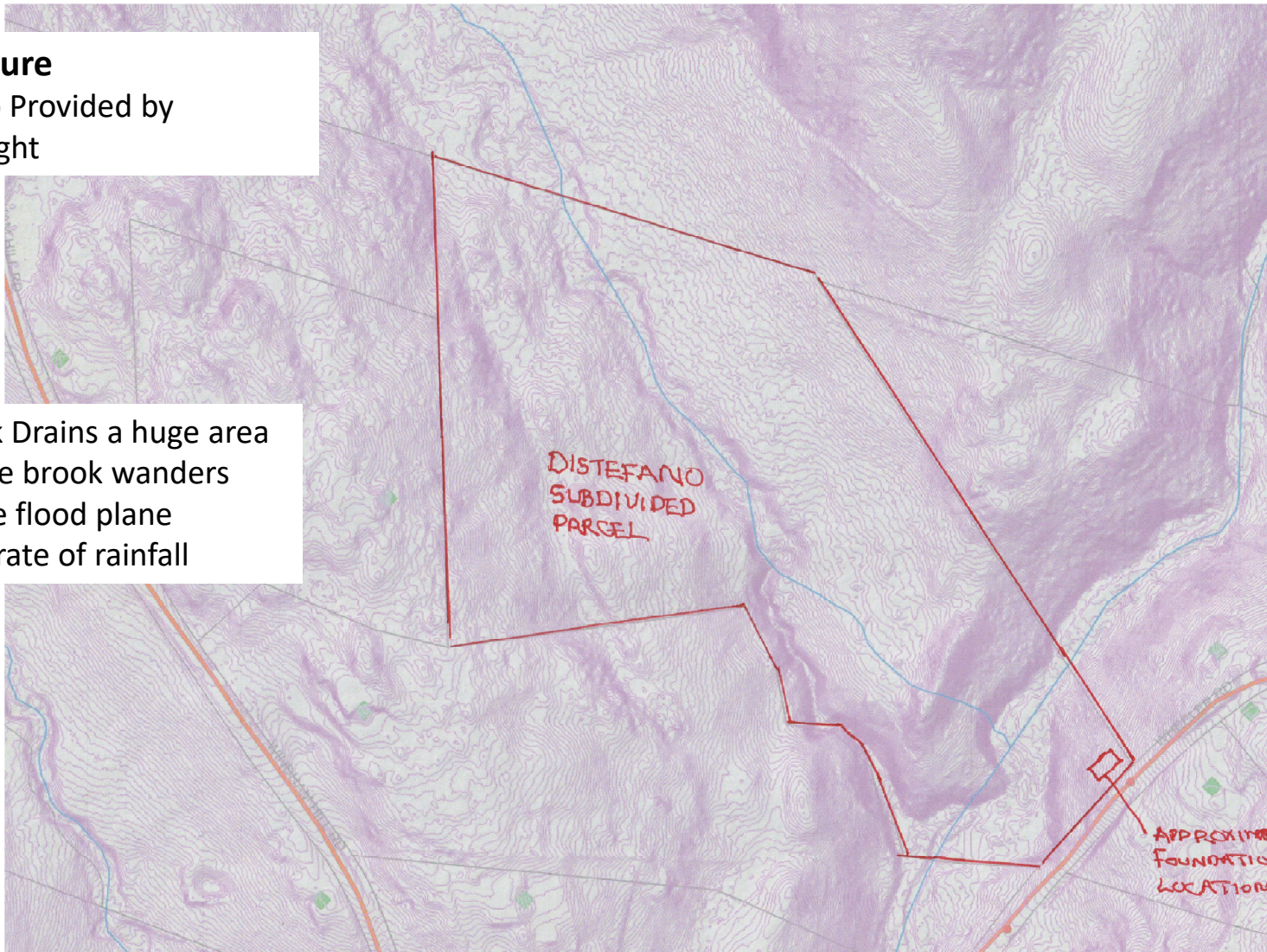
So Where is this Property?



