

REMOTE MEETING NOTICE/ AGENDA

Posted in accordance with the provisions of MGL Chapter 30A, §. 18-25

2021 JAN 26 PM 12:45

Name of Board, Committee or Commission:	Planning Board
Date & Time of Meeting:	Thursday, January 28, 2021 at 7:00 p.m.
Location of Meeting:	REMOTE MEETING
Clerk/Board Member posting notice	Cathy Murray

AGENDA

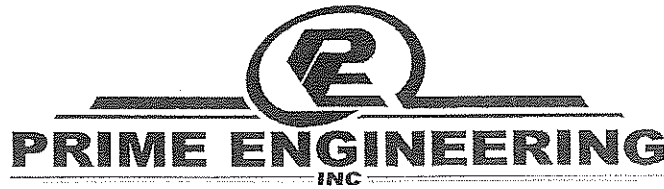
1. In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, relating to the 2020 novel Coronavirus outbreak emergency, the January 28, 2021, public meeting of the **Planning Board** shall be physically closed to the public to avoid group congregation. **However, to view this meeting in progress, please go to facebook.com/LakeCAM/ (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**
2. **Colpat Drive** – Meet with Richard Rheume from Prime Engineering Review to review correspondence regarding Colpat Drive subdivision.
3. **Ledgewood Estates**- Review Environmental Peer Review letter.
4. **Floodplain Bylaw** – Review and discuss revisions for public hearing.
5. **Site Plan Review Bylaw** – Review and discuss revisions and requirements for public hearing.
6. **Master Plan Implementation** – Update
7. **Development Opportunities District** – Update
8. **Review the following Zoning Board of Appeals petitions:**
 - a. Bauer-4 Pilgrim Road
 - b. Furtado-17 South Avenue
9. **Old Business**
10. **New Business**
11. **Next meeting. . . February 11, 2021**
12. **Any other business that may properly come before the Planning Board.**
13. **Adjourn**

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Planning Board arise after the posting of this agenda, they may be addressed at this meeting.

#1

Read the following into the record:

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, relating to the 2020 novel Coronavirus outbreak emergency, the January 28, 2021, public meeting of the **Planning Board** shall be physically closed to the public to avoid group congregation. **However, to view this meeting in progress, please go to [facebook.com/lakecam](https://www.facebook.com/lakecam) (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**



#2

January 14, 2021

Lakeville Planning Board
346 Bedford Street
Lakeville, MA 02347

RE: 1 AND 2 COLPAT DRIVE

Dear Board Members:

Mr. John Riley has asked us to re-draw the plans of the above referenced two-lot subdivision off Hill Street. The subdivision was originally approved in 2004 and recorded at the Registry of Deeds. The subdivision lapsed and the plans were re-drawn and approved again in 2012 and recorded at the Registry of Deeds. The subdivision has once more lapsed.

There seems to be no need to prepare a third set of plans. We propose that the Planning Board re-approve the plans that have already been recorded and generate a new record of decision which, after expiration of the 20-day appeal period with the Town Clerk, will be recorded and cross referenced with the existing plans and covenants. That record of decision would give the plans another seven years of life.

Sincerely,
PRIME ENGINEERING, INC.

Richard J. Rheume, P.E., LSP
Chief Engineer

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
August 13, 2020
Remote meeting**

Meet with Mr. Jamie Bissonnette regarding Colpat Drive subdivision

Mr. Bissonnette was present along with Mr. Riley the owner of the property. He advised this was a subdivision that had been previously approved by the Planning Board but the end of the seven-year time period for approval was approaching. Mr. Riley was in front of the Planning Board last year and at that time was advised to bring the Plan in renewed with new stamps and the Board would re-approve the Plan. Mr. Bissonnette said in the meantime Azor has closed, and it has been difficult to find all the original information.

Mr. Bissonnette then shared his screen and displayed the plan. It was a waived subdivision off of Hill Street. This is the plan that Mr. Riley would be looking to have re-endorsed. If not, he would then look at the option of constructing the road but it would be his preference to move forward with the re-endorsement for now. Mr. Knox asked Mr. Riley what was his long-term plan. Mr. Riley replied he was retired now and would like to focus and start the process on this, but he was just looking for another period of time to do that.

Mr. Knox asked if the intent was for the road to stay as a private way. Mr. Riley said it was. Mr. Knox explained the Board might impose conditions similar to the ones they had earlier regarding the private road, drainage, maintenance, etc. Mr. Conroy asked if there was any description of a turn around. Mr. Bissonnette replied this was the only plan he had. They are going to try to find the rest of them. It appears they tried to do a hammerhead but he has informed Mr. Riley that there have been a couple of changes since this came into effect. One, the twenty-foot width for Fire, and two, making sure the turnaround can accommodate the ladder truck. Mr. Bissonnette said he would want to look at the rest of the plans but did not see anything major. It appears to be a good layout. He would still have to check to see if these lots still conformed with current zoning.



MEMORANDUM

Date: January 20, 2021

To Mark Knox, Chairman, Lakeville Planning Board

From Scott Turner, PE, Environmental Partners

CC

Subject Ledgewood Estates

Environmental Partners (EP) has performed a site inspection and review of approved and as-built plans regarding the Ledgewood Estates Definitive Subdivision project located in Lakeville, Massachusetts. Specifically, Environmental Partners reviewed the following documents:

- Approved Definitive Subdivision Plans entitled "Ledgewood Estates – A Residential Subdivision Off Pierce Avenue in Lakeville, Massachusetts," prepared by Outback Engineering, revised through 3/3/16, endorsed by the Lakeville Planning Board 4/7/16 (4 sheets).
- Plan entitled "Ledgewood Drive Roadway As-Built Plan, Ledgewood Estates – A Residential Subdivision Off Pierce Avenue in Lakeville, Massachusetts," prepared by Outback Engineering, dated August 28, 2020.
- Report entitled "Drainage Report, Ledgewood Estates, A Definitive Subdivision in Lakeville, Massachusetts," prepared by Outback Engineering, dated January 6, 2016.

In addition to reviewing the documents described above, Scott Turner from Environmental Partners visited the site on January 18, 2021 to observe the as-built conditions. Based on this visit and the review of the submitted materials, we have the following observations:

1. In general, the quality of the construction appears good. The as-built conditions were accurately represented in the as-built plans and were generally consistent with the approved plans as provided.
2. The rip-rap filled swale located at the intersection of Ledgewood Drive and Pierce Avenue contained a modest amount of silt, leaves, etc. It appeared that some of this silt eroded from the right-of-way in front of Lot 5. The amount of silt is consistent with what would normally be expected. We recommend that regular maintenance of this swale be performed consistent with the Massachusetts Department of Environmental Protection (DEP)

Stormwater Management Guidelines. It is noted that the Operations and Maintenance Plan submitted with the drainage report did not include any specific language regarding the maintenance of this rip-rap swale. All stormwater management facilities constructed as part of this project will need to be maintained properly in order to function as designed.

3. The infiltration basin located on the northeast side of the project contained approximately 6-inches of standing water during the site visit. There was significant rain two days prior. Per the DEP Stormwater Management Guidelines, all infiltration facilities are required to completely drain within 72-hours. There was evidence that the water level in the infiltration basin had decreased, indicating that the basin was infiltrating.
4. The gravel path leading to the infiltration basin showed some erosion, presumably from the rain two days prior.
5. The west side of the berm of the infiltration basin has created an area for water to collect and pond.
6. There is a small amount of debris located in the vertical orifice in the outlet control structure. This should be removed.
7. Environmental Partners measured the volumes in the infiltration basin depicted in the as-built plan and compared the measured volume to the volumes used in the calculations. The measured volumes are consistent with the volumes shown in the calculations.
8. There is some 'scarring' of the concrete berm located along the side of the road. This 'scarring' has presumably occurred during snow removal and we consider this to be normal wear and tear.

Below are some photographs from the site visit depicting the items described above.



