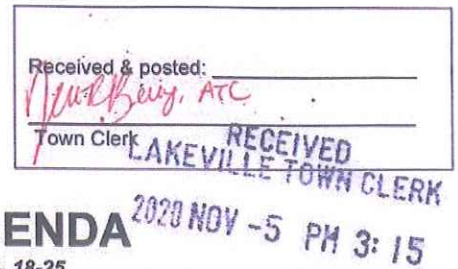




TOWN OF LAKEVILLE

REMOTE MEETING NOTICE/ AGENDA

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



Name of Board, Committee or Commission:	<u>Zoning Board of Appeals</u>
Date & Time of Meeting:	<u>Thursday, November 19, 2020 at 7:00 p.m.</u>
Location of Meeting:	<u>REMOTE MEETING</u>
Clerk/Board Member posting notice	<u>Cathy Murray</u>

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 November 19, 2020, public meeting of the **Zoning Board of Appeals** 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. **Petition hearings (Votes to be taken)**
Martowska hearing, continued – 2 Edgewater Drive – request for a **Special Permit** under 7.4 to construct a walkway, a 44' x 28.5' garage, a pavilion approximately 16' x 12' and a patio within the setbacks on a pre-existing, non-conforming lot.
Pink hearing – 119 Hemlock Street – request for a **Special Permit** under 6.1, 6.3.2, and 7.4. to raze an existing 8'x 24' accessory building and construct a new 12'x 24' accessory building that would be within the side setback on a pre-existing, non-conforming lot.
Maksy hearing – 149 Bedford Street – request for a **Special Permit** under 6.1, 6.6.3.4, and 7.4 to raze the existing structure and construct a new 26'x 57' office building within the setbacks on a lot that is in the business zone. A **Special Permit** is also requested for a sign that is 41.25 sq. ft. in area.
Chapin hearing – 15 South Avenue – request for a **Special Permit** under 6.1.3 and 7.4 to construct a second story addition to a pre-existing, non-conforming dwelling on a non-conforming lot. A 24' x 24' garage that would be within the setbacks is also proposed.
4. **Meeting minutes (Votes to be taken)**
Approve the May 7, 2020, October 1, 2020, and October 15, 2020, meeting minutes.
5. **Old Business**
6. **New Business**
CPTC Fall E-workshops
7. **Next meeting date**

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

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 November 19, 2020, public meeting of the **Zoning Board of Appeals** 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/>**

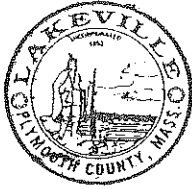
(TOWN OF LAKEVILLE SEAL)

The LAKEVILLE ZONING BOARD OF APPEALS, acting in accordance with MASS GENERAL LAWS CHAPTER 40A, as amended, will conduct a public hearing on THURSDAY, November 19, 2020, at 7:00 P.M. to hear the petition of **Kathryn Pink**. A **Special Permit** under **6.1, 6.3.2, and 7.4** is requested to raze an existing 8' x 24' accessory building and construct a new 12' x 24' accessory building that would be within the side setback on a pre-existing, non-conforming lot, as provided by the Lakeville By-Laws. The property site is **119 Hemlock Shore Road**. It is owned by **Carolyn Goudreau, Kathryn Pink, and Janice Pink**.

Pursuant to Governor Baker's emergency "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c30A, §20," issued on March 12, 2020, provided the State of Emergency is in effect, this will be a virtual meeting. The Agenda found on the Town of Lakeville Zoning Board of Appeals web page will include instructions on accessing the virtual meeting and documents related to it.

John Olivieri, Jr., Chairman

November 5, & November 12, 2020



Town of Lakeville
Board of Health
346 Bedford Street
Lakeville, MA 02347

Board of Health
(508) 946-3473
(508) 946-8805
(508) 946-3971 fax

November 3, 2020

Town of Lakeville
Zoning Board of Appeals
Attn: John Olivieri, Chairman
346 Bedford Street
Lakeville, MA 02347

Re: 119 Hemlock Shore Road

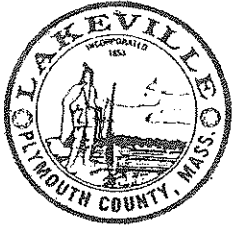
Dear Chairman Olivieri:

We received a copy of the Petition for Hearing for 119 Hemlock Shore Road. The plan from Zenith Consulting Engineers dated 9/21/20, shows a proposed accessory structure and proposed tight tank on a lot with an existing one-bedroom residential dwelling. Since the tight tank is an improvement on the existing septic system, and the existing dwelling remains unchanged, then the Board of Health has no reason to recommend denial due to public health issues at this time.