The Big Picture

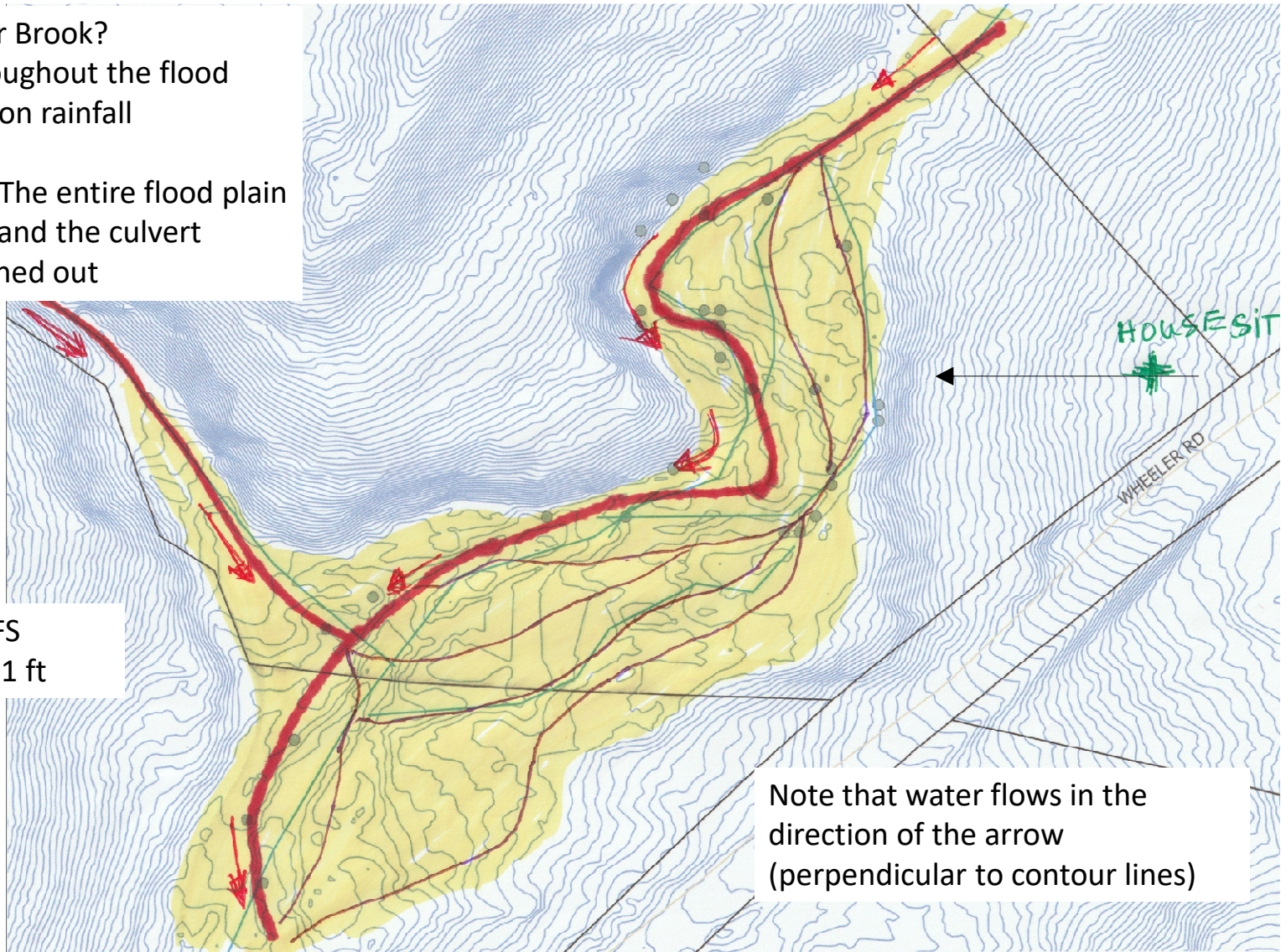
Contour Map Provided by
Frank Seawright

Wheeler Brook Drains a huge area
of land, and the brook wanders
throughout the flood plane
depending on rate of rainfall



Where is Wheeler Brook?
Well, it flows throughout the flood
plane depending on rainfall

Last June (2021), The entire flood plain
was under water and the culvert
downstream washed out