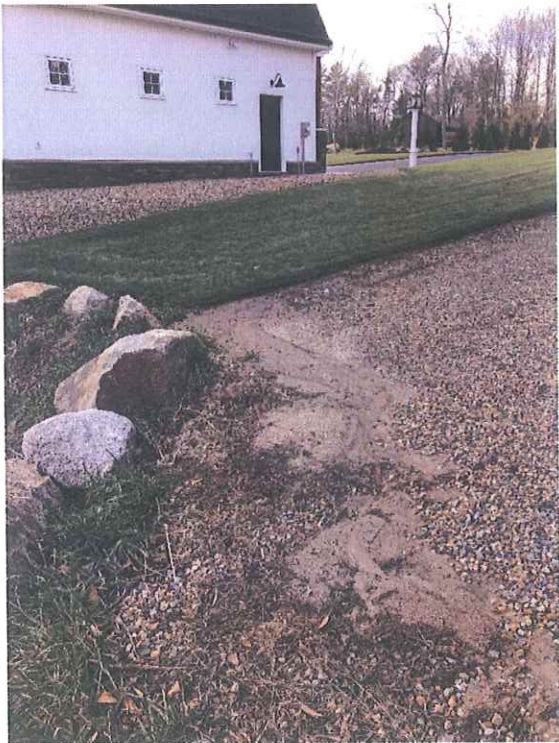
Standing water in Infiltration Basin



Debris in outlet control structure



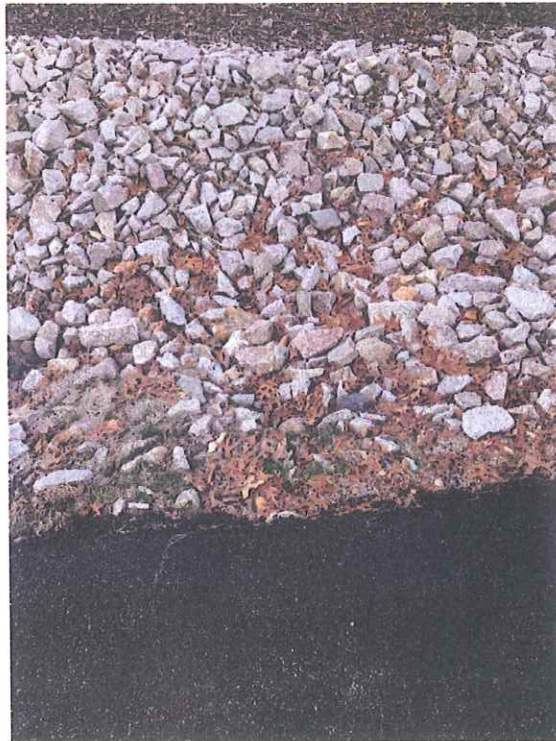
Standing water west of Infiltration Basin



Erosion on path leading to Infiltration Basin



Scarring of bituminous berm



Debris in rip-rap swale

In our opinion, the project - as constructed - is in substantial conformance with the approved plans. The items described above are generally maintenance items. We are happy to discuss any of these items with the Planning Board.

I:\Lakeville.348\Ledgewood Estates\02 Correspondence\2021-01-20 Ledgewood Estates as-built review memo.docx

Massachusetts 2020 Model Floodplain Bylaws

Table of Contents

Section 1.	Introduction
Section 2.	Local Required Bylaws
Section 3.	Required Definitions
Section 4.	Explanations

Section 1. Introduction

After years of devastation from flooding across the nation, Congress created the National Flood Insurance Act of 1968 in an attempt to offer flood disaster relief in the form of insurance. This insurance would be available to residents of communities that voluntarily adopt and enforce floodplain management ordinances that meet at least minimum National Flood Insurance Program (NFIP or the Program) requirements.

According to FEMA's Community Status Book, the first Massachusetts community to officially participate in the NFIP was the Town of Wareham, who joined the NFIP on May 28, 1971. Most other MA communities quickly followed suit in the 1970s and early 1980s. The State NFIP Coordinating Office was created by Executive Order of the Governor in 1978 and is housed under the Water Resources Commission in the Department of Conservation & Recreation's Flood Hazard Management Program.

This document has been prepared in order to assist NFIP communities in Massachusetts to understand the minimum requirements of the NFIP, and to assure that their local bylaws or ordinances contain the necessary and proper language for compliance with the Program.

The local floodplain overlay district is established as an overlay to all other districts. In Massachusetts, the floodplain overlay district bylaw or ordinance is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management requirements and concerns. Referencing existing regulations is important to ensure that projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.

All development in the floodplain overlay district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR- Massachusetts Statewide Building Code
- 310 CMR- Department of Environmental Protection Regulations

For those NFIP requirements that are not found in the above state regulations, the community must adopt these requirements in their bylaws (towns) or ordinances (cities.) The following section contains all NFIP requirements that must be adopted as local regulations, since they are not found in the above listed regulations.

Section 3 contains floodplain management definitions that FEMA Region I feels are critical for inclusion in local codes.

Section 4 of this document offers explanations to support local understanding of these requirements.

Section 2. Required Local Bylaws

For those National Flood Insurance Program minimum requirements that are not found in existing state law, the following articles must be adopted by the community as a part of their local bylaws or ordinances, if these are not already adopted. The suggested language in this section is compliant with the federal requirements.

1. Stated local purpose for flood resistant standards

The purpose of the Floodplain Overlay District is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

2. Use of FEMA maps and supporting studies

A community must select the appropriate option as follows:

A. Bylaw text for communities with “Community-Based” FIRMs, FBFM and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the [Town or City]’s Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated [effective map dates on FIRM] and on the Flood Boundary & Floodway Map (if applicable) dated [FBFM effective date.] These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated [FIS date.] The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other.]

OR

B. Bylaw text for communities with “Countywide” FIRMs and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within [Community Name] designated as Zone A, AE, AH, AO, A99, V, or VE on the [County Name] Flood Insurance Rate Map (FIRM) dated [FIRM date] issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the [County Name] Flood Insurance Study (FIS) report dated [FIS date]. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other].

3. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

4. Disclaimer of liability

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

5. Severability section

If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

6. Designation of community Floodplain Administrator

The Town/City of _____ hereby designates the position of _____ to be the official floodplain administrator for the Town/City.

7. Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

8. Variances to building code floodplain standards

CHOOSE THE APPROPRIATE OPTION:

A. If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:

The Town/City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

B. Certain communities have the authority to issue variances to the state building code. If your community has this authority from the BBRS, you will use this text for local adoption:

Variances to floodplain development regulations shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

A written justification for the variance will be maintained in the Town's/City's building permit files, delineating the technical reason for the variance, and stating that the variance is the minimum necessary (considering the flood hazard) to afford relief.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

9. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

10. Permits are required for all proposed development in the Floodplain Overlay District

The Town/City of _____ requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and

any other development that might increase flooding or adversely impact flood risks to other properties.

11. Assure that all necessary permits are obtained

(Town/City) _____'s permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

12. Subdivision proposals

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

13. Base flood elevation data for subdivision proposals

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

14. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

15. Floodway encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's/City's FIRM or Flood Boundary & Floodway Map (choose map which delineates floodways for your community) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

16. Watercourse alterations or relocations in riverine areas

In a riverine situation, the _____ (appropriate official in community) shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

17. AO and AH zones drainage requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

18. Recreational vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for

foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

19. Protection of dunes

Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

20. Local Enforcement

This is not sample bylaw text, but rather an instruction:

Please read the explanation in Section 4 about the importance of being able to point to specific local enforcement procedures for non-compliant floodplain development.

Section 3. Definitions not found in the State Building Code

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9th Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or

- (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;

- (b) 400 square feet or less when measured at the largest horizontal projection;

- (c) Designed to be self-propelled or permanently towable by a light duty truck; and

- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling

units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONES, FLOOD – *These definitions do not need to be included in local bylaws.*

Definitions of Flood Zones

The community shall use the pertinent definitions for flood zones delineated within the community. All of these terms are defined in the US Code of Federal Regulations, Title 44, Part 64.3.

ZONE A means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (*Zone X replaces Zones B and C on new and revised maps.*)

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE (*for new and revised maps*) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Section 4. Explanations

The requirements of the NFIP can be found in the US Code of Federal Regulations, Title 44 Emergency Management, generally in sections 59 through 75, although the requirements that most specifically address development in the floodplain are found in section 60.3. The highlighted bold italic type below states the requirement as found in the federal code and is followed by the code citation.

1. Stated local purpose for flood resistant standards

To justify the community's reasoning behind local floodplain overlay district zoning bylaws, the NFIP requires:

A purpose section citing health, safety, and welfare reasons for adoption [44 CFR 59.22(a)(1)]

The statement of purpose should set forth the goals and objectives to be achieved through the bylaw or ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community

These stated purposes will be ever more critical as community liabilities increase due to climate changes and increased flooding/ flood damages. The community is responsible to assure that all development is implemented in a safe, healthy, and socially/economically acceptable manner.

2. Use of FEMA maps and supporting studies

For local adoption of current effective FEMA flood maps and Flood Insurance Studies (FIS), the NFIP requirements state:

Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date. [44CFR 60.2(h)]

and

Adopt or reference correct Flood Insurance Study and date. [44CFR 60.2(h)]

FEMA guidance (publication #495) states:

“The basis of your community’s floodplain management regulations is the flood hazard data FEMA provides. In support of the NFIP, FEMA identifies flood hazards nationwide and publishes and periodically updates flood hazard data. These data are provided to communities in the form of a Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report...”

and *“Each time FEMA provides your community with new or revised flood hazard data, you must either adopt new floodplain management regulations to incorporate the data into your ordinance or amend the existing ones to reference the new FIRM and FIS report.”*

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended. (Text from actual FEMA Letter of Final Determination.)