If you should have any further questions feel free to contact this office.

Sincerely yours,
For the Board of Health

Edward Cullen
Health Agent



Town of Lakeville

PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-8803

Mark Knox, Chairman
Barbara Mancovsky, Vice Chairman
Peter Conroy
Michele MacEachern

MEMORANDUM

TO: Board of Appeals

FROM: Planning Board

DATE: November 17, 2020

SUBJECT: Petition Review for Pink – 119 Hemlock Shore Rd.

At their Thursday, November 12, 2020, meeting, the Planning Board reviewed the above referenced Petition for Hearing from the Board of Appeals. The Board had no comments regarding this petition.

Petition to be
filed with Town Clerk

EXHIBIT "A"

TOWN OF LAKEVILLE
MASSACHUSETTS
ZONING BOARD OF APPEALS
PETITION FOR HEARING

RECEIVED
OCT 13 2020

BOARD OF APPEALS

Name of Petitioner: Kathryn Pink

Mailing Address: 18 Old Meetinghouse Green Norton, MA 02766

Name of Property Owner: Carolyn Goudreau, Kathryn Pink, Janice Pink

Location of Property: 119 Hemlock Shore Road Lakeville

Property is located in a XX residential business industrial (zone)

Registry of Deeds: Book No. 40071 Page No. 320

Map 046 Block 001 Lot 004

Petitioner is: XX owner tenant licensee prospective purchaser

Nature of Relief Sought:

XX Special Permit under Section (s) 6.1, 6.3.2 & 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.)

See attached package

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: Janice Pink Date: 10/9/20

Signed: Janice Pink Telephone: 518-281-9565

Owner Signature: Janice Pink 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?

XX Yes No

Jamie Bissonnette, Engineer
(Name and Title)



3 Main Street Lakeville, MA 02347
(508) 947-4208 - www.zcellc.com

- Civil Engineering
- Septic Design (Title 5)
- Septic Inspections (Title 5)
- Commercial and Industrial Site Plans
- Chapter 91 Permitting

NARRATIVE IN SUPPORT
OF A SPECIAL PERMIT
FOR 119 HEMLOCK SHORES ROAD
LAKEVILLE, MA 02347

PREPARED FOR:

CAROLYN GOUDREAU, KATHRYN PINK AND JANICE PINK
18 OLD MEETINGHOUSE GREEN
NORTON, MA 02766

PREPARED BY:

ZENITH CONSULTING ENGINEERS, LLC.
3 MAIN STREET
LAKEVILLE, MA 02347

OCTOBER 5, 2020

EXISTING SITE CONDITIONS

The locus site, 119 Hemlock Shores Road, is located on the westerly side of Long Pond. The site is comprised of approximately 0.25+/- acres of land that includes a residential dwelling and accessory buildings. Along with the dwelling is an existing cesspool with approved plans to upgrade, existing private water supply well with new well location approved by board of health and utilities. A plan entitled "Plan to Accompany a Zoning Board of Appeals Petition" is part of this packet.

PROPOSED SITE IMPROVEMENTS

The proposed site includes razing one of the existing 8' x 24' accessory buildings and constructing a new 12' x 24' accessory building. The new accessory building will either maintain or improve the setbacks to the existing property lines. Per Section 6.3.2, the accessory buildings will require a Special Permit to be granted by the Zoning Board of Appeals.

SPECIAL PERMIT CONDITIONS

The client has designed and permitted improvements onsite including the installation of a tight tank, a new well and a wall along the water. To construct the wall, construction vehicles will need access that is impeded by the existing accessory building. The applicant is proposing to raze the existing structure and rebuild as shown on plan. It is not practical to temporarily relocate the building to meet current zoning setback requirements. The improvements, as proposed, will not negatively impact the neighborhood and will, in fact, enhance the aesthetics.