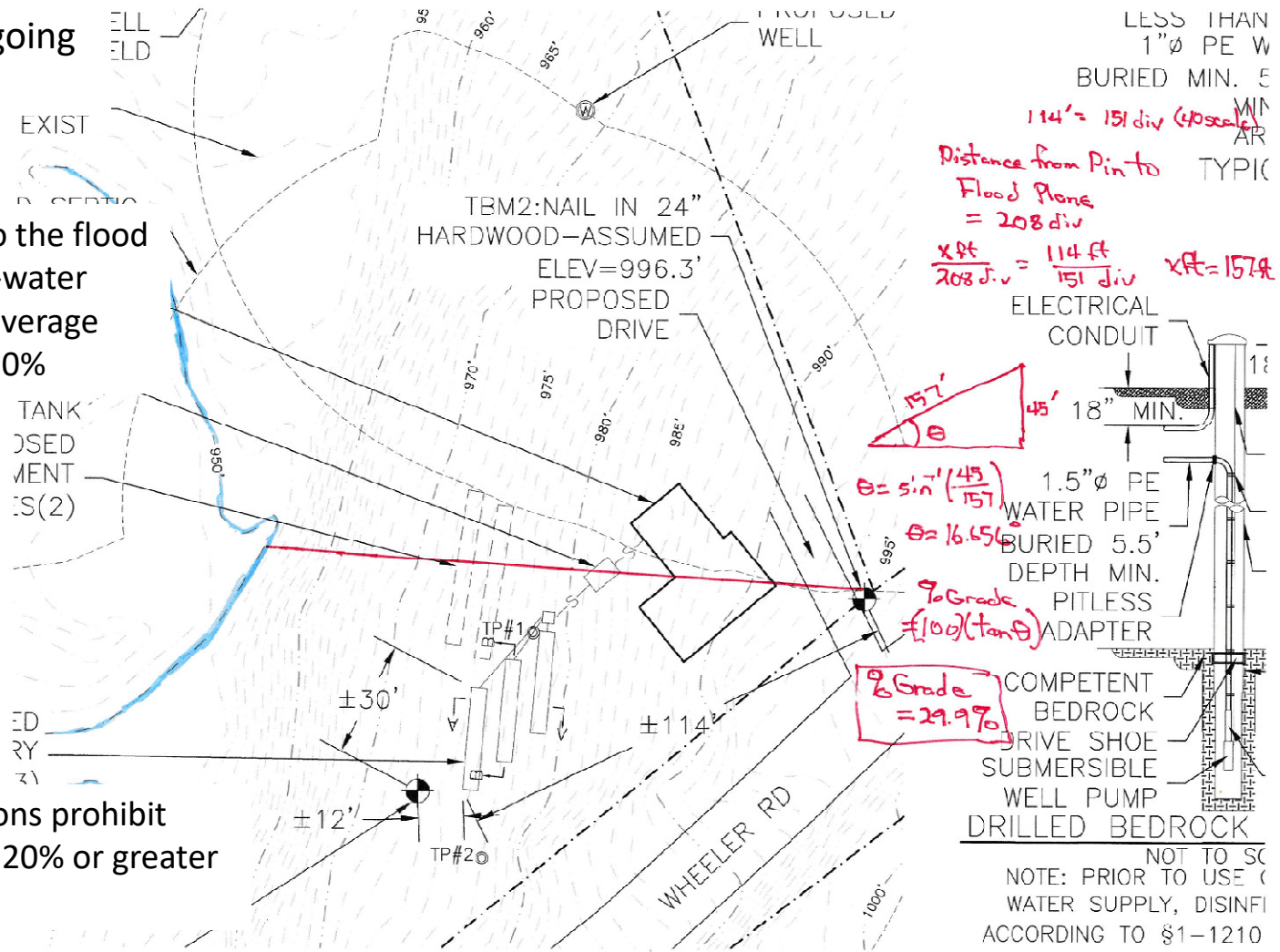
Contour Map by FS
Contour Spacing: 1 ft

Note that water flows in the
direction of the arrow
(perpendicular to contour lines)

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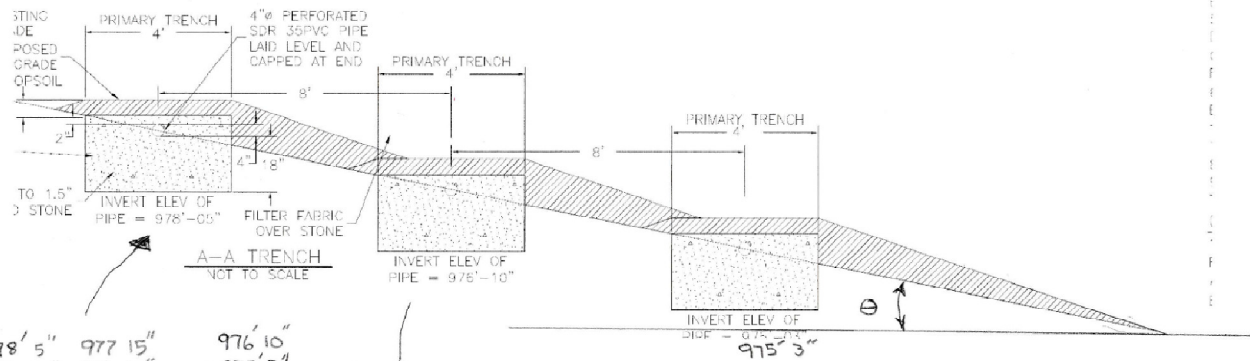
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