

FORD AND FORD
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MICHAEL D. FORD
JEFFREY M. FORD

August 20, 2020

TO: Anna Brigham Principal Planner
Zoning Board of Appeals

FROM: Michael D. Ford, Esq

RE: Special Permit 2019-047 600 Yarmouth Road
Request Placement of Agenda Item for 8/26 ZBA
Review of MOU – Condition 7 of Special Permit

CC: Elizabeth Jenkins Director of Planning and Development
Brian Florence Building Commissioner
Joe Laham

Please consider this a request to place this matter on the agenda of the Board of Appeals for the meeting of August 26, 2020 for the purpose of the Board's review and approval of the attached MOU required under Condition 7 of the above referenced Special Permit. Since the MOU, at the request of the DPW, provides for a contribution to the Town by the applicant for development of plans for expansion of the Town waste water system rather than the installation of sewer improvements as contemplated by Condition 7, Zoning Board approval of the MOU is requested. Per the MOU the paving of Rosary Lane, as required by Condition 8 of the Special Permit, which would have been undertaken in conjunction with the installation of the sewer improvements, will still be completed as part of the construction of the carwash facility. Since no modification of the carwash facility as approved by the Board is proposed or requested, the applicant believes a formal modification of the Special Permit is not required.

MEMORANDUM OF UNDERSTANDING

THIS Memorandum of Understanding (“MOU”) dated as of the ____ day of June, 2020, between the Town of Barnstable, an incorporated municipality, having a business address of 367 Main Street, Barnstable (Hyannis) Massachusetts 02601 (“Town”), and 600 Yarmouth Road LLC/ Laham Management & Leading, Inc., with an address of 600 Yarmouth Road, Hyannis, MA 02601 (collectively “Laham” or “Applicant”).

WHEREAS, Laham has received a Special Permit No. 2019-047 from the Town’s Zoning Board of Appeals to allow the replacement of the automobile dealership with a car wash at the property located at 600 Yarmouth Road and 93 Rosary Lane in Hyannis, MA (“Property”);

WHEREAS, the Special Permit has been recorded with the Barnstable County Registry of Deeds in Book 32324 Page 109;

WHEREAS, the LLC is in the process of obtaining a building permit for the work authorized by the Special Permit;

WHEREAS, the Town is still in the planning and design phase for construction of the sewer which will ultimately service the Property;

WHEREAS, Condition No. 7 of the Special Permit states:

“7. In support of connecting the property to municipal sewer, the Applicant shall install sewer improvements on Rosary Lane to be accepted by the Town as part of the municipal wastewater collection system.

a. Prior to issuance of a building permit for the car wash facility, the Applicant shall execute a Memorandum of Understanding with the Town for installation and acceptance of the sewer improvements.

b. Applicants shall not be required to expend more than \$200,000.00 under this Condition, for all costs including without limitation plans and costs of construction.”

WHEREAS, Condition No. 8 of the Special Permit requires the Applicant to repave portions of Rosary Lane as required by the Site Plan Review Approval letter dated August 1, 2019, which is estimated to cost approximately \$50,000.00, and which sum Laham believed was included in the \$200,000.00 limitation set forth in Condition No. 7.b. above, since the road would need to be repaved after the installation of Sewer;

Whereas, the Town’s Department of Public Works (DPW) has advised Laham that the sewer connection to the Property is delayed and may now be more than five years or more from installation;

WHEREAS, because of the delay in the Town Sewer project and the current lack of any Town appropriation for the design of the project, the DPW has requested that Laham instead proceed with the repaving of the unpaved portions of Rosary Lane as required by Condition No. 8 of the Special Permit and that the unspent portion of the \$200,000, estimated to be \$150,000.00, be paid to the Town to be used to fund a portion of Town's design and planning costs of the sewer improvements necessary to connect the Property to the municipal sewer thereby enabling the Town to commence the design;

NOW, THEREFORE, pursuant to the requirements of Condition No. 7 of the Special Permit, the parties are hereby entering into this Memorandum of Understanding and do hereby mutually act and agree as follows:

1. Laham agrees to repave portions of Rosary Lane as required by Condition No. 8 of the Special Permit, which repaving is expected to cost approximately \$50,000.00.
2. In support of connecting the Property to the municipal sewer system, Laham agrees, that upon receipt of notification from the Town that they are ready to put out an RFP for the first phase (survey work) of the design and planning of the of the sewer improvements required to ultimately connect the Property to the Town sewer, Laham shall pay to the Town forthwith the difference between the repaving costs (from p. 1 above) and \$200,000.00, which funds the Town agrees shall be used for said sewer design and planning costs.

WITNESS the execution hereof under seal the day and year first above written.

TOWN OF BARNSTABLE

Department of Public Works

By: _____
Name: _____
Title: _____

600 YARMOUTH ROAD LLC
LAHAM MANAGEMENT & LEADING, INC.

By:  _____
Joseph Laham, Manager & President & Treasurer

BARNSTABLE
TOWN CLERK



**Town of Barnstable
Zoning Board of Appeals
Decision and Notice**

19 SEP -4 P 3:3

**Special Permit No. 2019-047 – 600 Yarmouth Rd LLC/Laham
Section 240-94 – Change of a Nonconforming Use**

To allow the replacement of the automobile dealership with a car wash

Summary:	Granted with Conditions
Applicant:	Laham Management & Leasing Inc./600 Yarmouth Road, LLC
Property Address:	600 Yarmouth Road and 93 Rosary Lane, Hyannis, MA
Assessor's Map/Parcel:	345/021-002 and 029
Zoning:	Business (B); Wellhead Protection Overlay District (WP)
Hearing Date:	August 21, 2019
Recording Information:	Deed: Book 30534, Page 31 Deed: Book 30534 Page: 28

Background

600 Yarmouth Road, LLC applied for a Special Permit in accordance with Section 240-94.A – Nonconforming Use. The Applicant proposed to demolish an existing car dealership and construct a carwash on site consisting of four (4) detail bays, a drive/wash tunnel, office and reception area. Because of the size of the site, the Applicant also proposed to designate part of the existing paved parking area for vehicle inventory storage to be used in conjunction with the Applicant's dealerships. The subject properties are located at 600 Yarmouth Road and 93 Rosary Lane, Hyannis, MA as shown on Assessor's Map 345 as Parcel 021-002 and 029. They are located in the Business (B) and the Wellhead (WP) Overlay Protection Zoning Districts.

The subject property is a 2.36 acre developed lot with frontage on Yarmouth Road and Rosary Lane in Hyannis. The building was previously used by Cadillac, GMC and Buick as a Class 1 automobile dealership consisting of both sales and service. Auto sales and service is a permitted use as of right in the Business District, however the service portion is deemed to be preexisting non-conforming as it is also located within the Wellhead Protection (WP) Overlay District. The subject lot is almost completely paved. The lot is served by public water, gas, and septic. The area of Town is designated for "Phase I" sewer expansion in the draft Comprehensive Wastewater Management Plan (CWMP). Implementation of Phase I of the CWMP is intended for completion within a ten-year timeframe.

In 2016, the Applicant came before Site Plan Review proposing to replace the existing auto dealership and construct a new 22,375 square foot dealership which included the continued uses of sales and service. Also proposed was a reduction in service use, hazardous material storage, and impervious lot coverage.

The Applicant had a Regulatory Agreement pending with the Planning Board for a car wash located at 268 Stevens Street, Hyannis. The proposed development was a car wash with two apartments and an office on the second floor. Several public hearings had been held on that application.

Procedural & Hearing Summary

Special Permit No. 2019-047 to allow the replacement of the automobile dealership with a car wash was filed at the Town Clerk's office and office of the Zoning Board of Appeals on July 29, 2019. A public hearing before the Zoning Board of Appeals was duly advertised and notice sent to all abutters and interested parties in accordance with MGL Chapter 40A. The hearing was opened on August 21, 2019 at which time the Board found to grant the special permit subject to conditions. Board Members deciding this appeal were Alex Rodolakis, David Hirsch, Herbert Bodensiek, Jacob Dewey, and Paul Pinard.

Attorney Mike Ford presented the application before the Board. Also present was Nick Laham, Randy Hart from VHB. Attorney Ford explained that the application is for one nonconforming use to change to another nonconforming use. He reviewed the permitting history and that the car dealership was approved in 2016. Attorney Ford also described the pending Regulatory Agreement with the Planning Board for a car wash on Stevens Street and although that car wash is not in a groundwater protection district, the neighborhood was against the use. This application has been presented to the Water Board, Site Plan Review, and the Greater Hyannis Civic Association and received support. Attorney Ford reviewed the site plan and stated impervious surface is being reduced, the bays have been reduced to four, and the applicant will pave the section of Rosary Lane that is currently unpaved. He also described the recycling system and that the dirty water would be stored in a tight tank and then pumped out. There is a plan to bring sewer up along Yarmouth Road in the future and the Applicant has promised \$200,000 to assist in that effort.

The Board was concerned with screening along Yarmouth Road.

The Board Chair asked for public comment. Laura Cronin of the Greater Hyannis Civic Association read a letter in support. Stuart Bornstein also stated he is in support. Hans Keijser, Town of Barnstable DPW Water Supply Division, stated he is in favor of the project. Tom Cambareri, Sole Source Consulting LLC, stated he had concerns and offered some suggested conditions in his letter dated August 21, 2019.

Findings of Fact

At the hearing on August 21, 2019, the Board unanimously made the following findings of fact in Special Permit Application No. 2019-047, a request to replace the automobile dealership with a car wash:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-94 Nonconforming use allows a change of a nonconforming use to another nonconforming use with a Special Permit. A car wash and a car dealership are both permitted uses in the "B" Business District; however, vehicle service and "motor vehicle cleaning" are both prohibited uses in the Wellhead Protection Overlay District. The Special Permit relief requested is to change the nonconforming automobile service use to the nonconforming use of the property for a car wash.
2. Site Plan Review approval was issued for the proposed redevelopment on August 1, 2019.
3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
4. The applicant has received all necessary approvals from the Board of Health. The Health Division participated in the Site Plan Review and approval of the proposed redevelopment and customary permitting is underway for the septic system. The tight tank is subject to approval by the Massachusetts Department of Environmental Protection.
5. The proposed use requires no more parking than the previous use. The car wash requires 34 spaces, which combines with the 86 spaces for abutting dealership vehicle display for a total of 120 spaces. The existing dealership has in excess of 309 spaces per the Class 1 license.
6. The proposed use does not generate more traffic than the previous use, as measured by the Institute of Transportation Engineers Trip Generation Handbook or other sources acceptable to the Zoning Board of Appeals, nor does it cause Town expenditures to address traffic mitigation measures. The Trip Generation Memorandum prepared by VHB, dated August 14, 2019, utilizing Institute of Transportation Engineers (ITE) publication Trip Generation

Manual, 10th Edition, concludes that the proposed carwash will generate less daily vehicle trips on both weekdays and typical Saturdays.

7. The proposed use does not result in an increase of on-site and off-site noise, dust, and odors. The car wash and vehicle display uses will not result in an increase of on-site and/or off-site noise, dust or odors.
8. The proposed use does not result in an increase in the hours of operation or in the number of tenants or employees.

The prior Dealership was operated 7 days a week from approx. 7am to 7pm.

The car wash will also be open 7 days a week from 7:30 am to 7pm.

The car wash use will require 6-9 employees and 1 employee will be managing vehicle display area for adjoining lot. The existing dealership had in excess of 25 employees.

9. The proposed use does not expand the gross floor area of the nonconforming use, nor does it increase the number of nonconforming uses on a site.

The proposed car wash is 11,030 sq. ft. The existing Dealership is 13,703 sq. ft. The permitted Dealership is 22,376 sq. ft.

10. The proposed use is on the same lot as occupied by the nonconforming use on the date it became nonconforming. The existing automobile dealership and proposed car wash redevelopment are both located at the property addressed 600 Yarmouth Road, as shown on Assessors Map 345 as Parcels 021-002 and 029.

11. The proposed use is not expanded beyond the zoning district in existence on the date it became nonconforming. The proposed nonconforming motor vehicle washing use is proposed within the boundaries of the Wellhead Protection zoning district as they existed upon adoption.

The vote to accept the findings was:

AYE: Alex Rodolakis, David Hirsch, Herbert Bodensiek, Jacob Dewey, and Paul Pinard

NAY: None

Decision

Based on the findings of fact, a motion was duly made and seconded to grant Special Permit No. 2019-047 subject to the following conditions:

1. Special Permit No. 2019-047 is granted to 600 Yarmouth Road LLC/Laham Management & Leasing Inc. to replace the existing car dealership with a car wash with automobile detail bays at 600 Yarmouth Road, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Proposed Site Plans for Proposed Car Wash at 600 Yarmouth Road" prepared by Atlantic Design Engineers, Inc., Sheets 1-2 and 4-10 dated July 18, 2019 with a revision date of July 31, 2019, and Sheet 3 with a revision date of August 8, 2019.
3. Septic system installation shall be approved and permitted by the Health Division. Industrial waste holding tanks shall be permitted through the Massachusetts Department of Environmental Protection.
4. The redevelopment shall comply with the conditions of the Site Plan Review approval letter dated August 1, 2019, which shall be attached to and incorporated in the conditions of this decision.
5. The proposed redevelopment design shall be in compliance with the building rendering submitted to Site Plan Review Committee (file dated June 24, 2019).

6. Use of the site for automobile service and/or repair shall be permanently discontinued upon exercise of this Special Permit.
7. In support of connecting the property to municipal sewer, the Applicant shall install sewer improvements on Rosary Lane to be accepted by the Town as part of the municipal wastewater collection system.
 - a. Prior to issuance of a building permit for the car wash facility, the Applicant shall execute a Memorandum of Understanding with the Town for installation and acceptance of the sewer improvements.
 - b. Applicants shall not be required to expend more than \$200,000 under this Condition, for all costs including without limitation plans and cost of construction.
8. The Applicant shall repave portions of Rosary Lane as required by the Site Plan Review approval letter dated August 1, 2019 and shall coordinate with and receive any necessary Town approvals from the Director of the Department of Public Works prior to commencement of paving work.
 - a. The Applicant intends to demolish the existing structure in Fall 2019 and commence construction of the car wash Spring 2020. The repaving of Rosary Lane and the installation of the sewer lines as required by Condition 8 shall occur at the same time the new car wash facility is constructed, unless an alternate time frame is approved by the Department of Public Works as part of a Memorandum of Understanding.
 - b. The final construction schedule for the sewer and roadway work shall be submitted to the Zoning Board of Appeals.
9. The car wash shall utilize a "Bio Complete water restoration system" to recycle used car wash water through settling tanks, an aeration chamber, cyclonic treatment, bio media chamber, and clarification chamber prior to water's reuse in the car wash. Bacteria and waste from the restoration system shall be pumped to the holding tank, or "tight tank" pursuant to Condition #10.
10. The Applicant shall install, operate, and discharge wastewater resulting from the car wash operation into a holding tank/"tight tank" as shown on the approved Site Plan. The Applicant shall maintain the tight tank system until such time as the car wash is connected to municipal sewer. The Applicant shall submit to the Director of the Public Works Department records of monitoring reports "monitoring reports be submitted on 6-month intervals for first 3 years then annually for 2 additional years when the need for the "monitoring" plan will be reviewed, modified and/or suspended."
 - a. The volume of cleaning water used.
 - b. The number of times wash water is recycled.
 - c. An annual water quality test of tight tank water for volatile organic compounds.
 - d. The volume and rate of cleaning water accumulated in the tight tanks.
 - e. The volume of tight tank water removed for each occurrence.
 - f. Identification of the waste facility where it is disposed.
11. A stormwater management operations and maintenance plan shall be submitted to the Department of Public Works that includes the following:
 - a. The party or parties responsible for operation and maintenance;
 - b. The routine and non-routine maintenance tasks to be undertaken after construction is complete and a schedule for implementing those tasks;

- c. A plan that is drawn to scale and shows the location of all stormwater BMPs in each treatment train along with the discharge point;
 - d. An estimated operations and maintenance budget.
12. The applicant shall submit a listing of cleaning products used in the car wash and available for use by customers at the site to the Hyannis Water Division and Health Division. The cumulative amount of any identified hazardous materials shall be less than that specified by §240-35(G)(2)(e) "Any use which uses, generates or stores, including racking for resale, toxic or hazardous substances, totaling at any one time more than 50 gallons liquid volume or 25 pounds dry weight."
- a. Any hazardous materials on site shall be registered with the Health Division.
13. Upon availability of a municipal sewer connection, design of the sewer connection shall be coordinated with and approved by the Director of the Department of Public Works.
14. The Applicant shall provide low vegetative screening along Yarmouth Road to screen the vacuum area.
15. The donation of \$200,000 does not relieve the Applicant of any future betterments that may be charged to the Applicant by the Town.
16. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

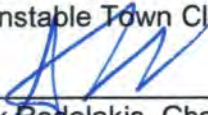
The vote was:

AYE: Alex Rodolakis, David Hirsch, Herbert Bodensiek, Jacob Dewey, and Paul Pinard

NAY: None

Ordered

Special Permit No. 2019-047, to allow the replacement of an automobile dealership with a car wash, has been granted. This decision must be recorded at the Barnstable Registry of Deeds for it to be in effect and notice of that recording submitted to the Zoning Board of Appeals Office. The relief authorized by this decision must be exercised within two years unless extended. Appeals of this decision, if any, shall be made pursuant to MGL Chapter 40A, Section 17, within twenty (20) days after the date of the filing of this decision, a copy of which must be filed in the office of the Barnstable Town Clerk.




Alex Rodolakis, Chair

9/4/19


Date Signed

I, Ann Quirk, Clerk of the Town of Barnstable, Barnstable County, Massachusetts, hereby certify that twenty (20) days have elapsed since the Zoning Board of Appeals filed this decision and that no appeal of the decision has been filed in the office of the Town Clerk.

Signed and sealed this 25th day of SEPTEMBER under the pains and penalties of perjury.



Ann Quirk, Town Clerk





Office: 508-862-4022
FAX: 508-862-4722

Town of Barnstable
Assessing Division
367 Main Street, Hyannis MA 02601
www.townofbarnstable.us

Edward F O'Neil, MAA
Director of Assessing

ABUTTERS LIST CERTIFICATION

DATE: August 6, 2019

RE: Abutters List
For Parcel(s) : 345-021-002

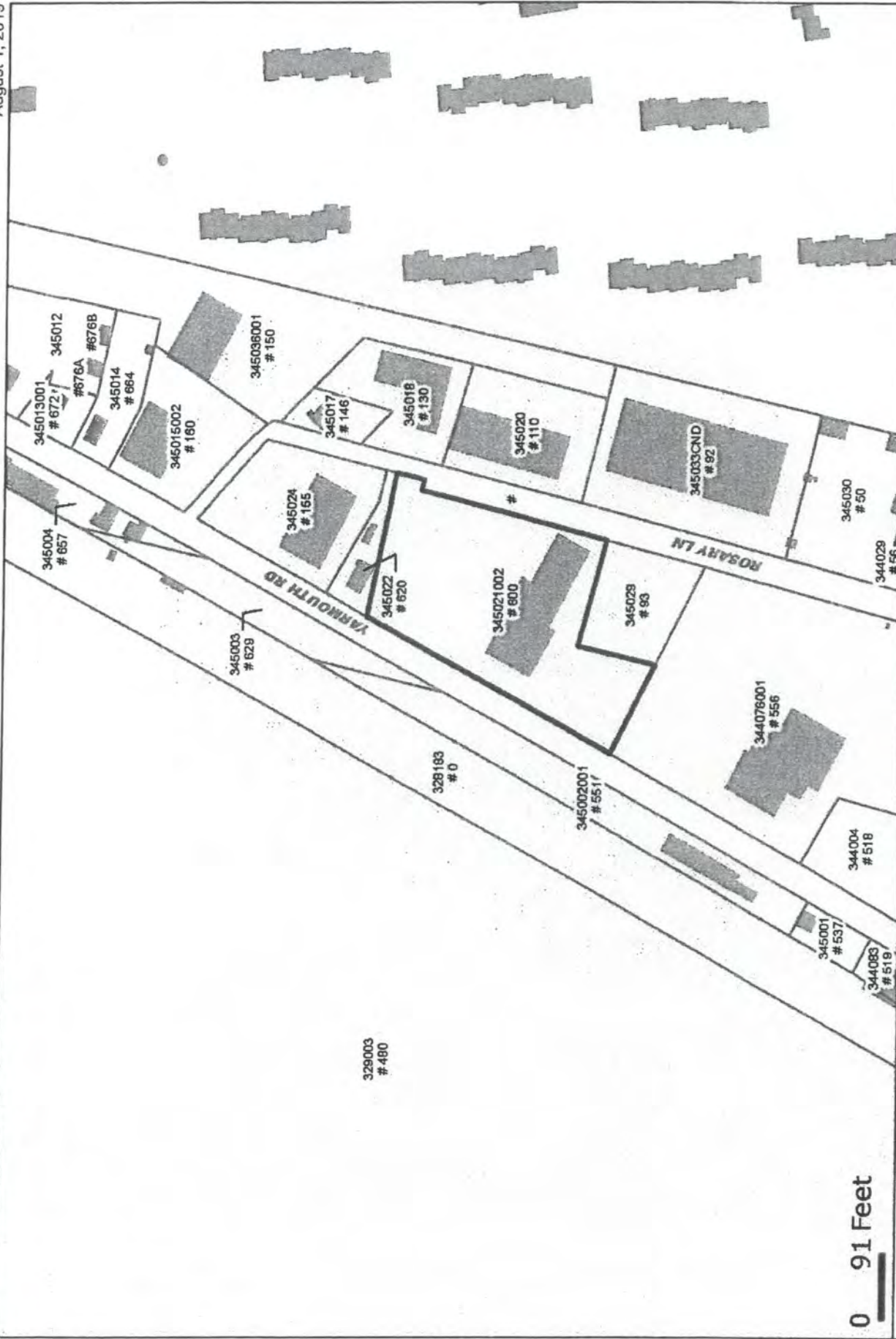
As requested, I hereby certify the names and addresses as submitted on the attached sheet(s) as required under Chapter 40A, Section 11 of the Massachusetts General Laws for the above referenced parcels as they appear on the most recent tax list with mailing addresses supplied.

William J. Janoff

Andrew Michael

Melvin P. Page

Board of Assessors
Town of Barnstable



0 91 Feet

DISCLAIMERS: This map is for planning purposes only. It is not adequate for legal boundary determination or regulatory interpretation. Enlargements beyond a scale of 1"=100' may not meet established map accuracy standards. The parcel lines on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical features on the map such as building locations.

Map: 345 Parcel: 021002 Zoning Board of Appeals (ZBA)
 Abutter List Type - Parties of interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

Selected Parcel
 Abutters
 Buffer



Joining Board of Appeals (ZBA) Abutters List for Map &

Parcel(s): '345021002'

Parties of interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

Total Count: 40

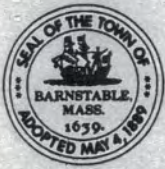


Close

					Zip	
328183	MASSACHUSETTS, COMMONWEALTH OF	C/O EXECUTIVE OFFICE OF	TRANSPORTATION & CONSTRUCTION	10 PARK PLAZA - SUITE 3170	BOSTON, MA 02116	3498/92
329003	BARNSTABLE, TOWN OF (ARP)	BARNSTABLE MUNICIPAL AIRPORT	480 BARNSTABLE RD 2ND FL		HYANNIS, MA 02601	NONE
344076001	518-556 YARMOUTH ROAD LLC		500 YARMOUTH ROAD		HYANNIS, MA 02601	C208303
345002001	AUTO GUYS LLC		551 YARMOUTH ROAD		HYANNIS, MA 02601	28917/310
345003	BARNSTABLE, TOWN OF (ARP)	C/O BARNSTABLE MUNICIPAL AIRPORT	480 BARNSTABLE RD 2ND FL		HYANNIS, MA 02601	3999/91
345004	BRITO, MANUEL J		657 YARMOUTH ROAD		HYANNIS, MA 02601	30195/100
345015002	CHARLES WHITE MANAGEMENT, INC		330 COMMONWEALTH AVE		BOSTON, MA 02115	16993/233
345017	MERLESENA, JOHN P		PO BOX 532		HYANNIS, MA 02601	23535/112
345018	MERLESENA, JOHN P TR	MERLESENA REALTY CORP	PO BOX 532		HYANNIS, MA 02601	9911/306
345020	DOG HOUSE REALTY LLC		2167 FALMOUTH ROAD		CENTERVILLE, MA 02632	26366/110
345021002	600 YARMOUTH ROAD LLC		460 YARMOUTH ROAD		HYANNIS, MA 02601	30534/31
345022	SULLIVAN, KEVIN M & MARJORIE AYER-		620 YARMOUTH ROAD		HYANNIS, MA 02601	7805/90
345024	CHARLES WHITE MANAGEMENT, INC		330 COMMONWEALTH AVE		BOSTON, MA 02115	14802/139
345029	600 YARMOUTH ROAD LLC		460 YARMOUTH ROAD		HYANNIS, MA 02601	30534/28
345030	JAXTIMER, ERNEST J & MARIE T TRS	%ROSARY LANE LLC	48 ROSARY LANE		HYANNIS, MA 02601	14962/76
34503300A	DEE, JOHN F TR	TOMBSTONE TRUST	P O BOX 1500		COTUIT, MA 02635	9288/311
34503300B	ZINOV, DMITRY TR	MIHANAZ REALTY TRUST	76 THREAD NEEDLE LANE		CENTERVILLE, MA 02632	22487/154
34503300C	ZINOV, DMITRY TR	MIHANAZ REALTY TRUST	76 THREAD NEEDLE LANE		CENTERVILLE, MA 02632	22487/154
34503300D	PRIMPAS, CHARLES JR		81 TUPELO ROAD		MARSTONS MILLS, MA 02648	24909/131
34503300E	AMARAL, GUADALUPE & NIUZA B		75 JEFFERSON AVENUE		WEST YARMOUTH, MA 02673	30289/160
34503300F	ZEGER, JOEL E TR	MAXJOE REALTY TRUST	PO BOX 1979		MASHPEE, MA 02649	21591/349
34503300G	ZEGER, JOEL E TR	MAXJOE REALTY TRUST	PO BOX 1979		MASHPEE, MA 02649	21591/349
34503300H	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300I	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300J	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300K	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300L	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298

34503300M	FRESCO, JORGE & MARIA A		266 CARRIAGE LANE	WEST YARMOUTH, MA 02630	18135/19
34503300N	ANDERSON, SEAN E TR	S.E.A. REALTY TRUST	50 TROWBRIDGE PATH	WEST YARMOUTH, MA 02673	31354/262
34503300O	HERRERA, EDWARD		P O BOX 639	WEST HYANNISPORT, MA 02672	18455/307
34503300P	BEARD, GARY C & ROBIN		101 LAKESIDE DR EAST	CENTERVILLE, MA 02632	18270/249
34503300Q	STORY, EVERETT M JR	%HORTICULTURAL DNA INC.	PO BOX 171	WEST HYANNISPORT, MA 02672	11740/83
34503300R	VUILLEUMIER, LOUIS E TR	%HORTICULTURAL DNA INC.	PO BOX 171	WEST HYANNISPORT, MA 02672	26014/250
34503300S	HOUSING ASSISTANCE CORP		460 WEST MAIN STREET	HYANNIS, MA 02601	25499/152
34503300T	SCHNECKLOTH, CHARLES L, TRUSTEE	92 ROSARY LANE 20 REALTY NOM TRUST	92 ROSARY LANE 20	HYANNIS, MA 02601	30687/305
34503300U	COELHO, LUIZ M & ADRIANA		48 OAK HILL RD	HYANNIS, MA 02601	16741/20
34503300V	LOPEZ, JOHN R TR		8 HOMEPORT DR	HYANNIS, MA 02601	18755/59
34503300W	CARLIN, DENNIS D		PO BOX 958	WEST BARNSTABLE, MA 02668	12880/194
34503300X	FULCHER, MICHAEL P		297 MEGAN ROAD	HYANNIS, MA 02601	27668/87
345036001	CHARLES WHITE MANAGEMENT, INC		330 COMMONWEALTH AVE	BOSTON, MA 02115	17048/147

This list by itself does NOT constitute a certified list of abutters and is provided only as an aid to the determination of abutters. If a certified list of abutters is required, contact the Assessing Division to have this list certified. The owner and address data on this list is from the Town of Barnstable Assessor's database as of 8/1/2019.



Town of Barnstable

Assessing Division

367 Main Street, Hyannis MA 02601

www.townofbarnstable.us

Office: 508-862-4022
FAX: 508-862-4722

Edward F O'Neil, MAA
Director of Assessing

ABUTTERS LIST CERTIFICATION

DATE: August 6, 2019

RE: Abutters List
For Parcel(s) : 345-029

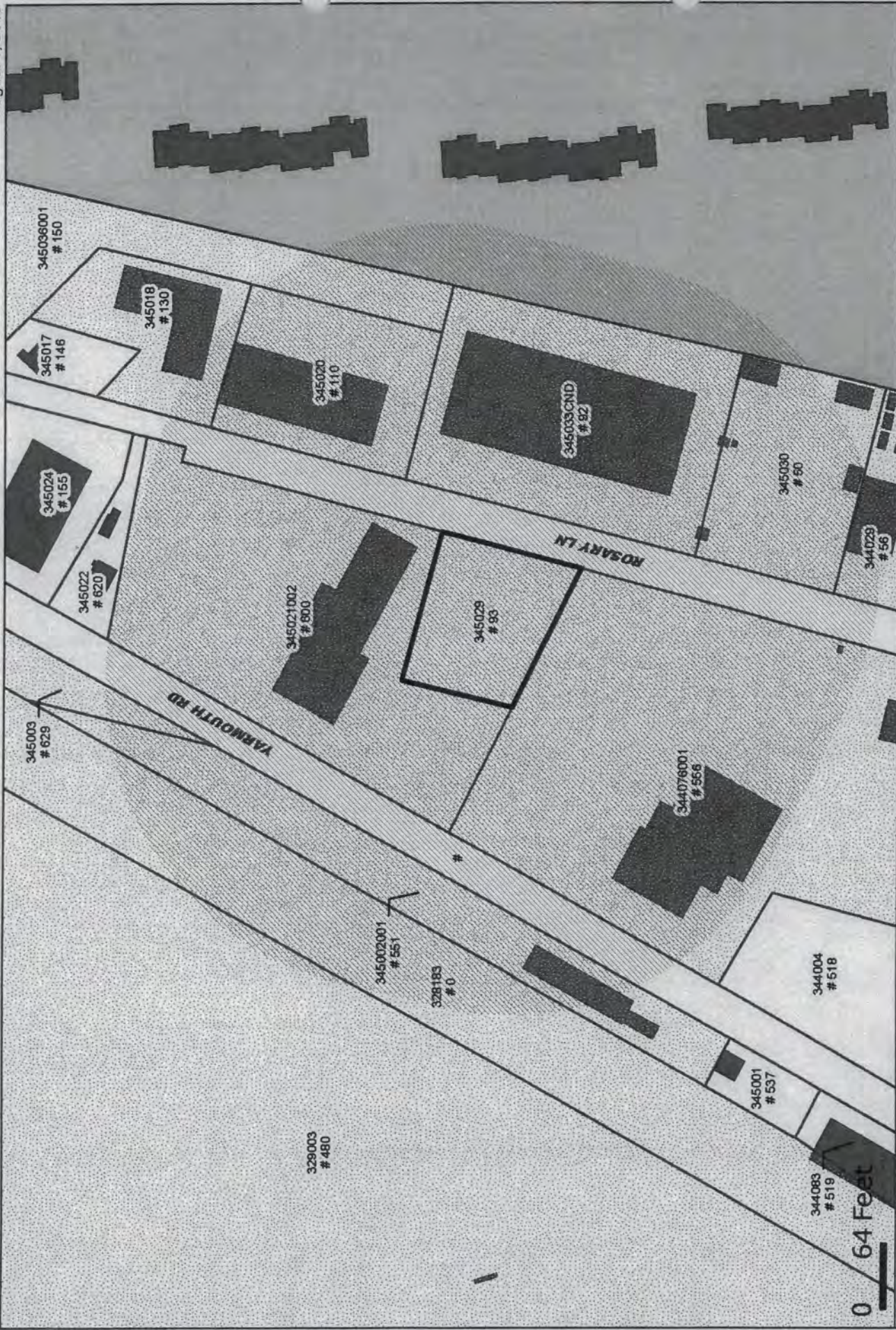
As requested, I hereby certify the names and addresses as submitted on the attached sheet(s) as required under Chapter 40A, Section 11 of the Massachusetts General Laws for the above referenced parcels as they appear on the most recent tax list with mailing addresses supplied.