3. Abrogation and greater restriction section

The community must provide that floodplain management regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. [44CFR 60.1(b)]

This is a legal provision that specifies that the floodplain management bylaw, ordinance, regulations, and building codes take precedence over less restrictive requirements.

4. Disclaimer of liability

The community must state that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

5. Severability section

If any section, provision or portion of the ordinance is deemed unconstitutional or invalid by a court, the remainder of the ordinance shall still be effective.

6. Designation of community Floodplain Administrator

Designate the official responsible to submit a report to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of floodplain management regulations. [44CFR 59.22 (b)]

The community must designate by title one person to act as the community's floodplain administrator (sometimes referred to as the FPA.). This is so that FEMA can use this information in their local contacts database, and so that this person can act on behalf of the community when implementing certain tasks under the National Flood Insurance Program. For example, the local FPA would sign the Community Acknowledgement Form when a property owner wishes to file for a Letter of Map Revision (LOMR).

The designation refers to a local staff position and can be anyone with the local authority to assure that the community is meeting its obligations as a participant in the National Flood Insurance Program. The FPA does not need to be someone who is directly involved in local development, but it should be someone who has at least a general concept of NFIP requirements and of the community's obligations under the Program. Typically, across the nation the FPA can be a building commissioner, town manager, town engineer, director of planning, environmental planner, etc.

Typical duties of an FPA include but are not limited to:

- a) Understanding the regulations for development in the floodplain overlay district
- b) Ensuring that permits are applied for when development of any kind is proposed in the floodplain overlay district
- c) Involvement with the permit process and/or permit application review for development in the floodplain overlay district
- d) Coordinating with other local departments such as public works, stormwater/engineering, planning & zoning, conservation commission, or housing
- e) Notifying adjacent communities prior to alteration of a watercourse
- f) Dealing with compliance issues and enforcement actions such as correcting violations, or working with the appropriate local staff to correct violations
- g) Maintaining records of floodplain development, and keeping FEMA current and historic maps available for public inspection

7. Requirement to submit new technical data

Within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [44CFR 65.3]

Many development changes to the floodplain will trigger the requirement to file a Letter of Map Revision or other type of Letter of Map Change. When the development does not trigger the LOMC requirement but impacts the heights or extents of the base flood (usually to lower the risk), FEMA should be notified that a change was made so that in future map studies/updates this can be adequately addressed.

8. Variances to building code floodplain standards

44CFR 60.6(a)(3-6):

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section.

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance

Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely. Variances for floodplain development regulations must show that:

- Good and sufficient cause and exceptional hardship exist;
- The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- The variance is the minimum action necessary to afford relief.

In Massachusetts, typically the State Building Code Appeals Board issues a variance to the state building code, unless your community is one of those approved by BBRs for local variance authority. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

- a. the justification for local decision to deny the permit, and
- b. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

The community must also send a letter to the property owner stating that the implications of this variance may adversely impact the cost of the flood insurance policy covering the structure.

A FEMA suggestion for language to be used in such a letter is as follows:

"The granting of this variance may result in increased flood insurance premium rates, up to \$25 per \$100 of coverage, and such construction below the base flood level increases risks to life and property."

The justification for the variance (or the denial of the variance) and the community letter must be maintained as documentation that these actions were taken.

9. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

Please note: This section addresses local Zoning Board variances only, and applies only when other variance procedures (such as those under the state building code) do not cover the variance request.

§60.6 Variances and exceptions. Excerpts:

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only.

The community, after examining the applicant's hardships, shall approve or disapprove a request.

The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under §59.24(b) of this subchapter.

Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize

flood damages during the base flood and create no additional threats to public safety.

For further information, see FEMA publication P-993, “Variances & the National Flood Insurance Program.”

From the State NFIP Coordinating Office: For all variances to floodplain development regulations, the community must maintain documentation that includes the variance request; determinations made by the entity granting the request that the three criterium listed above have been met; a copy of the letter to the property owner regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible, as specifically described in the variance file.

10. Permits are required for all proposed development in the Floodplain Overlay District

Require permits for all proposed construction and other developments including the placement of manufactured homes [44CFR 60.3(b)(1)]

NFIP requirements are focused on “development” in the floodplain. The NFIP definition of development is “*any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.*” [44CFR 59.1]

Most Massachusetts communities have long used building permits to review construction in their floodplain overlay district, and conservation commissions use several documents for review of other types of development, but the regulation of all development in a floodplain is essential so that flood risks are not increased either on the site or to adjacent or upstream/downstream properties.

Some communities use a ‘Floodplain Development Review Form’ in addition to the traditional building permit, so they can document the review of all activities in the floodplain such as filling and grading; excavation, mining and drilling, storage of materials or equipment, placement of recreational vehicles or temporary stream crossings, and the review of activities conducted by other agencies such as roads or bridges built by state or federal government.

In Massachusetts, the local conservation commission reviews many of the above-listed activities, but use of a floodplain development review form for all floodplain overlay district proposals ensures that nothing slips through the cracks. This NFIP permitting

requirement is not prescriptive, but the documentation of some kind of permit or review process is mandatory for all floodplain development.

An additional benefit of documenting all floodplain development is that when a violation is discovered, the community can demonstrate that they did not approve the development as constructed, or that the developer did not come in for a full review of the development activity.

11. Assure that all necessary permits are obtained

Assure that all other State and Federal permits are obtained [44CFR 60.3(a)(2)]

While the community does not have to participate in the acquisition or review of all necessary state and federal permits for floodplain development, the community is obligated to assure that all necessary permits have been obtained by the proponent. The use of a checklist facilitates awareness for the proponent of which other permits must be obtained, generally prior to beginning the development project.

12. Subdivision proposals

Review subdivision proposals and development proposals to assure that:

(a) Such proposals minimize flood damage.

(b) Public utilities and facilities are located & constructed so as to minimize flood damage.

(c) Adequate drainage is provided.

[44CFR 60.3(a)(4) (I thru iii)]

13. Base flood elevation data for subdivision proposals

Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [44CFR 60.3(b)(3)]

If a subdivision fitting this size description is proposed in the floodplain overlay district where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied. The developer is responsible for providing the necessary technical data to support the base flood elevations shown on his/her design drawings.

14. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways. [44CFR 60.3(b)(4)]

If the community has the engineering resources required to determine the base flood elevation in an unnumbered A zone, these resources can be used to meet this requirement. For those communities that do not have these resources, and even in communities that do, the permitting office can require that the proponent pay for resources to determine the base flood elevation when a development is being proposed. Historical records can be used, as well as any other data that reasonably indicates the 1% chance flood event. Two notes about this requirement:

- a) FEMA does allow a “defacto” elevation of two (2) feet above the highest adjacent grade in cases where the BFE cannot be reasonably determined, but the 9th Edition of the Massachusetts building code requires an additional foot of freeboard. This means that the top of the lowest floor would have to be three (3) feet above the highest adjacent grade.
- b) The 9th Edition of the MA building code allows communities to use preliminary FEMA maps once the Letter of Final Determination has been issued. These maps may indicate a BFE where none existed before, by virtue of the map update process.

15. Floodway encroachment

310 CMR 10.57(4) General Performance Standards.

(a) Bordering Land Subject to Flooding.

1. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

2. Work within Bordering Land Subject to Flooding, including that work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.

This standard is found in the Wetlands Protection Act (WPA), and essentially means that there is no rise allowed in the elevation of the base flood anywhere in the entire floodplain. While an official certification is not required in floodways that are not regulated (shown on the FEMA map), for the intent of the WPA to be fulfilled the community must be sure that there will be no rise in the base flood elevation. If the area is located in an unnumbered A zone, a BFE must be determined before the development is designed, so that the “no rise” standard can be demonstrated.

Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. [44CFR 60.3(b)(6)]

Under federal NFIP requirements, the community must require certification from a registered professional that shows there will be no rise in the base flood elevation when development takes place in the regulated floodway. This cannot be accomplished by showing compensatory alone; the documentation must include a hydrologic and hydraulic (H&H) analysis.

16. Watercourse alterations or relocations in riverine areas

In riverine areas, notify neighboring communities of watercourse alterations or relocations. [44CFR 60.3(b)(6)]

Neighboring communities (and possibly a neighboring state) need to know in advance if the alteration or relocation of a watercourse might change their floodplain or flood risk. Send plans for this development to the CEOs of those communities, as well as to the Massachusetts NFIP State Coordinator and to the FEMA Regional Office.