Copy of Current Deed



2020 00091888
Bk: 53520 Pg: 197 Page: 1 of 8
Recorded: 09/29/2020 09:52 AM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

QUITCLAIM DEED

We, KATHRYN PINK, with an address at 18 Old Meetinghouse Green, Norton, Massachusetts 02766; ANN LAUTZ of Norfolk, Massachusetts; SUSAN FERRIN of North Attleborough, Massachusetts; CAROLYN GOODREAU of Bridgewater, Massachusetts and JANICE PINK, with an address at 221 South Kelly Road, Schenectady, New York 12306, for consideration paid of less than one hundred dollars, grant to KATHRYN PINK, with an address at 18 Old Meetinghouse Green, Norton, Massachusetts 02766; CAROLYN GOODREAU of Bridgewater, Massachusetts and JANICE PINK, with an address at 221 South Kelly Road, Schenectady, New York 12306, as equal tenants in common, WITH QUITCLAIM COVENANTS, all my right, title and interest in the land with the buildings and other improvements thereon located in Lakeville, Plymouth County, Massachusetts, bounded and described as follows:

Beginning at a stake at the Northwest corner thereof, at the Southwest corner of land now or formerly of one Pierce; thence Easterly along last named land about two hundred fifty (250) feet to a corner and land now or formerly of Josephine G. Rotch; thence Southerly by last named land about fifty (50) feet to a corner at other land of Josephine G. Rotch; thence Westerly by last named land about two hundred forty (240) feet to a stake in the shore of Long Pond and thence Northerly by said Pond about fifty (50) feet to the point of beginning.

The same being Lot No. 34 on the plan "of the shore of Long Pond, Lakeville, Mass., owned by Morgan Rotch as laid out for house lots" made by John G. Paun, February 1909; together with a right of way to this lot from the road to New Bedford at the Bell Schoolhouse along what is known as "The Pike" as it is now laid out.

Also a right of way by a trail leaving the aforesaid road about five hundred feet south of the aforesaid Pike and leading through the woods to the said Pike; the use of this way to be limited to pedestrians.

The Grantors hereby waive any and all rights of homestead in the premises they may have or may be entitled to and further state that no other person, beneficiary or entity has or is entitled to an estate of homestead on the premises. The said KATHRYN PINK, JANICE PINK and ANN LAUTZ are single; the said SUSAN FERRIN is married to DANIEL FERRIN and the said CAROLYN GOUDREAU is married to GREGG GOUDREAU. Each Grantor represents that the premises have never been used as her primary residence and, if married, that the premises have never been used as the principal residence of a spouse and that no spouse occupies or intends to occupy the premises as his principal residence, and therefore that no spouse is entitled to claim the benefit of an existing estate of homestead in the premises.

*maely Devin Barry & Austin
80 Washington St
Bldg S Norwell Ma 02061*

Property Address: 119 Hemlock Shore Road, Lakeville, Massachusetts 02347

Such transfer is subject to life estate of FRANCIS X. PINK and BARBARA A. PINK reserved in Deed at Plymouth County Registry of Deeds at Book 40071, Page 320. The said Francis X. Pink passed away on June 13, 2015.

For Grantors' title see deed recorded with Plymouth County Registry of Deeds at Book 40071, Page 320 and deed from PATRICIA PINK recorded with Plymouth County Registry of Deeds at Book 45601, Page 178.

IN WITNESS WHEREOF, I, KATHRYN PINK, hereunto sets my hand and seal this 20th day of August, 2019.

Kathryn E. Pink
KATHRYN PINK

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this 20th day of August, 2019, before me, the undersigned notary public, personally appeared the above named KATHRYN PINK, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person who voluntarily signed the preceding document in my presence, and who swore or affirmed to me that the statements contained therein are truthful and accurate to the best of his or her knowledge and belief.



MARLYNE A. LAHENS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 14, 2023

Marlyne A. Lahens
Notary Public
My Commission Expires: 9/14/2023

Additional Signatures on following pages
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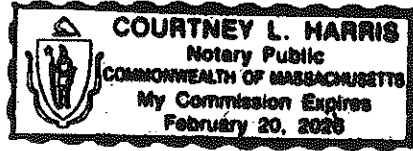
IN WITNESS WHEREOF, I, ANN LAUTZ, hereunto sets my hand and seal this 13 day of July, ~~2019~~ 2020

Ann Lautz
ANN LAUTZ

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this 13 day of July, ~~2019~~ 2020, before me, the undersigned notary public, personally appeared the above named ANN LAUTZ, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person who voluntarily signed the preceding document in my presence, and who swore or affirmed to me that the statements contained therein are truthful and accurate to the best of his or her knowledge and belief.