William J. Danoff

Andy Michael

William J. Danoff

Board of Assessors
Town of Barnstable



Selected Parcel
 Abutters
 Buffer

Map: 345 Parcel: 029 **Zoning Board of Appeals (ZBA)**
 Abutter List Type - Parties of interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

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Joining Board of Appeals (ZBA) Abutter List for Map & Parcel(s): '345029'

Parties of interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

Total Count: 36



Close

Map & Parcel	Owner1	Owner2	Address1	Address 2	Mailing CityStateZip	Country Deed
328183	MASSACHUSETTS, COMMONWEALTH OF	C/O EXECUTIVE OFFICE OF	TRANSPORTATION & CONSTRUCTION	10 PARK PLAZA - SUITE 3170	BOSTON, MA 02116	3498/92
329003	BARNSTABLE, TOWN OF (ARP)	BARNSTABLE MUNICIPAL AIRPORT	480 BARNSTABLE RD 2ND FL		HYANNIS, MA 02601	NONE
344029	JAXTIMER, MARIE T	%ROSARY LANE LLC	48 ROSARY LANE		HYANNIS, MA 02601	5564/279
344076001	518-556 YARMOUTH ROAD LLC		500 YARMOUTH ROAD		HYANNIS, MA 02601	C208303
345002001	AUTO GUYS LLC		551 YARMOUTH ROAD		HYANNIS, MA 02601	28917/310
345003	BARNSTABLE, TOWN OF (ARP)	C/O BARNSTABLE MUNICIPAL AIRPORT	480 BARNSTABLE RD 2ND FL		HYANNIS, MA 02601	3999/91
345018	MERLESENA, JOHN P TR	MERLESENA REALTY CORP	PO BOX 532		HYANNIS, MA 02601	9911/306
345020	DOG HOUSE REALTY LLC		2167 FALMOUTH ROAD		CENTERVILLE, MA 02632	26366/110
345021002	600 YARMOUTH ROAD LLC		460 YARMOUTH ROAD		HYANNIS, MA 02601	30534/31
345029	600 YARMOUTH ROAD LLC		460 YARMOUTH ROAD		HYANNIS, MA 02601	30534/28
345030	JAXTIMER, ERNEST J & MARIE T TRS	%ROSARY LANE LLC	48 ROSARY LANE		HYANNIS, MA 02601	14962/76
34503300A	DEE, JOHN F TR	TOMBSTONE TRUST	P O BOX 1500		COTUIT, MA 02635	9288/311
34503300B	ZINOV, DMITRY TR	MIHANAZ REALTY TRUST	76 THREAD NEEDLE LANE		CENTERVILLE, MA 02632	22487/154
34503300C	ZINOV, DMITRY TR	MIHANAZ REALTY TRUST	76 THREAD NEEDLE LANE		CENTERVILLE, MA 02632	22487/154
34503300D	PRIMPAS, CHARLES JR		81 TUPELO ROAD		MARSTONS MILLS, MA 02648	24909/131
34503300E	AMARAL, GUADALUPE & NIUZA B		75 JEFFERSON AVENUE		WEST YARMOUTH, MA 02673	30289/160
34503300F	ZEGER, JOEL E TR	MAXJOE REALTY TRUST	PO BOX 1979		MASHPEE, MA 02649	21591/349
34503300G	ZEGER, JOEL E TR	MAXJOE REALTY TRUST	PO BOX 1979		MASHPEE, MA 02649	21591/349
34503300H	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300I	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300J	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300K	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300L	WILBUR, WINTHROP V JR & NANCY K TRS	WINTHROP V WILBUR JR REV TRUST	26 FOREST GATE		YARMOUTH PORT, MA 02675	22563/298
34503300M	PACHECO, JOAO D & MARIA A		266 CARRIAGE LANE		BARNSTABLE, MA 02630	18135/19
34503300N	ANDERSON, SEAN E TR	S.E.A. REALTY TRUST	50 TROWBRIDGE PATH		WEST YARMOUTH, MA 02673	31354/262
34503300O	HERRERA, EDWARD		P O BOX 639		WEST HYANNISPORT, MA 02672	18455/307
34503300P	BEARD, GARY C & ROBIN		101 LAKESIDE DR EAST		CENTERVILLE, MA 02632	18270/249

34503300Q	STORY, EVERETT M JR	%HORTICULTURAL DNA INC.	PO BOX 171	WEST HYANNISPORT, MA 11740/83
34503300R	VUILLEUMIER, LOUIS E TR	%HORTICULTURAL DNA INC.	PO BOX 171	WEST HYANNISPORT, MA 26014/250 02672
34503300S	HOUSING ASSISTANCE CORP		460 WEST MAIN STREET	HYANNIS, MA 25499/152 02601
34503300T	SCHNECKLOTH, CHARLES L, TRUSTEE	92 ROSARY LANE 20 REALTY NOM TRUST	92 ROSARY LANE 20	HYANNIS, MA 30687/305 02601
34503300U	COELHO, LUIZ M & ADRIANA		48 OAK HILL RD	HYANNIS, MA 16741/20 02601
34503300V	LOPEZ, JOHN R TR		8 HOMEPORT DR	HYANNIS, MA 18755/59 02601
34503300W	CARLIN, DENNIS D		PO BOX 958	WEST BARNSTABLE, MA 12880/194 02668
34503300X	FULCHER, MICHAEL P		297 MEGAN ROAD	HYANNIS, MA 27668/87 02601
345036001	CHARLES WHITE MANAGEMENT, INC		330 COMMONWEALTH AVE	BOSTON, MA 17048/147 02115

This list by itself does NOT constitute a certified list of abutters and is provided only as an aid to the determination of abutters. If a certified list of abutters is required, contact the Assessing Division to have this list certified. The owner and address data on this list is from the Town of Barnstable Assessor's database as of 8/1/2019 .

The Barnstable Patriot

Proof of Publication

8/2/19

Publication Date _____

Town of Barnstable
Zoning Board of Appeals
Notice of Public Hearings under the Zoning Ordinance
August 21, 2019

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, August 21, 2019, at the time indicated:

7:00PM Appeal No. 2019-042 Fernandes, Trustee
Hernique A. Fernandes, Trustee, has petitioned for a Variance pursuant to Chapter 240.11 – Principal Permitted Uses. The Petitioner is proposing to construct a one-story 1,440 square foot duplex structure in a zoning district which does not allow for them as-of-right nor as a conditional use. The subject property is located at 50 Fresh Holes Road, Hyannis, MA as shown on Assessor's Map 292 as Parcel 175. It is located in the Residence B Zoning District.

7:01 PM Appeal No. 2019-04 Fernandes, Trustee
Hernique A. Fernandes, Trustee, has petitioned for a Variance pursuant to Chapter 240.11.E – Bulk Regulations. The Petitioner is proposing to construct a one-story 1,440 square foot duplex structure approximately seven (7) feet from the side yard setback where ten (10) feet is required in the zoning district in which it is located. The subject property is located at 50 Fresh Holes Road, Hyannis, MA as shown on Assessor's Map 292 as Parcel 175. It is located in the Residence B Zoning District.

7:02 PM Appeal No. 2019-045 Hunt & Bogan
Heather Hunt and David Bogan, as Appellants, are appealing the Building Commissioner's decision not to pursue enforcement actions against Scudder Bay Investment Corporation for violations of the Barnstable Zoning Ordinance. The Appellants are claiming that Scudder Bay Investment Corporation has been operating a commercial rental operation within the Residence C (RC) Zoning District and that only single-family residential uses are allowed within the District. The subject property is located at 438 Main Street, Osterville, MA as shown on Assessor's Map 164 as Parcel 001. It is located in the Residence C (RC) Zoning District.

7:03 Appeal No. 2019-04 Harbor Health Services, Inc.
Harbor Health Services, Inc., has petitioned for a Variance pursuant to Section 240.33.F – Special Screening Standards in the IND Zoning District. The Petitioner is proposing to expand the existing parking lot by constructing approximately twenty-six (26) new parking spaces in the northeast corner of the lot for employee use. The proposed parking spaces require relief from the required fifty (50) foot front and thirty (30) foot side buffer strip depths. The subject property is located at 735 Attucks Lane, Hyannis, MA as shown on Assessor's Map 295 as Parcel 017. It is located in the Industrial (IND) Zoning District.

7:04 Appeal No. 2019-04 600 Yarmouth Road, LLC.
600 Yarmouth Road, LLC, has applied for a Special Permit in accordance with Section 240-94.A – Nonconforming Use. The Applicant is proposing to demolish an existing car dealership and construct a carwash on site consisting of eight (8) detail bays, a drive/wash tunnel, office and reception area. Because of the size of the site, the Applicant is also proposing to designate part of the existing paved parking area for vehicle inventory storage to be used in conjunction with the Applicant's dealerships. The subject properties are located at 600 Yarmouth Road and 93 Rosary Lane, Hyannis, MA as shown on Assessor's Map 345 as Parcel 021-002 and 029. They are located in the Business (B) and the Wellhead (WP) Overlay Protection Zoning Districts.

These public hearings will be held at the Barnstable Town Hall, 367 Main Street, Hyannis, MA, Hearing Room located on the 2nd Floor, Wednesday, August 21, 2019. Plans and applications may be reviewed at the Zoning Board of Appeals Office, Planning and Development Department, Town Offices, 200 Main Street, Hyannis, MA.

Barnstable Patriot Alex Rodolakis, Chair
August 2, 2019 and August 9, 2019 Zoning Board of Appeals

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Zoning Board of Appeals
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Barnstable Patriot Alex Rodolakis, Chair
August 2, 2019 and August 9, 2019 Zoning Board of Appeals

The Barnstable Patriot

Proof of Publication

Publication Date 8/9/2019

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Barnstable Patriot
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Alex Rodolakis, Chair
Zoning Board of Appeals

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Barnstable Patriot
August 2, 2019 and August 9, 2019

Alex Rodolakis, Chair
Zoning Board of Appeals

RECEIPT
Printed: September 25, 2019 @ 11:14:
BARNSTABLE COUNTY REGISTRY OF DEEDS
JOHN F. MEADE, REGISTER

Trans#: 235110 Oper: JUSTIN
JEFFREY

=====
Book: 32324 Page: 109 Inst#: 46610
Ct1#: 407 Rec: 9-25-2019 @ 11:10:04a
BARN 600 YARMOUTH RD
BARN 93 ROSARY LN

DOC	DESCRIPTION	TRANS AMT
----	-----	-----
	1 LAHAM MANAGEMENT & LEASING INC	
	NOTICE	21.00
	County Fee \$ 10.00	20.00
	Surcharge CPA \$20.00	40.00
	State Fee \$40.00	5.00
	Surcharge Tech \$5.00	11.00-
	State/County pg adj	-----
	Total fees:	75.00
	*** Total charges:	75.00
	CHECK PM 1628	75.00



**Town of Barnstable
Zoning Board of Appeals
Application for Other Powers**

Date Received _____
Town Clerk's Office: _____

For office use only:
Appeal # _____
Hearing Date _____
Decision Due _____

The undersigned Appellant hereby files an appeal to the Zoning Board of Appeals under M.G. L. Chapter 40A, Sections ~~8-19~~ ¹⁴ for the reasons indicated:

Appellant's Name: EAC ORGANICS, INC Phone: c/o M. Touhey 508-775-5050

Appellant's Address: Digital Cape Resources 9289 Banta B. Rd, Jordan, NY 13080

Address of Property that is the subject of this application: 280 + 0 Old Falmouth Road, Mansions Hills, MA

Assessor's Map/Parcel Number: 100/3 100/7 Zoning District: RF

Groundwater Overlay District: GP

Property Owner: Same Phone: _____
If different from Appellant

Address of Owner: _____
If different from Appellant

This is a request for:

- Enforcement Action
- Appeal of Administrative Official's Decision
- Other General Powers - Please Specify: Modification of a variance under M.G.L. Chap. 40A Section 14

Which Section(s) of the Zoning Ordinance and/or MGL Chapter 40A are you appealing to the Zoning Board of Appeals? MGL Chapter 40A, Section 14

¹ The Appellant is the person making the appeal.

Application for Other Powers - Page 2

Nature of Appeal & Description of Request: See Attached

Attach Additional Sheet if Necessary

Is the property subject to an existing Variance or Special PermitNo [] Yes [] - #. 1975-34
2009-25

Existing Level of Development of the Property - Number of Buildings: 3

Present Use(s): WOOD WASTE Recycling Center

Existing Gross Floor Area: 5,865 sq. ft. Proposed New Gross Floor Area: _____ sq. ft.

Is the property located in a designated Historic District?..... Yes [] No []
Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No []
Is this proposal subject to approval by the Board of Health Yes [] No []
Is the building a designated Historic Landmark?..... Yes [] No []

Has a building permit been issued?..... Yes [] No []
Has a building permit been refused?..... Yes [] No []

The following information, as applicable, should be submitted with the application at the time of filing.

- Three (3) copies of the completed application form, each with original signatures accompanied by all supporting documentation related to the appeal
- Three (3) copies of a certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a site improvement plan and one (1) reduced copy (8 1/2" x 11" or 11" x 17").
- The applicant may submit any additional supporting documents to assist the Board in making its determination.

Signature: [Signature] Date: June 18, 2020
Appellant's or Representative's Signature

Print Name Charles M. Sabatt

Address: 540 MAIN ST-Suite 8 Phone: 508-775-5050

Hyannis, MA 02601 Fax No.: 508-778-4600

e-mail Address: CMS@SABATTLAW.COM

² All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Appellant, a letter authorizing the Representative to act on behalf of the Appellant shall be required.

Nature of Appeal & Description of Request

The Applicant proposes to enter a long-term lease with a solar development Company in which the solar development Company will construct and operate a ground mounted solar photovoltaic system on the northerly portion of the Property located at 280 Old Falmouth Rd. and a portion of the property at 0 Old Falmouth Road. Because the 2 properties are situated within a Ground Mounted Solar Photovoltaic Overlay District, such a use is a permitted use within the area. The applicant will condense the operational area of its wooden waste recycling business from its current operational area of approximately 17 acres to an area of approximately 6.5 acres. Its operations will be organized as shown in the Variance Modification Plans Set submitted herewith. As a consequence, the Applicant proposes to make its property more conforming to the zoning and to contract the permitted operational area of its variance.

In the attached document, *Proposed Modifications To Current Variance Conditions*, the Applicant has enumerated the specific current conditions set forth within its modified variance, Appeal no. 2009 – 025 for which it seeks modification. The two overriding modifications that the Applicant seeks are (1) permission to maintain two principal uses, the solar photovoltaic system and the wood waste recycling business, on the property at 280 Old Falmouth Road and (2) a modification enabling the Applicant to locate the proposed solar photovoltaic system at 0 Old Falmouth Road in the areas shown on the site plans submitted herewith without the requirement of establishing and maintaining a 100 foot vegetated buffer along the westerly boundary line of the Cape Resources property at 280 Old Falmouth Road.

PROPOSED MODIFICATIONS TO CURRENT VARIANCE CONDITIONS

Condition #3

Current:

Operations at this Property shall be subject to all performance standards contained in this Decision on July 15, 2012 or such later date that this decision becomes final.

Proposed:

Operations at this Property shall be subject to all performance standards contained in this Decision on December 31, 2020 or such later date that this Decision becomes final.

Condition #5

Current:

To prevent undue intensification of the operation on the site, this variance does not allow any other by-right principal or accessory use or conditional uses on the Property without further approval from the Board. While the rights authorized by this variance are being exercised, uses permitted by the underlying zoning are prohibited on the Property.

Proposed:

This Variance shall allow the construction and operation on the Property of a ground mounted solar photovoltaic installation in conjunction with the operation of the wood waste recycling operation to be situated and maintained in the locations and in the configurations established by the plan submitted herewith, namely "Cape Resources Company Variance Modification Plan Set Zoning Board of Appeals, 280 Old Falmouth Road, Parcels: 100 – 007 and 100 – 006, Village of Marstons Mills, Massachusetts February 5, 2020" ("the Conceptual Site Plan"). No other by- right principal or accessory use or conditional uses on the Property shall be permitted without further approval from the Board. While the rights authorized by this Variance are being exercised, any other uses permitted by the underlying zoning are prohibited on the Property. The ground mounted solar photovoltaic construction and operation may be extended to the adjoining property located at 0 Old Falmouth Road, assessor's map number 100 Parcel 007 as shown on the Conceptual Site Plan.

Condition #6

Current:

The applicant shall submit an as built plan, prepared by a Professional Land Surveyor, showing the location of all improvements on the Property by July 15, 2012. The as built plan shall be submitted to the Building Commissioner and to the Director of the Growth Management Department. The plan shall also be submitted in electronic format (Autocad.dwg(R 14), Autocad.dxf, or Microstation.dgn, or Equivalent:)

Proposed:

The applicant shall submit an as-built plan, prepared by a Professional Land Surveyor, showing the location of all improvements on the Property by December 31, 2020. The as- built plan shall be submitted to the Building Commissioner and to the Director of the Growth Management Department. The plan shall also be submitted in electronic format (Autocad.dwg(R 14), Autocad.dxf, or Microstation.dgn, or Equivalent:)

Condition #13

Current:

All operations on the Property shall occur south of the proposed work limit boundary, as depicted on the Final Site Plan. No materials, equipment, machinery, or vehicles shall be operated, located or stored north of the work limit line on a temporary or permanent basis.

Proposed:

All operations on the Property shall occur within the area of the Property designated for use by Cape Resources Company within the red outlined area shown on the Conceptual Site Plan and to be shown on the Final Site Plan. Said red outlined area is hereinafter called "the CRC Area." No materials, equipment, machinery, or vehicles shall be operated, located or stored north of the CRC Area on a temporary or permanent basis. But vehicles or equipment may be permitted to operate north of the CRC Area for the purpose of maintaining or repairing the site or in the event of an emergency.

Condition #14

Current:

The Applicant shall have a Professional Land Surveyor set 3 concrete bounds on the Property to identify the work limit boundary as shown on the Conceptual Site Plan. The bounds shall be protected by the Applicant, accessible for site inspection at all times, and their locations marked so clearly visible from a distance. [Sic]

Proposed:

The Applicant or the Solar Development operator shall erect and maintain a fence on the northern boundary of the CRC Area.

Condition #17

Current:

There shall be an 100 foot vegetated buffer around the perimeter of the Property, except for within the following areas:

- a. The southeast corner of the site, specifically south of the proposed infiltration basin and east of the access drive. All improvements and materials in this area shall be screened from the property line by fencing and vegetation.
- b. Stormwater detention areas may be located within the required 100 foot buffer, provided they are screened from the property line by fencing or vegetation.
- c. The fire access road may be located within the 100 foot vegetated buffer.
- d. Areas adjacent to the westerly lot line within the delineated work area. A vegetated buffer shall be established along the western property within the delineated work area if property to within 100 feet to the west is sold, conveyed, or improved in accordance with the Declaration of Restrictions and Covenants recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document #703891 – 1. [sic]

Proposed:

Existing trees along the right-of-way of Old Falmouth Road shall be protected and remain. Any disturbed or dying shrub vegetation along the right-of-way shall be replaced with a triangular grouping of deciduous trees and vegetation that will provide year-round screening. Such groupings shall be planted in areas where the existing vegetation does not provide sufficient screening of the site. New fencing will be added along old Falmouth Road as needed.

The fence along the easterly lot line of the CRC Area shall be maintained.

A vegetated buffer shall be established along the western property line of the CRC Area if property to within 100 feet to the westerly lot line of the CRC area is sold, conveyed, or improved, except for the proposed solar photovoltaic array in accordance with the Declaration of Restrictions and Covenants recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document #703891 – 1.

Condition #18

Current:

The existing stump pile located at the northwest corner of the site, shown on the Conceptual Site Plan, shall be removed prior to July 15, 2012.

Proposed:

The existing stump pile located at the northwest corner of the site, shown on the Conceptual Site Plan, has been removed.

Condition #20

Current:

The access drive shall be paved with asphalt. The road shall be kept clear of dirt and debris at all times.

Proposed:

The access drive shall be composed of material suitable to support a fire or other emergency vehicle. The road shall be kept clear of any debris at all times.

Condition #22

Current:

The berm on the northern portion of the property shall be lengthened and heightened as shown on an approved Final Site Plan and shall have a minimum elevation of 90 feet. The crest of the berm shall be planted with a dense year-round Evergreen screening, as stated in Condition 24 herein. The materials used to construct the berm shall be compacted and stabilized. New portions of the berm shall be revegetated to prevent further dust and debris from affecting neighboring properties.

Proposed:

The berm on the northern portion of the Property shall be maintained in its current lengths and height. Any existing vegetation on the berm that has died or is unstable shall be replaced with new vegetation.

Condition #23

Current:

A twelve (12) foot high wood stockade fence shall be installed along the eastern property line adjacent to the Holly Homeowners Association property, as shown on the Conceptual Site Plan, or as required by the Site Plan Review Committee. An eight (8) foot high wood stockade fence shall be installed along the southern property line as shown on the Conceptual Site Plan, or as required by the Site Plan Review Committee. Both fences shall be continuously maintained by the Applicant.

Proposed:

The twelve (12) foot high wood stockade fence installed along the eastern property line of the CRC Area shall be maintained. The eight (8) foot high wood stockade fence installed along the southern property line shall be maintained.

Condition #24

Current:

Landscape improvements shall be made on the Property as follows:

- a. A dense, year-round Evergreen screen shall be planted at the crest of the berm along the northern property line. The screen shall consist of 2" caliper evergreen trees, staggered, and planted a minimum of twelve feet on center, or as required by the Site Plan Review Committee.
- b. The perimeter area adjacent to the easterly infiltration basin shall be loamed and seeded.
- c. The southern perimeter of the site in front of the proposed stockade fence shall be landscaped with trees and shrubs.

Proposed:

The easterly, southerly, and westerly lot lines of the CRC Area shall be landscaped as provided in Condition #17 above. The perimeter area adjacent to the detention pond within the CRC Area shall be loamed and seeded.

Condition #25

Current:

The height of the materials within the yard waste areas shall not exceed thirty-five (35) feet. Because the height of shredded material poses a public safety threat as described in Finding No. 18 herein, piles of shredded brush shall not exceed twenty (20) feet in height. Height measurements shall be taken from the elevation above sea level shown on the Existing Conditions Plan.¹

In the event that the Applicant discovers any construction and demolition material buried on the site, then the Applicant at its sole cost and expense shall immediately remove all such material and shall restore the area affected.

¹ By an Agreement for Judgment filed in the Barnstable Superior Court, the following sentence was deleted from Condition #25 as it appears in the original Modified Variance Decision: "Fires on this Property are prohibited regardless of origin or cause including acts of or neglect by sight operators." The second and third paragraphs were added into Condition #25 by the Agreement for Judgment.

In the event that any fire occurs on the Property resulting from spontaneous combustion of materials stored on the Property or from any negligent act of the Applicant, then such fire shall be considered a nuisance for which the Town of Barnstable may take appropriate legal action for damages or equitable action for injunctive relief sought through an action filed in the Barnstable Superior Court. The Town may also pursue all remedies available to town officers and agencies including, without limitation the Board of Health and the Zoning Board of Appeals. This condition shall run with the land and shall bind all successors in interest to it.

Proposed:

The height of the materials within the yard waste areas shall not exceed thirty -five (35) feet. Piles of shredded brush shall not exceed twenty (20) feet in height. Height measurements shall be taken from the elevation above sea level to be shown on the Final Site Plan.

In the event that the Applicant discovers any construction and demolition material buried on the site, then the Applicant at its sole cost and expense shall immediately remove all such material and shall restore the area affected.

In the event that any fire occurs on the Property resulting from spontaneous combustion of materials stored on the Property or from any negligent act of the Applicant, then such fire shall be considered a nuisance for which the Town of Barnstable may take appropriate legal action for damages or equitable action for injunctive relief sought through an action filed in the Barnstable Superior Court. The Town may also pursue all remedies available to town officers and agencies including, without limitation the Board of Health and the Zoning Board of Appeals. This condition shall run with the land and shall bind all successors in interest to it.

Condition #39

Current:

Monitoring Location: At a minimum, odor measurements shall be taken at the locations indicated in Figure 1. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner. The location shown in the illustration below shall be shown on the Final Site Plan using latitude and longitude to identify these sampling locations.

Proposed:

In the event that an odor is detected off site, then the Applicant shall eliminate or contain on site such odor in accordance with its best management practices.

Condition #44

Current:

Monitoring Location: At a minimum, measurements shall be regularly taken at the locations indicated on Figure 1. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner.

Proposed:

Monitoring Location: At a minimum, measurements shall be regularly taken at the locations to be shown on the Final Site Plan as established by the Applicant's engineer. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner.

Declaration of Restrictions and Covenants

Barnstable Zoning Board of Appeals, Appeal No. 1996 – 14, Condition #10 required that "...at the time of the sale or development of the petitioner's abutting land (located along the westerly boundary of locus) [0 Old Falmouth Road] a 100 foot vegetated buffer along the boundary within the yellow hatched area shall be established. Petitioner agrees to execute a restriction running with the land, in perpetuity subject to the terms of this decision, in a form acceptable to the Town Attorney, encumbering both locus and the abutting land to effectuate the provisions of this restriction." In accordance with this Condition #10, the Applicant's predecessor recorded a Declaration of Restrictions and Covenants in the Barnstable County Registry of Deeds that provided in Section 1 thereof as follows:

Prior to the sale or other conveyance of, or the construction of any improvements on (other than improvements for utility services such as water, sewer, electric and similar utilities), any portion of the Adjacent Parcel [0 Old Falmouth Road] located within 100 feet of the CRC Site, Grantor agrees to establish and maintain a 100 foot vegetated buffer along the westerly boundary of the CRC Site (inclusive of the 100 – foot buffer along the westerly boundary of the CRC Site outside of the hatched area shown on the Site Plan that Grantor is currently required to maintain under the Modified Variance).

Proposed Waiver of Restriction:

The Applicant proposes that it be permitted to record a Waiver of Section 1 of the Declaration of Restrictions and Covenants providing that Section 1 does not apply to the construction of the proposed solar photovoltaic system to be located at 0 Old Falmouth Road. The Waiver will be drawn by Applicant's Counsel to be approved by Town Counsel.



Town of Barnstable
Zoning Board of Appeals
Application for a Variance

AMENDED

Date Received
Town Clerk's Office:

TO REFLECT THE CORRECT APPLICATION
FORM

For office use only:
Appeal# 2020-025
Hearing Date _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

e/o Attorney

Applicant's Name: EAR ORGANICS, Inc, Phone: 508-775-5050

Applicant's Address: 1160 East Reservoir
9289 BONTA Bridge Road, Jordan, NY 13080

Property Location: 0+280 Old Falmouth Rd, Munster Mills, MA

Property Owner: Same, Phone: See Above

Address of Owner: Same

If petitioner differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 280 Old Falmouth Road CTF 11549 2c plan 39431-A
Old Falmouth Road Book 6441 Page 218
Plan 493 | 82

Assessor's Map/Parcel Number: 10017
10018 Zoning Dist RE

Number of Years Owned: 32 years Groundwater Overlay District: GP

Variance Requested: MBL CHAPTER 40A SECTION 14
MODIFICATION OF EXISTING VARIANCE
Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: See Attached

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [] Yes []
Permit #: See Attached

¹ The Applicant's Name will be the entity to whom the variance will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

Existing Level of Development of the Property- Number of Buildings: 3

Present Use(s): OFFICE, GARAGE BUILDING, STORAGE, WAREHOUSE, MAINTENANCE

Existing Gross Floor Area: 5,865 sq. ft. Proposed New Gross Floor Area: 3,200 sq. ft. 1,960 - EX. DET. 100

Site Plan Review Number: 078-19 Date Approved: 3/5/20 (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [] No []
- Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No []
- Is this proposal subject to approval by the Board of Health..... Yes [] No []
- Is the building a designated Historic Landmark?..... Yes [] No []

- Have you applied for a building permit?..... Yes [] No []
- Have you been refused a building permit?..... Yes [] No []

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: [Handwritten Signature] Date: July 6, 2020
Applicant or Representative's Signature³

Print Name CHARLES M. SABOTT

Address: 540 MAIN STREET - SUITE 8 Phone: 508-775-5650
HYDNBURG, MA 02601 Fax No.: 508-422-7258
e-mail Address: CMS@SABOTT.LAW.COM

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

Nature of Appeal & Description of Request

The Applicant proposes to enter a long-term lease with a solar development Company in which the solar development Company will construct and operate a ground mounted solar photovoltaic system on the northerly portion of the Property located at 280 Old Falmouth Rd. and a portion of the property at 0 Old Falmouth Road. Because the 2 properties are situated within a Ground Mounted Solar Photovoltaic Overlay District, such a use is a permitted use within the area. The applicant will condense the operational area of its wooden waste recycling business from its current operational area of approximately 17 acres to an area of approximately 6.5 acres. Its operations will be organized as shown in the Variance Modification Plans Set submitted herewith. As a consequence, the Applicant proposes to make its property more conforming to the zoning and to contract the permitted operational area of its variance.

In the attached document, *Proposed Modifications To Current Variance Conditions*, the Applicant has enumerated the specific current conditions set forth within its modified variance, Appeal no. 2009 – 025 for which it seeks modification. The two overriding modifications that the Applicant seeks are (1) permission to maintain two principal uses, the solar photovoltaic system and the wood waste recycling business, on the property at 280 Old Falmouth Road and (2) a modification enabling the Applicant to locate the proposed solar photovoltaic system at 0 Old Falmouth Road in the areas shown on the site plans submitted herewith without the requirement of establishing and maintaining a 100 foot vegetated buffer along the westerly boundary line of the Cape Resources property at 280 Old Falmouth Road.

Two structures, including the current warehouse/maintenance building will be removed. The office building will remain. A new warehouse/maintenance building consisting of 3200 square feet will be constructed.

Prior Variances

Appeal 1975 – 34

Appeal 1978 – 24

Appeal 1996- 14

Appeal 2009 - 25

PROPOSED MODIFICATIONS TO CURRENT VARIANCE CONDITIONS

Condition #3

Current:

Operations at this Property shall be subject to all performance standards contained in this Decision on July 15, 2012 or such later date that this decision becomes final.

Proposed:

Operations at this Property shall be subject to all performance standards contained in this Decision on December 31, 2020 or such later date that this Decision becomes final.

Condition #5

Current:

To prevent undue intensification of the operation on the site, this variance does not allow any other by-right principal or accessory use or conditional uses on the Property without further approval from the Board. While the rights authorized by this variance are being exercised, uses permitted by the underlying zoning are prohibited on the Property.

Proposed:

This Variance shall allow the construction and operation on the Property of a ground mounted solar photovoltaic installation in conjunction with the operation of the wood waste recycling operation to be situated and maintained in the locations and in the configurations established by the plan submitted herewith, namely "Cape Resources Company Variance Modification Plan Set Zoning Board of Appeals, 280 Old Falmouth Road, Parcels: 100 – 007 and 100 – 006, Village of Marston Mills, Massachusetts February 5, 2020" ("the Conceptual Site Plan"). No other by-right principal or accessory use or conditional uses on the Property shall be permitted without further approval from the Board. While the rights authorized by this Variance are being exercised, any other uses permitted by the underlying zoning are prohibited on the Property. The ground mounted solar photovoltaic construction and operation may be extended to the adjoining property located at 0 Old Falmouth Road, assessor's map number 100 Parcel 007 as shown on the Conceptual Site Plan.

Condition #6

Current:

The applicant shall submit an as built plan, prepared by a Professional Land Surveyor, showing the location of all improvements on the Property by July 15, 2012. The as built plan shall be submitted to the Building Commissioner and to the Director of the Growth Management Department. The plan shall also be submitted in electronic format (Autocad.dwg(R 14), Autocad.dxf, or Microstation.dgn, or Equivalent:)

Proposed:

The applicant shall submit an as-built plan, prepared by a Professional Land Surveyor, showing the location of all improvements on the Property by December 31, 2020. The as- built plan shall be submitted to the Building Commissioner and to the Director of the Growth Management Department. The plan shall also be submitted in electronic format (Autocad.dwg(R 14), Autocad.dxf, or Microstation.dgn, or Equivalent:)

Condition #13

Current:

All operations on the Property shall occur south of the proposed work limit boundary, as depicted on the Final Site Plan. No materials, equipment, machinery, or vehicles shall be operated, located or stored north of the work limit line on a temporary or permanent basis.

Proposed:

All operations on the Property shall occur within the area of the Property designated for use by Cape Resources Company within the red outlined area shown on the Conceptual Site Plan and to be shown on the Final Site Plan. Said red outlined area is hereinafter called "the CRC Area." No materials, equipment, machinery, or vehicles shall be operated, located or stored north of the CRC Area on a temporary or permanent basis. But vehicles or equipment may be permitted to operate north of the CRC Area for the purpose of maintaining or repairing the site or in the event of an emergency.

Condition #14

Current:

The Applicant shall have a Professional Land Surveyor set 3 concrete bounds on the Property to identify the work limit boundary as shown on the Conceptual Site Plan. The bounds shall be protected by the Applicant, accessible for site inspection at all times, and their locations marked so clearly visible from a distance. [Sic]

Proposed:

The Applicant or the Solar Development operator shall erect and maintain a fence on the northern boundary of the CRC Area.

Condition #17

Current:

There shall be an 100 foot vegetated buffer around the perimeter of the Property, except for within the following areas:

- a. The southeast corner of the site, specifically south of the proposed infiltration basin and east of the access drive. All improvements and materials in this area shall be screened from the property line by fencing and vegetation.
- b. Stormwater detention areas may be located within the required 100 foot buffer, provided they are screened from the property line by fencing or vegetation.
- c. The fire access road may be located within the 100 foot vegetated buffer.
- d. Areas adjacent to the westerly lot line within the delineated work area. A vegetated buffer shall be established along the western property within the delineated work area if property to within 100 feet to the west is sold, conveyed, or improved in accordance with the Declaration of Restrictions and Covenants recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document #703891 – 1. [sic]

Proposed:

Existing trees along the right-of-way of Old Falmouth Road shall be protected and remain. Any disturbed or dying shrub vegetation along the right-of-way shall be replaced with a triangular grouping of deciduous trees and vegetation that will provide year-round screening. Such groupings shall be planted in areas where the existing vegetation does not provide sufficient screening of the site. New fencing will be added along old Falmouth Road as needed.

The fence along the easterly lot line of the CRC Area shall be maintained.

A vegetated buffer shall be established along the western property line of the CRC Area if property to within 100 feet to the westerly lot line of the CRC area is sold, conveyed, or improved, except for the proposed solar photovoltaic array in accordance with the Declaration of Restrictions and Covenants recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document #703891 – 1.

Condition #18

Current:

The existing stump pile located at the northwest corner of the site, shown on the Conceptual Site Plan, shall be removed prior to July 15, 2012.

Proposed:

The existing stump pile located at the northwest corner of the site, shown on the Conceptual Site Plan, has been removed.

Condition #20

Current:

The access drive shall be paved with asphalt. The road shall be kept clear of dirt and debris at all times.

Proposed:

The access drive shall be composed of material suitable to support a fire or other emergency vehicle. The road shall be kept clear of any debris at all times.

Condition #22

Current:

The berm on the northern portion of the property shall be lengthened and heightened as shown on an approved Final Site Plan and shall have a minimum elevation of 90 feet. The crest of the berm shall be planted with a dense year-round Evergreen screening, as stated in Condition 24 herein. The materials used to construct the berm shall be compacted and stabilized. New portions of the berm shall be revegetated to prevent further dust and debris from affecting neighboring properties.

Proposed:

The berm on the northern portion of the Property shall be maintained in its current lengths and height. Any existing vegetation on the berm that has died or is unstable shall be replaced with new vegetation.

Condition #23

Current:

A twelve (12) foot high wood stockade fence shall be installed along the eastern property line adjacent to the Holly Homeowners Association property, as shown on the Conceptual Site Plan, or as required by the Site Plan Review Committee. An eight (8) foot high wood stockade fence shall be installed along the southern property line as shown on the Conceptual Site Plan, or as required by the Site Plan Review Committee. Both fences shall be continuously maintained by the Applicant.

Proposed:

The twelve (12) foot high wood stockade fence installed along the eastern property line of the CRC Area shall be maintained. The eight (8) foot high wood stockade fence installed along the southern property line shall be maintained.