17. AO and AH zones drainage requirements

In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [44CFR 60.3(c)(11)]

Guiding water away from the structure must also consider adjacent properties, where drainage cannot impact those lots or structures.

18. Recreational vehicles

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready. [44CFR 60.3(c)(14)]

In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed & highway ready. [44CFR 60.3(e)(9)]

“Fully licensed and highway ready” means that wheels must be inflated; the vehicle must be self-propelled or towable by a light-duty truck; have no attached deck, porch or shed; and have quick-disconnect sewage, water and electrical connections. In other words, the vehicle must be ready to relocate immediately upon notification of the possibility of flooding in the area.

19. Protection of dunes

Prohibit alteration of sand dunes which would increase potential flood damage. [44CFR 60.3(e)(7)]

20. Local Enforcement

The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community. [44 CFR 60.1(b)]

Sample bylaw language has not been offered regarding local enforcement of flood-resistant and flood reduction standards because enforcement is typically already addressed elsewhere in codes that are locally enforced.

As a part of implementing the NFIP in a local community, however, FEMA will need to know how the community enforces these regulations and standards. Each NFIP community should be prepared to answer the following questions:

1. How do you enforce the building code in your community? What specific actions are taken, and how are these actions documented? What penalties are specified? *[Definitions and regulations related to building code enforcement are found in CMR 780 Chapter 1 Sections 114 and 115, which refer to M.G.L. c. 143, c. 148, and M.G.L. c. 148A, and specifically M.G.L. c. 143, section 94(a.)]*
2. How do you enforce the Wetlands Protection Act? What actions and documentation exist to prove that enforcement was implemented? *[Enforcement regulations related to the Wetlands Protection Act are found in 310 CMR section 10.08.]*
3. How are other NFIP floodplain development requirements enforced, such as fencing that increases flood risk, the placement of recreational vehicles in the floodplain, re-grading of large commercial properties, construction of agricultural structures, placement of tanks, pools, temporary construction offices, etc.?

FEMA will expect to hear about a rigorous enforcement program that includes specific actions taken by the community for non-compliant floodplain development.

Enforcement provisions establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work and other orders, and citation and penalties for violations. These penalties may include fines and/or jail sentences.

Explanations for Definitions found in Section 3

Development. FEMA's minimum standards for the NFIP require review of, and possibly permitting for all activities defined as development within the Special Flood Hazard Area (SFHA.) Some of these activities might not normally require permitting under existing state or local regulations, and not all of these activities might be reviewed by the building department in a community.

Flood Boundary & Floodway Map. Some communities with older mapping (typically 1987 and prior) have two sets of flood maps, the familiar Flood Insurance Rate Map (FIRM) and the Flood Boundary & Floodway Map (FBFM). The floodway is delineated only on the FBFM. Communities with a FBFM must include it in the district definition in order to enforce floodway standards.

Flood Hazard Boundary Map. Communities with very old mapping (usually prior to 1980) might have a Flood Hazard Boundary Map (FHBM). This map must be referenced in the community's floodplain district definition. In most cases the FHBM has been converted to a FIRM by letter but the map will still say "Flood Hazard Boundary Map."

Floodway, Regulatory Floodway. The floodway, or regulatory floodway, is established by regulation and through hydraulic analysis. It is not a natural, physical feature of the watercourse. It is part of the 100-year floodplain but has specific requirements that exceed those in the floodplain fringe (the rest of the floodplain). The NFIP standards for floodway encroachments (for example including no-rise analysis) are not in state regulations.

Functionally dependent use. This term is used in the evaluation of variances to floodplain management standards. Sometimes variances can be issued for functionally dependent uses.

Highest adjacent grade. In an AO zone, the base flood elevation is determined by adding the depth indicated on the FIRM to the highest adjacent grade, or two feet if no depth is indicated (and if no alternative floodplain analysis is conducted and applied.)

Historic structure. NFIP standards for substantial improvement include an exception for structures that are identified as historic structures. Only those structures meeting this definition are eligible for this exception.

New construction. NFIP minimum standards apply to all new construction, which includes improvements to structures defined as new construction. as follows: (1) new

construction, including subsequent work to such structures, and (2) work classified as substantial improvement of an existing structure that is not an historic structure. [ASCE 24-14]

Recreational vehicle. NFIP elevation standards can sometimes apply to these vehicles when they are placed in the SFHA.

Special Flood Hazard Area (SFHA). The flood-prone areas on the FEMA maps (and subsequently adopted in a community's Floodplain Overlay District) where NFIP minimum standards apply. within special flood hazard areas.

Start of construction. Knowing the start of construction, as defined, can sometimes determine which version of a FIRM or regulation is used in situations where the FIRM or the regulation has been or is being updated.

Structure. NFIP minimum standards apply to all structures meeting this definition.

Substantial Repair of a Foundation. This is a Massachusetts unique definition included in the 9th Edition Building Code. It is important to be familiar with this definition as Building Code standards will apply.

Variance. It is important to understand the term in order to properly administer, consider and potentially issue variances. Note that variances are not the same as (and shouldn't be confused with) similar terms and/or processes such as special permits, exceptions or exemptions. Variances to standards enforced under state regulations must be administered through the proper state authority.

Violation. Violations can affect the community's standing in the NFIP and will likely result in higher flood insurance premiums. Violations can also prevent a community from entering participating in the Community Rating System.



Town of Lakeville
Lakeville Town Office Building
346 Bedford Street
Lakeville, Massachusetts 02347

OFFICE OF
ZONING BOARD OF APPEALS
Secretary: Cathy Murray

TO: Building Department
Planning Board
Conservation Commission
Board of Health

FROM: Board of Appeals

DATE: January 25, 2021

RE: Attached Petitions for Hearing
Bauer – 4 Pilgrim Road
Furtado - 17 South Avenue

Attached please find copies of three (3) Petitions for Hearing, which have been submitted to the Board of Appeals. The hearings for these petitions will be held on February 23, 2021.

Please review and forward any concerns your Board may have regarding these petitions to the Board of Appeals, if possible, no later than Wednesday, February 17, 2021.

Thank you.

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Petition to be filed with Town Clerk

EXHIBIT "A"

TOWN OF LAKEVILLE MASSACHUSETTS

RECEIVED JAN 19 2020 BOARD OF APPEALS

ZONING BOARD OF APPEALS PETITION FOR HEARING

Name of Petitioner: JAMES BAUER

Mailing Address: 4 PILGRIM ROAD

Name of Property Owner: JAMES BAUER

Location of Property: 4 PILGRIM ROAD

Property is located in a residential business industrial (zone)

Registry of Deeds: Book No. 51781 Page No. 188

Map 040 Block 006 Lot 003

Petitioner is: owner tenant licensee prospective purchaser

Nature of Relief Sought:

Special Permit under Section (s) 6.3.2 (7.4.6) of the Zoning Bylaws

Variance from Section (s) of the Zoning Bylaws.

Appeal from Decision of the Building Inspector/Zoning Enforcement Officer

Date of Denial

Brief to the Board: (See instructions on reverse side - use additional paper if necessary.)

SPECIAL PERMIT REQUEST (ACCESSORY STRUCTURE; SHED) BEING PLACED ON A NON-CONFORMING LOT (SEE ATTACHED COVER LETTER)

I HEREBY REQUEST A HEARING BEFORE THE ZONING BOARD OF APPEALS WITH REFERENCE TO THE ABOVE PETITION OR APPEAL. ALL OF THE INFORMATION ON THIS PETITION, TO THE BEST OF MY KNOWLEDGE, IS COMPLETE AND ACCURATE AND CONFORMS TO THE REQUIREMENTS ON THE BACK OF THIS PETITION FORM.

Petitioner: JAMES BAUER

Date: 15 JAN 2021

Signed: [Signature]

Telephone: 774-406-6011

Owner Signature:

Owner Telephone:

(If not petitioner)

(REFERENCE THE REVERSE SIDE OF THIS APPLICATION FOR FURTHER INSTRUCTIONS IN FILING YOUR PETITION.)

WILL YOU HAVE A REPRESENTATIVE OTHER THAN YOURSELF?