Courtney L. Harris
Notary Public
My Commission Expires: 02/20/2026

Additional Signatures on following pages
REMAINDER OF PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, I, SUSAN FERRIN, hereunto sets my hand and seal this 2
day of Sept, 2020.

Susan Ferrin
SUSAN FERRIN

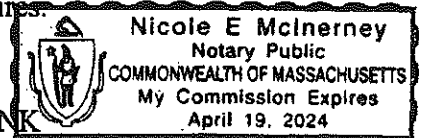
COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this 9th day of September, 2020, before me, the undersigned notary public, personally appeared the above named SUSAN FERRIN, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person who voluntarily signed the preceding document in my presence, and who swore or affirmed to me that the statements contained therein are truthful and accurate to the best of his or her knowledge and belief.

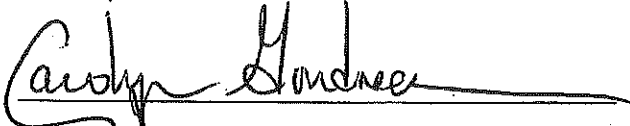
Nicole E McInerney
Notary Public

My Commission Expires



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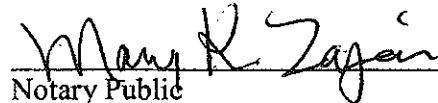
IN WITNESS WHEREOF, I, CAROLYN GOUDREAU, hereunto sets my hand and seal
this 5th day of September, 2019.


CAROLYN GOUDREAU

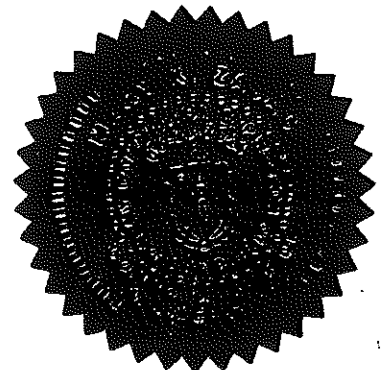
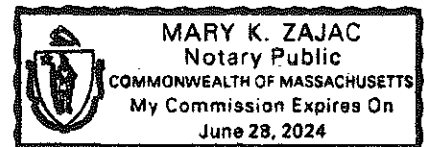
COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss.

On this 5 day of September, 2019, before me, the undersigned notary public, personally appeared the above named CAROLYN GOUDREAU, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person who voluntarily signed the preceding document in my presence, and who swore or affirmed to me that the statements contained therein are truthful and accurate to the best of his or her knowledge and belief.


Notary Public
My Commission Expires:

Additional Signature on following page
REMAINDER OF PAGE INTENTIONALLY BLANK



IN WITNESS WHEREOF, I, JANICE PINK, hereunto sets my hand and seal this 23
day of August, 2019.

Janice Pink
JANICE PINK

STATE OF ~~NEW YORK~~ Massachusetts

Norfolk, ss.

On this 23 day of August, 2019, before me, the undersigned notary public, personally appeared the above named JANICE PINK, proved to me through satisfactory evidence of identification, which was a New York driver's license, to be the person who voluntarily signed the preceding document in my presence, and who swore or affirmed to me that the statements contained therein are truthful and accurate to the best of his or her knowledge and belief.

Casey Argyrou
Notary Public
My Commission Expires:
10/24/2025



USGS Map



SHEET NAME:

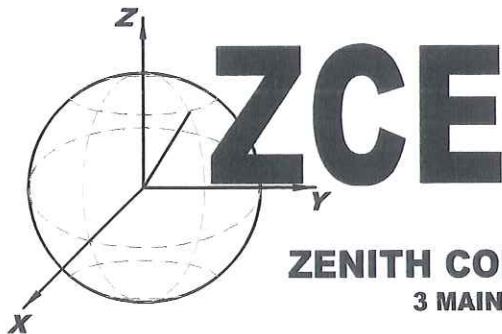
USGS MAP

PROJECT SITE:

**119 HEMLOCK SHORE ROAD
LAKEVILLE, MASSACHUSETTS**

CLIENT INFO:

**KATHRYN & JANICE PINK
NORTON, MA 02766**



ZENITH CONSULTING ENGINEERS, LLC

3 MAIN STREET LAKEVILLE, MA 02347

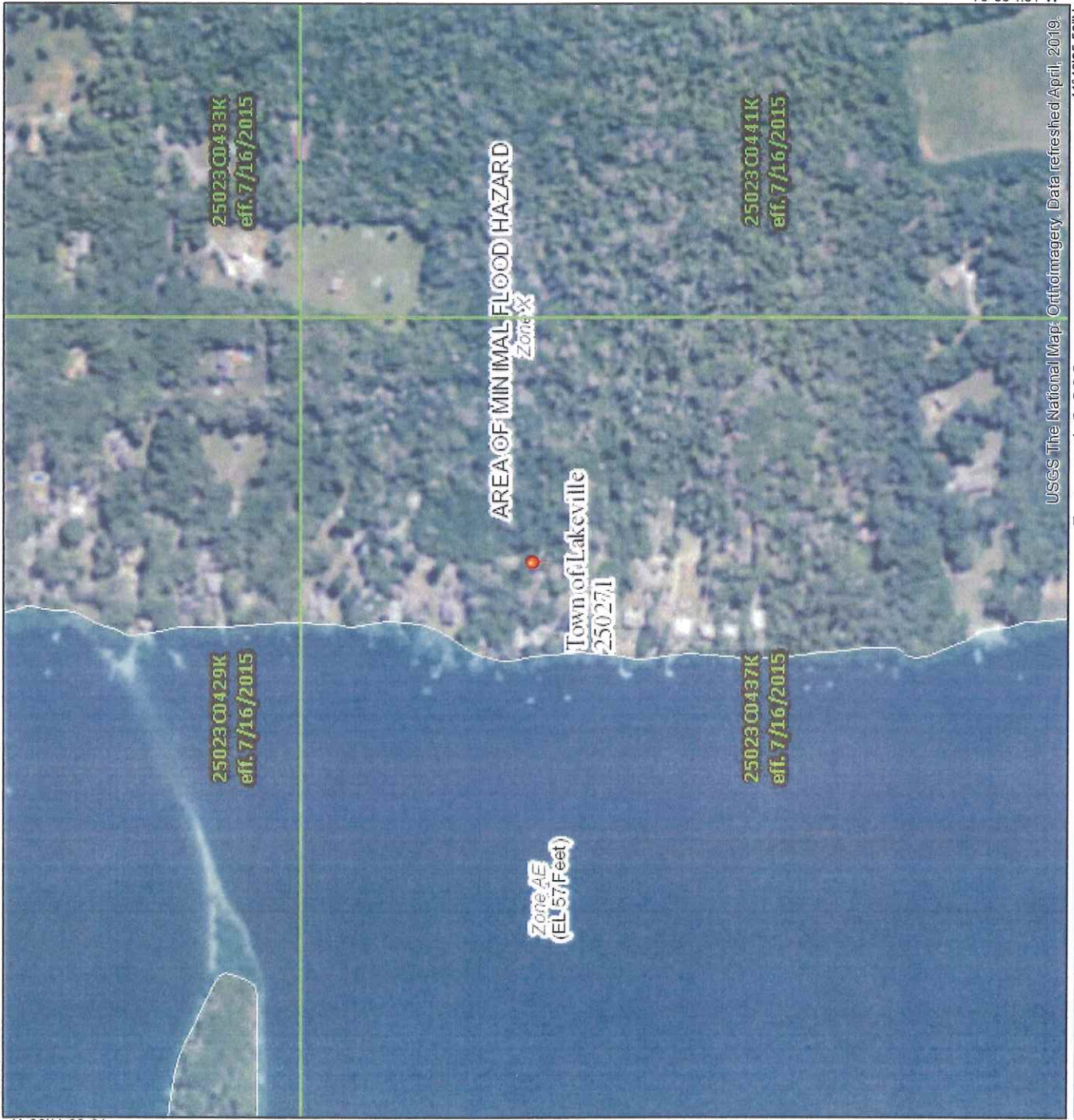
PHONE: (508) 947-4208

FIRM Map

National Flood Hazard Layer FIRMette



41°48'52.41"N



70°56'4.51"W

USGS The National Map: Orthoimagery. Data refreshed April, 2019. 41°48'25.59"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS



Without Base Flood Elevation (BFE)
Zone A, V, A199
With BFE or Depth Zone AE, AO, AH, VE, AR
Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD



0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
Future Conditions 1% Annual Chance Flood Hazard Zone X
Area with Reduced Flood Risk due to Levee. See Notes. Zone X
Area with Flood Risk due to Levee Zone D

OTHER AREAS



NO SCREEN
Area of Minimal Flood Hazard Zone X
Effective LOMFRs

GENERAL STRUCTURES



Channel, Culvert, or Storm Sewer
Levee, Dike, or Floodwall

OTHER FEATURES



Cross Sections with 1% Annual Chance Water Surface Elevation
Coastal Transect
Base Flood Elevation Line (BFE)
Limit of Study
Jurisdiction Boundary
Coastal Transect Baseline
Profile Baseline
Hydrographic Feature

MAP PANELS



Digital Data Available
No Digital Data Available
Unmapped

Legend



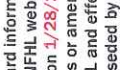
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

Map Information



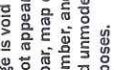
Digital Data Available
No Digital Data Available
Unmapped

Disclaimer



Digital Data Available
No Digital Data Available
Unmapped

Disclaimer



Digital Data Available
No Digital Data Available
Unmapped

Disclaimer



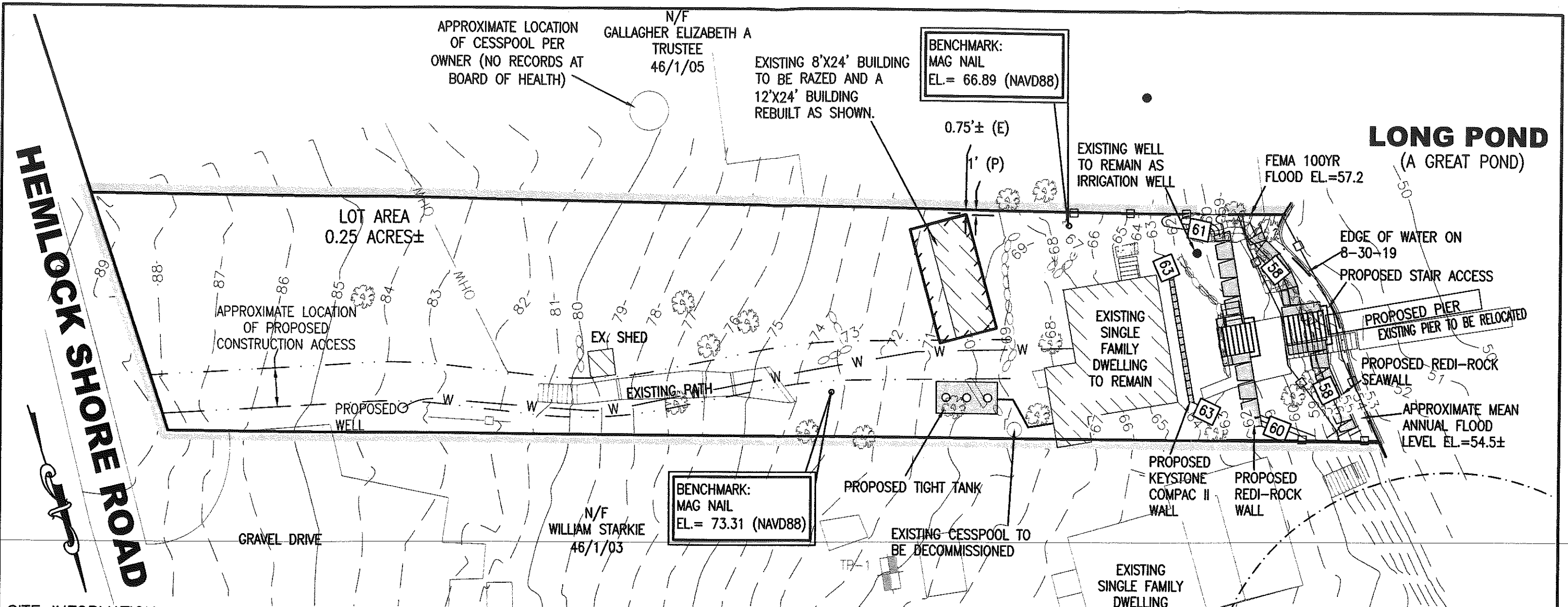
Digital Data Available
No Digital Data Available
Unmapped