Condition #24

Current:

Landscape improvements shall be made on the Property as follows:

- a. A dense, year-round Evergreen screen shall be planted at the crest of the berm along the northern property line. The screen shall consist of 2" caliper evergreen trees, staggered, and planted a minimum of twelve feet on center, or as required by the Site Plan Review Committee.
- b. The perimeter area adjacent to the easterly infiltration basin shall be loamed and seeded.
- c. The southern perimeter of the site in front of the proposed stockade fence shall be landscaped with trees and shrubs.

Proposed:

The easterly, southerly, and westerly lot lines of the CRC Area shall be landscaped as provided in Condition #17 above. The perimeter area adjacent to the detention pond within the CRC Area shall be loamed and seeded.

Condition #25

Current:

The height of the materials within the yard waste areas shall not exceed thirty-five (35) feet. Because the height of shredded material poses a public safety threat as described in Finding No. 18 herein, piles of shredded brush shall not exceed twenty (20) feet in height. Height measurements shall be taken from the elevation above sea level shown on the Existing Conditions Plan.¹

In the event that the Applicant discovers any construction and demolition material buried on the site, then the Applicant at its sole cost and expense shall immediately remove all such material and shall restore the area affected.

¹ By an Agreement for Judgment filed in the Barnstable Superior Court, the following sentence was deleted from Condition #25 as it appears in the original Modified Variance Decision: "Fires on this Property are prohibited regardless of origin or cause including acts of or neglect by sight operators." The second and third paragraphs were added into Condition #25 by the Agreement for Judgment.

In the event that any fire occurs on the Property resulting from spontaneous combustion of materials stored on the Property or from any negligent act of the Applicant, then such fire shall be considered a nuisance for which the Town of Barnstable may take appropriate legal action for damages or equitable action for injunctive relief sought through an action filed in the Barnstable Superior Court. The Town may also pursue all remedies available to town officers and agencies including, without limitation the Board of Health and the Zoning Board of Appeals. This condition shall run with the land and shall bind all successors in interest to it.

Proposed:

The height of the materials within the yard waste areas shall not exceed thirty -five (35) feet. Piles of shredded brush shall not exceed twenty (20) feet in height. Height measurements shall be taken from the elevation above sea level to be shown on the Final Site Plan.

In the event that the Applicant discovers any construction and demolition material buried on the site, then the Applicant at its sole cost and expense shall immediately remove all such material and shall restore the area affected.

In the event that any fire occurs on the Property resulting from spontaneous combustion of materials stored on the Property or from any negligent act of the Applicant, then such fire shall be considered a nuisance for which the Town of Barnstable may take appropriate legal action for damages or equitable action for injunctive relief sought through an action filed in the Barnstable Superior Court. The Town may also pursue all remedies available to town officers and agencies including, without limitation the Board of Health and the Zoning Board of Appeals. This condition shall run with the land and shall bind all successors in interest to it.

Condition #39

Current:

Monitoring Location: At a minimum, odor measurements shall be taken at the locations indicated in Figure 1. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner. The location shown in the illustration below shall be shown on the Final Site Plan using latitude and longitude to identify these sampling locations.

Proposed:

In the event that an odor is detected off site, then the Applicant shall eliminate or contain on site such odor in accordance with its best management practices.

Condition #44

Current:

Monitoring Location: At a minimum, measurements shall be regularly taken at the locations indicated on Figure 1. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner.

Proposed:

Monitoring Location: At a minimum, measurements shall be regularly taken at the locations to be shown on the Final Site Plan as established by the Applicant's engineer. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner.

Declaration of Restrictions and Covenants

Barnstable Zoning Board of Appeals, Appeal No. 1996 – 14, Condition #10 required that "...at the time of the sale or development of the petitioner's abutting land (located along the westerly boundary of locus) [0 Old Falmouth Road] a 100 foot vegetated buffer along the boundary within the yellow hatched area shall be established. Petitioner agrees to execute a restriction running with the land, in perpetuity subject to the terms of this decision, in a form acceptable to the Town Attorney, encumbering both locus and the abutting land to effectuate the provisions of this restriction." In accordance with this Condition #10, the Applicant's predecessor recorded a Declaration of Restrictions and Covenants in the Barnstable County Registry of Deeds that provided in Section 1 thereof as follows:

Prior to the sale or other conveyance of, or the construction of any improvements on (other than improvements for utility services such as water, sewer, electric and similar utilities), any portion of the Adjacent Parcel [0 Old Falmouth Road] located within 100 feet of the CRC Site, Grantor agrees to establish and maintain a 100 foot vegetated buffer along the westerly boundary of the CRC Site (inclusive of the 100 – foot buffer along the westerly boundary of the CRC Site outside of the hatched area shown on the Site Plan that Grantor is currently required to maintain under the Modified Variance).

Proposed Waiver of Restriction:

The Applicant proposes that it be permitted to record a Waiver of Section 1 of the Declaration of Restrictions and Covenants providing that Section 1 does not apply to the construction of the proposed solar photovoltaic system to be located at 0 Old Falmouth Road. The Waiver will be drawn by Applicant's Counsel to be approved by Town Counsel.

Town of Barnstable
Building Department Services

Brian Florence, CBO
Building Commissioner
200 Main Street, Hyannis, MA 02601
www.town.barnstable.ma.us



Office: 508-862-4038

Fax: 508-790-6230

March 9, 2020

Charles M. Sabatt, Attorney
540 Main Street
Hyannis, MA. 02601

SPR 078-19 Cape Resources (Attorney Charles Sabatt)
"0" and 280 Old Falmouth Road, Marstons Mills
Map/Parcel: 100/007 and 008
Zoning: RF/Solar Photovoltaic Overlay

Proposal: The Applicant will seek to modify its existing Variance by reducing the size of its wood recycling operation from an area of approx. 22 acres to approx. 7 acres. The recycling operation will be located at the southern end of the site. The modification would allow the balance of the site and a portion of "0" Old Falmouth Road (approx. 14 acres) to be used as a solar photovoltaic installation, which is a permitted use in the district. The Applicant also proposes to demolish the existing structures, except for the office, and construct one building that will be used as a maintenance facility.

Dear Attorney Sabatt:

At the formal site plan review meeting held on March 5, 2020, the above proposal was found to be approvable by the Site Plan Review Committee subject to the following conditions and a modification of the existing variance from ZBA.

- **Nathan Collins (Engineering):** Pertaining to the Storm Water Report, impervious surfaces must be shown on the site plan. The site plan needs more detail. Contact: Nathan.collins@town.barnstable.ma.us.
- **Martin MacNeely (COMM):** Applicant has changed the fire access road location; construction will be in accordance as per requirements. The new building will require testing for radio communication. Quantity of material storage was confirmed at 200 yards. Contact: mmacneely@commfiredistrict.com
- **Brian Florence (Building):** The use is allowed. Applicant will be required to seek zoning relief from the Zoning Board of Appeals for a modification of the existing variance. Applicant must provide final detailed plans prior to occupancy permit. Contact Brian Florence at brian.florence@town.barnstable.ma.us .
- **Paul Wackrow (Planning):** Applicant will be required to add parking areas to the site plan. Contact: Paul Wackrow at Paul.Wackrow@town.barnstable.ma.us .
- Applicant must obtain all other applicable permits, licenses and approvals required.
- Upon completion of all work, a registered engineer or land surveyor shall submit a certified "as built" site plan and a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Zoning Section 240-105 (G)). This document shall be submitted prior to the issuance of the final certificate of occupancy

Sincerely,



Brian Florence
Building Commissioner

CC: Site Plan Review Staff

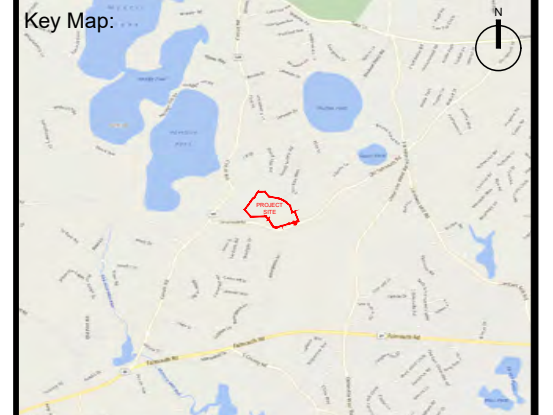


- NOTES:**
- SIGNAGE IS LIMITED TO EMERGENCY CONTACT INFORMATION LOCATED ON EACH ENTRY GATE
 - ALL SIGNAGE SHALL CONFORM WITH LOCAL SIGNAGE REGULATIONS
 - LIGHTING LIMITED TO ONE POLE MOUNTED SECURITY LIGHT AT EACH EQUIPMENT PAD
 - LIGHTING SHALL BE MOTION ACTIVATED AND CONTROLLED BY A FULL CUT-OFF SWITCH INSTALLED WITHIN THE ELECTRICAL EQUIPMENT PERIMETER FENCE.
 - LIGHT DISTRIBUTION SHALL BE FULL CUTOFF
 - ALL LIGHTING SHALL CONFORM WITH LOCAL LIGHTING REGULATIONS
 - WESTERN TREELINE REDELINEATED BY SWCA ON JUNE 3, 2019.

Prepared by:
SWCA
 ENVIRONMENTAL CONSULTANTS
 SWCA Environmental Consultants
 15 Research Drive (p) 413.256.0202
 Amherst, MA 01002 www.swca.com

Survey/ Base Plan Prepared By:
 The Berkshire Design Group
 4 Allen Place, Northampton, MA 01060
 (413) 582-7000
 Email: bdg@berkshiredesign.com
 http://www.berkshiredesign.com

Prepared for:
 Cape Resources Company
 (fka EAC Disposal, Inc.)
 9289 Bonta Bridge Road
 Jordan, New York 13080



Project Title:
**CAPE RESOURCES COMPANY
 280 OLD FALMOUTH ROAD
 MARSTONS MILLS, MA**
 0 Old Falmouth Road
 (Parcel # 100_007)
 280 Old Falmouth Road
 (Parcel # 100_008)
 Zoning:
 RF - Residential District
 GP - Groundwater Protection Overlay District
 GMSPOD - Ground Mounted Solar Photovoltaic Overlay District

Base information and stormwater calculations derived from the Old Falmouth Road, LLC Solar Development plan set approved by the Cape Cod Commission on June, 2019.

Sheet Title:
**SOLAR ARRAY
 AND CAPE ORGANICS
 LAYOUT**

Date:	05-28-2020
Scale:	As Shown
Drawn by:	TS
Checked by:	MM
File #	50792.01

REVISIONS		
REVISION	DATE	BY

Sheet No:
1.0

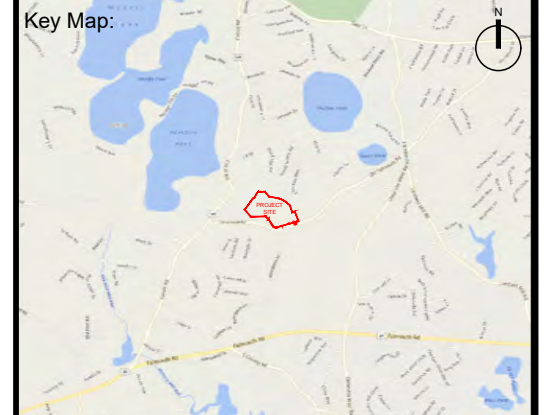


- NOTES:**
- SIGNAGE IS LIMITED TO EMERGENCY CONTACT INFORMATION LOCATED ON EACH ENTRY GATE
 - ALL SIGNAGE SHALL CONFORM WITH LOCAL SIGNAGE REGULATIONS
 - LIGHTING LIMITED TO ONE POLE MOUNTED SECURITY LIGHT AT EACH EQUIPMENT PAD
 - LIGHTING SHALL BE MOTION ACTIVATED AND CONTROLLED BY A FULL CUT-OFF SWITCH INSTALLED WITHIN THE ELECTRICAL EQUIPMENT PERIMETER FENCE.
 - LIGHT DISTRIBUTION SHALL BE FULL CUTOFF
 - ALL LIGHTING SHALL CONFORM WITH LOCAL LIGHTING REGULATIONS
 - WESTERN TREELINE REDELINEATED BY SWCA ON JUNE 3, 2019.

Prepared by:
SWCA
 ENVIRONMENTAL CONSULTANTS
 SWCA Environmental Consultants
 15 Research Drive (p) 413.256.0202
 Amherst, MA 01002 www.swca.com

Survey/ Base Plan Prepared By:
 The Berkshire Design Group
 4 Allen Place, Northampton, MA 01060
 (413) 582-7000
 Email: bdg@berkshiredesign.com
 http://www.berkshiredesign.com

Prepared for:
 Cape Resources Company
 (fka EAC Disposal, Inc.)
 9289 Bonta Bridge Road
 Jordan, New York 13080



Project Title:
**CAPE RESOURCES COMPANY
 280 OLD FALMOUTH ROAD
 MARSTONS MILLS, MA**
 0 Old Falmouth Road
 (Parcel # 100_007)
 280 Old Falmouth Road
 (Parcel # 100_008)
 Zoning:
 RF - Residential District
 GP - Groundwater Protection
 Overlay District
 GMSPOD - Ground Mounted Solar
 Photovoltaic Overlay District

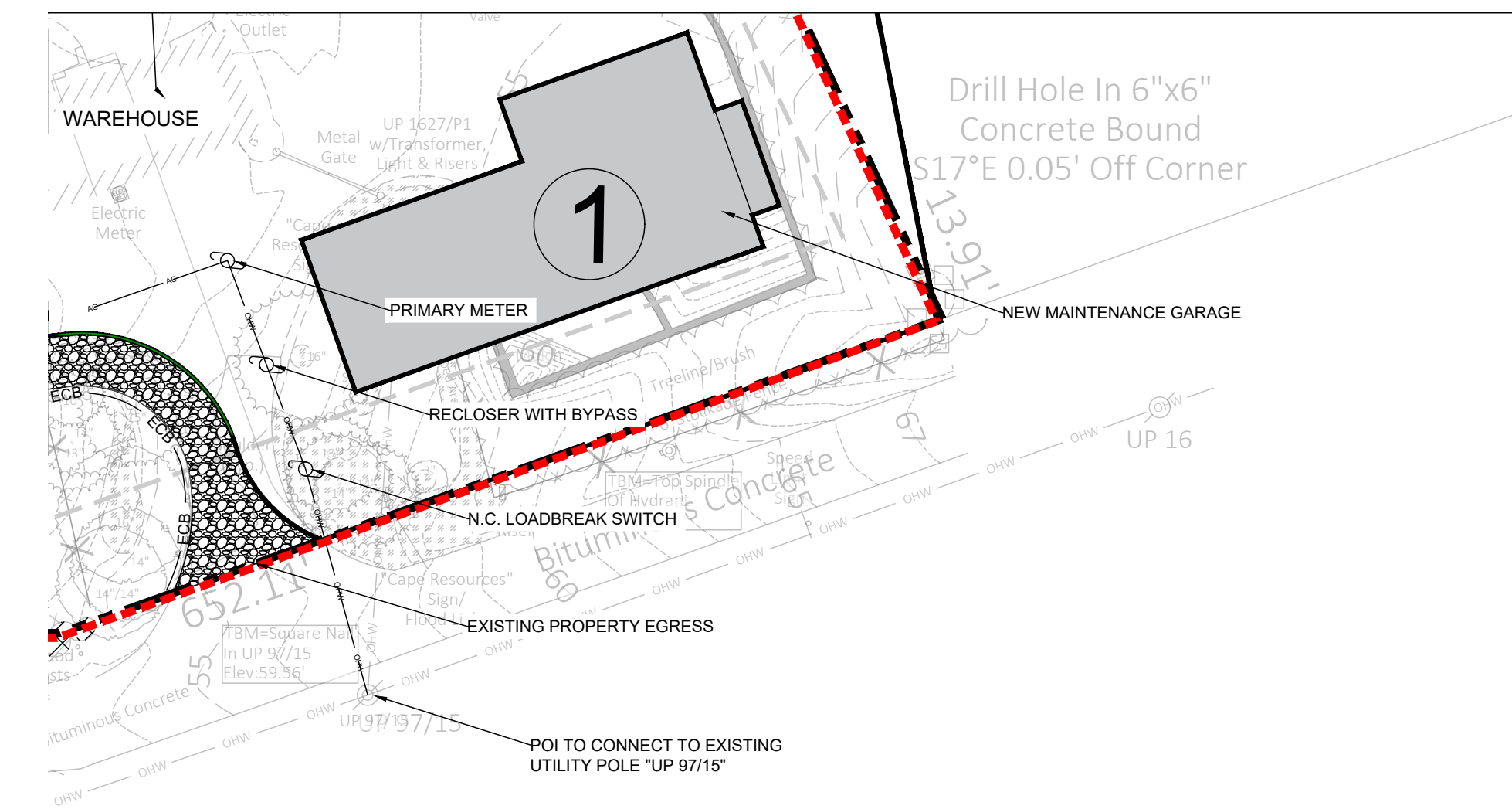
Base information and stormwater calculations derived from the Old Falmouth Road, LLC Solar Development plan set approved by the Cape Cod Commission on June, 2019.

Sheet Title:
**SOLAR ARRAY
 AND CAPE ORGANICS
 LAYOUT**

Date:	05-28-2020
Scale:	As Shown
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REVISIONS		
REVISION	DATE	BY

Sheet No:
2.0



TREES ALONG RIGHT-OF-WAY SHALL BE PROTECTED IN ANY DISTURBANCE OR DYING SHRUB IN ALONG RIGHT-OF-WAY SHALL BE REPLACED WITH CLAR GROUPING OF EASTERN RED CEDAR S VIRGINIANA), ROSE BAY RHODODENDRON (NDRON MAXIMUM), AND INKBERRY HOLLY (ILEX THESE SAME GROUPINGS SHALL BE PLANTED IN IERE THE EXISTING VEGETATION DOES NOT PROVIDE T SCREENING OF THE PROJECT. NEW FENCING WILL ALONG OLD FALMOUTH ROAD, AS NEEDED.

Code	Botanical	Common	Size	Quantity
JUN EA2	Juniperus virginiana	Eastern Red Cedar	6'-8' Ht. 5' o.c.	13
	Mixed Road Planting	Varies	5'-6' Ht. 5' o.c.	130 Est.

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Base information and stormwater calculations derived from the Old Falmouth Road, LLC Solar Development plan set approved by the Cape Cod Commission on June, 2019.

Sheet Title:

**CAPE ORGANICS
 DEVELOPMENT
 LAYOUT**

Date:	05-28-2020
Scale:	As Shown
Drawn by:	TS
Checked by:	MM
File #	50792.01

REVISIONS		
REVISION	DATE	BY

Sheet No:

ION AREAS

age with combined parking in front for commercial traffic (between the garage and office building). The north side of the
 : door to fit larger pieces of equipment. The northwest side will have one or two garage doors, serving as quick access or rental
 : mulch and soil products are kept for resale. Products are separated by concrete block forming bins. The end of the pad will be
 n dispose of yard waste, keeping them safely away from commercial traffic and heavy equipment. (25,000 sf)
 mpostable products are dumped and unscreened loam is held. This area will likely be comprised of wind-rows that are
 ased on the rate of decomposition. (23,100 sf)
 igs, and chips in separated piles. A wood grinder will also be placed in this area, out of the way of commercial traffic. (23,520 sf)
 d raw materials will be stockpiled. (55,580 sf)

BEST MANAGEMENT PRACTICES (BMP) PLAN

Prepared for

Cape Resources Company
280 Old Falmouth Road
Marstons Mills, MA

Prepared by

SWCA Environmental Consultants
15 Research Drive
Amherst, MA 01002
(413) 256-0202
www.swca.com

SWCA Project No. 50792.01

February 2020

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1 General Description of Operations and System Supervision

1.1 Introduction

This section provides information on operations of the Cape Resources Company (CRC) Facility and supervision of those operations.

1.2 General Operations and Materials Received, Produced and Sold to the Public

The CRC Facility is operated to receive the following materials:

- "Brush" material which is natural woody material from land clearing and land maintenance operations and is delivered to the CRC Facility site by truck. Brush is typically comprised of trees, stumps, shrubs, weeds, etc., often mixed with dirt.
- "Yard waste," which is natural lawn clippings, leaves, garden waste, and compostable organics (non-putrescible) delivered to the site by truck.

The CRG Facility is operated to produce the following products:

- "Loam," which is screened soil and dirt
- "Compost," which is composted yard waste and organic material
- "Mulch," which is processed brush and woody material

The CRC Facility is also operated to sell the following products processed at other locations and transported to the site for public sale:

- "Loam," which is screened soil and dirt
- "Compost," which is composted yard waste and organic material
- "Mulch," which is processed brush and woody material
- "Aggregates," which are sands, soils, and processed stone
- Firewood (cut and stockpiled)
- Miscellaneous landscaping products

1.3 Supervision of Operations and Best Management Practices (BMP)

Best Management Practices (BMP) will proceed under the supervision of the CRC General Manager. The General Manager will ensure that individuals performing operations at the CRC Facility are trained and have demonstrated experience managing the receiving, processing, stockpiling, and loading of the materials listed in Section 1.2, along with the associated equipment.

1.4 Operators

CRC operators will be responsible individuals who have been trained and are knowledgeable of the BMP that are pertinent to running and maintaining the CRC Facility. Qualified personnel will be on site at all times during operating hours.

1.5 Hours of Operation

The CRC Facility will be open to the public from 7:00 AM to 4:00 PM, Monday through Friday and 7:00 -3:30 Saturday (April 1 – December 31). On occasion, the facility closes due to inclement weather.

The Facility is typically closed for the following holidays:

- New Year's Day
- Memorial Day
- July 4th
- Labor Day
- Thanksgiving
- Christmas

2 Acceptable Material for Processing

2.1 Acceptable Material

The CRC Facility will only accept brush and yard waste as described in Section 1.

2.2 Non-Acceptable Material

The following waste materials will not be accepted at the site (references in parentheses are from Massachusetts Department of Environmental Protection (MassDEP) Regulations 310 CMR 19).

- Municipal Solid Waste (310 CMR 19.006) defined as residential and commercial solid waste
- Special Waste [310 CMR 19.130(3)] such as asbestos and asbestos-containing materials; infectious waste, including hospital waste; wastewater; drinking water treatment sludge; and industrial process water.
- Banned or restricted waste [(310 CMR 19.130(4))] including lead batteries; tires; white goods; aluminum, metal, or glass containers; plastic products; cathode ray tubes; construction and demolition (C&D) material; ferrous and non-ferrous metals; asphalt-bituminous-concrete (ABC); and paper.
- Hazardous waste [310 CMR 19.130(5)] as defined in the regulations and generally including fuels, paints, radioactive materials, oils, and solvents.
- Bulky waste [310 CMR 130(6)] including white goods, furniture, and auto parts.

2.3 Contingency Plan If Non-Acceptable Materials Are Observed

Table 1 summarizes response actions to the observance of non-acceptable materials being dropped off at the site.

Table 1: Response Actions

If...	Then...
Non-acceptable waste is observed in the load prior to tipping	1.Reject the load. 2.Contact the office and the General Manager.
A special waste is observed after tipping	1.Alert the General Manager of the situation. 2.Follow proper training protocols to contain the waste for proper disposal.

A banned or restricted waste is observed after tipping	1.Sort the banned or restricted waste from the incoming load. 2.Return the banned or restricted materials to the truck after separation.
Hazardous waste is observed after tipping	1.Alert the General Manager of the situation. 2.Follow proper training protocols to contain the waste for proper disposal. 3.Contact an outside hazardous materials (HAZMAT) vendor if on-site personnel cannot properly respond. 4.Determine if MassDEP and Board of Health notification is required.
Bulky waste is observed after tipping	1.Alert the operations manager of the situation. 2.Segregate the bulky waste. 3.Return the bulky waste to the truck after tipping of the unacceptable material.

3 Site Plan

The CRC Facility site layout and process flow was redesigned in 2019 to accommodate a proposed solar array across most of the existing northern commercial area, as well as to improve operations and to mitigate operations impacts to neighboring properties. The entire operation has been consolidated to 5.6 acres, from the original 18.7 acres. The Final Site Plan (and the Final BMP Plan) will be based on input from the Town's Zoning Board of Appeals (ZBA) as part of the modification to the Variance Request and upon input from the neighbors.

The Site Plan is attached as Appendix A and illustrates the following features that are discussed in the following BMP Plan sections.

- Site Buildings
- Brush Processing Area
 - Brush Drop-off Area
 - Brush/grindings Storage Area
- Loam Processing Area
 - Loam Stockpile Area
- Mulch processing Area
 - Mulch Storage Area
- Yard Waste Drop Off Area
- Old Work Boundary
- Proposed New Work Boundary
- Bin Storage (extended)
- New Fence Along Old Falmouth Road
- Solar Boundary Fence

4 Materials Processing

4.1 Introduction

This section describes the materials processing on the site for the following two categories:

- Brush Processing
- Yard Waste Processing

4.2 Brush Processing

Brush processing consists of the following steps located within the storage and processing areas illustrated on Figure 1:

- Trucks drop off brush at the Brush Drop-off Area after tipping. This area is observed on a daily basis for unacceptable material.
- Material is ground once through a larger screen system in the initial CBI grinding. The ground material is then run twice through smaller finish grates to process the material into a consistent mulch product. Color is applied during the secondary grinding phase.
 - Mulch product is stockpiled in Mulch Storage Area.
- Mulch is moved to pick-up area as needed.

4.3 Yard Waste Processing

Yard waste processing consists of the following steps located within storage and processing areas as illustrated on Figure 1.

- Yard waste is dropped off in Yard Waste Area (YWA) 1, which may switch sides depending on the annual storage cycle. Temporary roads are maintained to allow drop off in specific areas.
- Fresh lawn clippings in the summer months are covered with 3 inches of compost to prevent odors.
- The organic decomposition of the material encouraged through a variety of processes, including flipping, or aerating the piles on a weekly basis and by adding residual wood grindings and moisture to the grass and leaves, allowing for a much faster process.
- After composting, the compost is removed with a loader and screened at the Final Screening Area.
- Compost is stockpiled and moved to the Pick-up Area as needed.
- Tailings (rocks, sticks, etc.) are moved to the Tailing Storage Area and ultimately used for berm construction. There is a small storage area for tailing on site, and CRC has the ability to haul tailings off-site or re-process them on-site.

5 Equipment and Maintenance

5.1 Introduction

Equipment is on site for proper and efficient material processing. The site equipment and its uses are listed in table 2 below:

Table 2: Equipment Inventory

Piece of Equipment	Stationary/Mobile	Use
CAT D6 Bulldozer	Mobile	Stack and push brush piles to aid in decomposition of natural yard waste
DOPPSTADT Primary	Stationary/Mobile (1)	Shred brush
CBI Colorizer	Stationary/Mobile (1)	Size and color mulch
Screen	Stationary/Mobile (1)	Final screening of compost and loam
Water Truck	Mobile	Dust control
Excavator	Mobile (2)	Materials management/ machine loading
Loaders (2 to 3)	Mobile	Materials management/ machine loading

(1) These pieces of equipment can be relocated on the site within the designated area for their use.

5.2 Contingency Plan for Equipment Failure

If equipment failure occurs, the General Manager will coordinate with the maintenance personnel to repair and/or replace the equipment.

5.3 Maintenance

All equipment is inspected and maintained as recommended by the equipment manufacturer.

6 Accident Prevention and Safety

6.1 Introduction

This section provides information about accident prevention and safety at the facility.

6.2 Safety

All employees will be trained to work safely. Operational procedures and training will be given to all employees who are involved with the operations at the CRC Facility. This training will identify proper operation techniques and identify hazards that individuals may encounter while working at the facility. Accident prevention and safety activities will consist of the following:

- Safety meetings
- Scenario response / emergency contingency
- Pre-employment training
- Ongoing training

The CRC Facility currently employs several individuals who are Occupational Safety and Health Administration (OSHA) 40-hour Hazardous Waste Operations and Emergency Response (HAZWHOPPER) trained and OSHA 10- hour certified. These trained personnel will maintain certification and attend annual refresher courses.

6.3 First-Aid

A fully stocked site-appropriate first-aid kit is available at the office and maintenance garage for use in the event of an accident and to aid when responding to emergency medical situations.

- Eye wash stations in work areas.

6.4 Communication

The phone numbers for emergency response agencies will be posted in the immediate vicinity of all the telephones located throughout the CRC Facility. Also, two-way radios are provided to site personnel.

7 Odor, Dust, Noise, and Litter Control

7.1 Introduction

The purpose of this section is to establish procedures for assessing, identifying, and controlling odors, dust, noise, and litter (i.e. nuisances) that may emanate from the CRC Facility.

7.2 Assessment and Inspections

Site personnel inspect the CRC Facility daily. If nuisance conditions are noted during the inspection, personnel will take action to rectify the nuisance and complete an "inspection form" that identifies the following:

- Location where odors, dust, noise, and/or litter were noted (or other nuisance conditions)
- Direction of the prevailing wind and weather conditions
- Corrective actions needed (i.e., compost application, excavation, water, pick up litter, etc.)
- Name of the inspector
- Time and date of the inspection

7.3 Equipment On-site

The following on-site equipment will be made available to address nuisance conditions generated by the CRC Facility:

- Loaders
- Excavators
- Trucks
- Hand tools
- Other necessary equipment (e.g. - pumps, retainers, etc.)

7.4 Odor Control

Since odors are usually associated with the biological breakdown of yard waste, an adequate amount of odor control materials shall be maintained on-site at all times. In addition to operational procedures, this odor control material shall consist of the following:

- Compost: for covering potential odor sources

- Water: for suppressing odor generation

7.5 Dust Control

Dust is usually generated from windy conditions, operation of machinery, and movement of material. Site personnel will utilize the following when a nuisance condition associated with dust occurs:

- Water application with the water truck

7.6 Corrective Action Procedures for Odor and Dust

Table 3 defines the procedures for addressing nuisance conditions at the CRC Facility.

Table 3: Procedures for Addressing Nuisance Conditions

If inspection identifies...	Then CRC Facility personnel will...
Odors and/or dust on a windy day during operations	Apply water or stop processing until the wind has subsided or the odors and/or dust have been properly controlled.
Odors and/or dust on a hot day during operations	Apply water or stop processing until the weather conditions do not promote nuisance conditions.
Odors and/or dust are being promoted due to operations	Apply compost, and/or a water mist to control the odor and/or dust.
Odors and/or dust that are emanating from newly excavated areas	Cover the excavated areas in between processing periods to alleviate prolonged odor conditions.
Odors and/or dust due to a fire situation	Control the fire situation as quickly as possible (see Fire Protection and Control section).
Odors are evident from yard waste composting area	Cover fresh clippings and/or other odorous material with finished compost material as carbon source and cover

7.7 Off-site Disposal

If materials are identified on-site that pose a substantial nuisance problem that cannot be managed with the corrective actions listed in Table 3, the actions in Table 4 will take place:

Table 4: Nuisance Corrective Actions

Step	Action
1	Identify the material that is causing the odor.
2	Cover or contain the material and its odor until it can be loaded for off-site disposal.
3	Load the material into a transport vehicle for disposal.
4	Dispose of the material at a licensed facility.

7.8 Noise Control Protocols

The CRC Facility incorporates the necessary steps to prevent off-site nuisance noise conditions from occurring. The protocols in Table 5 are followed when necessary:

Table 5: Noise Corrective Actions

Step	Action
1	Process brush in low-lying areas when possible.
2	Process between the hours of 7:00 AM and 4:00 PM.
3	Position processing equipment to minimize noise transmission to the neighbors.
4	Be responsive to neighbors' complaints.
5	Employ the use of multi-frequency back-up alarms on all mobile equipment.

7.9 Litter Control

Since the CRC Facility accepts only brush and yard waste, the CRC Facility does not anticipate a nuisance litter condition. However, should a nuisance litter condition be identified through site investigations and daily operations, site personnel will pick up the litter and dispose of it properly.

7.10 Good Neighbor Policy

The CRC Facility has implemented a "good neighbor" policy when assessing and addressing potential nuisance conditions. The CRC Facility is committed to:

- Addressing nuisance conditions in a timely fashion
- Inspecting the facility and operations (previous or on-going) after any complaint
- Halting activities that may promote nuisance conditions
- Implementing the necessary corrective actions
- Responding to all neighbor complaints

8 Stormwater Control

8.1 Introduction

The following section provides information relative to stormwater controls at the CRC Facility. A comprehensive stormwater report was developed for the entirety of the site in June 2019 as part of the proposed solar development approved by the Cape Cod Commission. A copy of the approved stormwater report is included in Appendix B.

8.2 Definition

Stormwater controls will be implemented to prevent erosion, flooding, and the discharge of pollutants.

8.3 Stormwater Control

The site contains deposition and reclamation areas that are graded so that stormwater is directed toward existing stormwater detention and infiltration basins. It should be noted that this facility has not placed nor created impermeable surfaces, therefore high-volume stormwater runoff does not occur. In addition to operational procedures, stormwater controls at the CRC Facility consist of:

- Grading
- Infiltration basins

- Detention pond
- Channels and ditches

8.4 Corrective Actions

The following corrective actions in Table 6 take place at the CRC Facility as necessary.

Table 6: Stormwater Corrective Actions

If	Then
Siltation becomes apparent within the stormwater control areas	<ol style="list-style-type: none">1. Measures will be taken to slow down the stormwater flow.2. Measures shall include creating additional channels, regrading, and/or diffusing the stormwater flow.
Major erosion is observed	The eroded areas will be backfilled, and a silt fence placed to prevent further erosion.
Flooding should occur	<ol style="list-style-type: none">1. Efforts will be made to correct the flooding situation.2. Efforts will include pumping, creating channels to alternate areas, and excavation.

9 Facility Access, Security, and Posting

9.1 Introduction

The following section provides information about facility access, security, and posting.

9.2 Access, Gates & Security

The CRC Facility has a gate installed at the driveway entrance. The facility gate is locked during off-hours and if no qualified attendant is available. Facility personnel inspect the site daily for security purposes to ensure that unauthorized access is not easily gained.

9.3 Posting

The CRC Facility requires all clients to become familiar with the delivery procedures and operational hours. Therefore, signs have been posted at the facility entrance with the following information:

- Name of the owner and operator of the facility
- 24-Hour emergency contact number for the facility
- Operational hours

10 Fire Protection and Control

10.1 Introduction

The purpose of this section is to outline procedures for assessing, identifying, controlling, and reporting fires at the CRC Facility.