Yes No

(Name and Title)

To: Lakeville Zoning Board of Appeals
From: James J. Bauer/Lisa J. Bauer (4 Pilgrim Road, Lakeville, MA 02347)
Date: January 14, 2021
Subject: **Special Permit/Variance Request (Accessory Structure on a Non-Conforming Lot)**

We are submitting this documentation as a Special Permit/Variance to present rationale for our property at 4 Pilgrim Road, Lakeville, MA. We recently learned that our property is deemed a non-conforming lot according to the Lakeville Building Dept. (Nathan Darling). This discussion was in relation to the building permit request that we had made back in October 2020 to place this accessory structure (Shed) on the property. Based on Nathan's guidance and recommendations, we are applying for a Special Permit/Variance that will be required to place this additional accessory structure on the current property.

Our immediate goal is to provide the appropriate documentation to the Zoning Board of Appeals so that we can adequately identify the need for having two accessory structures on the property. The first accessory structure is an existing structure that was located on the property when we purchased the property back in June 2020; it is a 10'x11' refurbished shed (110 sq. ft.). Our goal is to relocate the existing structure to the northeast side of the property (Bliss Road) to allow for the addition of a second accessory structure.

The proposed accessory structure is a new 14'x 20' shed (280 sq. ft.) that will be located outside of the normal zoning area of what is considered allowable according to town guidelines. In accordance to the 4 Pilgrim Road Assessors MAP 40 Block 6, the property map shows two accessory structures; one is currently existing and the second structure was non-existing when the property was purchased.

Based on the understanding that our property is classified as a non-conforming lot, we would like acquire approval from the Zoning Board of Appeals to utilize the accessory structure space depicted on MAP 40 Block 6 to place a second accessory structure on the property (See Attached Map/Plan). The setback distances related to placing this structure per the details provided would not conform to the current town/zoning guidelines.

The addition of the second accessory structure would provide us with additional storage space that is required based on our home not having a lower ground floor (Basement). Being able to grant relief to this request provides us with the required space needed for our family without putting a substantial detriment to the public good, our neighbors and/or public zoning district in which we live in.

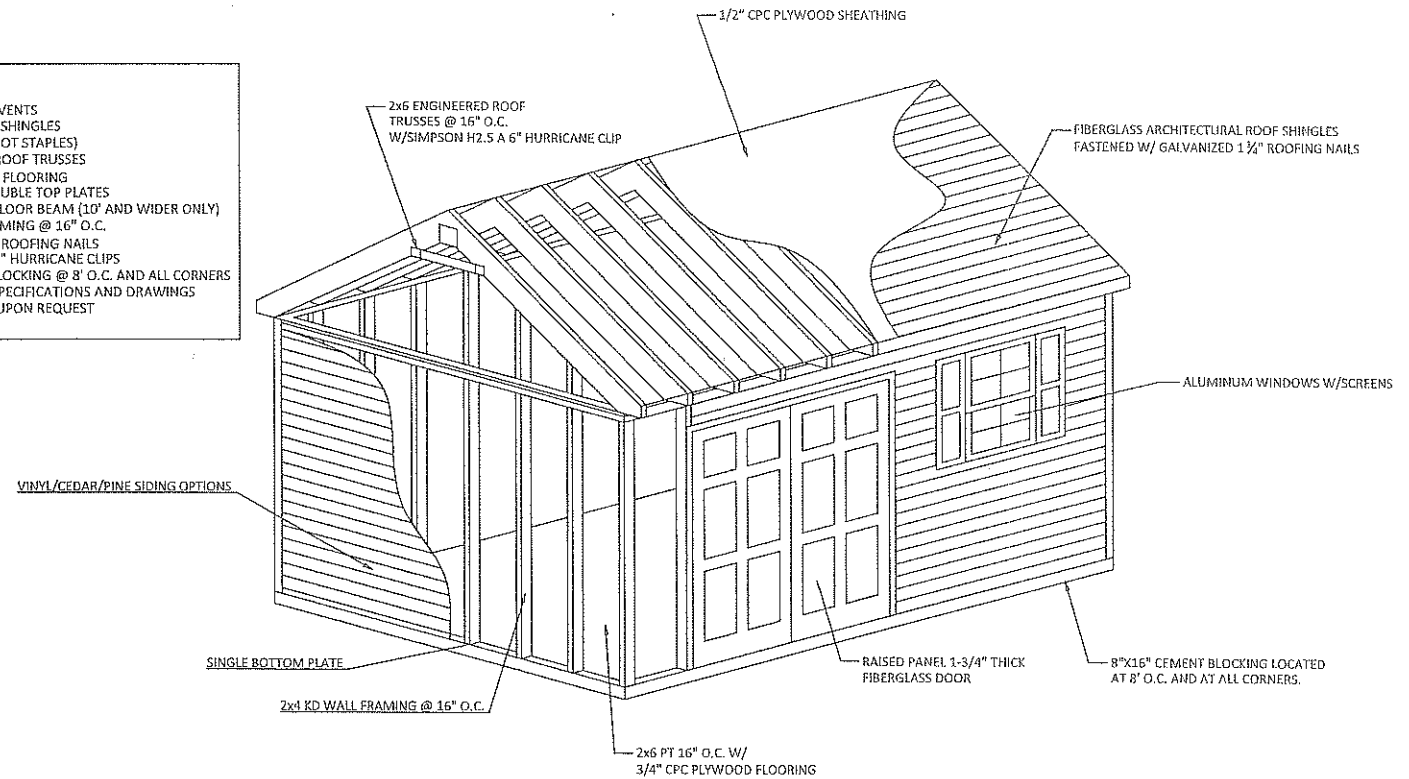
Thank you for your consideration with our Special Permit/Variance request and we look forward to discussing the necessary information with the Lakeville Zoning Board of Appeals to gain this approval.

James & Lisa Bauer
4 Pilgrim Road
Lakeville, MA 02347
774-406-6011

STANDARD FEATURES

VINYL/CEDAR/PINE SIDING OPTIONS
 ALUMINUM WINDOWS W/SCREENS
 ALUMINUM DRIP EDGE ON ALL SIDES
 LOCKING DOOR HANDLE
 FULL 1-3/4" THICK FIBERGLASS DOORS
 DOUBLE 2x DOOR HEADERS W/ JACK STUDS
 ALL PVC TRIM (VINYL SIDED ONLY)
 6' 4 1/2" STANDARD WALL HEIGHT
 ALL FLOORS 10' IN WIDTH (10'X12', 10'X14')
 HAVE RIM JOIST AT 6'4" SEAM
 ALL FLOORS 12' IN WIDTH WITH A DOUBLE
 JOIST AT THE 6' SEAM
 ALL FLOORS WIDER WILL BE SEAMED AT 8'

SCREENED GABLE VENTS
 FIBERGLASS ROOF SHINGLES
 ROOFING NAILS (NOT STAPLES)
 2x6 LOAD RATED ROOF TRUSSES
 3/4" CPC PLYWOOD FLOORING
 INTERLOCKING DOUBLE TOP PLATES
 DOUBLE CENTER FLOOR BEAM (10' AND WIDER ONLY)
 2x6 PT FLOOR FRAMING @ 16" O.C.
 GALVANIZED 1 1/2" ROOFING NAILS
 SIMPSON H2.5 A 6" HURRICANE CLIPS
 8"x16" CEMENT BLOCKING @ 8' O.C. AND ALL CORNERS
 TRUSS LOADING SPECIFICATIONS AND DRAWINGS
 AVAILABLE UPON REQUEST



GREGSAK ENGINEERING, INC.



CIVIL AND STRUCTURAL
 ENGINEERS
 P.O. BOX 271
 CHESTER, NEW HAMPSHIRE 03036
 PH: (603) 887-6979
 FAX: (603) 887-6636
 www.gregsak.com

ISOMETRIC VIEW
 POST WOODWORKING TYPICAL SHED DESIGN
 163 KINGSTON ROAD
 DANVILLE NH

PREPARED FOR:
 POST WOODWORKING, INC.
 163 KINGSTON ROAD
 DANVILLE, NH 03819
 (866) 794-7433

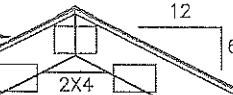
Scale: NTS
 APRIL 18, 2016

FIBERGLASS ARCHITECTURAL ROOF
SHINGLES FASTENED WITH GALVANIZED
1-1/4" ROOFING NAILS

2x6 ENGINEERED ROOF TRUSSES
@ 16" O.C. W/SIMPSON H2.5 A 6"
HURRICANE CLIP

1/2" CPC PLYWOOD SHEATHING

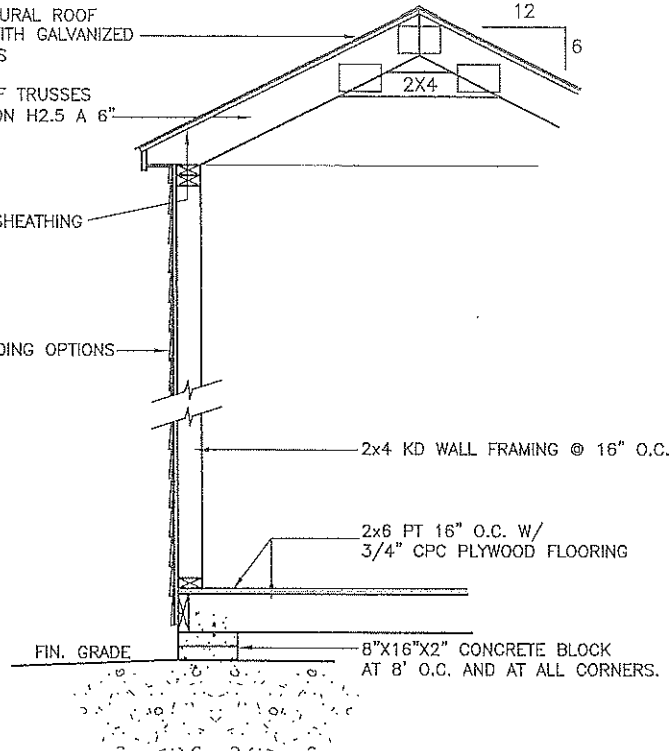
VINYL/CEDAR/PINE SIDING OPTIONS



2x4 KD WALL FRAMING @ 16" O.C.