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 1/28/2020 at 6:23:19 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Proposed Site Plan Package (11 x 17)



SITE INFORMATION:

1. THE SITE IS SHOWN ON THE TOWN OF LAKEVILLE ASSESSORS MAP AS MAP 46 BLOCK 1 LOT 4.
2. PROPERTY LINE INFORMATION WAS TAKEN FROM
 - 2.1. FOR TITLE REFERENCE TO THE SUBJECT PROPERTY REFER TO BOOK 40071, PAGE 320 IN THE PLYMOUTH COUNTY REGISTRY OF DEEDS.
 - 2.2. PROPERTY LINE AND TOPOGRAPHIC SURVEY BY ZENITH CONSULTING ENGINEERS, LLC.
3. THE SUBJECT PROPERTY IS LOCATED IN ZONES AE-57 & X, AS SCALED FROM THE FLOOD INSURANCE RATE MAP (F.I.R.M.) OF PLYMOUTH COUNTY, MAP NUMBER 25023C0429K & 25023C0437K, EFFECTIVE DATE JULY 16, 2015.

LEGEND

69	EXISTING CONTOURS
x 98.5	EXISTING SPOT ELEVATION
69	PROPOSED CONTOURS
100x2	PROPOSED SPOT ELEVATION
OHW	EXISTING OVERHEAD WIRES

SHEET NAME:
PLAN TO ACCOMPANY A ZONING BOARD OF APPEALS PETITION

PROJECT SITE: **119 HEMLOCK SHORE RD
LAKEVILLE, MASSACHUSETTS**

CLIENT INFO:
**KATHRYN PINK
18 OLD MEETINGHOUSE GREEN
NORTON, MA 02766**

DRAWN BY:
JLB

DESIGNED BY:
JLB

CHECKED BY:
NCZ

APPROVED BY
JLB

GRAPHICS SCALE
1 inch = 20 feet

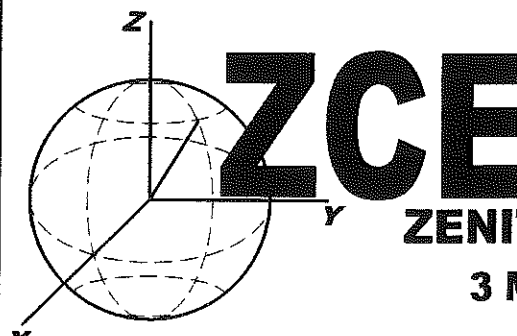


DATE:
9/21/2020

PROJECT NUMBER
0460-01-01

DRAWING SCALE:
1" = 20'

SHEET ID
ZBA



ZENITH CONSULTING ENGINEERS, LLC
3 MAIN STREET LAKEVILLE, MA 02347
PHONE: (508) 947-4208

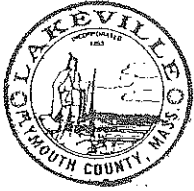
(TOWN OF LAKEVILLE SEAL)

The LAKEVILLE ZONING BOARD OF APPEALS, acting in accordance with MASS GENERAL LAWS CHAPTER 40A, as amended, will conduct a public hearing on THURSDAY, November 19, 2020, at 7:00 P.M. to hear the petition of **Madelyn Maksy**. A **Special Permit** under **6.1, 6.6.3.4, & 7.4** is requested to raze the existing structure and construct a new 26' x 57' office building within the setbacks on a lot that is in the business zone. A **Special Permit** is also requested to allow a sign that is 41.25 sq. ft. in area. The property site is **149 Bedford Street** and is owned by **Cedar Berry Holding, LLC**.

Pursuant to Governor Baker's emergency "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c30A, §20," issued on March 12, 2020, provided the State of Emergency is in effect, this will be a virtual meeting. The Agenda found on the Town of Lakeville Zoning Board of Appeals web page will include instructions on accessing the virtual meeting and documents related to it.