10.2 Assessment and Inspections

The CRC Facility is inspected daily. If a fire is noted during an inspection, responsive actions will take place and an "inspection form" shall be completed and shall identify the following:

- Location of fire
- Size of the area (small, medium, large, etc.)
- Corrective action needed (i.e., excavation of hot spot, water, etc.)
- Name of the inspector
- Time and date of the inspection

10.3 Equipment On-site

The following equipment is available to address any on-site fire conditions:

- Loaders
- Excavators
- Trucks
- Water pumps
- Fire hose
- Fire hydrant
- Hand tools
- Other necessary equipment (e.g. protective clothing, respirators, etc.)

10.4 Water Sources

On-site water sources consist of the following:

- Fire hydrant along Old Falmouth Road
- Municipal water service
- One private well

10.5 Fire Protocol

The following table defines the protocols for addressing fire situations at the CRC Facility.

Table 7: Fire Protocol

If visual inspection identifies...	Then CRC Facility personnel will...
A smoke plume from one area of buried yard or waste	Fill the opening where smoke is emanating with water to suffocate the fire through oxygen deprivation.
Fire and/or flame from an area of the site	Spray with water. Utilize equipment to excavate and expose hot spots (burning wood) and place copious amounts of water directly on the burning wood until the fire is extinguished.
A fire that cannot be controlled by on-site water sources and equipment	Call the Centerville-Osterville-Marstons Mills (COMM) Fire Department to assist in putting out the fire.

10.6 Health & Safety

All site employees shall take reasonable precautions when attempting fire response actions. If on-site conditions appear dangerous and corrective actions do not appear to be controlling the situation, the CRC Facility shall notify the Centerville-Osterville-Marstons Mills (COMM) Fire Department immediately and request assistance.

10.7 Open Burning

Open burning is not conducted at the CRC Facility.

11 Operational Records

11.1 Introduction

The following section provides information about operational records and reports at the CRC Facility.

11.2 Daily Tracking

Daily logs are maintained at the CRC Facility and serve to track:

- The amounts of incoming and outgoing materials (mass and/or volumes)
- Proper records for reporting purposes including:
 - Maintenance
 - Equipment logs
 - Complaints
 - Rejected loads
 - Site supplies
 - Etc.
- Specific reporting protocols and procedures
 - Inspections
 - Process data
 - Nuisance issues
 - Etc.



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Variance No. 2020-025 – EAC Organics, Inc
Modify Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14

To allow the Petitioner to modify existing Variance to maintain two principal uses on one lot

Date: July 24, 2020
To: Zoning Board of Appeals
From: Planning and Development Staff

Petitioner **EAC Organics, Inc d/b/a Cape Resources**
9289 Bonta Bridge Road, Jordan NY 13080

Property Address: "0" and 280 Old Falmouth Road, Marstons Mills, MA
Assessor's Map/Parcel: 100/007 and 100/008
Zoning: Residence F (RF), Groundwater Protection Overlay (GP) and Ground-Mounted Solar Photovoltaic Overlay Districts

Filed: June 19, 2020

Hearing: August 12, 2020

Decision Due: September 27, 2020

Copy of Public Notice

EAC Organics, Inc, d/b/a Cape Resources have petitioned for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at "0" Old Falmouth Road. The Petitioner seeks to reduce the area of the wood waste re-cycling operation. The subject properties are located at 280 Old Falmouth Road and "0" Old Falmouth Road, Marstons Mills , MA as shown on Assessors Map 100 as Parcel 008 and Map 100 as Parcel 007. Both lots are located in the Residence F (RF) Zoning District, Groundwater Protection (GP) and the Ground-Mounted Solar Photovoltaic Overlay Districts.

Background

Cape Resources Company is one of the largest producers and suppliers of bark mulch and soil products for the Cape. The company operates by accepting landscape debris (brush, stumps, logs, leaves and grass clippings) from landscape contractors and individuals, and recycling that waste product into wood chips, bark mulches and screened compost and loam for reuse in landscape and garden applications.

The company operates from the 21.32-acre site located at 280 Old Falmouth Road in Marstons Mills. It is located on Old Falmouth Road between Route 149 and Flint Street and is situated across from the Town's Transfer Station property.

EAC Disposal, Inc., the parent company of Cape Resources, also owns the abutting 17-acre parcel to the west. To the east is an open space lot which is a part of the 18-acres of open space owned by the Holly Homeowner's Association. That land is a part of the 1986 subdivision that created the 26 lots on Chuckles Way (Subdivision No. 633). To the north is a larger, 1979 residential subdivision known as Fair Acres (Subdivision No 427). The 94 lots in that subdivision are roughly bounded by the site, Route 149, and Flint Road.

The entire area is zoned Residence F and permits only single-family use. However, some of the lots fronting on Old Falmouth Road, Flint Street and Osterville-Barnstable Road are being used for non-residential purposes either as pre-existing nonconforming uses or, as in this case, by use variances granted a number of years ago.

Section 240-44 Ground-Mounted Solar Photovoltaic Overlay District was approved in 2010 and its purpose was to promote the creation of new large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. The provisions of the Section apply to the construction, operation, and/or repair of large-scale, ground-mounted solar photovoltaic installations.

History of Development

According to the information contained in the Zoning Board of Appeals files, the use of the property dates to 1973.

1973: On May 21, 1973, the Board of Selectmen issued a permit to Lebco Enterprises, Inc., for a 21-plus-acre lot fronting on Old Falmouth Road (Map 100, parcel 008). That permit authorized the use of the property to operate a sand and gravel removal pit and a wood and stump dump. That permit was issued under the “Removal of Soil, Sand and Gravel and the Sand Pits” bylaw of that time (Article XIII of Chapter III). The permit was not issued under the Zoning Bylaws of the Town (then Article III of Chapter III).¹

1975: That permit from the Selectman’s Office did not override zoning and on April 22, 1975, Lebco Enterprises, Inc., made application to the Zoning Board of Appeals for a variance to Section I - Use Regulations Residential Districts - to allow the sand & gravel and a wood & stump operation in a district that permitted only a detached one-family dwelling,² a use variance to the principal permitted uses in the then Residence D-2 Zoning District.

On August 28, 1975, the Zoning Board of Appeals issued use variance No. 1975-34 allowing for the removal of sand and gravel and re-filling of those areas with wood and stumps. The variance was subject to several conditions that included a time limit on the operations, buffer areas, annual inspection and limited the excavation to 4-feet above groundwater. The approved plan for the site included an area 1,800 feet wide to be used for the wood and stump fill area, a 200-foot vegetated buffer along Old Falmouth Road, and a 35-foot landscaped buffer along the property edge to the east and northeast. The northern most triangular area of the lot was shown to be retained in its natural state.

1978: In 1978, Lebco Enterprises, Inc., made application to the Zoning Board to modify the use variance to allow for tires and demolition materials to be dumped at the site (Appeal No. 1978-24). On June 7, 1978, the Board issued its decision allowing the requested modification of use variance No. 1975-34.

1994: In June of 1994, two applications were made by Cape Resources, Inc., to the Zoning Board. Appeal No. 1994-62 appealed a Cease and Desist Order issued by the Building Commissioner against the retail sales of materials from the site, and Appeal No. 1994-63

¹ Article XIII, Chapter III at that time was the “Public Health, Safety, Welfare, Convenience and Good Order” bylaws of the Town.

² Note that this situation was found to also have existed with regards to the establishment and operation of the Gifford Brothers Sand & Gravel.

sought a modification of the use variance to allow for the retail sales of products produced both on and off site. In July of 1994, the Board issued its decisions on the appeals, upholding the Commissioner's cease and desist order on retail sales from the site and, at the request of the Applicant, granting a withdrawal without prejudice of the modification application. Both decisions were appealed.

Later in August of 1994, the Building Commissioner again issued a cease and desist order to Cape Resources citing not only the retail sales but also violation of the original use variance in terms of the operational area³, buffer zones, and retail sales. That cease and desist order was also appealed to the Zoning Board and on October 17, 1994, the Board upheld the decision of the Building Commissioner. Cape Resources again appealed that decision of the Board to Land Court.

1995: In May of 1995, the Building Commissioner issued:

-) Another cease and desist order to Cape Resources Inc., for the retail sales from the site.
-) A request to the Zoning Board of Appeals to rescind the original 1975 use variance and its 1978 modification, and :
-) A request to the Town Manager seeking to initiate a restraining order to stop the activities at Cape Resources.

The Commissioner's request resulted in the Zoning Board agreeing to call for a "show cause" public hearing, on why the 1975 use variance and its 1978 modification should not be revoked. With regards to the cease and desist order issued by the Commissioner, Cape Resources again appealed that to the Zoning Board. On August 9, 1995, the Board issued its decisions, withdrawing the request to revoke the use variance and upheld the Building Commissioner's cease and desist order (Appeal 1995-77).

1996: In 1996, the Building Commissioner again cited Cape Resources with a Cease and Desist Order upon which the company again appealed that order to the Zoning Board (Appeal no. 1996-13). On a corresponding path, and after considerable input from Town and State agencies, a revised plan for the operation of the site was developed and submitted to the Zoning Board along with a request from EAC Disposal Inc, d/b/a Cape Resources Inc., to modify the original 1975 use variance and the 1978 modification (Appeal No. 1996-14). Upon the granting of that modification, on March 26, 1996, the appeal of the Building Commissioner was withdrawn.

In granting Appeal No. 1996-14 to modify the original use variance No. 1975-34 and its 1978-24 modification, the Board imposed 29 conditions and in doing so replaced all of the prior variances issued to the property.

2008: On October 22, 2008, Peter and Rose Kohler, who reside at 150 Chuckles Way, Marstons Mills, MA, appealed the Building Commissioner's September 22, 2008 determination that no enforcement action was needed with respect to the activities being carried on by Cape Resources. On November 4, 2009 the Board found to uphold the Building Commissioner (Appeal No. 2009-004).

³ At this time, the operation also received a Notice of Non-compliance from the Department of Environmental Protection (DEP) due to the extent of the operations being conducted on the site.

- 2009:** June 12, 2009, Peter and Rose Kohler appealed the May 15, 2009 Building Commissioner’s response concerning delivery of mulch to Cape Resources. On July 8, 2009, the Board ruled to uphold the decision of the Building Commissioner that the delivery of the mulch was not in violation of Condition 5 of the use variance (Appeal No. 2009-040).
- 2010:** January Site Plan Review to review site plan prior to Zoning Board of Appeals. Appeals Court case dismissal February 18, 2010. Zoning Board of Appeals March 24, 2020 Variance No. 2009-025 for a modification of Variance No. 1996-14 to allow for revisions to the site that include new wood processor and staging area, alteration to interior site circulation and additions and alterations to screening berms and landscape. Public Meeting held on December 15, 2010.
- 2011:** ZBA hearings held on July 27, 2011 and on December 14, 2011.
- 2012:** EAC filed a complaint with Superior Court (ZBA 2009-025) objecting to certain conditions in 2009-025 Decision.
- 2016:** DRI Scoping Session November 10, 2016 that determined no further DRI review is needed for the proposed solar installation.
- 2017:** Site Plan Review No. 44-16 approved January 5, 2017 for proposed solar facility and associated improvements.
- 2019:** Site Plan Review No. 31-19 for a renewable 20 year lease with SunRise Development LLC, a ground mounted solar array operation, was approved June 28, 2019.
- 2020:** Site Plan Review No. 78-19 for a second principal use (solar array) and reduction of the Cape Resources use and demolish the existing structures, except the office, and construct a maintenance facility.

Proposal & Relief Requested

EAC Organics, Inc, d/b/a Cape Resources have petitioned for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road. The Petitioner seeks to reduce the area of the wood waste re-cycling operation.

The two overriding modifications that the Petitioner seeks are 1. Permission to maintain two principal uses, the solar photovoltaic system and the wood waste recycling business, on the property at 280 Old Falmouth Rd and 2. A modification of the variance conditions enabling the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road in the areas shown of the site plan submitted without the requirement of establishing and maintaining a 100 foot vegetated buffer along the westerly boundary line of the Cape Resources property at 280 Old Falmouth Road.

Two structures, including the current warehouse/maintenance building will be removed. The office building will remain. A new warehouse/maintenance building consisting of 3200 square feet will be constructed.

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

- owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
- a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; 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 ordinance.

An application for a variance that has met all three requirements “does not confer ... any legal right to a variance.” The Board still has the discretionary power to grant or not to grant the variance.

Suggested Variance Conditions

Should the Board find to grant Variance No. 2020-025 to allow the Petitioner to maintain two principal uses on one lot at “0” and 280 Old Falmouth Road, Marstons Mills, MA, it may wish to consider the following conditions:

1. Variance No. 2020-025 is granted to EAC Organics Inc d/b/a Cape Resources to for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road..
2. The site development shall be constructed in substantial conformance with the site plans entitled “Solar Array and Cape Organics Layout” Sheets 1-3 dated May 28, 2020 prepared by SWCA Environmental Consultants.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the uses (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. All conditions set forth in the Site Plan Review approval letter dated March 9, 2020 are hereby incorporated in this Decision.
6. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this Variance must be exercised within one year, unless extended.

Copies: Petitioner (c/o Attorney Sabatt)
Attachments: Application
 Aerial Photo
 Building and Site Plans
 Assessor’s Record
 Copy of Variance No. 2009-025



BARNSTABLE
TOWN CLERK Stamp
20 JUL -9 P 3:04

**Town of Barnstable
Zoning Board of Appeals
Application for a Special Permit**

For Office Use Only	
Date Application Received:	Appeal No.: 2020-026
Hearing Due Date:	Hearing Date:
Decision Due:	

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner(s) Name¹: Julie Grady Phone: 941-786-5760
 Petitioner(s) Address: 423 S. Creek Drive, Osprey, FL 34229

Property Location: 521 Main Street, West Barnstable, MA 02668
 Property Owner: Julie Grady Phone: 941-786-5760
 Address of Owner: 423 S. Creek Drive, Osprey, FL 34229
Street Number and Street Name City/Village State Zip

If petitioner(s) differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed C204011 Plan _____

Assessor's Map/Parcel Number: 133-033 Zoning District _____

Number of Years Owned: 60 Groundwater Overlay District: _____

Special Permit Requested: 274.42 Single Family Apartments AP, GP or WP
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: Approval for family apartment of former affordable housing apartment. Detached apartment for mother to live in.
Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No Yes []:
If Yes, please list Appeal #'s

¹ The Petitioner(s) Name will be the entity to whom the special permit will be issued to.
² If the Petitioner differs from owner, the Petitioner will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): NA

Attach additional sheet if necessary

Existing Level of Development of the Property- Number of Buildings 2

Present Use(s): Family home

Existing Gross Floor Area: 01632 sq. ft. Proposed New Gross Floor Area: Same sq. ft.

*Site Plan Review Number: _____ * Date Approved: _____

*(Not required for Single or Two Family use)

Is the property located in a designated Historic District?.....	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Is this proposal subject to the jurisdiction of the Conservation Commission	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Is this proposal subject to approval by the Board of Health.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Is the building a designated Historic mark?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Have you applied for a building permit?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Have you been refused a building permit?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

The following required information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature:  Date: 7/3/20
Petitioner(s) or Representative's Signature³

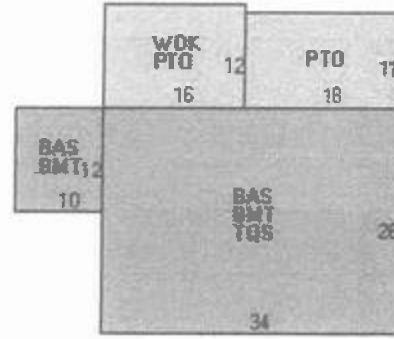
Print Name: Julie Grady

Address: 521 Main Street Phone: 941-786-5760
West Barnstable, MA 02068 Fax No.: _____

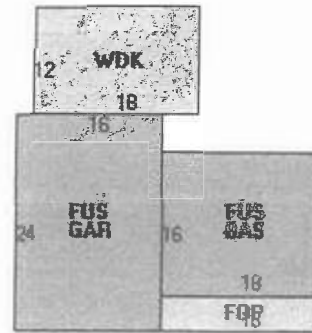
e-mail Address: juliegrady@comcast.net

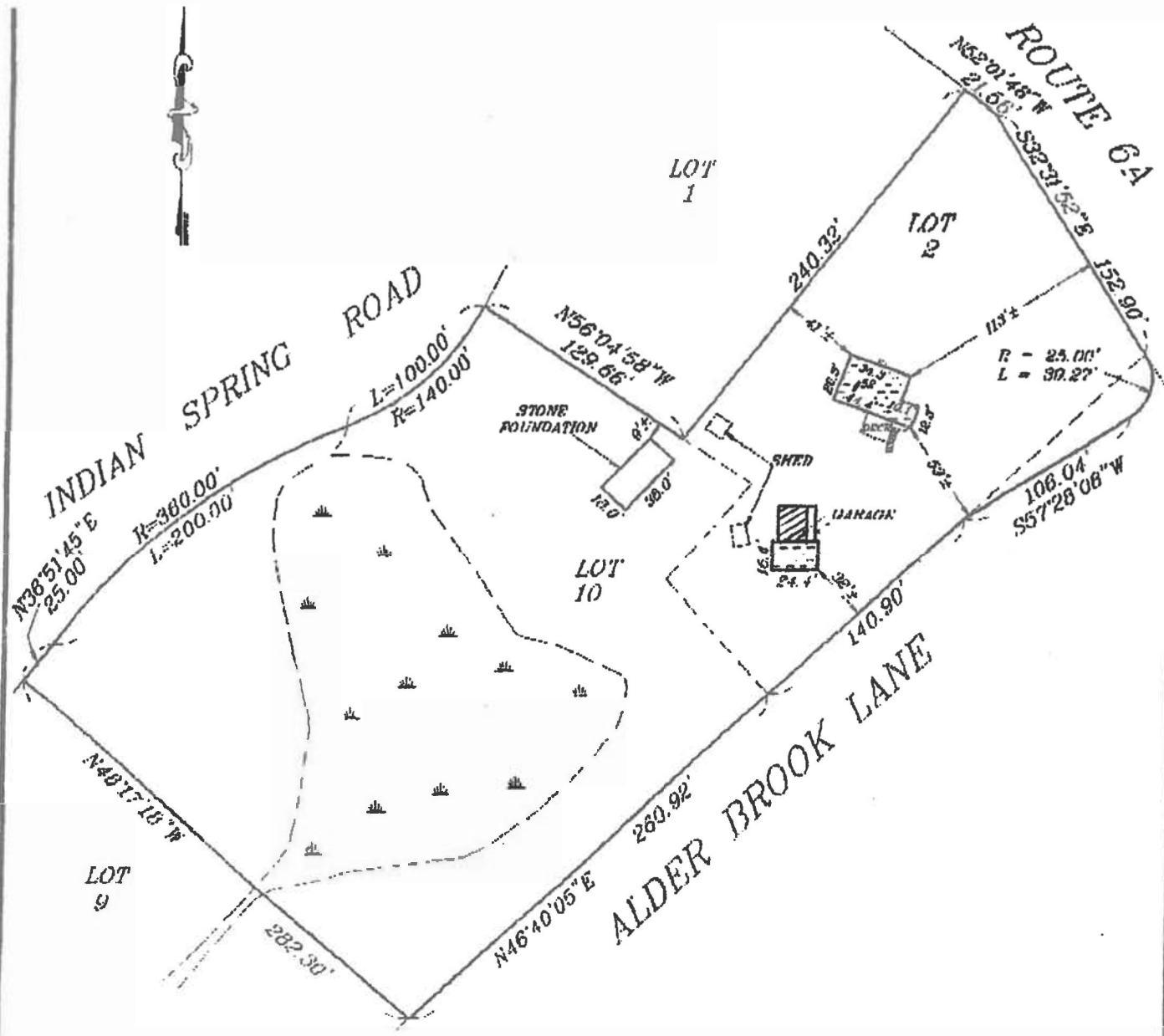
³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Petitioner/Owner shall be required.

Building value	\$ 292,300	Bedrooms	3 Bedrooms	USE CODE	1090
Replacement Cost	\$208,365	Bathrooms	2 Full-0 Half	Lot Size (Acres)	0.94
Model	Residential	Total Rooms	6Rooms	Appraised Value	\$ 224,400
Style	Cape Cod	Heat Fuel	Oil	Assessed Value	\$ 224,400
Grade	Average	Heat Type	Hot Water		
Year Built	1973	AC Type	None		
Effective depreciation	24	Interior Floors	Hardwood		
Stories	1 1/2 Stories	Interior Walls	Drywall		
Living Area sq/ft	1,579	Exterior Walls	Clapboard		
Gross Area sq/ft	3,474	Roof Structure	Gable/Hip		
		Roof Cover	Asph/F Gls/Cmp		



Building		Details		Land	
Building value	\$292,300	Bedrooms	2 Bedrooms	USE CODE	1090
Replacement Cost	\$145,584	Bathrooms	1 Full-0 Half	Lot Size (Acres)	0.94
Model	Residential	Total Rooms	5	Appraised Value	\$ 224,400
Style	Conventional	Heat Fuel	Electric	Assessed Value	\$ 224,400
Grade	Average	Heat Type	Elec Baseboard		
Year Built	2006	AC Type	None		
Effective depreciation	8	Interior Floors	Carpet		
Stories	2 Stories	Interior Walls	Drywall		
Living Area sq/ft	960	Exterior Walls	Wood Shingle		
Gross Area sq/ft	1,632	Roof Structure	Gable/Hip		
		Roof Cover	Asph/F Gls/Cmp		





BY: DAVID & JULIE GRADY, Wm. J. RUSSELL SR & CAROLE HASSFEL

RES. ZONE: "RF" This MORTGAGE INSPECTION Plan is for FLOOD ZONE: "C"
Bank Use Only

TOWN: WEST HARNSTABLE REGISTRY OWNER: BRUCE L. & KATHY A. CHARBONEAU
DEED REF: 10123/272 BUYER: SEE ABOVE
DATE: 5/26/2000 PLAN REF: 256/96, 273/51 & 3700R SCALE 1" = 90' FT.

I HEREBY CERTIFY TO CAPE COD COOPERATIVE BANK THAT THE BUILDING SHOWN ON THIS PLAN IS LOCATED ON THE GROUND AS SHOWN AND THAT ITS POSITION DOES CONFORM TO THE ZONING LAW SETBACK REQUIREMENTS OF THE TOWN OF HARNSTABLE AND THAT IT DOES NOT LIE WITHIN THE SPECIAL FLOOD HAZARD AREA AS SHOWN ON THE H.U.D. MAP DATED 7/2/92 Community-Panel # 250001 0011 D



YANKEE SURVEY CONSULTANTS
40B (SUITE 1)
INDUSTRY ROAD
MARSTONS MILLS, MA. 02648
TEL: 428 0066
FAX: 420-5553

Paul A. Merithew
PAUL A. MERITHEW, PLS

THIS PLAN NOT MADE FROM AERIAL PHOTOGRAPHY SURVEY, NOT TO BE USED FOR FENCES, ETC.

28915 AA

101 FLOOR
Accessory Apartment

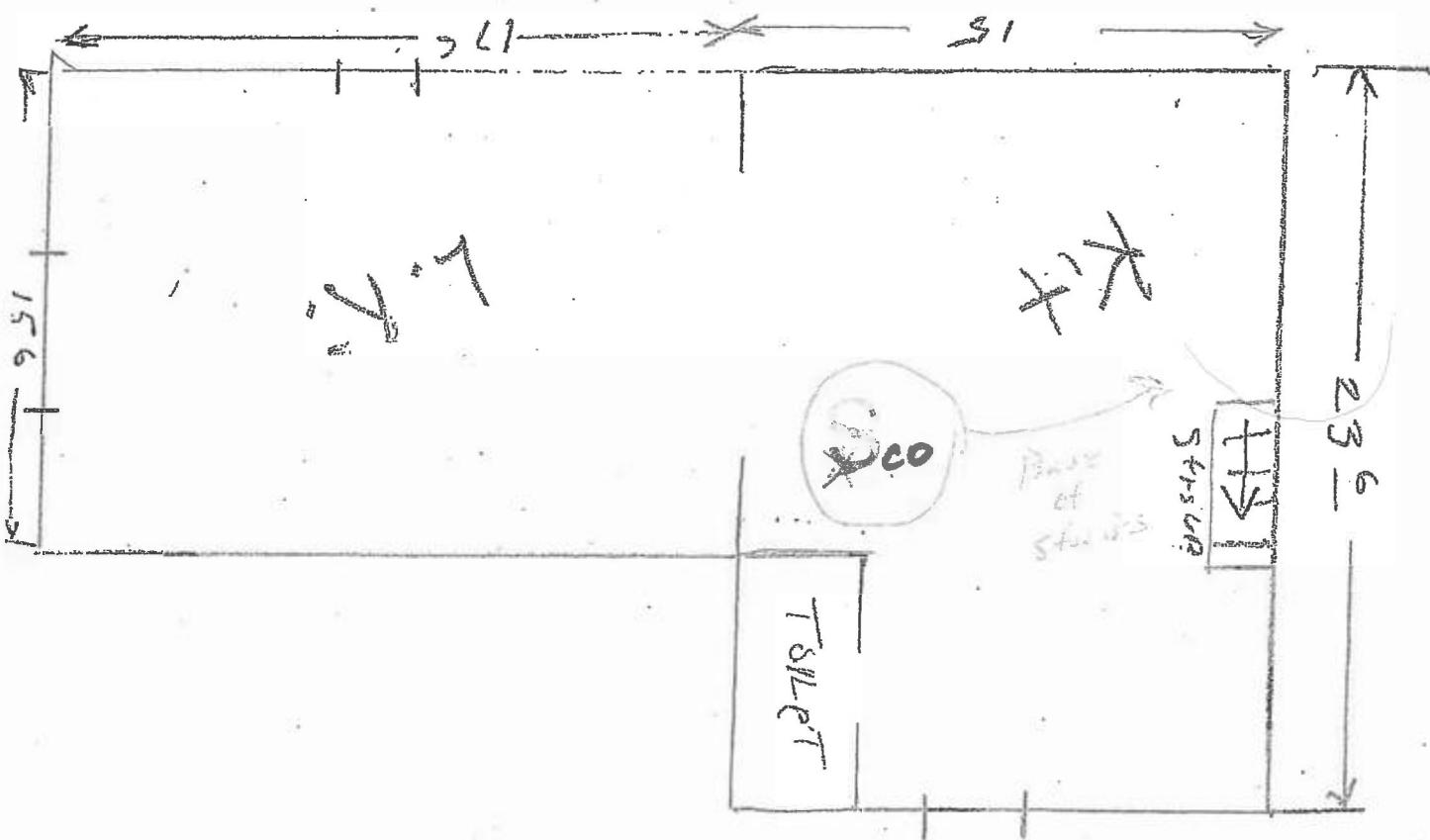
SMOKE DETECTOR REVIEWED
Robert McFadden 11/05/12
BARNSTABLE BUILDING DEPT. DATE

FIRE DEPARTMENT DATE

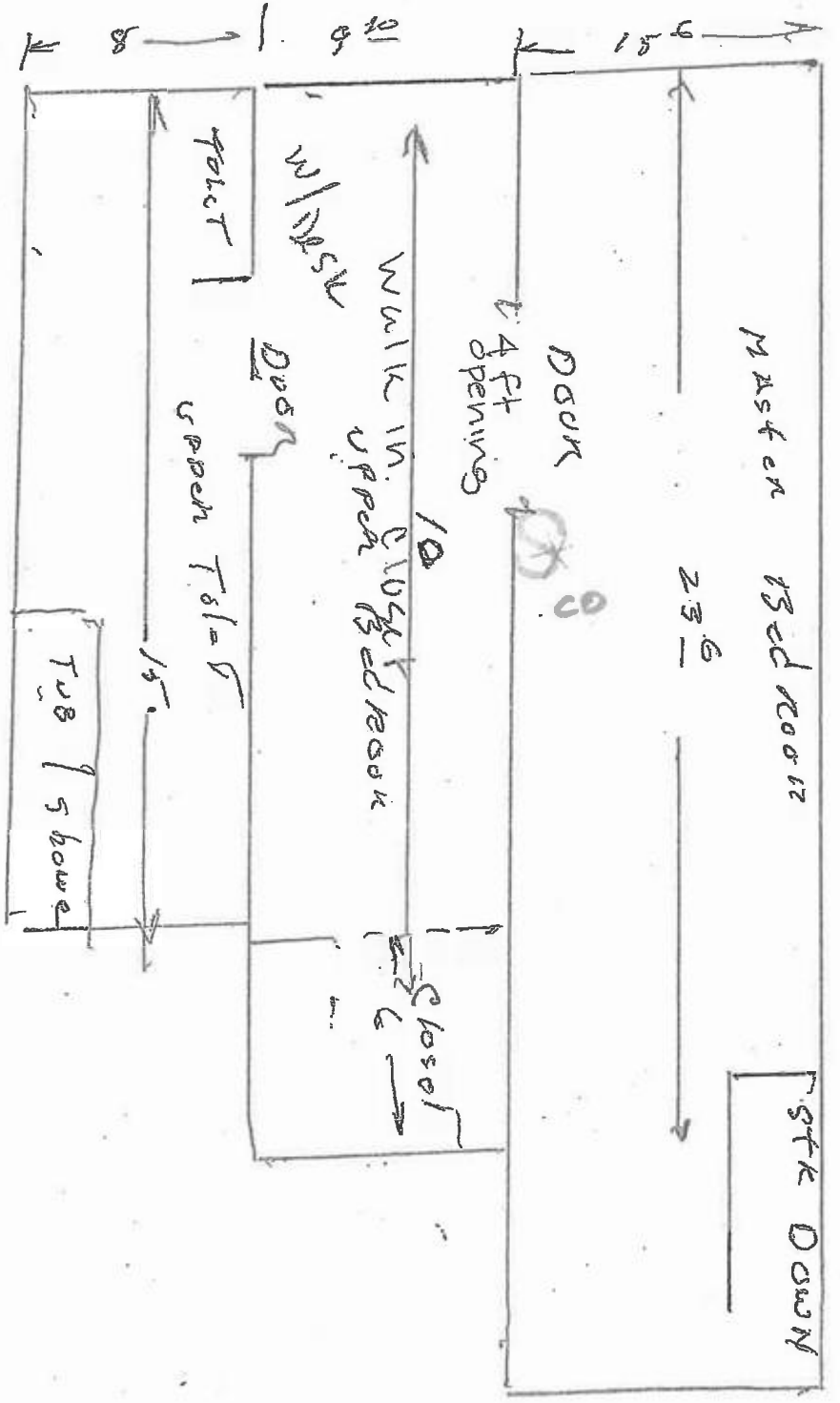
BOTH SIGNATURES ARE REQUIRED FOR PERMITTING

APT ONLY

CARBON MONOXIDE ALARM
MUST BE INSTALLED PER
MASSACHUSETTS BUILDING CODE



2ND FLOOR Accessory Apartment





Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Special Permit No. 2020-026 – Grady
Section 240-47.1 (B) – Family Apartment

To establish a family apartment in detached accessory dwelling

Date: August 13, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **Julie Grady**
Property Address: 521 Main Street, West Barnstable, MA
Assessor's Map/Parcel: 133/033
Zoning: Residence F (RF)

Filed: July 9, 2020

Hearing: August 26, 2020

Decision Due: November 24, 2020

Copy of Public Notice

Julie A. Grady has applied for a Special Permit pursuant to Section 240-47.1.B (4) Family Apartments and pursuant to Section 240-125C – Special Permit Provisions. The Applicant is proposing to convert an existing detached apartment unit, previously used as an accessory apartment unit in the Accessory Affordable Apartment Program (AAAP), into a family apartment. The subject property is located at 521 Main Street, West Barnstable, MA as shown on Assessor's Map 133 as Parcel 033. It is located in the Residence F (RF) Zoning District.

Background

The subject property consists of a 0.94 acre lot with frontage on Main Street/Route 6A and Alder Brook Lane, West Barnstable. According to the Assessors records, the lot is currently developed with two separate structures. One is a single family dwelling consisting of 1,579 square feet of living area (3,473 gross square feet), 3 bedrooms, and constructed in 1973. The second structure consists of 960 square feet of living area (1,644 gross square feet), 2 bedrooms, and constructed in 2006. The second dwelling was the subject of an Accessory Affordable Apartment Program Comprehensive Permit No. 2011-015 which was rescinded in August 2019. The area consists of various sized lots and residential in nature.

Proposal & Relief Requested

Julie A. Grady has applied for a Special Permit pursuant to Section 240-47.1.B (4) Family Apartments and pursuant to Section 240-125C – Special Permit Provisions. The Applicant is proposing to convert an existing detached apartment unit, previously used as an accessory apartment unit in the Accessory Affordable Apartment Program (AAAP), into a family apartment. The subject property is located at 521 Main Street, West Barnstable, MA.

Section 240-47.1 B. By special permit. The Zoning Board of Appeals may allow by special permit if:

- (1) A family apartment unit greater than 50% of the square footage of the dwelling.
- (2) A family apartment unit with more than two bedrooms.
- (3) Occupancy of a family apartment unit by greater than two adult family members.
- (4) A family apartment unit within a detached structure, with a finding that the single-family nature of the property and of the accessory nature of the detached structure are preserved.

Section 240-47.1 C. Conditions and procedural requirements. Prior to the creation of a family apartment, the owner of the property shall make application for a building permit with the Building Commissioner providing any and all information deemed necessary to assure compliance with this section, including, but not limited to, scaled plans of any proposed remodeling or addition to accommodate the apartment, signed and recorded affidavits reciting the names and family relationship among the parties, and a signed family apartment accessory use restriction document.

(1) Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.

(2) Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.

(3) At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.

(4) When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

1. **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** *Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.*
2. **Site Plan Review is not required for single-family residential dwellings.**
3. **After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

The Board is also asked to find that:

4. **The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.**
5. **The single-family nature of the property and of the accessory nature of the detached structure are preserved.**

Suggested Conditions

Should the Board find to grant Special Permit No. 2020-026, it may wish to consider the following conditions:

1. Special Permit No. 2020-026 is granted to Julie Grady to establish a family apartment in the existing accessory 1,644 gross area dwelling located at 521 Main Street, West Barnstable, MA.
2. The site development shall be in substantial conformance with the existing conditions as shown on the plot plan drawn and stamped by Yankee Survey Consultants dated May 26, 2000 and sketches provided by the Applicant.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures in addition to the family apartment and garage is prohibited without prior approval from the Board.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 - a. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
 - b. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
 - c. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
 - d. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant

Attachments: Application
Site Plan

Town of Barnstable Planning and Development Department Staff Report
Special Permit No. 2020-026 – Grady

Sketch Building plans
Assessor's Record & Aerial Photo



20 JUL 17 A9:45

**Town of Barnstable
Zoning Board of Appeals
Application for a Variance**

Date Received
Town Clerk's Office:

For office use only:

Appeal # 2020-027
Hearing Date 08-12-20
Decision Due 10-25-20

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Virginia M. Dumais and Bruce E. Dumais, Trustees of

Applicant's Name:¹ The Dumais 1999 Irrevocable Trust, Phone: _____

Applicant's Address: 42 Jenkins Lane, West Barnstable, MA 02668

Property Location: 42 Jenkins Lane, West Barnstable, MA 02668

Property Owner: same as above, Phone: _____

Address of Owner: same as above

If petitioner differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 12271/131 Plan 466/12

Assessor's Map/Parcel Number: 128/004/007 Zoning District: RF

Number of Years Owned: 21+ Groundwater Overlay District: GP

Variance Requested: 240-14 RF Residential District - minimum lot area and frontage
Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: Applicant seeks a variance from minimum lot area and minimum frontage requirements of the RF District in conveying Lot 6A to 56 Jenkins Lane to correct encroachments. Lot 6A would be added to Lot 6.