2x6 PT 16" O.C. W/
3/4" CPC PLYWOOD FLOORING

FIN. GRADE
8"X16"X2" CONCRETE BLOCK
AT 8' O.C. AND AT ALL CORNERS.



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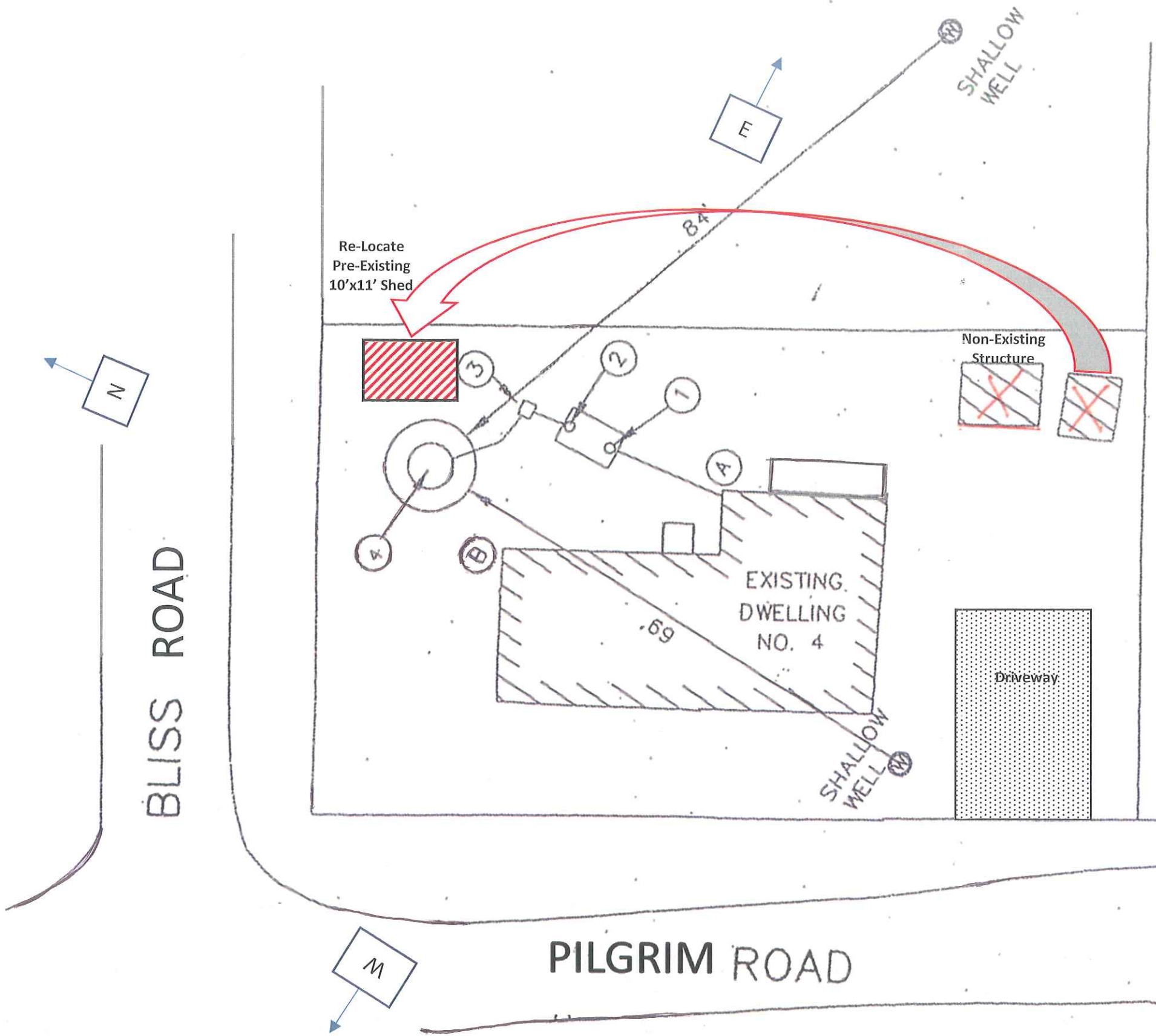
WALL SECTION
POST WOODWORKING TYPICAL SHED DESIGN
163 KINGSTON ROAD
DANVILLE NH

PREPARED FOR:
POST WOODWORKING, INC.
163 KINGSTON ROAD
DANVILLE, NH 03819
(866) 794-7433

Scale: 3/4"=1'-0"



APRIL 18, 2016



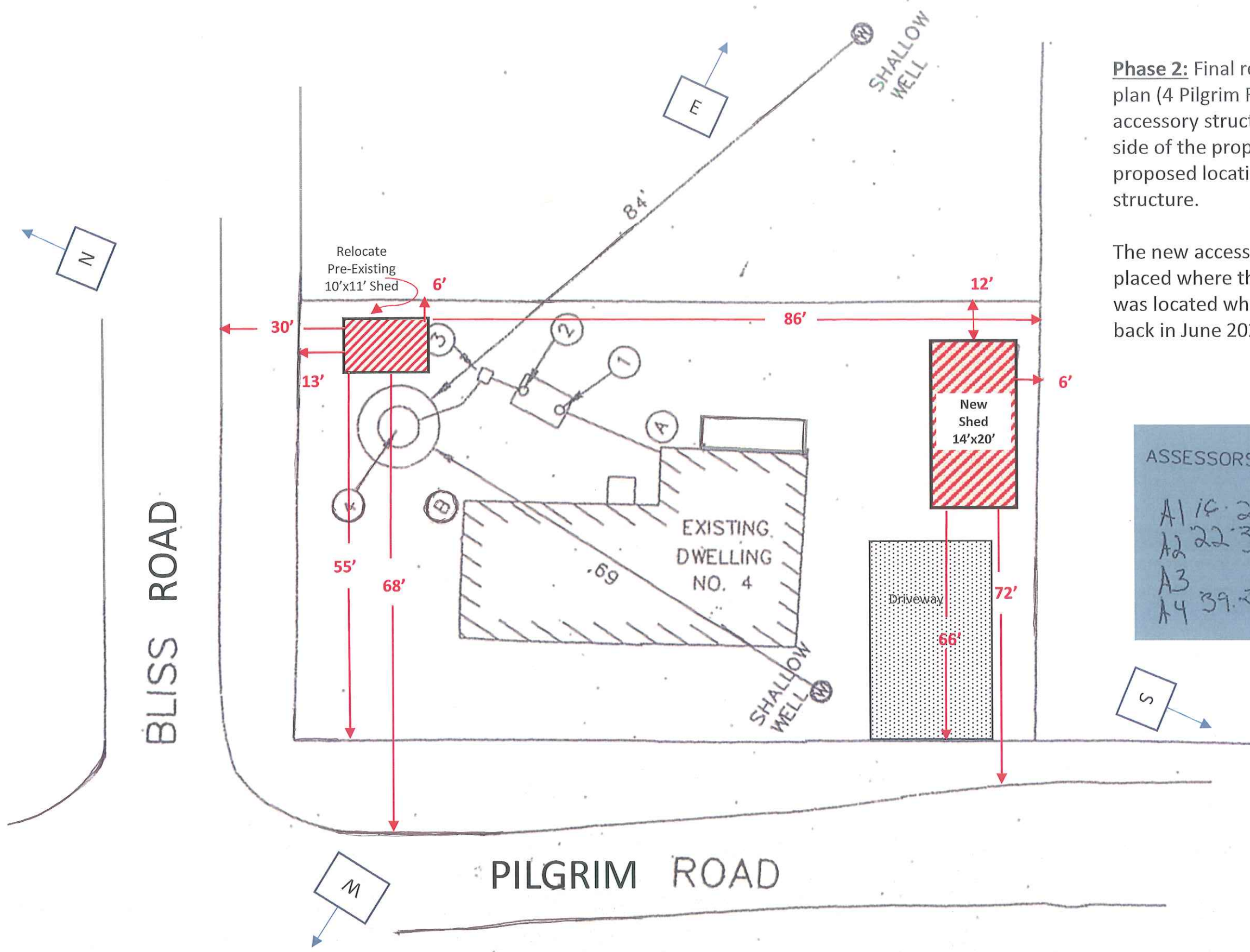
Phase 1: Relocate the current pre-existing 10'x11' accessory structure (Shed) to the Northeast side of the property (Bliss Road).

NOTE: The second accessory structure shown in the 4 Pilgrim Road Assessors MAP 40 Block 6 was a "Non-Existing" structure when the property was purchased back in June 2020.

The proposed plan would be to utilize this area of the property for placing a new 14'x20' utility/storage accessory structure (Reference Phase 2).

ASSESSORS MAP 40 BLOCK 6	
1,150 sq.ft.	
A1 14.2	B1 19.10
A2 22.3	B2 18.5
A3	B3
A4 39.2	B4 15.8

Bauer
4 Pilgrim Road
Lakeville, MA 02347



Phase 2: Final rendering of the proposed property plan (4 Pilgrim Road) with the pre-existing accessory structure relocated to the Northeast side of the property (Bliss Road) along with the proposed location for the new accessory structure.

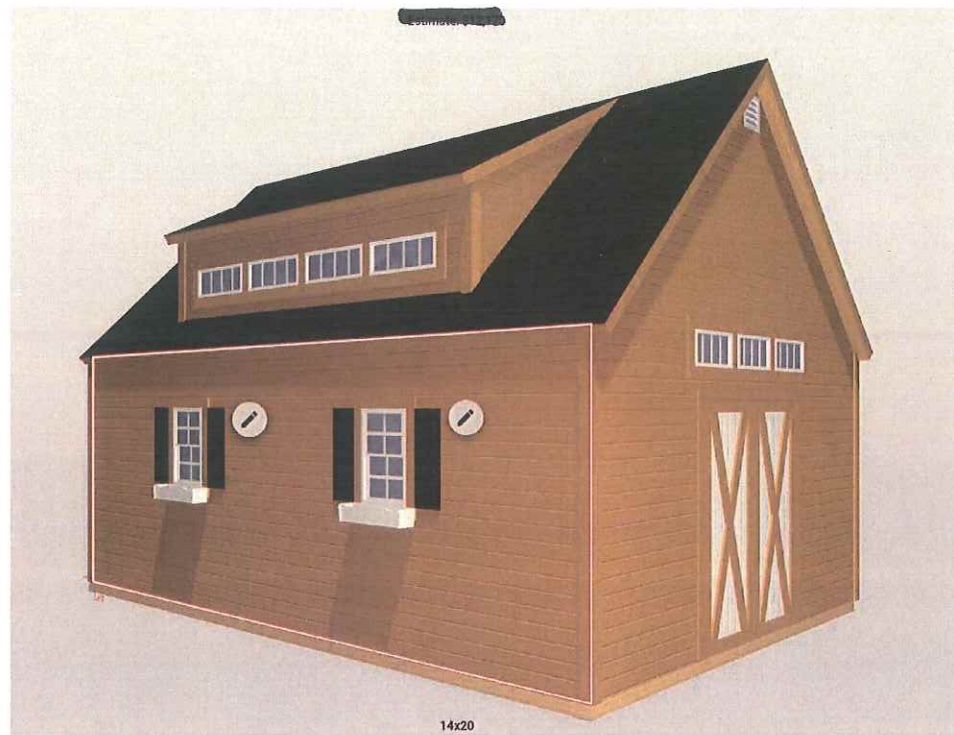
The new accessory structure (14'x20') will be placed where the pre-existing accessory structure was located when the property was purchased back in June 2020 (Southeast side of property).

ASSESSORS MAP 40 BLOCK 6
7,150 sq.ft.

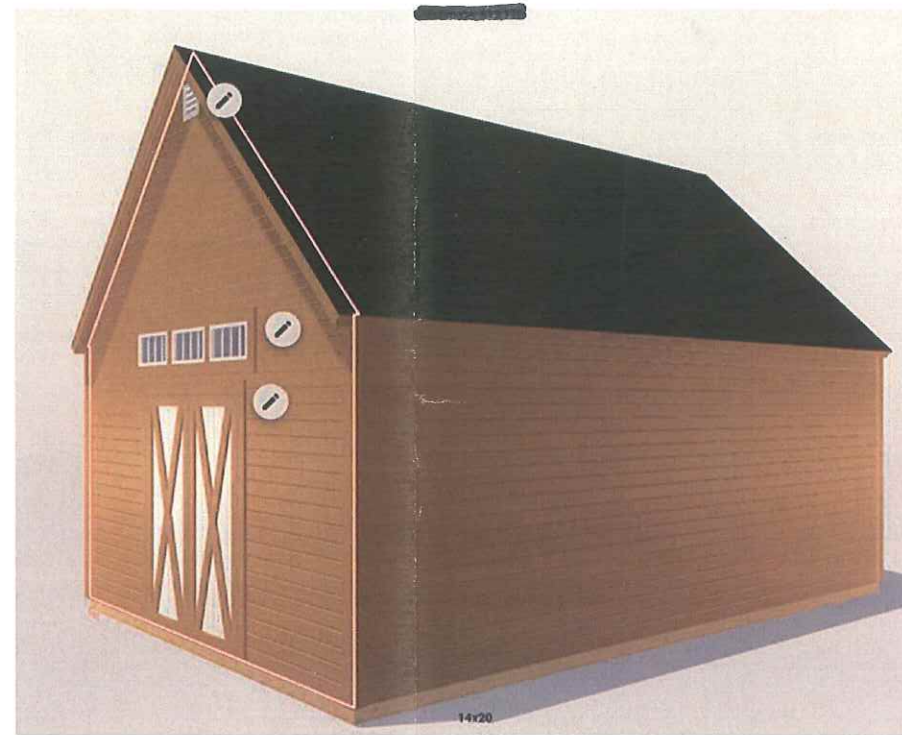
A1 14.2	B1 19.10
A2 22.3	B2 18.5
A3	B3
A4 39.2	B4 15.8

Bauer
4 Pilgrim Road
Lakeville, MA 02347

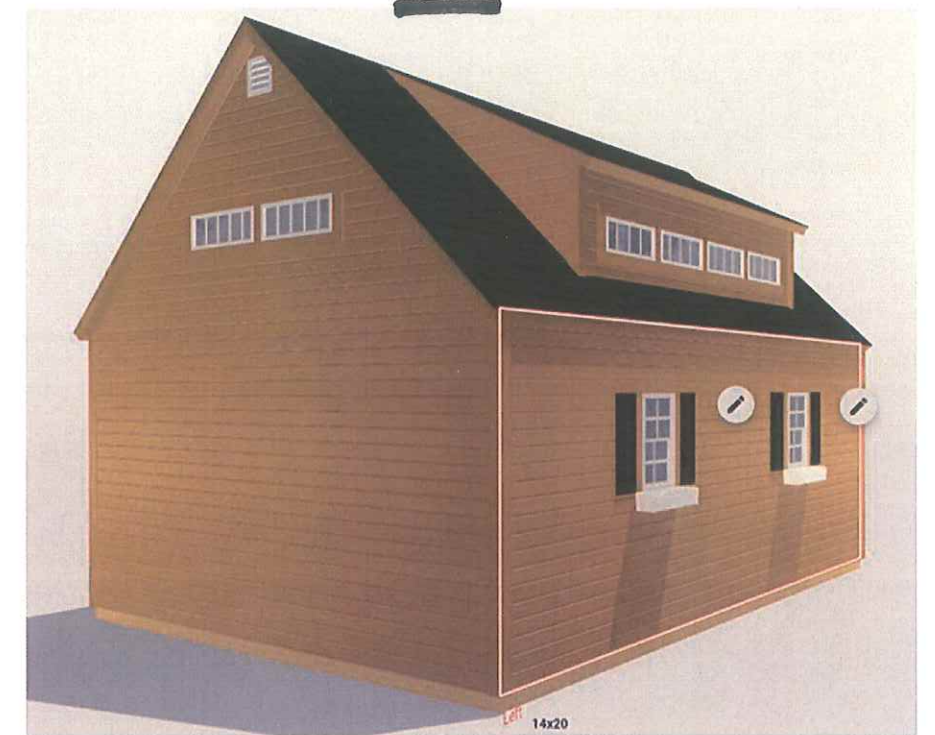
Proposed Accessory Structure (Shed)
(14'W x 20'D x 14'H)