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No Yes

Permit #: _____

¹ The Applicant's Name will be the entity to whom the variance will be issued to.

² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

Existing Level of Development of the Property - Number of Buildings: 1

Present Use(s): single family residential

Existing Gross Floor Area: 2944 sq. ft. Proposed New Gross Floor Area: 0 sq. ft.

Site Plan Review Number: n/a Date Approved: _____ (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [] No [x]
- Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No [x]
- Is this proposal subject to approval by the Board of Health Yes [] No [x]
- Is the building a designated Historic Landmark?..... Yes [] No [x]
- Have you applied for a building permit?..... Yes [] No [x]
- Have you been refused a building permit?..... Yes [] No [x]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Michael F. Schulz Date: July 16, 2020
*Applicant or Representative's Signature*³

Print Name Michael F. Schulz

Address: Schulz Law Offices, LLC Phone: 508-428-0950

1340 Main Street, Osterville, MA 02655 Fax No.: 508-420-1536

e-mail Address: mschulz@schulzlawoffices.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

DEED

I, **Joanne M. Dumais**, of West Barnstable, Barnstable County, Massachusetts, for nominal consideration paid, grant to **Virginia M. Dumais** and **Bruce E. Dumais** as **Trustees of The Dumais 1999 Irrevocable Trust** under a Declaration of Trust dated May 3, 1999, to be recorded herewith,

with quitclaim covenants,

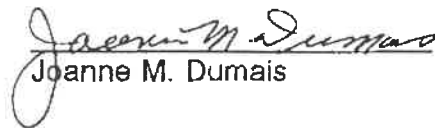
The land, together with the buildings thereon, located in Barnstable, Barnstable County, Massachusetts, described as follows:

Lot 5 as shown on a plan entitled "Plan of Land Relocating Property Line Dividing Lots 5 and 5 in Jenkins Lane Subdivision in Barnstable, Massachusetts for Greenbrier Development Corp, Scale: 1" = 40', by Levy, Eldredge & Wagner Associates, Inc., Engineers - Landscape Architects Planners - Land surveyors, 889 West Main Street, Centerville, MA 02632" and recorded with Barnstable Registry of Deeds in Plan Book 466 Plan 12.

Together with and subject to the rights, easements, covenants, restrictions and reservations set forth in a deed from The Greenbrier Corporation to the grantors herein, dated February 16, 1990, and recorded with said Deeds in Book 7073 Page 117.

For my title, see deed of Paul E. and Joanne M. Dumais to me, dated March 29, 1999, recorded with said Deeds in Book 12230 Page 49.

Witness my hand and seal this 13th day of May 1999.



Joanne M. Dumais

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

May 13, 1999

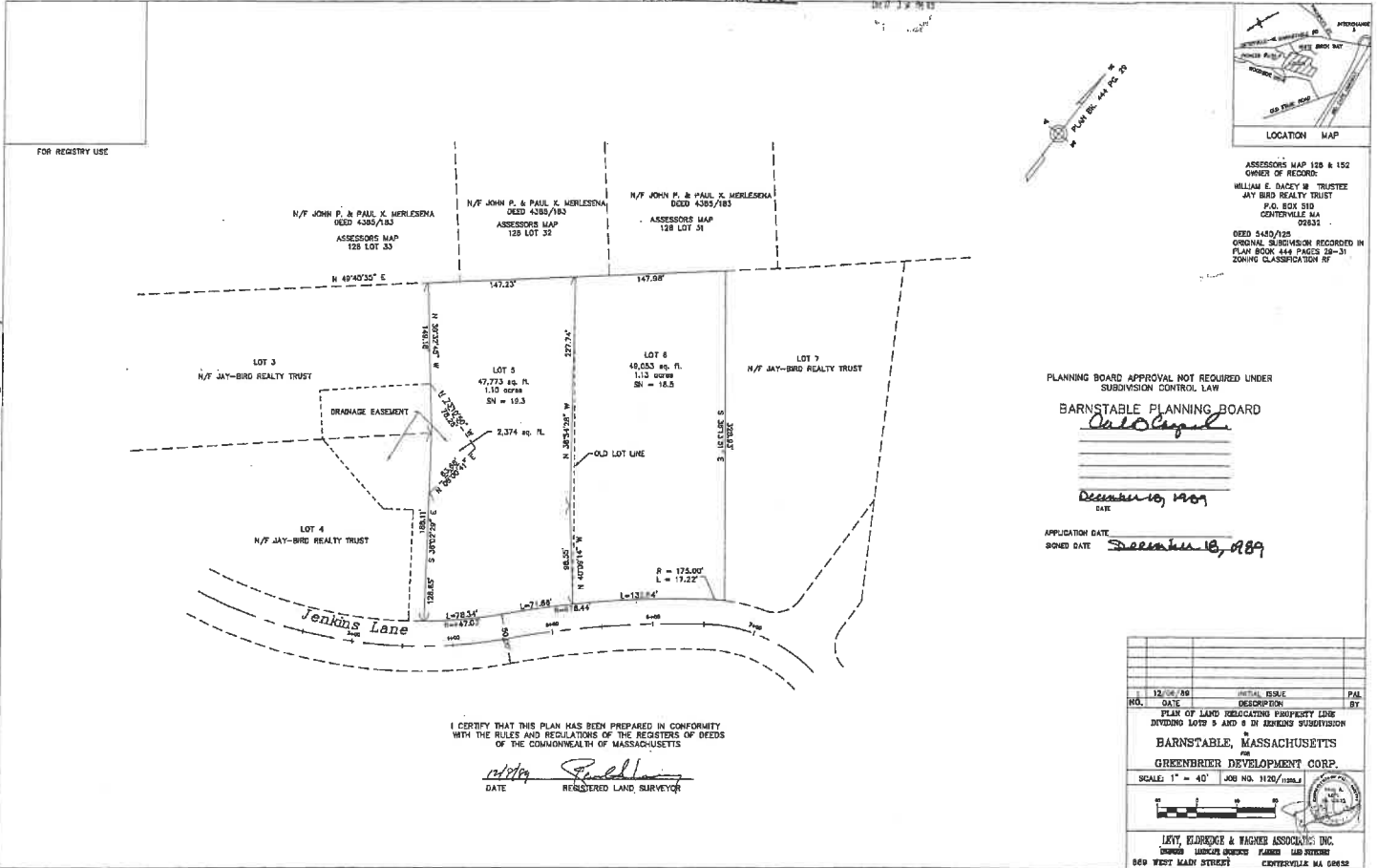
Then personally appeared the above-named Joanne M. Dumais, and acknowledged the foregoing instrument to be her free act and deed, before me,


Linda L. Doll, Notary Public
My commission expires: February 10, 1999

BARNSTABLE REGISTRY OF DEEDS

grantee x
Property address: 42 Jenkins Lane, West Barnstable, MA

466-13



20 JUL 22 11:07



**Town of Barnstable
Zoning Board of Appeals**

Amended Application for a Variance

Date Received
Town Clerk's Office:

For office use only:
Appeal # _____
Hearing Date _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Virginia M. Dumais and Bruce E. Dumais, Trustees of

Applicant's Name:¹ The Dumais 1999 Irrevocable Trust, Phone: _____

Applicant's Address: 42 Jenkins Lane, West Barnstable, MA 02668

Property Location: 42 Jenkins Lane, West Barnstable, MA 02668

Property Owner: same as above, Phone: _____

Address of Owner: same as above

If petitioner differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 12271/131 Plan 466/12

Assessor's Map/Parcel Number: 128/004/007 Zoning District: RF

Number of Years Owned: 21+ Groundwater Overlay District: GP

Variance Requested: 240-14 RF Residential District - minimum lot area and frontage
Cite Section & Title of the Zoning Ordinance and shape factor

Description of Activity/Reason for Request: Applicant seeks a variance from minimum lot area and shape factor and minimum frontage requirements of the RF District in conveying Lot 6A to 56 Jenkins Lane to correct encroachments. Lot 6A would be added to Lot 6.

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [x] Yes []

Permit #: _____

¹ The Applicant's Name will be the entity to whom the variance will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

20 JUL 22 P12:07

Existing Level of Development of the Property - Number of Buildings: 1

Present Use(s): single family residential


Existing Gross Floor Area: 2944 sq. ft. Proposed New Gross Floor Area: 0 sq. ft.

Site Plan Review Number: n/a Date Approved: _____ (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [] No []
- Is this proposal subject to the jurisdiction of the Conservation Commission?..... Yes [] No []
- Is this proposal subject to approval by the Board of Health?..... Yes [] No []
- Is the building a designated Historic Landmark?..... Yes [] No []
- Have you applied for a building permit?..... Yes [] No []
- Have you been refused a building permit?..... Yes [] No []

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a "wet sealed" certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature:  Date: 7/22/20
Applicant or Representative Signature³

Print Name Michael F. Schulz

Address: Schulz Law Offices, LLC Phone: 508-428-0950

1340 Main Street, Osterville, MA 02655 Fax No.: 508-420-1536

e-mail Address: mschulz@schulzlawoffices.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

20 AUG -6 P12:10



Town of Barnstable
Zoning Board of Appeals

Amended Application for a Variance

Date Received
Town Clerk's Office:

For office use only:

Appeal # 2020-027
Hearing Date 08-26-20
Decision Due: _____

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Virginia M. Dumais and Bruce E. Dumais, Trustees of

Applicant's Name:¹ The Dumais 1999 Irrevocable Trust, Phone: _____

Applicant's Address: 42 Jenkins Lane, West Barnstable, MA 02668

Property Location: 42 Jenkins Lane, West Barnstable, MA 02668

Property Owner: same as above, Phone: _____

Address of Owner: same as above

If petitioner differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 12271/131 Plan 466/12

Assessor's Map/Parcel Number: 128/004/007 Zoning District: RF

Number of Years Owned: 21+ Groundwater Overlay District: GP

Variance Requested: 240-14 RF Residential District - minimum lot area and frontage
Site-Section & Title of the Zoning Ordinance and shape factor

240-36 RPOD RESOURCE PROTECTION OVERLAY DISTRICT

Description of Activity/Reason for Request: Applicant seeks a variance from minimum lot area
and shape factor

and minimum frontage requirements of the RF District in conveying Lot 6A to

56 Jenkins Lane to correct encroachments. Lot 6A would be added to Lot 6.

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [x] Yes []

Permit #: _____

¹ The Applicant's Name will be the entity to whom the variance will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2


Existing Level of Development of the Property - Number of Buildings: 1
Present Use(s): single family residential
Existing Gross Floor Area: 2944 sq. ft. Proposed New Gross Floor Area: 0 sq. ft.

Site Plan Review Number: n/a Date Approved: _____ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes [] No [x]
Is this proposal subject to the jurisdiction of the Conservation Commission?..... Yes [] No [x]
Is this proposal subject to approval by the Board of Health?..... Yes [] No [x]
Is the building a designated Historic Landmark?..... Yes [] No [x]
Have you applied for a building permit?..... Yes [] No [x]
Have you been refused a building permit?..... Yes [] No [x]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a "wet sealed" certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature:  Date: 0/4/20
Applicant or Representative Signature
Print Name Michael F. Schulz
Address: Schulz Law Offices, LLC Phone: 508-428-0950
1340 Main Street, Osterville, MA 02655 Fax No.: 508-420-1536
e-mail Address: mschulz@schulzlawoffices.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.



OWNER OF RECORD
 THOMAS E. HEDDERLEY
 42 JENNINGS LANE
 WEST BARNSTABLE, MA 02868

ADJACENT RECORDS
 ALAMORA COVENANT
 38 JENNINGS LANE
 WEST BARNSTABLE, MA 02868

RECORD BOOK 12270 PAGE 131
 PLD BOOK 19107 PAGE 4
 PLD BOOK 19107 PAGE 4

ASSESSORS MAP 128 PARCELS 4-7 & 4-8

ZONING DISTRICT: BF
 LOT AREA 43,590 S.F.
 TOTAL AREA 43,590 S.F.
 SETBACKS: FRONT: 30'
 REAR: 15'

SITE IS LOCATED WITHIN THE CROWNRIEVE
 SUBDIVISION MAP 128 PARCELS 4-7 & 4-8
 WHICH IS LOCATED WITHIN THE WEST
 BARNSTABLE FIRE DISTRICT

TOTAL AREA 94,823.4 S.F. (2.224 AC.)

LOT 6A IS NOT CONSIDERED A BUILDABLE
 AND BEING A PART OF LOT 6.

COORDINATES ARE MASS STATE PLANE
 HAYNES MAP PROJECTIONS
 NAD 83 NETWORK

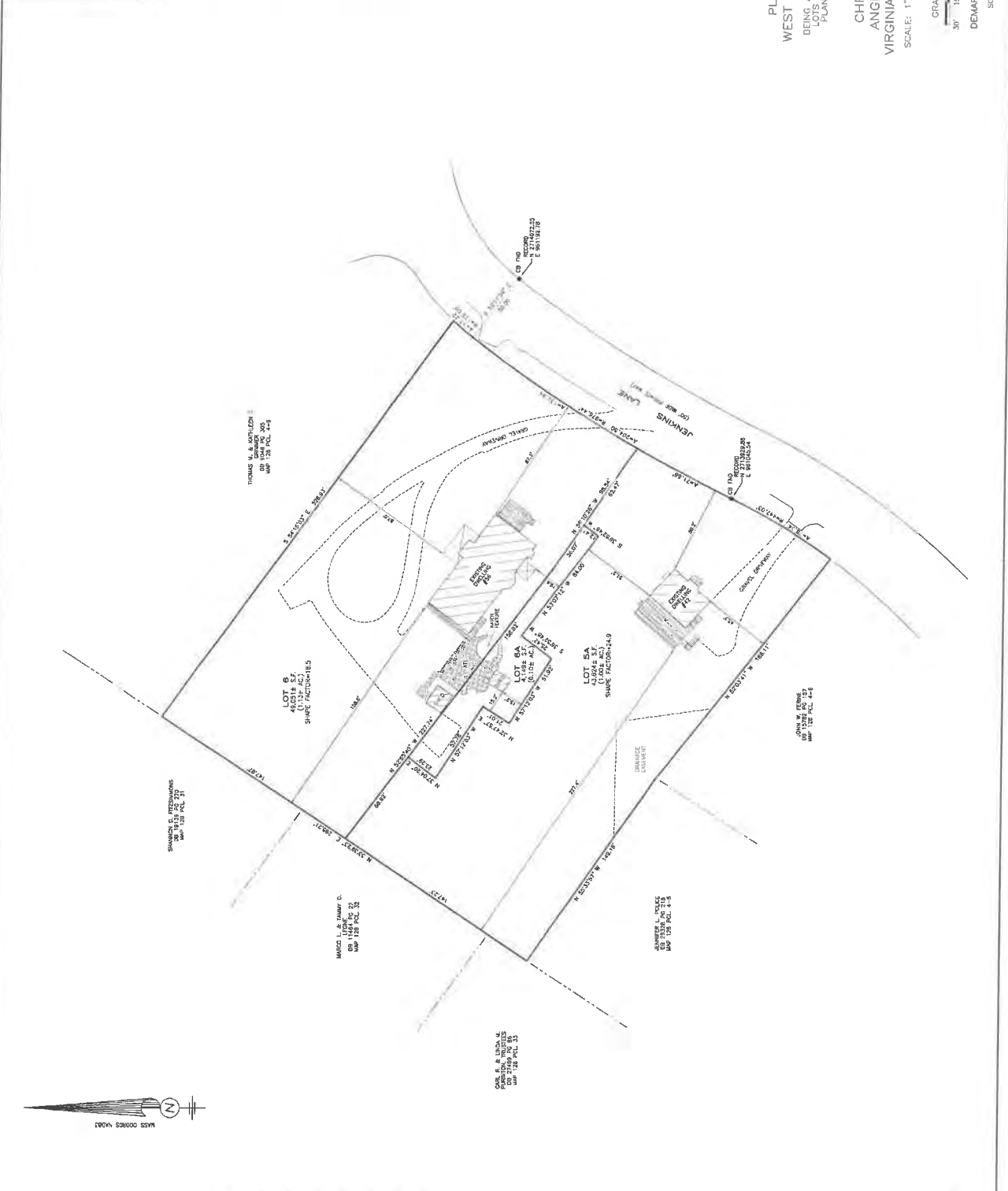
PLAN OF LAND IN
 WEST BARNSTABLE, MA
 BEING A RECONFIGURATION OF
 LOTS 5A, 6A AND 6B SHOWN ON
 PLAN BOOK 466 PAGES 14

PREPARED FOR:
 CHRISTINE TAYLOR
 ANGELO DICENSO &
 VIRGINIA & BRUCE DUVAIS

SCALE: 1" = 30'
 REVISED: JUNE 25, 2020
 REVISED: AUGUST 4, 2020

GRAPHIC SCALE IN FEET
 30' 15' 0' 30' 60'

DEMAREST LAND SURVEYING
 335 MAYFARM ROAD
 SOUTH BARNSTABLE, MA 02868
 508-364-8049



FOR REGISTRY USE ONLY

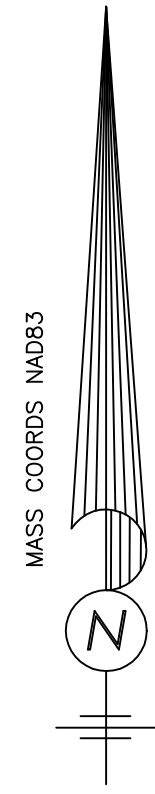
BARNSTABLE PLANNING BOARD
 PLANNING BOARD APPROVAL DATES
 SUBDIVISION CONTROL LAW NOT RELAYED
 DATE:

NO GUARANTEE IS TO ORDER MAPS WITH THE
 ZONING ORDINANCE REQUIREMENTS HAS BEEN
 MADE OR INTENDED BY THE ABOVE ENGINEER.

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED
 IN ACCORDANCE WITH THE RULES AND REGULATIONS
 1978 AND AMENDED JANUARY 7, 1988.

DATE: _____ JOHN Z. DEMAREST, P.L.S.

FILE# 2021-0196



FOR REGISTRY USE ONLY

BARNSTABLE PLANNING BOARD

PLANNING BOARD APPROVAL UNDER
SUBDIVISION CONTROL LAW NOT REQUIRED

DATE: _____

NO DETERMINATION AS TO COMPLIANCE WITH THE
ZONING ORDINANCE REQUIREMENTS HAS BEEN
MADE OR INTENDED BY THE ABOVE ENDORSEMENT.

CARL R. & LINDA M.
PURINTON, TRUSTEES
DB 27489 PG 86
MAP 128 PCL. 33

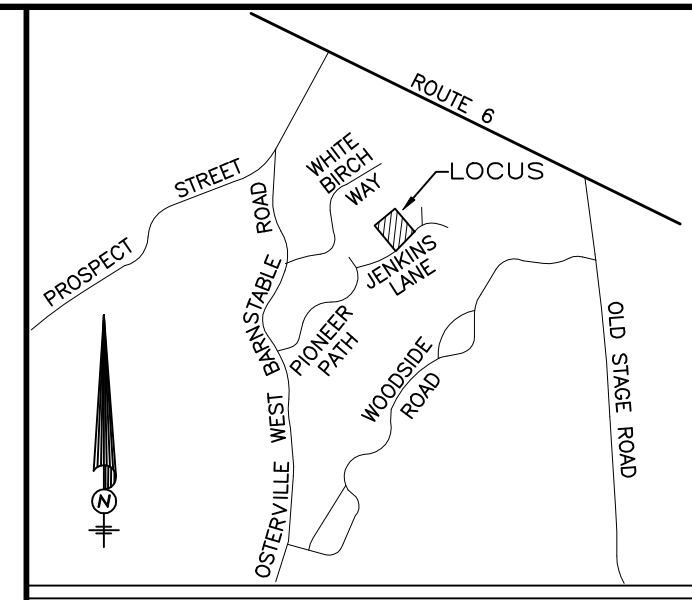
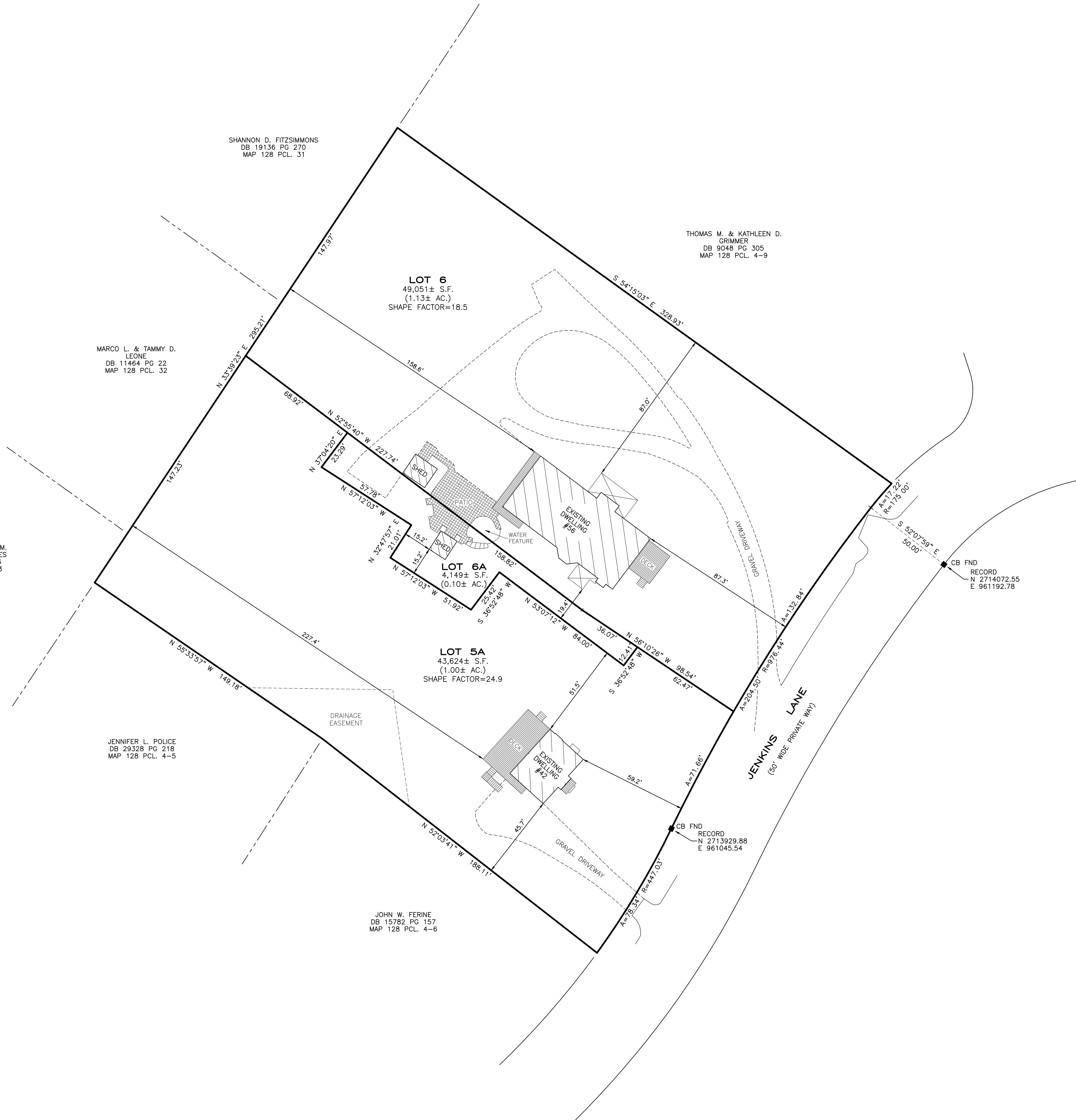
MARCO L. & TAMMY D.
LEONE
DB 11464 PG 22
MAP 128 PCL. 32

SHANNON D. FITZSIMMONS
DB 19136 PG 270
MAP 128 PCL. 31

THOMAS M. & KATHLEEN D.
GRIMMER
DB 9048 PG 305
MAP 128 PCL. 4-9

JENNIFER L. POLICE
DB 29328 PG 218
MAP 128 PCL. 4-5

JOHN W. FERINE
DB 15782 PG 157
MAP 128 PCL. 4-6



LOCATION MAP SCALE: 1"=2000'

OWNERS OF RECORD:
THE DUMAIS 1999 IRREVOCABLE TRUST
42 JENKINS LANE
WEST BARNSTABLE, MA 02668

ALEXANDRIA DICENSO
56 JENKINS LANE
WEST BARNSTABLE, MA 02668

REFERENCES:
DEED BOOK 12270 PAGE 131
DEED BOOK 19107 PAGE 4
PLAN BOOK 466 PAGE 12

ASSESSORS MAP 128 PARCELS 4-7 & 4-8
ZONING DISTRICT: RF
LOT AREA: 43,560 S.F.
FRONTAGE: 150'
SETBACKS: FRONT: 30'
SIDE: 15'
REAR: 15'

SITE IS LOCATED WITHIN THE GROUNDWATER
PROTECTION OVERLAY DISTRICT
SITE IS LOCATED WITHIN THE WEST
BARNSTABLE FIRE DISTRICT

TOTAL AREA: 96,825± S.F. (2.22± AC.)
LOT 6A IS NOT CONSIDERED A BUILDABLE
LOT AND IS CREATED TO BE CONVEYED
AND BECOME A PART OF LOT 6.

COORDINATES ARE MASS STATE PLANE
COORDINATES NAD83 FROM SMARTNET
RTK NETWORK

**PLAN OF LAND IN
WEST BARNSTABLE, MA**

BEING A RECONFIGURATION OF
LOTS 5 & 6 AS SHOWN ON
PLAN BOOK 466 PAGE 12

PREPARED FOR:
**CHRISTINE TAYLOR
ANGELO DICENSO &
VIRGINIA & BRUCE DUMAIS**

SCALE: 1" = 30' JUNE 25, 2020
REVISED: AUGUST 4, 2020



DEMAREST LAND SURVEYING
338 MAYFAIR ROAD
SOUTH DENNIS, MA 02660
508-364-9049

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED
IN ACCORDANCE WITH THE RULES AND REGULATIONS
OF THE REGISTRY OF DEEDS EFFECTIVE JANUARY 1,
1976 AND AMENDED JANUARY 7, 1988.

DATE _____ JOHN Z. DEMAREST JR., P.L.S.



Town of Barnstable
Planning and Development Department
Elizabeth Jenkins, Director
Staff Report

Variance No. 2020-027 – Dumais
Section 240-14 RF District, Minimum Lot Area and Lot Shape Factor
and
Section 240-36 RPOD

To allow the Petitioner to convey Lot 6A to abutter

Date: August 13, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Petitioner **Virginia M. Dumais and Bruce E. Dumais, Trustees of the Dumais 1999 Irrevocable Trust**

Property Address: 42 Jenkins Lane, West Barnstable, MA

Assessor's Map/Parcel: 128/004-007

Zoning: Residence F (RF) and RPOD

Filed: August 6, 2020

Hearing: August 26, 2020

Decision Due: October 25, 2020

Copy of Public Notice

Virginia K. Dumais and Bruce E. Dumais, Trustee of the Dumais 1999 Irrevocable Trust have petitioned for a Variance to Section 240-14.E – RF Residential Bulk Regulations, Minimum Lot Area, Minimum Frontage requirements and Lot Shape Factor. The Petitioners are proposing to convey a small portion (Lot 6A) of land located at 42 Jenkins Lane, West Barnstable to 56 Jenkins Lane, West Barnstable in order to correct encroachments at 56 Jenkins Lane, West Barnstable. The subject properties are 42 Jenkins Lane and 56 Jenkins Lane, West Barnstable, MA as shown on Assessor’s Map 128 as Parcels 004-007 and 004-008. They are located in the Residence F Zoning District and the Resource Protection Overlay District (RPOD).

Background

The subject property, 42 Jenkins Lane, is a 1.1 acre lot containing a single family dwelling with 1,283 square feet of living area (2,944 gross floor area), 3-bedrooms constructed in 1990.

56 Jenkins Lane is a 1.13 acre lot, containing a single family dwelling of 3,750 square feet of living area (9,996 gross floor area), 2-bedrooms, constructed in 2005. Both lots have frontage on Jenkins Lane and abut each other.

Proposal & Relief Requested

Virginia K. Dumais and Bruce E. Dumais, Trustee of the Dumais 1999 Irrevocable Trust have petitioned for a Variance to Section 240-14.E – RF Residential Bulk Regulations, Minimum Lot Area, Minimum Frontage requirements and Lot Shape Factor. Both lots are located in the Residence F Zoning District and the Resource Protection Overlay District (RPOD).

The Dumais’s have carved out Lot 6A (0.10 acres) to convey to the abutters at 56 Jenkins Lane to correct the existing encroachments including patio, shed, and driveway. The conveyance would result in the reduction of Lot 5A to 1 acre as well as noncompliance with the required lot shape factor therefore a variance is required.

The owners of 56 Jenkins Lane would own Lot 6 and Lot 6A and they would remain separate lots.

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

- owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
- a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; 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 ordinance.

An application for a variance that has met all three requirements “does not confer ... any legal right to a variance.” The Board still has the discretionary power to grant or not to grant the variance.

Suggested Variance Conditions

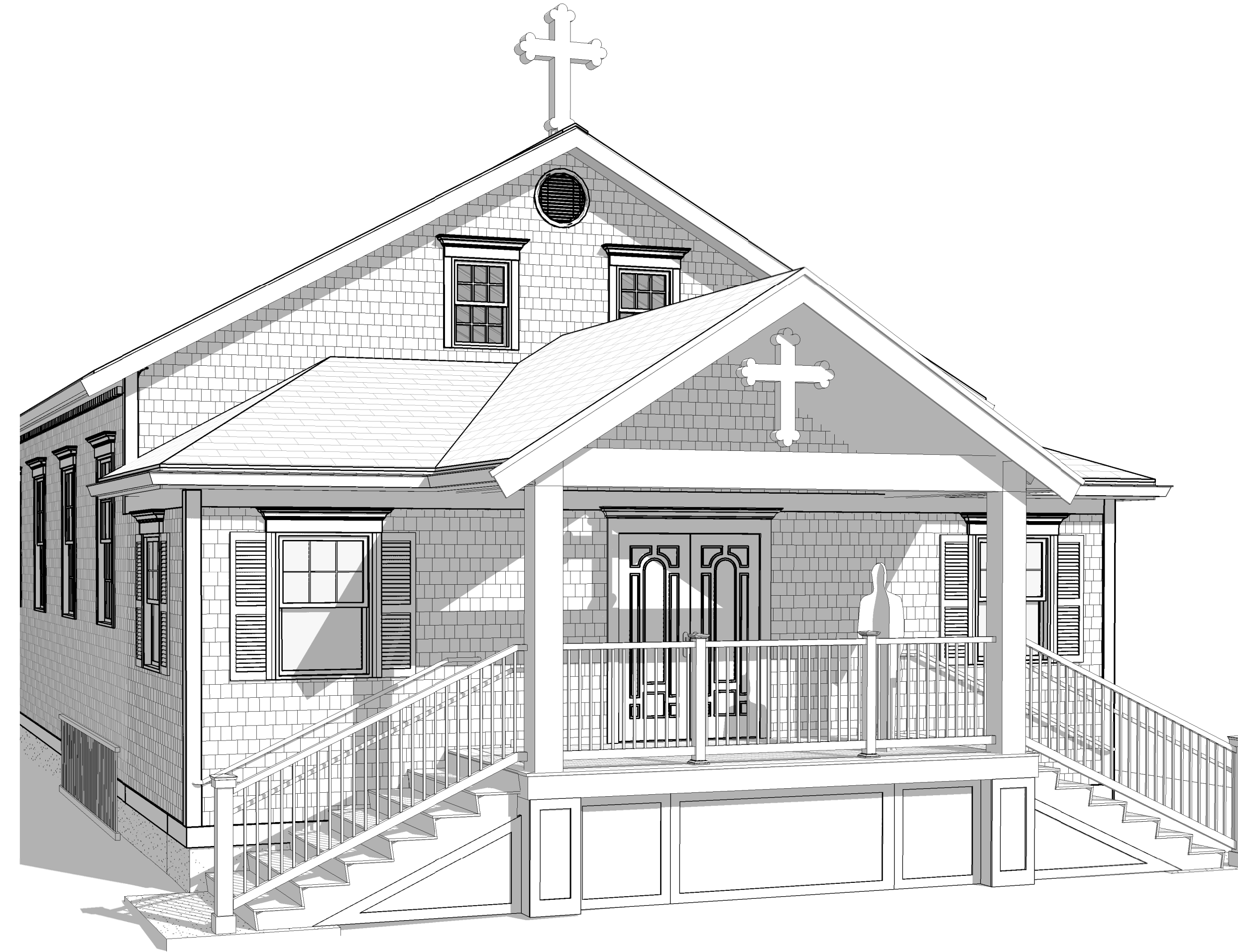
Should the Board find to grant Variance No. 2020-027 to allow Lot 6A (42 Jenkins Lane) to be conveyed to the owners of Lot 6 (56 Jenkins Lane) West Barnstable, it may wish to consider the following conditions:

1. Variance No. 2020-027 is granted to Virginia K. Dumais and Bruce E. Dumais, Trustee of the Dumais 1999 Irrevocable Trust to allow Lot 6A (42 Jenkins Lane) to be conveyed to the owners of Lot 6 (56 Jenkins Lane) West Barnstable,, MA.
2. The site development shall be constructed in substantial conformance with the site plan entitled “Plan of Land in West Barnstable, MA” prepared for Christine Taylor, Angelo DiCenso, & Virginia & Bruce Dumais dated June 25, 2020, revised August 4, 2020 by Demarest Land Surveying.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this Variance must be exercised within one year, unless extended.

Copies: Petitioner (c/o Attorney Schulz)

Attachments: Application
Aerial Photo
Building and Site Plans
Assessor's Record

PROPOSED NEW ENTRY & NARTHEX ADDITION
 ST. MICHAEL'S ORTHODOX CHURCH
 62 MAIN STREET
 COTUIT, MA

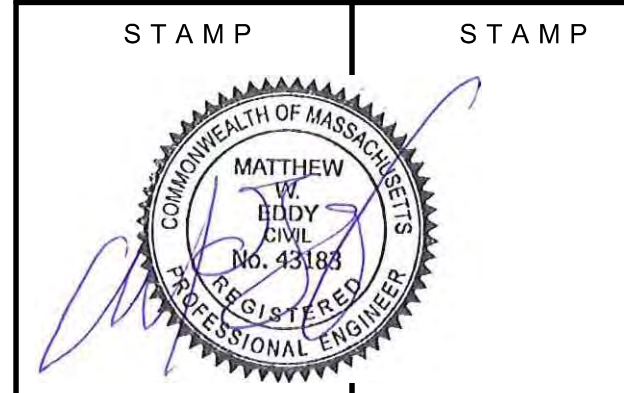


ARCHITECTS
 BROWN LINDQUIST FENUCCIO & RABER ARCHITECTS, INC.
 203 WILLOW STREET SUITE A
 YARMOUTHPORT, MA. 02675
 TEL. (508) 362-8382
 WWW.CAPEARCHITECTS.COM

ISSUED FOR SITE PLAN REVIEW AND ZONING BOARD OF APPEALS
 07.16.2020

SCHEDULE OF DRAWINGS

COVER SHEETS	
A0.0	COVER SHEET
CIVIL	
C1.0	EXISTING CONDITIONS PLAN
C2.0	SITE PLAN FOR PROPOSED ENTRY AND NARTHEX ADDITION
C3.0	LEGEND AND GENERAL NOTES
C4.0	DETAILS PLAN
ARCHITECTURAL	
A1.0	PROPOSED DRAWINGS
A1.1	PROPOSED LOWER LEVEL FLOOR PLAN
A1.2	PROPOSED MAIN LEVEL FLOOR PLAN
A2.1	PROPOSED WEST ELEVATION
A2.2	PROPOSED NORTH & SOUTH ELEVATIONS
A3.1	PROPOSED BUILDING SECTION & INTERIOR ELEVATIONS
A3.2	INTERIOR 3D VIEWS
EXISTING BUILDINGS	
EX1.0	AS-BUILT DRAWINGS
EX1.1	ENLARGED EXISTING FLOOR PLANS
EX2.0	ENLARGED EXISTING WEST & NORTH ELEVATIONS
EX3.0	EXISTING BUILDING SECTIONS



STAMP	STAMP
CONSULTANT	CONSULTANT
CONSULTANT	CONSULTANT

PREPARED FOR:
**St. Michael The Archangel
Orthodox Church, Inc.**
62 Main Street
Cotuit, MA 02635

PROJECT TITLE
**Proposed Entry
and Narthex Addition**
62 Main Street
Cotuit, MA 02635

DATE	DESCRIPTION

SHEET TITLE
**Existing
Conditions Plan**

SHEET NO
C1.0

DATE: JULY 16, 2020
SCALE IN FEET
SCALE: 1"=20'

DRAWN BY: JKL CHECKED BY: MWE
JOB NO: 2020-022 FILE: 2020-022_EC.dwg

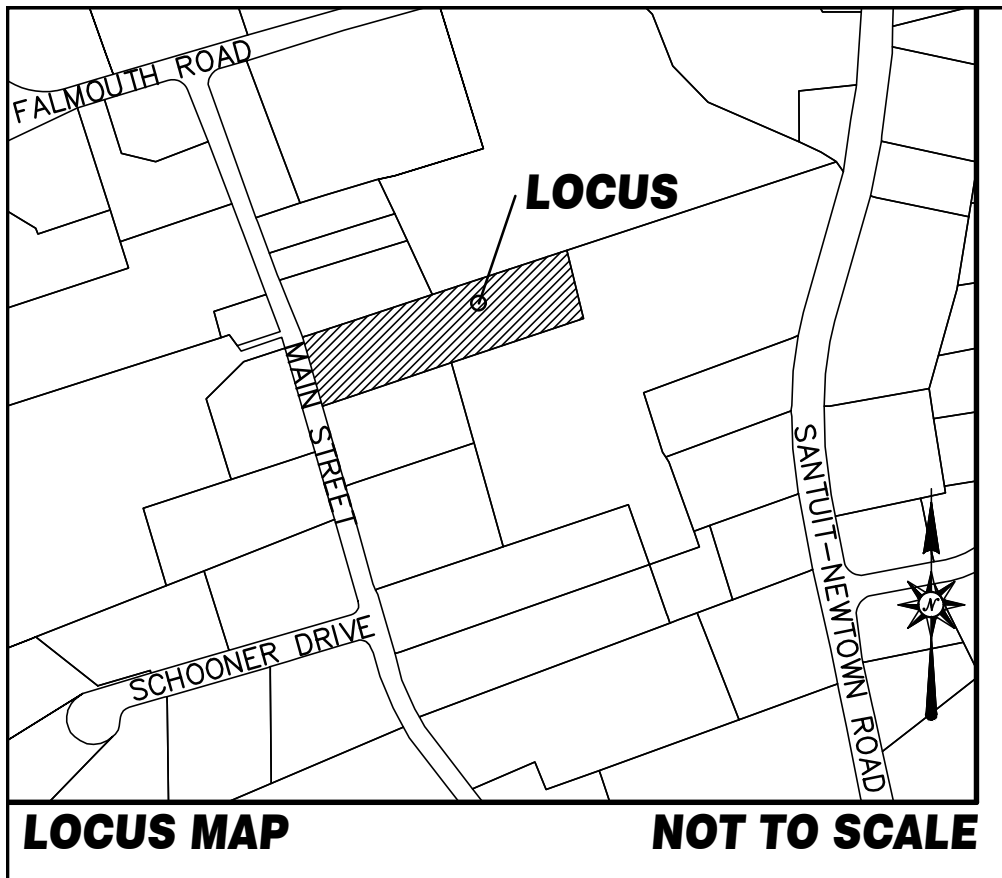
Plan Sheet Index

No.	Drawing Title
C1.0	Existing Conditions Plan
C2.0	Site Plan for Proposed Entry and Narthex Addition
C3.0	Legend and General Notes
C4.0	Details Plan

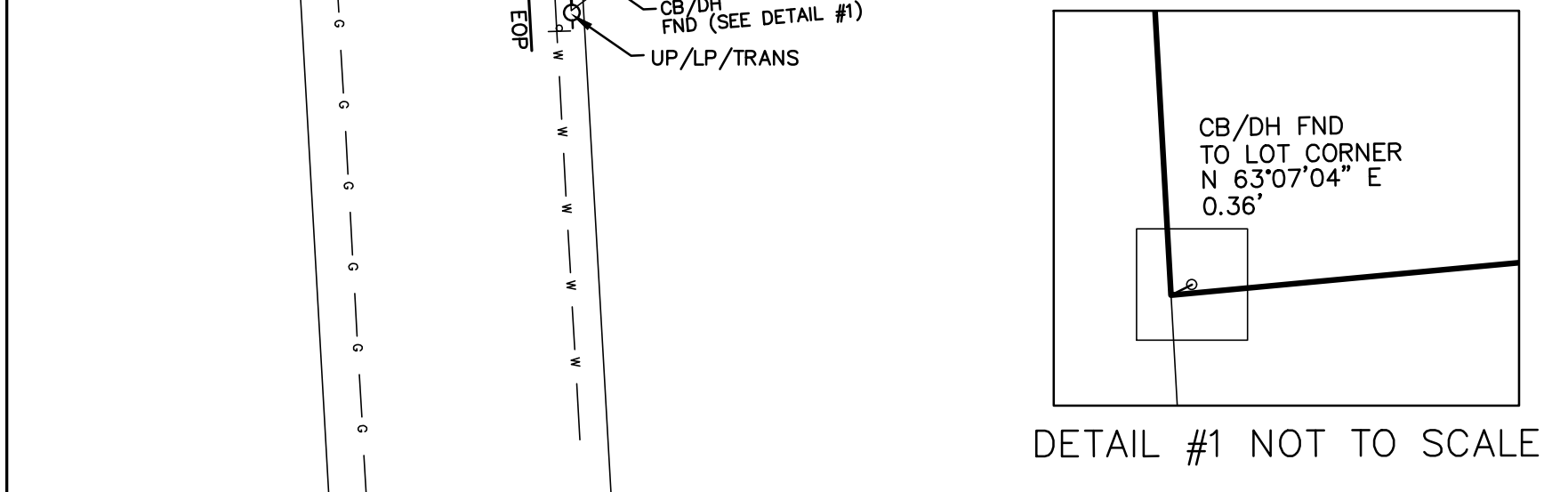
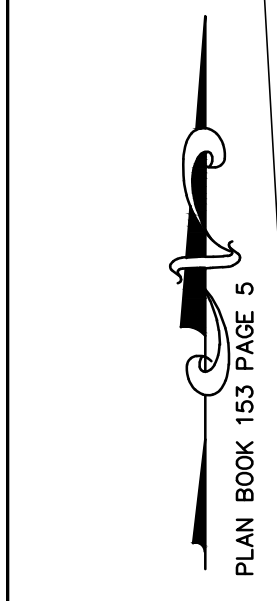
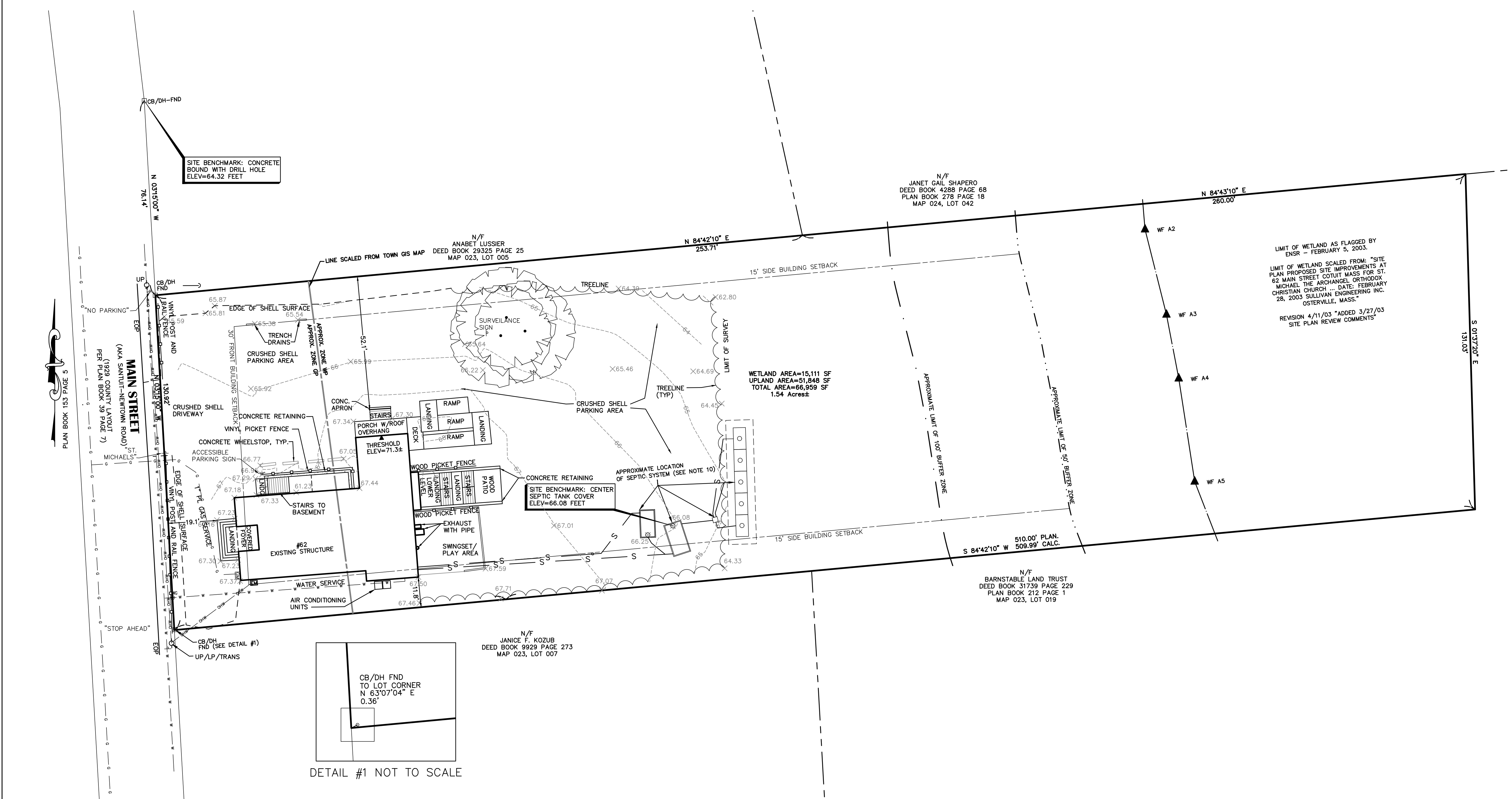
Issued for: Site Plan Review and ZBA - July 16, 2020

GENERAL NOTES:

- THE INTENT OF THIS PLAN IS TO DETAIL EXISTING SITE CONDITIONS AT LOCUS.
- LOCUS AREA IS COMPRISED OF:
PER CURRENT ASSESSOR'S RECORDS:
OWNER: ST. MICHAEL THE ARCHANGEL
ORTHODOX CHURCH INC.
DEED BOOK 18923, PAGE 345
RECORD PLAN BOOK 153 PAGE 5
ASSESSOR'S MAP 023, PARCEL 006
- PROJECT BENCHMARK: AS SHOWN ON THIS PLAN WAS OBTAINED FROM A PLAN ENTITLED "EXISTING CONDITIONS PLAN", DATED 12/21/07, AS PREPARED BY BAXTER NYE ENGINEERING & SURVEYING.
- ZONING INFORMATION:
ZONING DISTRICT: RF
CURRENT MINIMUM ZONING REQUIREMENTS:
MIN. LOT AREA = 87,120 SF
MIN. LOT FRONTAGE = 150 FEET
MIN. YARD SETBACKS: FRONT = 30', SIDE = 15', REAR = 15'
MAXIMUM BUILDING HEIGHT = 30 FEET OR 2.5 STORIES
MAXIMUM IMPERVIOUS COVERAGE = 50%
MINIMUM AREA NATURALLY RETAINED = 30%
OVERLAY DISTRICTS: RPOD, GP, WP, ZONE II, SEP
- THE HORIZONTAL DATUM IS BASED PLAN BOOK 153 PAGE 5. THE VERTICAL DATUM IS BASED ON NAVD83.
- A TITLE SEARCH HAS NOT BEEN PERFORMED FOR THIS SITE. THERE MAY BE RIGHTS BY OTHERS, EASEMENT, TAKINGS, MORTGAGES, RIGHT OF WAYS ETC. NOT DEPICTED. IF DETERMINED TO BE NECESSARY, A TITLE SEARCH SHALL BE PERFORMED BY OTHERS AND SUPPLIED TO BAXTER NYE ENGINEERING & SURVEYING.
- THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT AVAILABLE RECORD INFORMATION CONSISTING OF PLANS AND DEEDS. THE EXISTING FEATURES SHOWN HEREON WERE OBTAINED FROM AN ON THE GROUND FIELD SURVEY PERFORMED BY BAXTER NYE ENGINEERING & SURVEYING ON JUNE 17, 2020.
- BY GRAPHIC PLOTTING ONLY, THE PARCEL SHOWN HEREON LIES WITHIN FLOOD ZONE X ON THE FEMA FLOOD INSURANCE RATE MAP (F.I.R.M.) COMMUNITY PANEL NUMBER 250001 0539 J, EFFECTIVE DATE JULY 16, 2014.
- ENVIRONMENTAL INFORMATION:
PER MASS GIS OLIVER AS OF 06/11/2020:
• SITE DOES NOT APPEAR TO BE WITHIN AN A.C.E.C. (AREA OF CRITICAL ENVIRONMENTAL CONCERN).
• SITE DOES NOT APPEAR TO BE WITHIN AN AREA OF ESTIMATED HABITAT OF RARE WILDLIFE AS MAPPED ON MASS GIS OLIVER PER NHESP "ESTIMATED HABITATS OF RARE WILDLIFE" FOR USE WITH THE MA WETLANDS PROTECTION ACT REGULATIONS (310 CMR 10).
• SITE DOES NOT APPEAR TO BE WITHIN A PRIORITY HABITAT AS MAPPED ON MASS GIS OLIVER PER NHESP "PRIORITY HABITATS OF RARE SPECIES" FOR SPECIES UNDER THE MASSACHUSETTS ENDANGERED SPECIES ACT, REGULATIONS (321 CMR 10).
• SITE DOES NOT APPEAR TO CONTAIN A CERTIFIED VERNAL POOL AS MAPPED ON MASS GIS OLIVER PER NHESP "CERTIFIED VERNAL POOLS".
• SITE APPEARS TO BE WITHIN A STATE APPROVED ZONE II GROUNDWATER RECHARGE PROTECTION AREA.
• SITE APPEARS TO BE WITHIN A ZONE OF CONTRIBUTION TO A SALTWATER ESTUARY (BARNSTABLE B.O.H. REG. 360-45).
- UTILITY INFORMATION SHOWN HEREON:
• THE CONTRACTOR SHALL CONTACT DIG SAFE (AT 1-888-DIG-SAFE) AND UTILITY COMPANIES TO LOCATE THE LOCATION OF ALL EXISTING UTILITIES. AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION. EXISTING UNDERGROUND INFRASTRUCTURE, UTILITIES, CONDUITS AND LINES ARE SHOWN IN AN APPROXIMATE WAY ONLY, MAY NOT BE LIMITED TO THOSE SHOWN HEREON AND HAVE BEEN RESEARCHED BASED ON THE AVAILABLE UTILITY RECORDS NOTED HEREON. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO LOCATE SAID INFRASTRUCTURE AND UTILITIES EXACTLY. IF FIELD CONDITIONS DIFFER FROM PLAN INFORMATION, THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY FOR POSSIBLE REDESIGN.
• SOURCE INFORMATION FROM PLANS HAS BEEN COMBINED WITH OBSERVED EVIDENCE OF UTILITIES TO DEVELOP A VIEW OF THOSE UNDERGROUND UTILITIES. HOWEVER, LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY.
• UTILITIES NOTED HEREON ARE SHOWN BASED ON SOURCE INFORMATION, WHEN AVAILABLE (RECORD PLANS), AS OBTAINED FROM UTILITY COMPANIES AND/OR MUNICIPALITIES. LOCATIONS OF COMPLETED UTILITIES SHOWN ARE TO BE CONSIDERED APPROXIMATE ONLY.
• EXISTING SEPTIC SYSTEM INFORMATION OBTAINED FROM SEPTIC SYSTEM SKETCH ON FILE AT HEALTH DEPT FOR PERMIT 2008-1058.
• WATER SERVICE SHOWN ON THIS PLAN FROM INFORMATION RECEIVED FROM COTUIT FIRE DISTRICT (WATER DEPARTMENT), DATED 10/11/07.
• GAS LINE SHOWN PER NATIONAL GRID SKETCH RECEIVED JUNE 16, 2020.
• ELECTRIC LINE SHOWN ON THIS PLAN WAS FIELD LOCATED INDICATING OVERHEAD SERVICE FROM UTILITY POLE 88-88 ON 6-17-2020.
• AT TIME OF SURVEY NO OBSERVED EVIDENCE OF RIGHT OF WAY REFERENCED IN DEED BOOK 1067 PAGES 594-596.
• BAXTER NYE ENGINEERING & SURVEYING DID NOT PERFORM AN UPDATED WETLAND DELINEATION AS PART OF THIS SURVEY. THE WETLAND AS SHOWN ON THIS PLAN WAS OBTAINED FROM A PLAN ENTITLED "EXISTING CONDITIONS PLAN", DATED 12/21/07, AS PREPARED BY BAXTER NYE ENGINEERING & SURVEYING, WHICH BASED ITS INFORMATION UPON A FIELD DELINEATION BY ENSR ON 2-5-2003, AND SURVEYED BY SULLIVAN ENGINEERING, INC. ON 2-28-2003. REVISION 4/11/03 "ADDED 3/27/03 SITE PLAN REVIEW COMMENTS."



LOCUS MAP NOT TO SCALE



FOR PERMIT ONLY - NOT FOR CONSTRUCTION

LEGEND

Table with columns EXIST and PROP (BLACK TEXT REPRESENTS "PROPOSED" INFORMATION). Rows include PROPERTY LINE, EASEMENT, BUILDING SETBACK, STATE HIGHWAY BASELINE, CONSTRUCTION LAYOUT, ZONING LINE, TOWN LINE, STATE LINE, GRAVEL ROAD, EDGE OF PAVEMENT, BITUMINOUS CURB, CAPE COD BERM, PRECAST CONC. CURB, VERT. GRAN. CURB, SLOPED GRAN. CURB, LIMIT OF CURB TYPE, SAWCUT, MATCHLINE, SOLID WHITE LINE, SOLID YELLOW LINE, BROKEN WHITE LINE, BROKEN YELLOW LINE, SOLID WHITE CHANNELIZING LINE, SOLID YELLOW CHANNELIZING LINE, DOUBLE YELLOW LINE, STOP LINE, STEEL GUARD RAIL, WOOD GUARD RAIL, STOCKADE FENCE, PATH, TREE LINE, CHAIN LINK FENCE, STONE WALL, RETAINING WALL, HAY BALES, MINOR CONTOUR, MAJOR CONTOUR, TOP OF SLOPE, BOTTOM OF SLOPE, BUILDING, BUILDING DOOR, LOADING DOCK, OVERHEAD DOOR, BOLLARD, DUMPSTER PAD, SIGN, DOUBLE SIGN, PARKING METER, PARKING COUNT, COMPACT PARKING STALLS, CROSSWALK, CONC. PAVEMENT, STANDARD DUTY FLEXIBLE PAVEMENT, HEAVY DUTY FLEXIBLE PAVEMENT, HANDICAP RAMP, HANDICAP PARKING, VAN-ACCESSIBLE HANDICAP PARKING, CART CORRAL, DETAIL OR SECTION REFERENCE, WETLANDS, 50' WETLAND BUFFER, 100' WETLAND BUFFER, 200' WETLAND BUFFER, LIMIT OF WETLANDS, WETLAND FLAG, 100 YEAR FLOOD PLAIN, MITIGATION AREA LINE, EDGE OF WATER.

Table with columns EXIST and PROP. Rows include TELEPHONE MANHOLE, TELEPHONE MARKER, TRAFFIC SIGNAL, SIGNAL BOX, FIRE ALARM CONTROL PANEL, FIRE ALARM BOX, TRANSFORMER PAD, TELEPHONE RISER, MAIL BOX.

LEGEND

Table with columns EXIST and PROP (BLACK TEXT REPRESENTS "PROPOSED" INFORMATION). Rows include DRAINAGE LINE, OVERFLOW DRAIN, ROOF DRAIN, SEWER LINE, OVERHEAD ELECTRIC, TELEPHONE & FIRE ALARM, WATER LINE, FIRE PROTECTION LINE, GAS LINE, UNDERGROUND ELECTRIC, DATA/COMMUNICATIONS LINES, UNDERGROUND DATA & COMMUNICATIONS LINES, FIRE ALARM, FIRE & POLICE CABLE, CABLE TV, CATCH BASIN (SQUARE OR ROUND CATCH BASIN), DOUBLE CATCH BASIN, DRAIN INLET, DRAIN MANHOLE, TRENCH DRAIN, FLUG/STUB, FLARED END SECTION, HEADWALL, CONTROL STRUCTURE, SEWER MANHOLE, GREASE TRAP, WATER MANHOLE, WATER SHUT OFF/CURB STOP, WATER GATE, TAPPING SLEEVE, VALVE, & BOX RISER, PRESSURE REDUCER, SIAMSE CONNECTION, FIRE HYDRANT, WATER METER, POST INDICATOR VALVE, WELL, MONITORING WELL, IRRIGATION CONTROL VALVE, SPRINKLER HEAD, GAS GATE, GAS METER, ELECTRIC MANHOLE, ELECTRIC BOX, ELECTRIC METER, LIGHT POLE (DECORATIVE), FLOOD LIGHT, LANDSCAPE LIGHT, SINGLE LUMINAIRE, DOUBLE LUMINAIRE, TRIPLE LUMINAIRE, WALL LUMINAIRE, QUAD LUMINAIRE, WALK PACK, SIGNAL ARM, MANHOLE, UTILITY POLE/GUY WIRE, UTILITY POLE/GUY POLE, HAND HOLE, PULL BOX, SILT FENCE/HAYBALE, DIVERSION BERM/SWALE AND HAY BALE CHECK DAM, POINT OF INTERSECTION, FLARED END SECTION (FES) WITH STONE PROTECTION, PERIMETER DRAIN, PAVED WATERWAY (PWM) WITH STONE PROTECTION, DRAINAGE FLOW DIRECTION, JUTE MAT IN SWALE, TREES, SHRUB, LOW POINT, HIGH POINT, GRADE BREAK, TOP & BOTTOM ELEVATION, SPOT ELEVATION w/LEADER, SPOT ELEVATION, BORING LOCATION, TEST PIT LOCATION, BENCH MARK, TIE IN TO EXISTING GRADE, REPRESENTS EXISTING INFORMATION, REPRESENTS PROPOSED INFORMATION.

Table with columns EXIST and PROP. Rows include TELEPHONE MANHOLE, TELEPHONE MARKER, TRAFFIC SIGNAL, SIGNAL BOX, FIRE ALARM CONTROL PANEL, FIRE ALARM BOX, TRANSFORMER PAD, TELEPHONE RISER, MAIL BOX.

ABBREVIATIONS

Table with columns GENERAL, ABAN, ADJ, APPROX, BB, BC, BOC, BOS, BOW, CC, CCB, CSE, ECB, ELEV, EXST, EQ, FDN, FF, GB, GC, GE, HC, HP, LA, LP, MAX, MIN, MCC, MHB/EP LP, NIC, NTS, PCC, PROP, PWW, REMOD, REM, R&R, R&S, RET, SGE, SGC, TEG, TOC, TOF, TOS, TOW, TYP, UNON, VF, VGC, ACOMP, CAP, CP, CT, CMP, CONO, CPP, CS, DIP, DS, E, F&C, F&G, G, HYD, ID, INV, PD, PVC, RCP, RD, S, C/O, S/O, T, TSV&B, UP, VF, VCP, W.

UTILITY

Table with columns ACOMP, CAP, CP, CT, CMP, CONO, CPP, CS, DIP, DS, E, F&C, F&G, G, HYD, ID, INV, PD, PVC, RCP, RD, S, C/O, S/O, T, TSV&B, UP, VF, VCP, W.

GENERAL CONSTRUCTION NOTES

- 1. ALL WORK & MATERIALS SHALL BE IN ACCORDANCE WITH MASSDOT, HIGHWAY DIVISION, STANDARD SPECIFICATIONS FOR HIGHWAYS AND BRIDGES (MASSDOT-SSHB), AS CURRENTLY AMENDED, UNLESS OTHERWISE NOTED. IF THERE ARE CONFLICTS IN ANY OF THE SPECIFICATIONS OR PROJECT DOCUMENTS, THE HIGHER STANDARD SHALL APPLY.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL QUANTITY ESTIMATES AND VERIFYING, TO HIS OWN SATISFACTION, THAT ALL QUANTITIES ARE ACCURATE FOR ALL CONSTRUCTION MATERIALS, INCLUDING CUT & FILL ESTIMATES WHICH THE CONTRACTOR MAY PREPARE BASED ON INFORMATION CONTAINED WITHIN THESE PLANS.
3. WHERE AN EXISTING UTILITY IS FOUND TO CONFLICT WITH THE PROPOSED WORK, THE LOCATION, ELEVATION AND SIZE OF THE UTILITY SHALL BE ACCURATELY DETERMINED WITHOUT DELAY BY THE CONTRACTOR, AND THE INFORMATION FURNISHED TO THE ENGINEER FOR RESOLUTION OF THE CONFLICT.
4. THE CONTRACTOR SHALL MAKE ALL ARRANGEMENTS WITH THE APPROPRIATE UTILITY COMPANIES FOR OBTAINING CONSTRUCTION PERMITS AND PERFORMING ALL NEW CONSTRUCTION, RELOCATION, ALTERATION AND ADJUSTMENT OF GAS, ELECTRIC (INCLUDING UTILITY POLES), TELEPHONE, CABLE, FIRE ALARM, WATER, SANITARY SEWER, STORM DRAIN, AND ANY OTHER UTILITIES, BOTH PUBLIC AND PRIVATE, AS REQUIRED.
5. THE LOCATION OF EXISTING UNDERGROUND SYSTEMS, INFRASTRUCTURE, UTILITIES, CONDUITS, WELLS, AND LINES ARE SHOWN IN AN APPROXIMATE WAY ONLY, MAY NOT BE LIMITED TO THOSE SHOWN HEREIN, AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER, THE ENGINEER, OR THEIR REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION, BOTH HORIZONTALLY AND VERTICALLY, OF ALL EXISTING UTILITIES, CONDUITS, LINES, WELLS, AND OTHER BURIED INFRASTRUCTURE AND SYSTEMS BEFORE THE START OF ANY WORK. THE CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO LOCATE THE INFRASTRUCTURE, UTILITIES, CONDUITS AND LINES EXACTLY. THE CONTRACTOR SHALL PRESERVE ALL UNDERGROUND INFRASTRUCTURE AND UTILITIES AS REQUIRED. THE CONTRACTOR MUST CALL "DIG SAFE" (AT 1-888-DIG-SAFE) AT LEAST 72 HOURS BEFORE THE START OF CONSTRUCTION.
6. THE CONTRACTOR SHALL BE RESPONSIBLE TO CALL AT LEAST 24 HOURS AHEAD FOR INSPECTIONS BY THE APPROPRIATE AUTHORITY IN ACCORDANCE WITH THE TOWN REQUIREMENTS, AS APPLICABLE.
7. THE CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES, PUBLIC AND PRIVATE, INCLUDING THOSE IN CONTROL OF UTILITIES NOT SHOWN ON THIS PLAN, (SEE CHAPTER 370, ACTS OF 1963, MASSACHUSETTS) PRIOR TO COMMENCING ANY WORK.
8. BAXTER NYE ENGINEERING & SURVEYING ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN.
9. THE TERM "PROPOSED" (PROP.) MEANS WORK TO BE CONSTRUCTED USING NEW MATERIALS OR, WHERE APPLICABLE, RE-USING EXISTING MATERIALS IDENTIFIED AS "REMOVE AND RESET" (R&R).
10. UPON AWARD OF CONTRACT, CONTRACTOR SHALL MAKE ALL NECESSARY CONSTRUCTION NOTIFICATIONS AND APPLY FOR AND OBTAIN ALL NECESSARY PERMITS, PAY ALL FEES AND POST ALL BONDS ASSOCIATED WITH SAME, AND COORDINATE WITH THE ENGINEER AS REQUIRED.
11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THAT THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS DO NOT CONFLICT WITH ANY KNOWN EXISTING INFORMATION OR OTHER PROPOSED IMPROVEMENTS. IF ANY CONFLICTS ARE DISCOVERED, THE CONTRACTOR MUST NOTIFY THE OWNER OR ENGINEER IMMEDIATELY UPON DISCOVERY AND AT LEAST 72 HOURS PRIOR TO INSTALLATION OF ANY PORTION OF THE AFFECTED WORK.
12. THE CONTRACTOR SHALL REFER TO ARCHITECTURAL AND STRUCTURAL DRAWINGS FOR ALL BUILDING DIMENSIONS AND CONSTRUCTION. BUILDING DIMENSIONS SHOWN HEREIN ARE FOR COORDINATION WITH OTHER SITE WORK ONLY AND SHOULD NOT BE USED TO STAKE OUT BUILDINGS. SITE CONTRACTOR SHALL STAKE OUT THE EXTERIOR BUILDING CORNERS FROM THE LATEST ARCHITECTURAL PLANS. THE CONTRACTOR SHALL NOTIFY BAXTER NYE ENGINEERING & SURVEYING OF ANY DISCREPANCIES BETWEEN SITE PLAN DIMENSIONS AND ARCHITECTURAL BUILDING PLANS BEFORE PROCEEDING WITH ANY PORTION OF SITE WORK WHICH MAY BE EFFECTED SO THAT PROPER ADJUSTMENTS TO THE SITE LAYOUT CAN BE MADE IF NECESSARY.
13. PRIOR TO THE START OF CONSTRUCTION THE CONTRACTOR SHALL SUBMIT A SCHEDULE OF OPERATIONS TO THE OWNER AND ITS REPRESENTATIVE. THE CONTRACTOR SHALL NOTIFY AND COORDINATE WITH THE OWNER, ITS ENGINEER OR REPRESENTATIVE.
14. THE CONTRACTOR SHALL CONTACT THE ENGINEER TO SCHEDULE A PRE-CONSTRUCTION MEETING AT LEAST TWO (2) WEEKS PRIOR TO COMMENCING CONSTRUCTION.
15. THE CONTRACTOR SHALL MAKE SUBMITTALS TO THE ENGINEER FOR APPROVAL BEFORE ANY FABRICATION OR DELIVERY OF PRODUCTS OR MATERIALS.
16. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOB SITE SAFETY AND ALL CONSTRUCTION MEANS AND METHODS. BAXTER NYE ENGINEERING & SURVEYING DOES NOT ASSUME ANY RESPONSIBILITY IN JOB SITE SAFETY FOR CONSTRUCTION METHODS USED. ALL FEDERAL, STATE, AND LOCAL OSHA REQUIREMENTS AND REGULATIONS SHALL BE FOLLOWED BY ALL PERSONNEL ON THE JOB SITE AT ALL TIMES.
17. THE CONTRACTOR SHALL REMOVE ALL STUMPS, RUBBISH, AND DEBRIS FROM THE PROJECT SITE. STORAGE OF THESE ITEMS WILL NOT BE PERMITTED ON THE PROJECT SITE. THE CONTRACTOR SHALL LEAVE THE SITE IN A SAFE, CLEAN, AND LEVEL CONDITION AT THE COMPLETION OF THE SITE CLEARANCE WORK.
18. ALL UNSUITABLE MATERIALS ENCOUNTERED WITHIN THE LIMIT OF WORK SUB GRADES SHALL BE REMOVED, AS DIRECTED BY THE ENGINEER OR OWNERS REPRESENTATIVE, TO NATURAL STABLE GROUND BY THE CONTRACTOR. UNSUITABLE MATERIALS INCLUDE TOPSOIL, LOAM, PEAT, ALL ORGANIC MATERIAL, SNOW, ICE, CONSTRUCTION RUBBLE, TRASH, AND OTHER DELETERIOUS DEBRIS.
19. TREES AND SHRUBS WITHIN THE LIMITS OF GRADING SHALL BE REMOVED AND RESET ONLY UPON APPROVAL OF THE ENGINEER OR OWNERS REPRESENTATIVE.
20. AREAS OUTSIDE THE LIMITS OF PROPOSED WORK DISTURBED BY THE CONTRACTOR'S OPERATIONS, WITHOUT PRIOR APPROVAL BY THE OWNER OR ITS REPRESENTATIVE, SHALL BE RESTORED BY THE CONTRACTOR TO THEIR ORIGINAL CONDITION AT THE CONTRACTOR'S EXPENSE.
21. EXISTING SUBSURFACE ROCK IS NOT SHOWN ON THE PLANS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO MAKE THEIR OWN DETERMINATION AS TO THE LOCATION OF SUBSURFACE ROCK.
22. THE CONTRACTOR SHALL PROTECT ALL UNDERGROUND DRAINAGE, SEWER, AND UTILITY FACILITIES FROM EXCESSIVE VEHICULAR LOADS DURING CONSTRUCTION. ANY FACILITIES DAMAGED BY CONSTRUCTION LOADS SHALL BE REPAIRED BY THE CONTRACTOR AT THE CONTRACTOR'S EXPENSE.
23. ALL EXISTING SIGNS WITHIN THE PROJECT LIMITS SHALL BE RETAINED UNLESS NOTED OTHERWISE.
24. JOINTS BETWEEN NEW BITUMINOUS CONCRETE ROADWAY PAVEMENT AND SAWCUT EXISTING PAVEMENT SHALL BE SEALED WITH BITUMEN AND BACKSANDED. ALL JOINTS TO EXISTING PAVEMENT SHALL BE SAWCUT TRUE AND STRAIGHT. ALL CRACKED OR INADEQUATE PAVEMENT AND/OR SUBBASE MATERIAL SHALL BE REMOVED AND REPLACED.