Front/Left Side View



Front/Right Side View



Rear/Left Side View

Bauer
4 Pilgrim Road
Lakeville, MA 02347

#8b

Petition to be
filed with Town Clerk

TOWN OF LAKEVILLE
MASSACHUSETTS

ZONING BOARD OF APPEALS
PETITION FOR HEARING

EXHIBIT "A"
RECEIVED
JAN 25 2020
BOARD OF APPEALS

Name of Petitioner: Stephen L. Furtado and Cheryl A. Furtado

Mailing Address: 19 Moynan Street, New Bedford, MA 02745

Name of Property Owner: Stephen L. Furtado and Cheryl A. Furtado, S & C Furtado Family Trust

Location of Property: 17 South Avenue, Lakeville, MA 02347

Property is located in a residential business industrial (zone)

Registry of Deeds: Book No. 50337 Page No. 312

Map 042 Block 025 Lot 009

Petitioner is: owner tenant licensee prospective purchaser

Nature of Relief Sought:

Special Permit under Section (s) 6.1.3 & 7.4 of the Zoning Bylaws

Variance from Section (s) _____ of the Zoning Bylaws.

Appeal from Decision of the Building Inspector/Zoning Enforcement Officer

Date of Denial _____

Brief to the Board: (See instructions on reverse side - use additional paper if necessary.)

We respectfully request a Special Permit under 6.1.3 and 7.4 of the Lakeville Zoning By-Law to construct an approximately 12' X 26' deck on a pre-existing non-conforming lot. The deck will be no closer to the side property lines than the residential home that it will be attached to.

I HEREBY REQUEST A HEARING BEFORE THE ZONING BOARD OF APPEALS WITH REFERENCE TO THE ABOVE PETITION OR APPEAL. ALL OF THE INFORMATION ON THIS PETITION, TO THE BEST OF MY KNOWLEDGE, IS COMPLETE AND ACCURATE AND CONFORMS TO THE REQUIREMENTS ON THE BACK OF THIS PETITION FORM.

Petitioner: Stephen L. Furtado and Cheryl A. Furtado Date: January 25, 2021

Signed: Cheryl A. Furtado
Stephen L. Furtado Telephone: 508-717-2689

Owner Signature: _____ Owner Telephone: _____
(If not petitioner)

(REFERENCE THE REVERSE SIDE OF THIS APPLICATION FOR FURTHER INSTRUCTIONS IN FILING YOUR PETITION.)

WILL YOU HAVE A REPRESENTATIVE OTHER THAN YOURSELF?

Yes No

David Doyle
(Name and Title)

QUITCLAIM DEED

We, Stephen L. Furtado and Cheryl A. Furtado, of 19 Moynan Street, New Bedford, Massachusetts,

in full consideration of One Dollar (\$1.00)

grant to Stephen L. Furtado and Cheryl A. Furtado, of 19 Moynan Street, New Bedford, Massachusetts, Trustees of the S & C FURTADO FAMILY TRUST, under declaration of trust of even date, as evidenced by a Trustee Certificate to be recorded herewith,

with quitclaim covenants

The land in Lakeville, Plymouth County, Massachusetts, with the buildings and improvements thereon, bounded and described as follows:

PARCEL ONE:

Beginning at a point in the southwesterly corner of Lot #1004 as shown on plan of land hereinafter mentioned;

thence running WESTERLY one hundred twenty (120) feet, more or less, said course being parallel and the same as dividing line of land of New England Acres, Inc. and land now or formerly owned by Dellinger et ux;

thence running NORTHEASTERLY fifty (50) feet, more or less, said course running exactly parallel with the westerly boundary of said Lot #1004;

thence running SOUTHEASTERLY one hundred twenty (120) feet, more or less, to the northwesterly boundary of said Lot #1004; and

thence running SOUTHWESTERLY forty-seven and 15/100 (47.15) feet, along the west boundary of said Lot #1004 and the point of beginning.

Being shown on plan of land entitled "Plan of Indian Rock Shores, New England Acres, Inc., Prop., Long Pond, Lakeville, Mass., with additions and alterations to May 16, 1955, prepared by Benj. R. Evans, Surveyor, scale: 1" = 100'" filed with the Plymouth County Registry of Deeds in Plan Book 10, Page 413.

That portion of the above parcel which is the right of way known as South Avenue is subject to easement and rights of way or record.

Please Return To:
Law Offices of Jane E. Sullivan
624 Brayton Avenue
Fall River, MA 02721-5211



Bk: 50337 Pg: 312 Page: 1 of 2
Recorded: 09/27/2018 10:49 AM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

Property Address: 17 South Avenue, Lakeville, Massachusetts

PARCEL TWO:

- NORTHWESTERLY: forty-seven and 15/100 (47.15) feet by South Avenue;
- NORTHEASTERLY: ninety-seven and 30/100 (97.30) feet by Lot #1003 as shown on said plan;
- SOUTHEASTERLY: fifty and 20/100 (50.20) feet by Long Pond; and
- SOUTHWESTERLY: by land of parties unknown, one hundred (100) feet according to said plan.

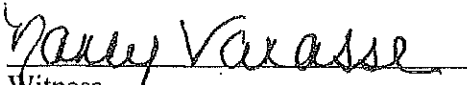
Being shown as Lot #1004 on plan of land entitled "Plan of Indian Rock Shores, New England Acres, Inc., Prop., Long Pond, Lakeville, Mass., with additions and alterations to May 16, 1955, prepared by Benj. R. Evans, Surveyor, scale: 1" = 100'" filed with the Plymouth County Registry of Deeds in Plan Book 10, Page 413.

Subject to all encumbrances of record, including easements, restrictions, and rights of way, if any, insofar as the same may be in force and applicable.


Being the same premises conveyed to these Grantors by deed of Frank Almeida, dated February 22, 2010, and recorded with Plymouth County Registry of Deeds in Book 38261, Page 296.

TITLE NOT EXAMINED.


Witness our hands and seals this 10th day of July, 2018.



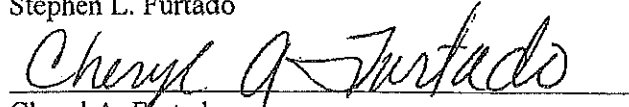
Witness



Witness



Stephen L. Furtado




Cheryl A. Furtado

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss., Fall River

July 10, 2018

Then personally appeared the above-named Stephen L. Furtado and Cheryl A. Furtado, personally known to me to be the persons whose names are signed on the preceding document, and acknowledged that he/she/they signed it voluntarily for its stated purpose, before me,



Notary Public: Dinah L. Rose
My Commission Expires: January 23, 2020

17 SOUTH AV

Location 17 SOUTH AV

Mblu 042/025/009/1

Acct# 1903

Owner FURTADO STEPHEN L &
CHERYL A

Assessment \$343,500

Appraisal \$343,500

PID 3111

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2020	\$97,900	\$245,600	\$343,500

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$97,900	\$245,600	\$343,500

Owner of Record

Owner FURTADO STEPHEN L & CHERYL A
 Co-Owner S & C FURTADO FAMILY TRUST
 Address 17 SOUTH AV
 LAKEVILLE, MA 02347

Sale Price \$1
 Certificate
 Book & Page 50337/ 312
 Sale Date 09/27/2018
 Instrument 1F

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
FURTADO STEPHEN L & CHERYL A	\$1		50337/ 312	1F	09/27/2018
FURTADO STEPHEN L & CHERYL A	\$110,000		38261/ 296	1A	02/23/2010
ALMEIDA FRANK & EUNICE M	\$1	1	15733/ 226	1F	12/16/1997
ALMEIDA FRANK & EUNICE M	\$0	0	11370/ 256	1F	10/28/1992
WILLIS A PETER & HILDA E	\$0	0	2443,2/ 413	1F	08/26/1955

Building Information

Building 1 : Section 1

Year Built: 1956
 Living Area: 799
 Replacement Cost: \$133,547

Building Photo

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			35 S.F.	\$400	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$97,900	\$245,600	\$343,500
2020	\$91,900	\$246,100	\$338,000
2019	\$85,100	\$199,800	\$284,900

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$97,900	\$245,600	\$343,500
2020	\$91,900	\$246,100	\$338,000
2019	\$85,100	\$199,800	\$284,900

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