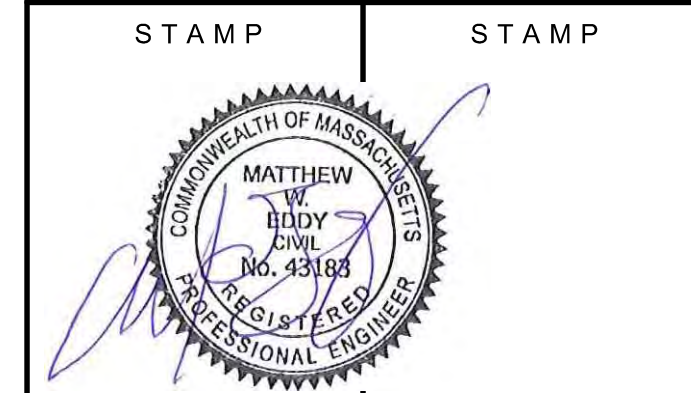
- 25. ALL PROPOSED WALKWAYS WILL BE HANDICAPPED ACCESSIBLE. ALL PROPOSED SLOPES ON WALKWAYS SHALL BE LESS THAN 5% AND ALL CROSS SLOPES <2%. THESE ARE MAXIMUM SLOPES WITH NO TOLERANCE. ALL WORK WILL BE IN ACCORDANCE WITH THE MOST CURRENT REQUIREMENTS OF THE U.S. ACCESS BOARD, AMERICANS WITH DISABILITIES ACT & COMMONWEALTH OF MASSACHUSETTS, ARCHITECTURAL ACCESS BOARD.
26. FINAL LAYOUT AND STAKING OF ALL PROPOSED FEATURES AND GRADING SHALL BE REVIEWED IN THE FIELD AND APPROVED BY THE OWNERS REPRESENTATIVE PRIOR TO ANY SITE PREPARATION OR CONSTRUCTION. THE CONTRACTOR SHALL NOT ADJUST OR MODIFY THE LAYOUT AND STAKING OF ANY PROPOSED FEATURES WITHOUT FINAL APPROVAL FROM THE OWNERS REPRESENTATIVE AND ANY GOVERNMENTAL AGENCY WHICH MAY HAVE JURISDICTION OVER CONTEMPLATED CHANGE.
27. ALL ELECTRICAL (BOTH PRIMARY AND SECONDARY), TELEPHONE, DATA/COM AND FIRE DEPARTMENT CONDUITS AND APPURTENANT FEATURES REQUIRED BY THE APPLICABLE UTILITY COMPANY ARE TO BE INSTALLED BY THE ELECTRICAL CONTRACTOR. TRENCHING, BACKFILLING, CONCRETE WORK, MANHOLE AND RELATED STRUCTURES AND STREET REPAIR SHALL BE PERFORMED BY THE GENERAL CONTRACTOR/SITE CONTRACTOR. ALL ASSOCIATED COSTS FOR COMPLETE EXECUTION OF THIS WORK SHALL BE INCLUDED IN THE CONTRACTORS PRICING.
28. RIM ELEVATIONS OF DRAINAGE AND SANITARY SEWER MANHOLES ARE APPROXIMATE. FINAL ELEVATIONS ARE TO BE SET FLUSH AND CONSISTENT WITH GRADING PLANS. ADJUST ALL OTHER RIM ELEVATIONS OF MANHOLES, GAS GATES, WATER GATES AND OTHER UTILITIES TO FINISHED GRADE WITHIN THE LIMITS OF THE SITE WORK.
29. ALL AREAS DISTURBED DURING CONSTRUCTION SHALL BE REPLACED IN KIND. SURFACES NOT OTHERWISE TREATED SHALL BE STABILIZED AS LAWNS. ALL LAWN AREAS SHALL HAVE A MODIFIED LOAM BORROW PLACED, SEED, FERTILIZED, LIMED AND MULCHED UNTIL GRASS STAND IS ESTABLISHED AND SURFACE IS STABILIZED. THE MODIFIED LOAM BORROW SHALL HAVE A MINIMUM DEPTH OF 6" AND SHALL BE PLACED FLUSH WITH THE TOP OF ADJACENT CURB, EDGING, BERM, OR OTHER SURFACE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR AREAS UNTIL VEGETATION HAS BEEN PERMANENTLY ESTABLISHED. SLOPES IN EXCESS OF 3:1 SHALL BE FURTHER STABILIZED WITH EROSION CONTROL BLANKETS (ECB) OF CURLEX OR EQUAL.
30. THE CONTRACTOR SHALL WATER, MOW, FERTILIZE OR OTHERWISE MAINTAIN ALL SODDED AND SEEDED OR OTHERWISE STABILIZED AREAS UNTIL GRASS STANDS OR OTHER VEGETATED METHODS ARE ESTABLISHED TO THE SATISFACTION OF THE OWNER OR THEIR REPRESENTATIVE.
31. THE CONTRACTOR SHALL RESET ALL MONUMENTATION DISTURBED DURING CONSTRUCTION AT NO ADDITIONAL COST TO THE OWNER. THE CONTRACTOR SHALL PROVIDE A SURVEY BY A PLS TO ENSURE THAT THE MONUMENTATION IS RESET TO ITS ORIGINAL LOCATION. MONUMENTS INCLUDE, BUT ARE NOT LIMITED TO, TOWN BOUNDS, MASS HIGHWAY BOUNDS, PROPERTY LINE MONUMENTS, IRON RODS, STAKES, CONCRETE BOUNDS, GRANITE BOUNDS AND STONE WALLS WITH DRILL HOLES.
32. ALL WORK WITHIN THESE PLANS SHALL BE PERFORMED AND PROVIDED BY THE CONTRACTOR IN ACCORDANCE WITH THE CONSTRUCTION DETAILS PROVIDED IN THIS PLAN SET WHETHER OR NOT THE DETAIL NUMBER IS SPECIFICALLY REFERENCED.
EXCAVATION SAFETY:
ALL EXCAVATION MUST FOLLOW OSHA, MASSACHUSETTS AND LOCAL REGULATIONS FOR SAFETY. ALL TRENCH EXCAVATION EXCEEDING 3 FEET OF DEPTH WILL REQUIRE A TRENCH PERMIT FROM THE LOCAL TOWN OR CITY PRIOR TO ANY EXCAVATION.
DRAWINGS STATEMENT:
THE CONTRACTOR WILL PREPARE AS-BUILT DRAWINGS, STAMPED BY A MA LICENSED PROFESSIONAL ENGINEER (PE) CERTIFYING THAT: TO THE BEST OF THEIR KNOWLEDGE, JUDGEMENT AND BELIEF, THE CONSTRUCTED WORK IS IN GENERAL CONFORMANCE WITH THE PLANS.
INSPECTIONS/TESTING:
1. CONTRACTOR IS RESPONSIBLE TO COORDINATE WITH THE ENGINEER ON ALL NECESSARY INSPECTIONS. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST TWO (2) BUSINESS DAYS AHEAD OF REQUIRED INSPECTIONS.
2. AT A MINIMUM, THE FOLLOWING INSPECTIONS/TESTING WILL BE REQUIRED. IF ISSUES ARISE DURING CONSTRUCTION THE CONTRACTOR SHALL NOTIFY THE ENGINEER AS ADDITIONAL INSPECTIONS BEING WHAT IS NOTED MAY BE NEEDED.
A. GRAVEL BORROW SUBBASE UNDER ALL PAVED AND CONCRETE SURFACES (UNLESS OTHERWISE WITNESSED BY A TESTING AGENCY.)
B. BN SHALL BE PROVIDED FOR REVIEW ALL TESTING AGENCY LABORATORY MATERIAL AND ON-SITE TESTING RESULTS AS REQUIRED UNDER THE PROJECT DOCUMENTS FOR COMPLETE REQUIREMENTS, INCLUDING BUT NOT LIMITED TO:
- ALL COMPACTION TESTING RESULTS FOR BACKFILL.
- GRAVEL BORROW MATERIAL UNDER PAVING, SIDEWALK, SITE SLABS, PADS, ETC. AS TO DEPTH OF MATERIAL PLACEMENT AND COMPACTION TESTING RESULTS.
THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING MATERIAL SAMPLES TO AND COORDINATING WITH THE TESTING AGENCY AS REQUIRED.
C. FINAL STABILIZATION AND PLANTINGS PRIOR TO REMOVING ANY SEDIMENT AND EROSION CONTROL DEVICES.
PROJECT TITLE
Proposed Entry and Narthex Addition
62 Main Street
Cotuit, MA 02635
DATE DESCRIPTION
SHEET TITLE
Legend and General Notes Plan
SHEET NO
C3.0
DATE: JULY 16, 2020
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SCALE IN FEET
SCALE: 1"=10'
DRAWN BY: JKL CHECKED BY: MWE
JOB NO: 2020-022 FILE: 2020-022LG.dwg

BAXTER NYE ENGINEERING & SURVEYING

BAXTER NYE ENGINEERING & SURVEYING

Registered Professional Engineers and Land Surveyors
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Hyannis, Massachusetts 02601

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STAMP STAMP
CONSULTANT

CONSULTANT

PREPARED FOR:
St. Michael The Archangel Orthodox Church, Inc.
62 Main Street
Cotuit, MA 02635

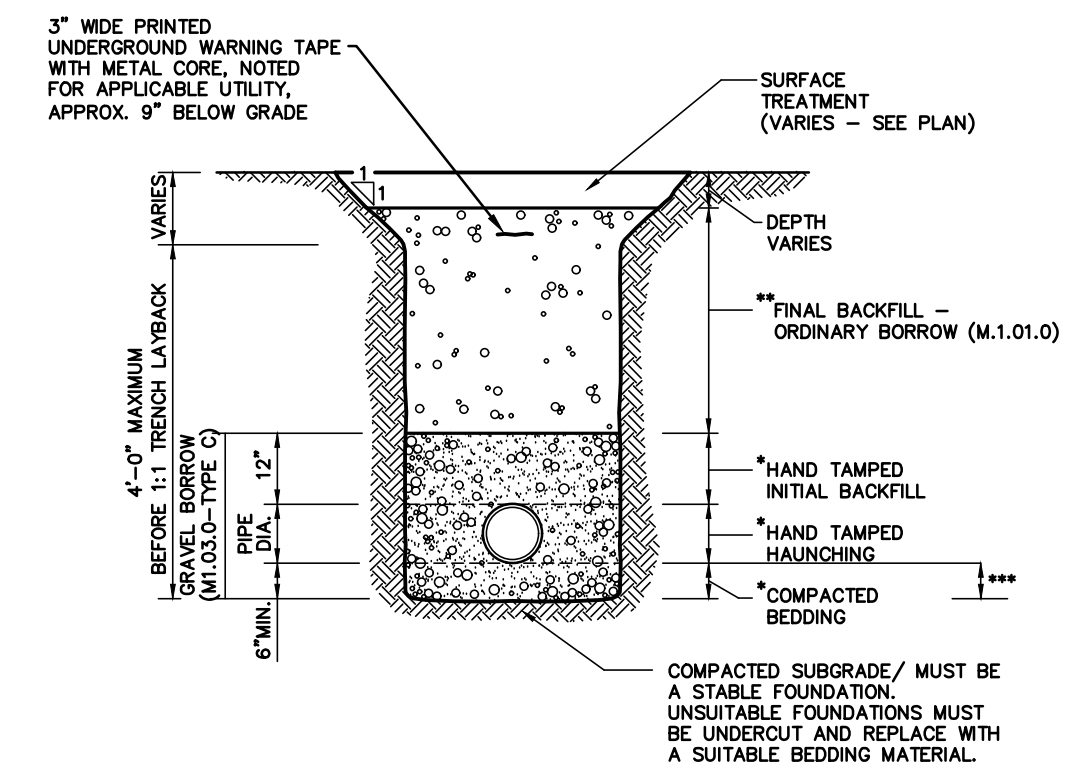
PROJECT TITLE
Proposed Entry and Narthex Addition
62 Main Street
Cotuit, MA 02635

Table with columns DATE and DESCRIPTION.

SHEET TITLE
Legend and General Notes Plan

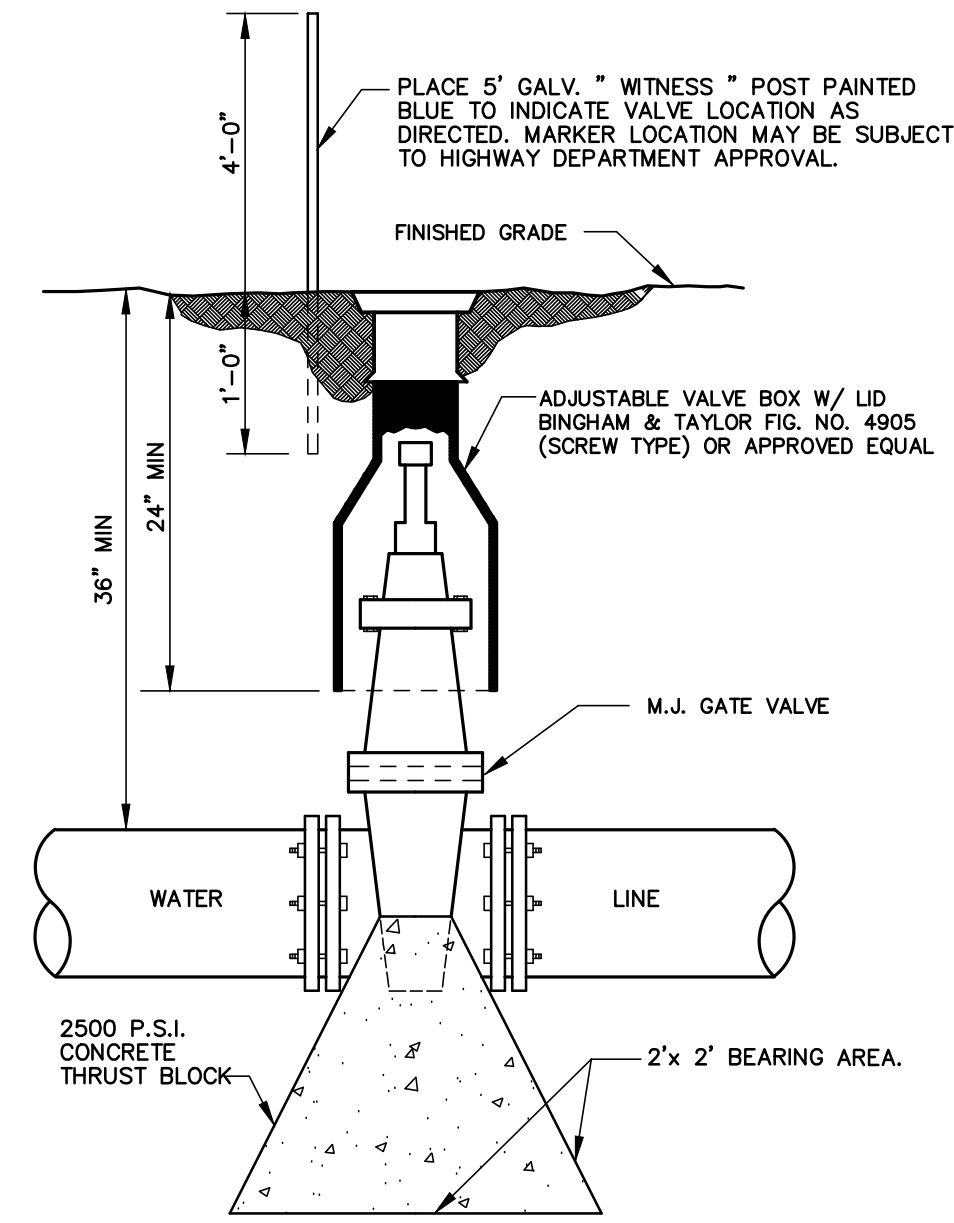
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C3.0
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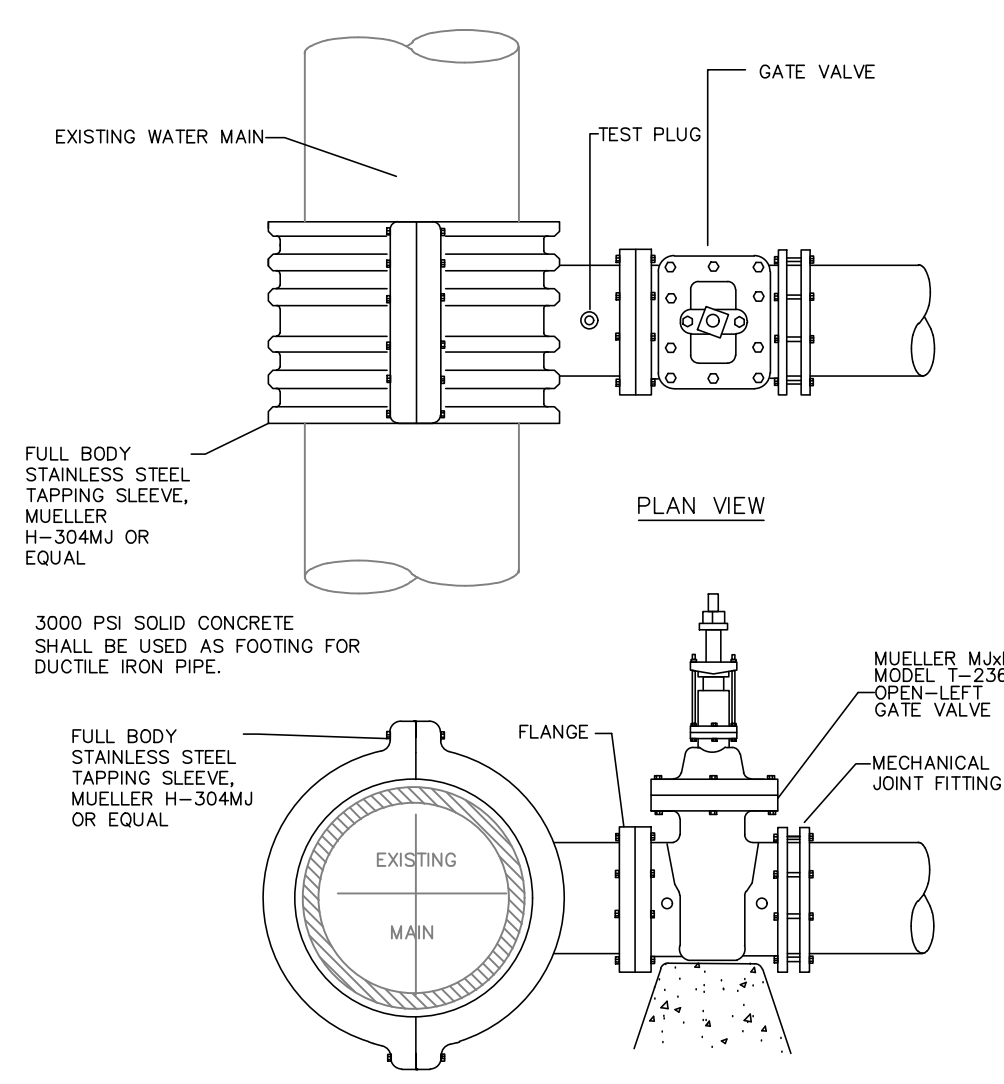
- * COMPACT TO 95% MODIFIED PROCTOR (MIN.) IN 6" LIFTS (MAX.)
- ** COMPACT TO 95% MODIFIED PROCTOR (MIN.) IN 6" LIFTS (MAX.) ONLY IF UNDER PAVED, CONCRETE OR LANDSCAPED SURFACE (AREAS SUBJECT TO VEHICULAR AND/OR PEDESTRIAN TRAFFIC).
- *** FINAL BACKFILL IN GENERAL EMBANKMENT AREAS MUST BE COMPACTED TO 95% MODIFIED PROCTOR (MIN.) IN 12" LIFTS (MAX.)
- ****FOR SANITARY SEWER MAINS, 6" BEDDING SHALL BE BACKFILLED WITH 3/4"-3/4" NON-ANGULAR STONE IN LIEU OF GRAVEL BORROW. COMPACT TO 95% MODIFIED PROCTOR.

C-118 UTILITY TRENCH DETAIL N.T.S.



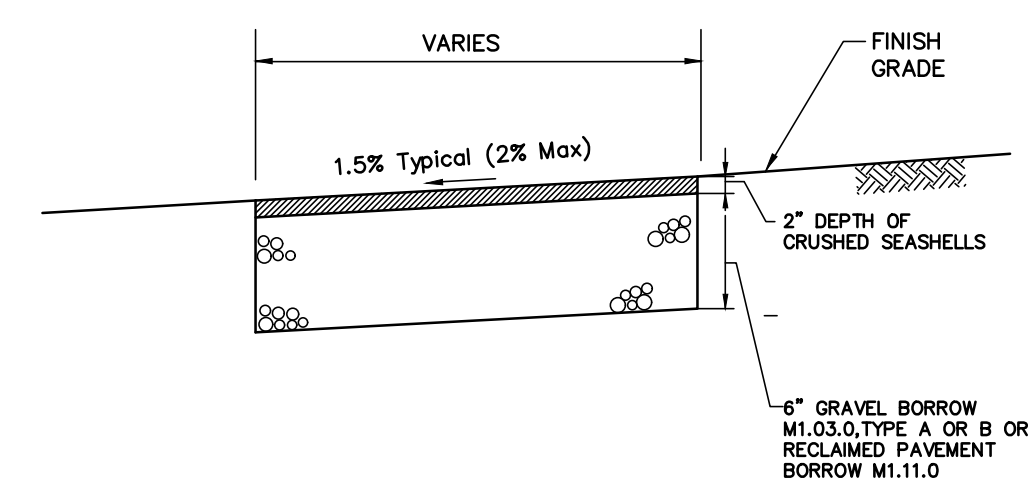
NOTE : IN REMOTE AREAS, VALVE BOXES SHALL EXTEND SIX (6) INCHES ABOVE GRADE.

C-310 GATE VALVE DETAIL N.T.S.



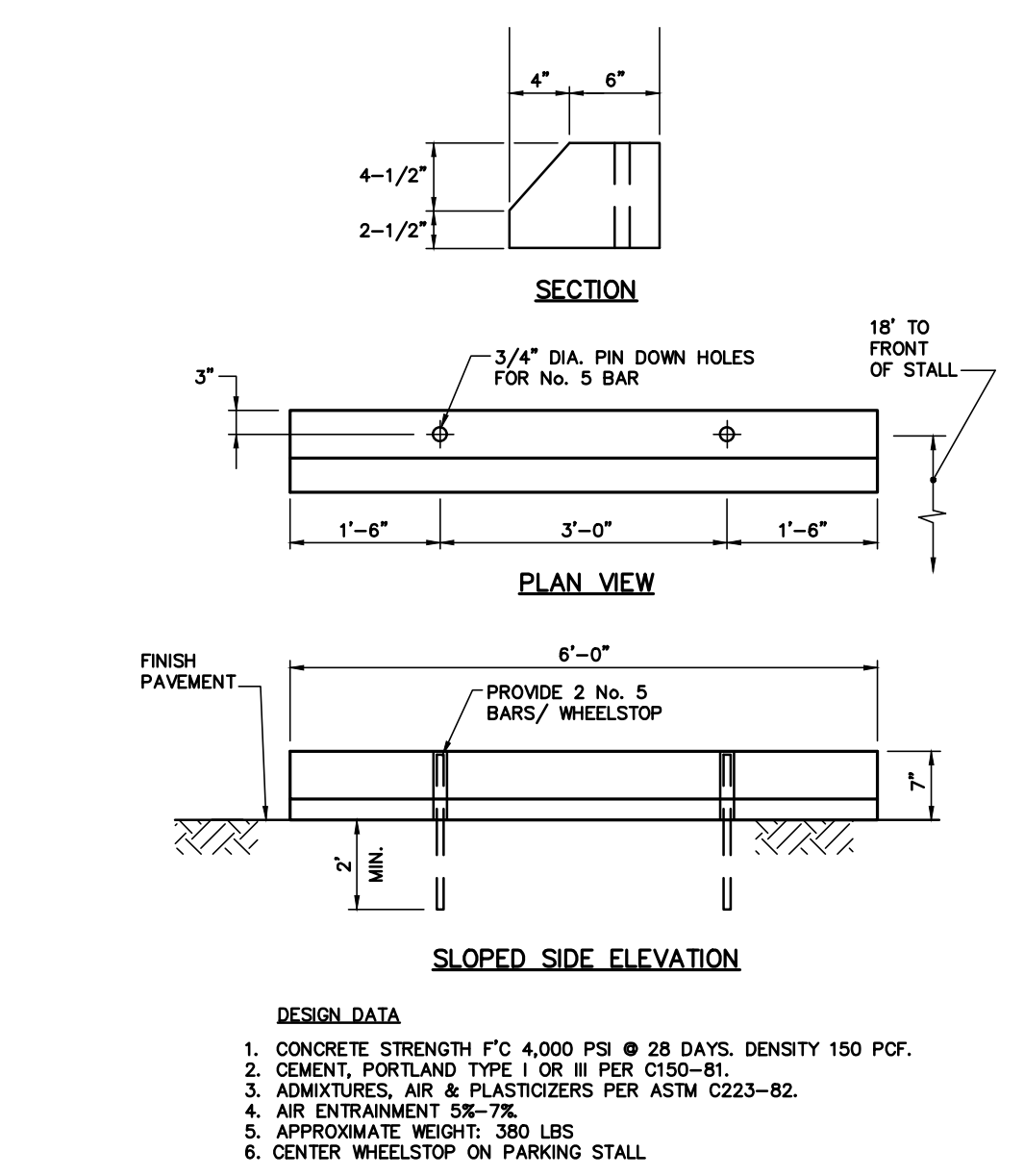
- NOTES:
1. CONCRETE SHALL NOT CONTACT BOLTS OR ENDS OF MECHANICAL JOINT FITTINGS.
 2. ALL CONNECTIONS TO BE MECHANICAL JOINTS.
 3. WATERLINE INSTALLATION REQUIRES RESTRAINED JOINTS TO BE USED AT ALL BENDS, ENDS OF LINE, VALVES AND FIRE HYDRANTS, PER WATER DEPARTMENT REQUIREMENTS. RESTRAINED JOINTS TO BE INSTALLED PER MANUFACTURERS REQUIREMENTS AND RECOMMENDATIONS.

C-321 TAPPING SLEEVE DETAIL N.T.S.

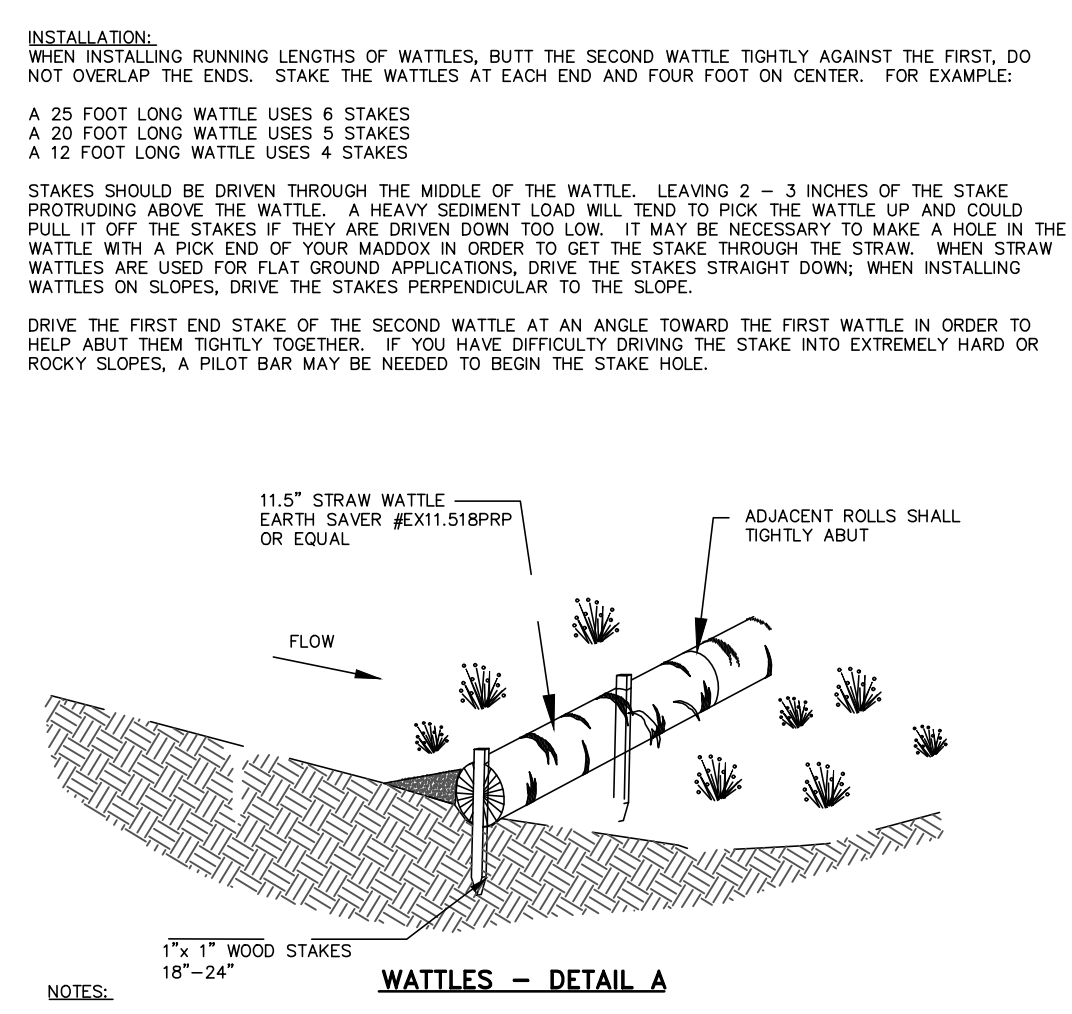


- COMPOSITION AND COMPACTION ACCEPTANCE TESTS
1. OBTAIN SAMPLES FROM PLANT TO INDICATE CONFORMANCE WITH M.3.11.09
 2. GRAVEL DENSITY AS OUTLINED BY MASSDOT
 3. ALL SAMPLES TO BE TAKEN IN ACCORDANCE WITH AASHTO T230

C-417 SEASHELL SURFACE DETAIL N.T.S.

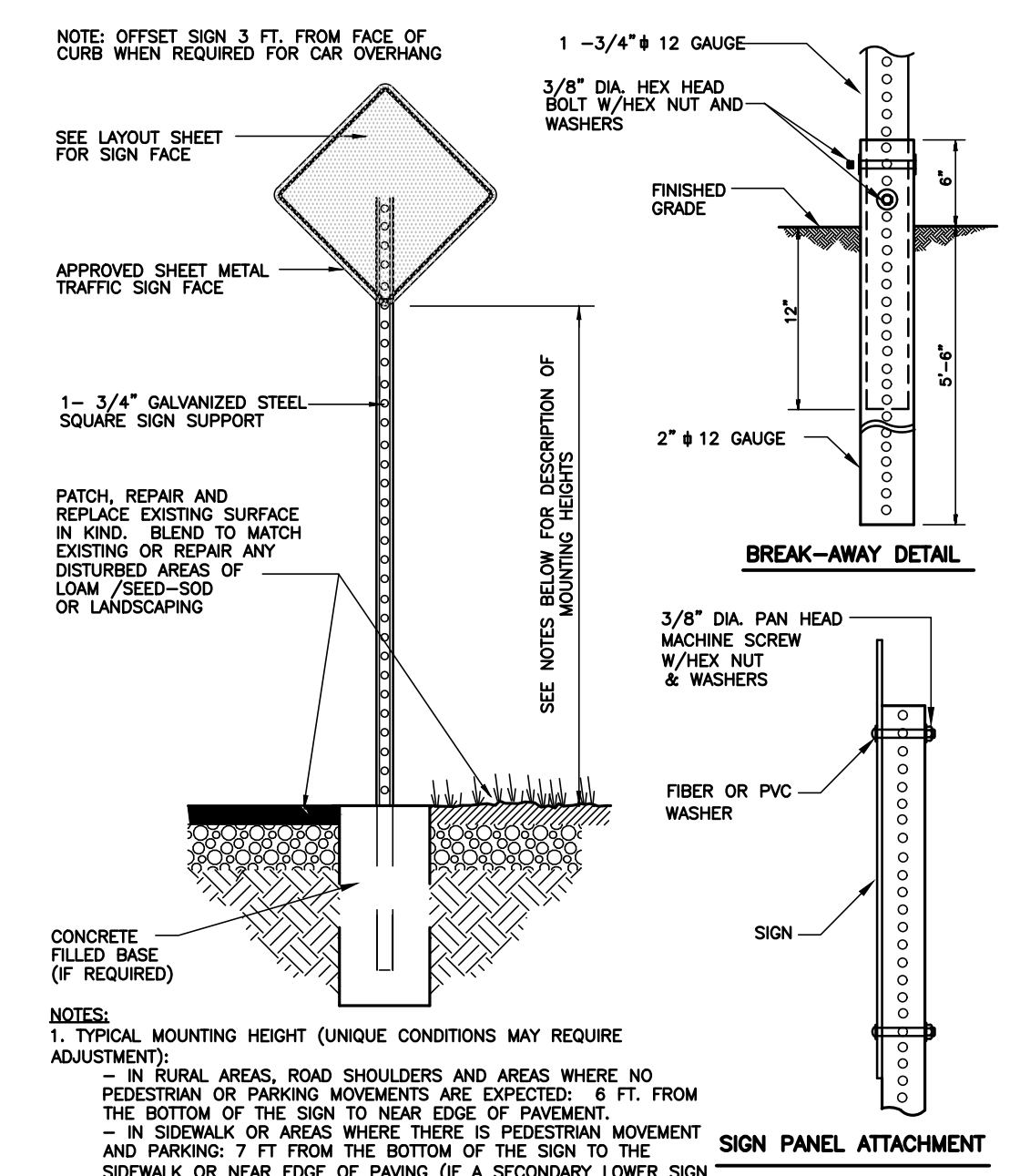


C-443 CONCRETE WHEEL STOP DETAIL N.T.S.

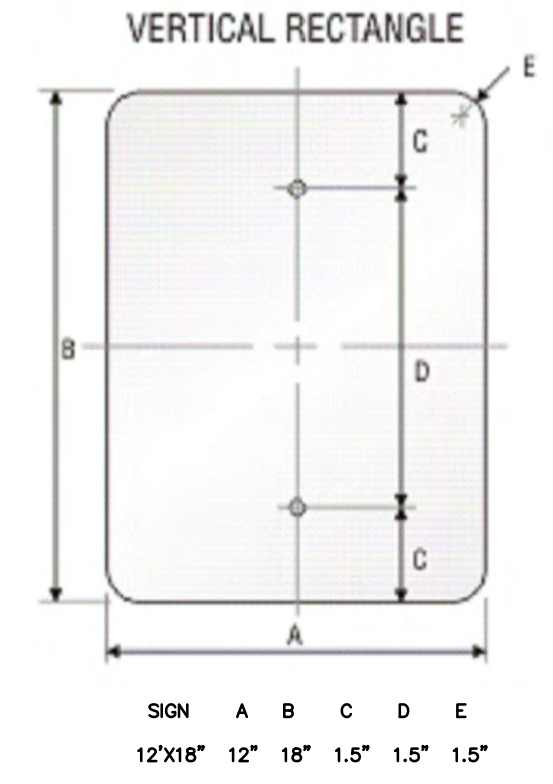


- NOTES:
1. WATTLES SHALL CONSIST OF 11.5" STRAW WATTLE - EARTH-SAVERS #E311.518RPP OR EQUAL.
 2. NOT FOR USE IN CONCENTRATED FLOW AREAS.
 3. THE WATTLES SHALL BE TRENCHED INTO THE GROUND A MINIMUM OF TWO (2) INCHES.
 4. WATTLES SHALL BE INSTALLED PER MANUFACTURERS SPECIFICATIONS.
 5. ON SLOPES, WATTLES SHOULD BE INSTALLED ON CONTOUR WITH A SLIGHT DOWNWARD ANGLE AT THE END OF THE ROW IN ORDER TO PREVENT FLOODING AT THE MID SECTION.
 6. RUNNING LENGTHS OF WATTLES SHOULD BE ABUTTED FIRMLY TO ENSURE NO LEAKAGE AT THE ABUTMENTS.
 7. STAKING: USE WOOD STAKES TO SECURE THE WATTLES. 1/2" TO 5/8" REBAR IS ALSO ACCEPTABLE. USE A STAKE THAT IS LONG ENOUGH TO PROTRUDE SEVERAL INCHES ABOVE THE WATTLE. 18" LENGTH FOR HARD, ROCKY SOIL. 24" LENGTH FOR SOFT LOAMY SOIL.
- WATTLE MAINTENANCE NOTES:
1. THE OWNER SHALL INSPECT WATTLES EVERY TWO WEEKS AND AFTER ANY SIGNIFICANT STORM EVENT AND MAKE REPAIRS OR REMOVE SEDIMENT ACCUMULATED BEHIND WATTLE AS NECESSARY.
 2. SEDIMENT ACCUMULATED BEHIND WATTLE SHALL BE REMOVED WHEN THE SEDIMENT HAS ACCUMULATED TO ONE HALF THE DIAMETER OF THE WATTLE.

C-627 WATTLE SEDIMENT BARRIER DETAIL N.T.S.

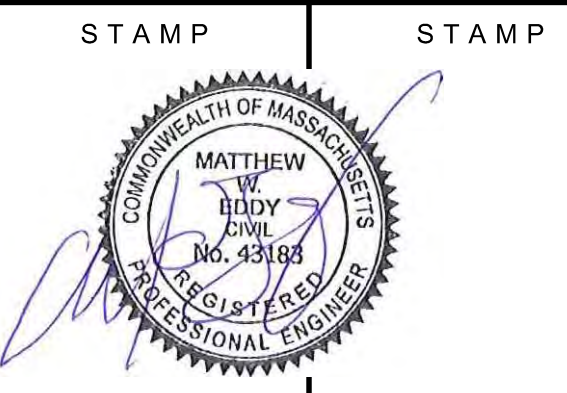


C-715 TRAFFIC SIGN POST DETAIL N.T.S.



C-727 ACCESSIBLE PARKING SIGN DETAIL N.T.S.

FOR PERMIT ONLY - NOT FOR CONSTRUCTION



CONSULTANT

CONSULTANT

PREPARED FOR:
St. Michael The Archangel Orthodox Church, Inc.
62 Main Street
Cotuit, MA 02635

PROJECT TITLE
Proposed Entry and Narthex Addition
62 Main Street
Cotuit, MA 02635

DATE	DESCRIPTION

Details Plan

SHEET NO
C4.0

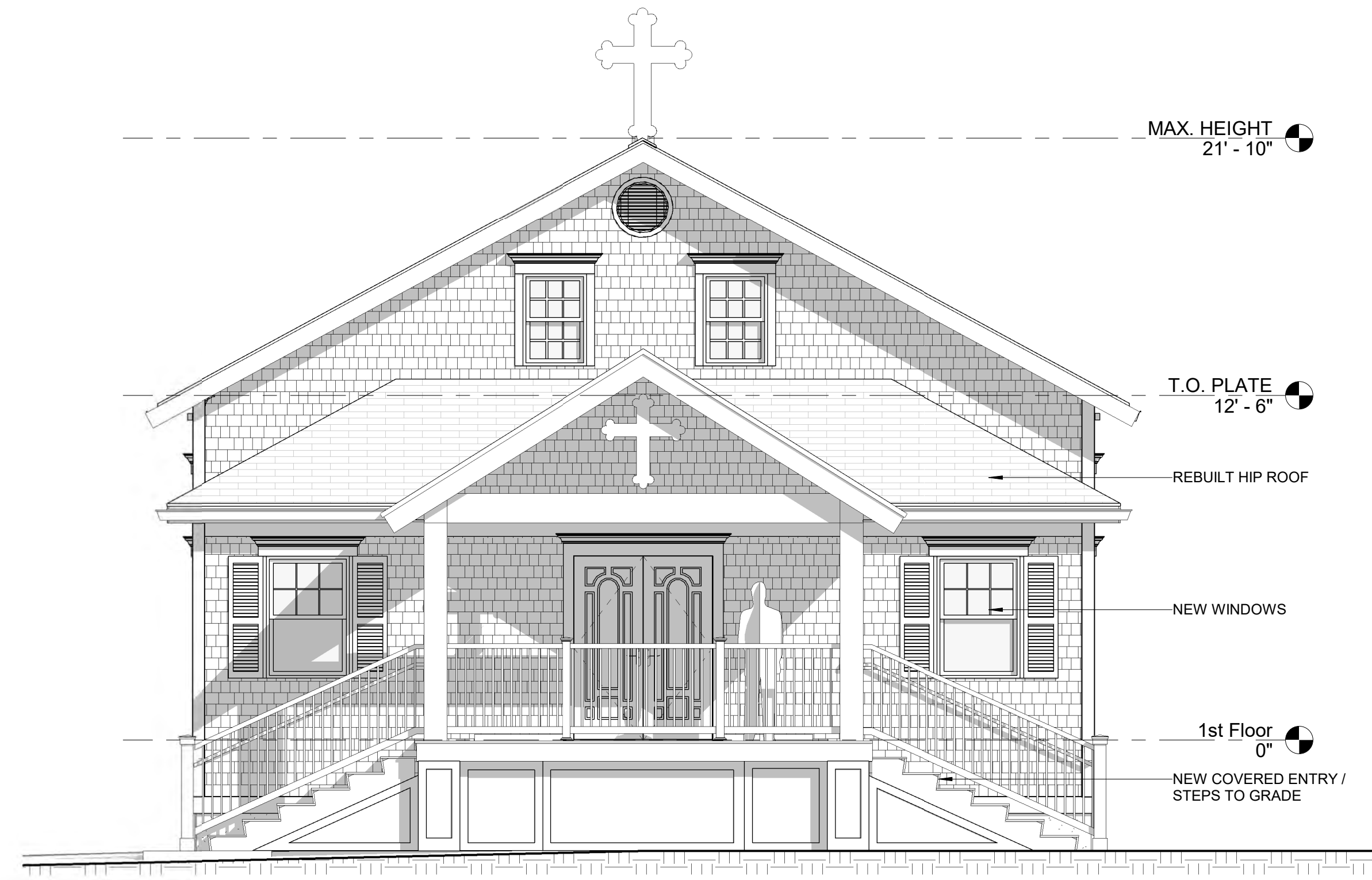
DATE: JULY 16, 2020
SCALE IN FEET
SCALE: 1"=10'

DRAWN BY: JKL CHECKED BY: MWE
JOB NO: 2020-022 FILE: 2020-022DT.dwg

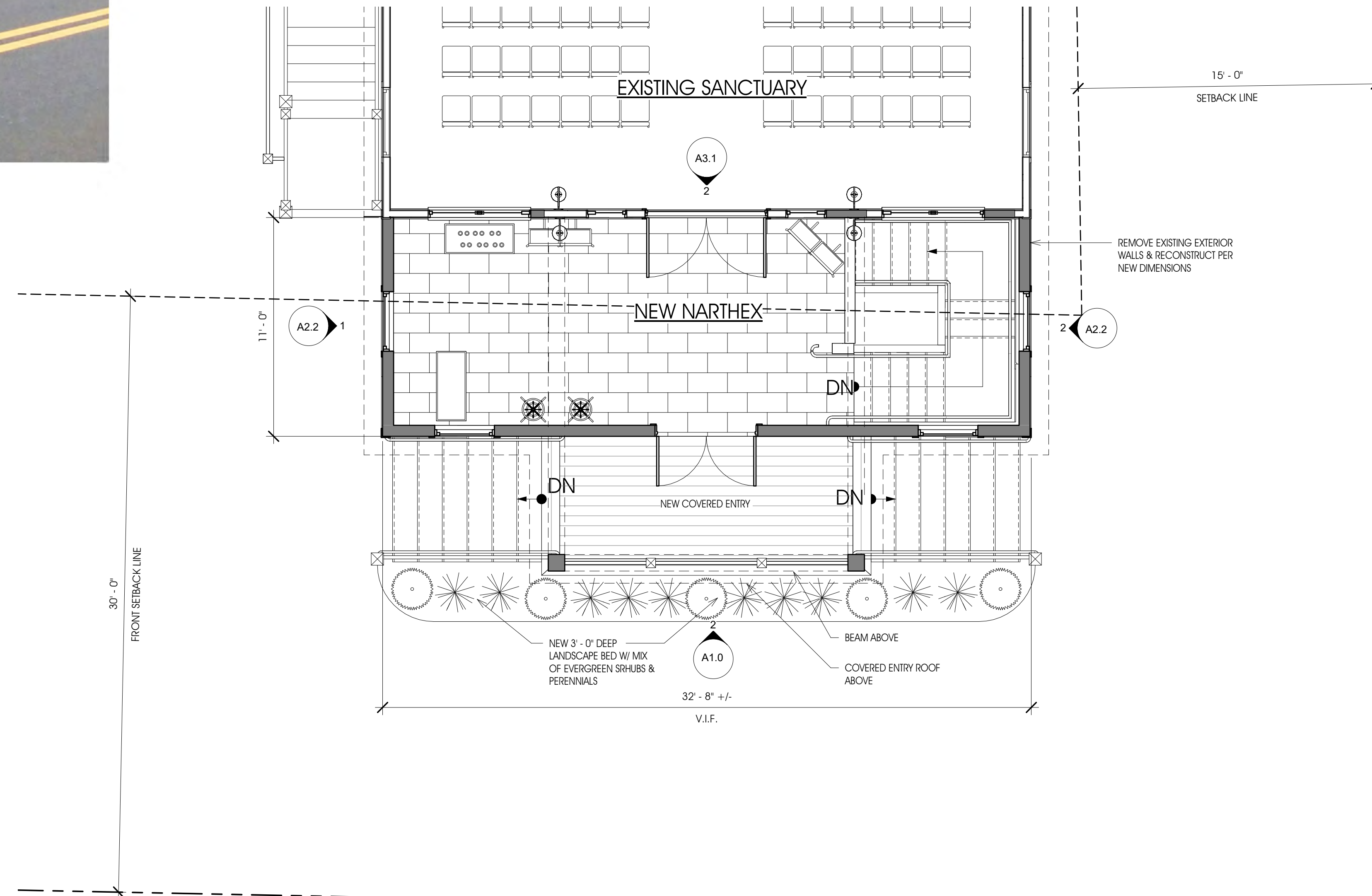
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PERSPECTIVE VIEW OF PROPOSED CHURCH



2 PROPOSED WEST ELEVATION
1/4" = 1'-0"



1 PROPOSED FIRST FLOOR PLAN
1/4" = 1'-0"

STAMP:



Brown Lindquist Fenuccio & Raber

BROWN LINDQUIST FENUCCIO & RABER
ARCHITECTS, INC.
203 WILLOW STREET, SUITE A
WARREN, MA 02075
PH 508-362-8382
WWW.LQFARCHITECT.COM

PROPOSED NEW ENTRY & NARTHEX ADDITION
ST. MICHAEL'S ORTHODOX CHURCH
62 MAIN STREET
COTUIT, MA

TITLE:
PROPOSED
DRAWINGS

DATE ISSUED: 07.16.2020

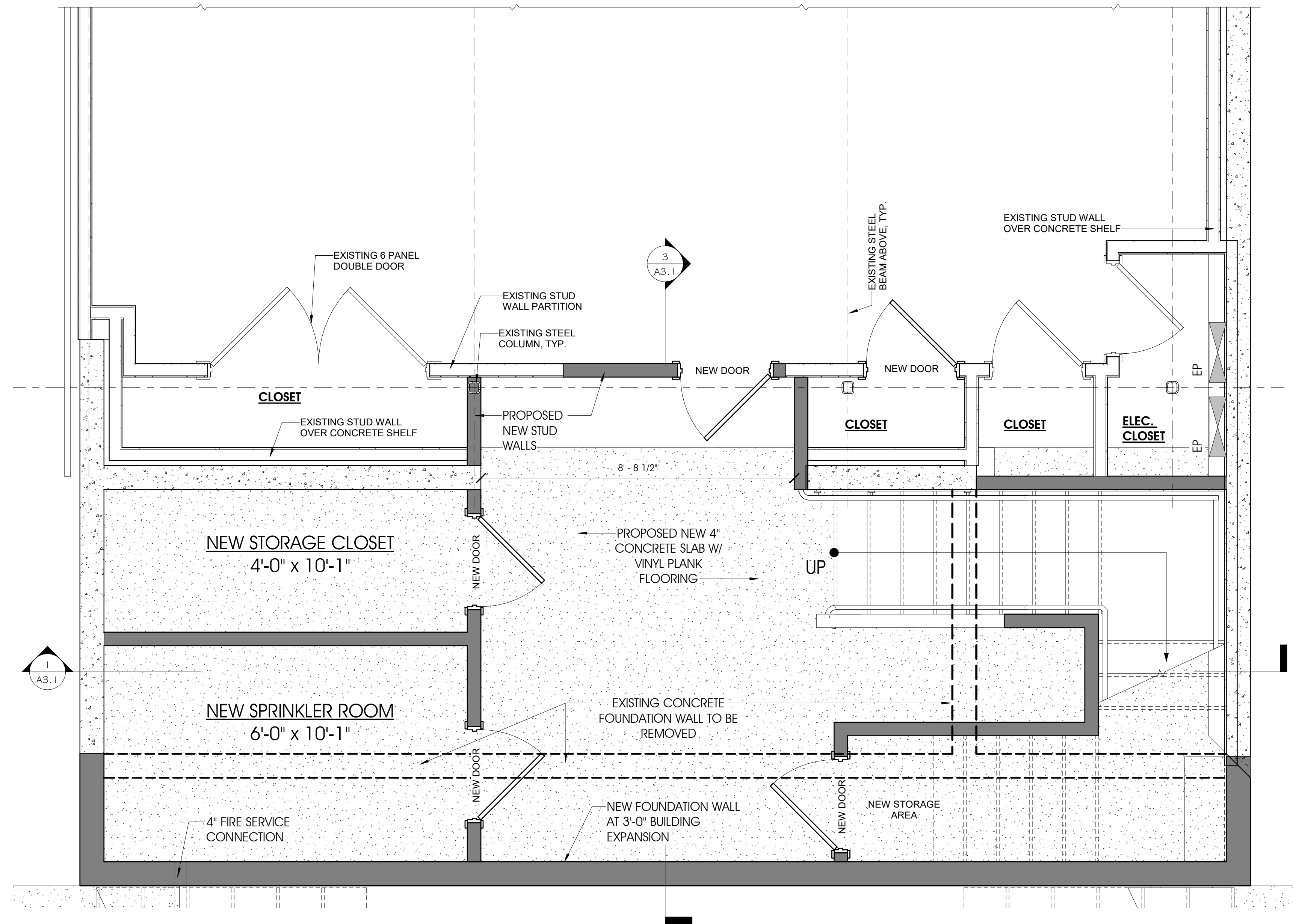
REVISIONS:
NO. DESCRIPTION DATE

DRAWN BY: YM

SCALE: 1/4" = 1'-0"

DRAWING NO.:

A1.0



1 ENLARGED PARTIAL PROPOSED LOWER LEVEL PLAN
 1/2" = 1'-0"

STAMP:



BROWN LINDQUIST FENUCCIO & RABER
 ARCHITECTS, INC.
 203 WILLOW STREET, SUITE A
 WORCESTER, MA 02075
 PH 508-362-8382
 WWW.LQFARCHITECTS.COM

PROPOSED NEW ENTRY & NARTHES ADDITION
 ST. MICHAEL'S ORTHODOX CHURCH
 62 MAIN STREET
 COTUIT, MA

TITLE:
 PROPOSED LOWER LEVEL FLOOR PLAN

DATE ISSUED: 07.16.2020

NO.	DESCRIPTION	DATE

DRAWN BY: YM

SCALE: 1/2" = 1'-0"

DRAWING NO.:

A1.1

STAMP:



BROWN LINDQUIST FENUCCIO & RABER ARCHITECTS, INC.
203 WILLOW STREET, SUITE A
WARREN, MA 02075
PH 508-362-8382
WWW.LQFARCHITECT.COM

PROPOSED NEW ENTRY & NARTHEX ADDITION
ST. MICHAEL'S ORTHODOX CHURCH
62 MAIN STREET
COTUIT, MA

TITLE:
PROPOSED
MAIN LEVEL
FLOOR PLAN

DATE ISSUED: 07.16.2020

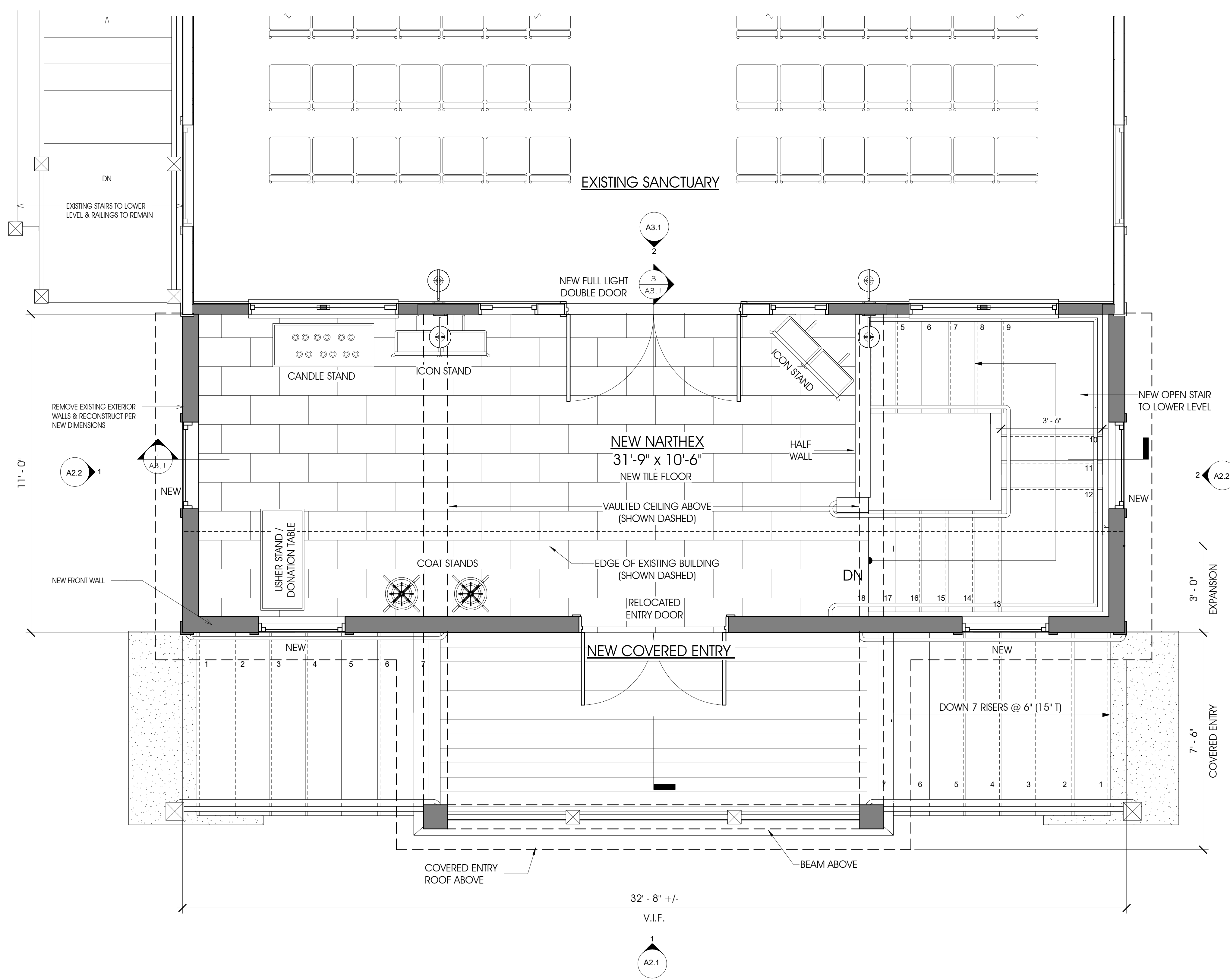
REVISIONS:
NO. DESCRIPTION DATE

DRAWN BY: Author

SCALE: 1/2" = 1'-0"

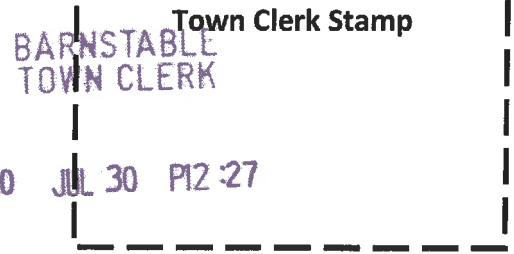
DRAWING NO.:

A1.2



1 ENLARGED PROPOSED FIRST FLOOR PLAN
1/2" = 1'-0"

7/16/2020 9:48:24 AM
H:\Current Projects\Comm\0208 Michael Orthodox Church - Narthex Addition\Drawings\Current Drawg of Michael Main Floor\0208_6_16_2020.rvt



**Town of Barnstable
Zoning Board of Appeals**

Application for a Modification Permit

For Office Use Only	
Date Application Received:	Appeal No.:
Hearing Due Date:	Hearing Date:
Decision Due:	

The undersigned hereby applies to the Zoning Board of Appeals for a Modification Permit, in the manner and for the reasons set forth below:

Petitioner(s) Name¹: St. Michael the Archangel Orthodox Church Phone: c/o 508-778-0303

Petitioner(s) Address : 62 Main Street, Cotuit, MA 02635

Property Location: 62 Main Street Cotuit, MA 02635

Property Owner: St. Michael the Archangel Orthodox Church Phone: c/o 508-778-0303

Address of Owner: 62 Main St., Cotuit, MA 02635
Street Number and Street Name City/Village State Zip

If petitioner(s) differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed Book 16923, page 345 Plan _____

Assessor's Map/Parcel Number: 023/006 Zoning District RF/RPOD

Number of Years Owned: 17+ Groundwater Overlay District: WP
AP, GP or WP

Special Permit Requested: 240-8 (3) (b)
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: Reduce pre-existing non-conforming front set back from 19.1 feet to 16.5 feet. This is required to properly renovate and expand the existing vestibule and covered stairwell in order to better accommodate religious ceremonies and access for funerals.

Is the property subject to an existing Variance or Special PermitNo [] Yes [X]: 2000-010
If Yes, please list Appeal #'s

¹ The Petitioner(s) Name will be the entity to whom the special permit will be issued to.

² If the Petitioner differs from owner, the Petitioner will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): Renovation of front of church as per attached Plans

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 1

Present Use(s): Church

Existing Gross Floor Area: 3,020 sq. ft. Proposed New Gross Floor Area: 1,308 sq. ft. Total: 4,328 sq.ft.

*Site Plan Review Number: _____ * Date Approved: _____

*(Not required for Single or Two Family use)

Is the property located in a designated Historic District?.....(waiver obtained)	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Is this proposal subject to the jurisdiction of the Conservation Commission	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Is this proposal subject to approval by the Board of Health.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Is the building a designated Historic mark?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Have you applied for a building permit?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Have you been refused a building permit?.....	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

The following required information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: _____
Petitioner(s) or Representative's Signature³

Date: 7-30-20

Print Name David V. Lawler, Esquire

Address: 540 Main St., Suite 8 Phone: (508) 778-0303

Hyannis, MA 02601 Fax No.: (508) 778-4600

e-mail Address: david@dlawlerlaw.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Petitioner/Owner shall be required.



Town of Barnstable Zoning Board of Appeals

Agreement to Extend Time Limits for Holding of a Public Hearing and Filing of a Decision on a Special Permit

ZBA Appeal #:

Petitioner(s):

Address:

Map/Parcel:

Date Application was Time Stamped with Town Clerk:	
Original Hearing Date:	
Original Decision Due:	
Number of Days Extended:	
New Decision Due Date:	

In the Matter of St. Michael the Archangel Orthodox Church the Petitioner(s) and the
Petitioner(s)

Zoning Board of Appeals, pursuant to Mass. General Laws, Chapter 40A, Section 15, agree to extend the required time limits for holding of a public hearing and filing of a decision on this application for a Special Permit for a period of ___ days beyond that date the hearing was required to be held and the decision was to be filed. This extension requires that the decision be filed 14 days after the decision is rendered by the Zoning Board of Appeals and that the decision be filed no later than _____.

In executing this Agreement, the Petitioner(s) hereto specifically waive any claim for a constructive grant of relief based upon time limits applicable prior to the execution of this Agreement.

Petitioner(s):

Signature: _____

Petitioner(s) or Petitioner(s) Representative

Date: _____

Zoning Board of Appeals

Signature: _____

Chair or Acting Chair

Date: _____

Zoning Board of Appeals

Planning & Development Department

200 Main Street, Hyannis, MA 02601

Phone: 508-862-4785 Fax: 508-862-4784

cc: Town Clerk
Petitioner(s)
File



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

**Modification Permit No. 2020-028 – Saint Michael the Archangel Orthodox Church
 Section 240-8 (3) (b) – Exempt Uses**

To allow the expansion of the vestibule resulting in the reduction of the pre-existing, nonconforming front yard setback

Date: August 13, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: Saint Michael the Archangel Orthodox Church
Property Address: 62 Main Street, Cotuit, MA
Assessor's Map/Parcel: 023/006
Zoning: Residence F (RF)

Filed: July 30, 2020

Hearing: August 26, 2020

Decision Due: November 24, 2020

Copy of Public Notice

St. Michael the Archangel Orthodox Church, Inc., has applied for a Modification Permit in accordance with Section 240-8(3)(b)-Exempt Uses. The Applicant is proposing to reduce the pre-existing, nonconforming front yard setback from 19.3 feet to 16.5 feet in order to renovate and expand the existing vestibule and covered stairwell. The subject property is located at 62 Main Street, Cotuit, MA as shown on Assessor's Map 023 as Parcel 006. It is located in the Residence F (RF) Zoning District.

Background

The subject property is a 1.49 acre lot with frontage on Main Street, south of Route 28, Cotuit. The subject lot is improved with a church, 28 parking spaces, and consisting of 2,736 square feet of living area (5,466 gross floor area) constructed in 1900. The lot is served by public water, gas, and septic.

Under a previous owner, Special Permit No's 1999-041 and 1999-042 to allow the building to be converted to 8 offices were denied. No. 1999-041 was appealed to Superior Court. While the case was being decided in Court, the Applicant proceeded with exterior work and trailers on the property were used as storage. The Building Commissioner issued a Cease & Desist Order which the Applicant appealed. The Board later upheld the decision of the Building Commissioner in Appeals No. 2000-10.

Other Approvals

The Applicant filed a Notice of Intent (NOI) with the Barnstable Historic Commission (BHC). The BHC Chair approved the project on June 23, 2020 with no requirement for a hearing.

Proposal & Relief Requested

St. Michael the Archangel Orthodox Church, Inc., has applied for a Modification Permit in accordance with Section 240-8(3)(b)-Exempt Uses. The Applicant is proposing to reduce the pre-existing, nonconforming front yard setback from 19.3 feet to 16.5 feet in order to renovate and expand the existing vestibule and covered stairwell. The subject property is located at 62 Main Street, Cotuit. The relief is sought pursuant to Section 240-8 (3) (b) – Exempt Uses. The existing structure does not meet the required front yard setback of 30 feet from Main Street. The existing front yard setback is 19.1 feet and the proposed front yard setback will be 16.5 feet.

Under Section 240-8 (3) (b) the Zoning Board of Appeals may allow an exempt use to modify bulk regulations as follows:

§ 240-8 Exempt uses.

A. The following uses and structures are permitted in all zoning districts:

(1) Municipal and water supply uses.

(2) Municipal recreation use, including recreational activities conducted on Town-owned land under the terms of a lease approved by Town Council. In the case of such a lease, any improvements or changes to such Town-owned land shall be subject to the review of a committee of five residents appointed by the Town Manager or Town Council, at least two of whom shall be from the precinct in which the land is located.

(3) The use of land or structures exempt from the use provisions of this chapter pursuant to MGL Ch. 40A, § 3, and any other statute.

(a) Where such exempt uses are subject to reasonable regulation of bulk, density and parking regulations by MGL Ch. 40A, § 3, reasonable regulation shall be deemed to be: the bulk regulations of the zoning district, except that church steeples may be permitted up to 75 feet in height; Article VI, Off-Street Parking Regulations; and Article IX, Site Plan Review.

(b) Where the proposed use does not comply with Subsection A(3)(a) above, the Zoning Board of Appeals shall by a modification permit, modify the bulk regulations of the zoning district and/or the parking requirements of Article VI, Off-Street Parking Regulations, where such regulation would substantially diminish or detract from the usefulness of a proposed development, or impair the character of the development so as to affect its intended use, provided that the modification of the bulk regulations and/or parking requirements will not create a public safety hazard along the adjacent roadways and will not create a nuisance to other, surrounding properties such that it will impair the use of these properties.

(c) A modification permit shall be subject to the same procedural requirements as a special permit, except that approval of the modification permit shall require a majority of the members of the Board.

Proposed Modification Permit Findings

For all Modification Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- 1. The application falls within a category specifically excepted in the ordinance for a grant of a Modification Permit.** Section 240-8 93) (b) allows for alterations for Exempt Uses.
- 2. Site Plan Review Committee found the project approvable (see letter dated July 29, 2020).**
- 3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**
- 4. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.**

Suggested Conditions

Should the Board find to grant the Modification Permit No. 2020-028, it may wish to consider the following conditions:

1. Modification Permit No. 2020-028 is granted to Saint Michael the Archangel Orthodox Church to renovate and expand the existing vestibule and covered stairwell thereby reducing the front setback from 19.1 feet to 16.5 feet at 62 Main Street, Cotuit.
2. The site development shall be constructed in substantial conformance with the plan entitled “Proposed Entry and Narthex Addition” sheets C1.0 - C4.0 prepared by Baxter Nye Engineering & Surveying dated July 16, 2020 and architectural plans entitled “Proposed New Entry & Narthex Addition St. Michael’s Orthodox Church” prepared by Brown Lindquist Fenuccio & Raber Architects, Inc., Sheets A1.0 – A1.2, dated July 16, 2020.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the structure or construction of additional accessory structures is prohibited without prior approval from the Board.
4. All mechanical equipment associated with the dwellings (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. All Site Plan Review conditions set forth in letter dated July 29, 2020 are hereby incorporated in this Decision.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance building permit. The rights authorized by this modification permit must be exercised within two years, unless extended.

Copies: Applicant (Attorney David Lawler)

Attachments: Application
Site Plan
Building plans
Assessor’s Record & Aerial Photo
SPR letter dated July 29, 2020