John Olivieri, Jr., Chairman

November 5, & November 12, 2020



Town of Lakeville

*Board of Health
346 Bedford Street
Lakeville, MA 02347*

Board of Health
(508) 946-3473
(508) 946-8805
(508) 946-3971 fax

November 3, 2020

Town of Lakeville
Zoning Board of Appeals
Attn: John Olivieri, Chairman
346 Bedford Street
Lakeville, MA 02347

Re: 149 Bedford Street

Dear Chairman Olivieri:

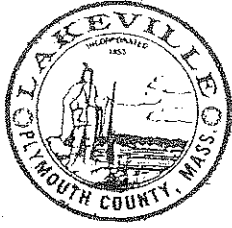
We received a copy of the Petition for Hearing for 149 Bedford Street. The plan from Zenith Consulting Engineers dated 10/2/20 shows a proposed office building and an area for a subsurface sewage disposal system. The area appears to be sufficient to support a sewage disposal system, and it is possible to connect to municipal water, so there is no need for a well.

Therefore, based on the information provided to the BOH there is no reason for the BOH to recommend denial due to public health issues at this time.

If you should have any further questions feel free to contact this office.

Sincerely yours,
For the Board of Health

Edward Cullen
Health Agent



Town of Lakeville

PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-8803

Mark Knox, Chairman
Barbara Mancovsky, Vice Chairman
Peter Conroy
Michele MacEachern

MEMORANDUM

TO: Board of Appeals

FROM: Planning Board

DATE: November 17, 2020

SUBJECT: Petition Review for Maksy – 149 Bedford Street

At their Thursday, November 12, 2020, meeting, the Planning Board reviewed the above referenced Petition for Hearing from the Board of Appeals. The Board recommends if the Zoning Board grants relief on the size of the proposed sign, the sign should then comply with all other aspects of the bylaw.

(TOWN OF LAKEVILLE SEAL)

The LAKEVILLE ZONING BOARD OF APPEALS, acting in accordance with MASS GENERAL LAWS CHAPTER 40A, as amended, will conduct a public hearing on THURSDAY, November 19, 2020, at 7:00 P.M. to hear the petition of **Christopher S. Chapin**. A **Special Permit** under **6.1.3 & 7.4** is requested to construct a second story addition to a pre-existing, non-conforming dwelling on a non-conforming lot. A 24' x 24' garage that would be within the setbacks is also proposed. The property site is **15 South Avenue** and is owned by **Nynelyon, Inc.**

Pursuant to Governor Baker's emergency "Order Suspending Certain Provisions of the Open Meeting Law, G.L. c30A, §20," issued on March 12, 2020, provided the State of Emergency is in effect, this will be a virtual meeting. The Agenda found on the Town of Lakeville Zoning Board of Appeals web page will include instructions on accessing the virtual meeting and documents related to it.

John Olivieri, Jr., Chairman

November 5, & November 12, 2020



Town of Lakeville
Board of Health
346 Bedford Street
Lakeville, MA 02347

Board of Health
(508) 946-3473
(508) 946-8805
(508) 946-3971 fax

November 3, 2020

Town of Lakeville
Zoning Board of Appeals
Attn: John Olivieri, Chairman
346 Bedford Street
Lakeville, MA 02347

Re: 15 South Av.

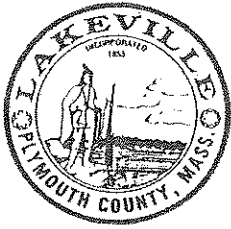
Dear Chairman Olivieri:

We received a copy of the Petition for Hearing for 15 South Ave. The sketches show a proposed dwelling reconstruction to an existing two-bedroom residential dwelling with a proposed tight tank. Since the tight tank is an improvement on the existing septic system, and the proposed dwelling remains a two-bedroom dwelling, then the Board of Health has no reason to recommend denial due to public health issues at this time.

If you should have any further questions feel free to contact this office.

Sincerely yours,
For the Board of Health

Edward Cullen
Health Agent



Town of Lakeville

PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-8803

Mark Knox, Chairman
Barbara Mancovsky, Vice Chairman
Peter Conroy
Michele MacEachern

MEMORANDUM

TO: Board of Appeals

FROM: Planning Board

DATE: November 17, 2020

SUBJECT: Petition Review for Chapin – 15 South Avenue

At their Thursday, November 12, 2020, meeting, the Planning Board reviewed the above referenced Petition for Hearing from the Board of Appeals. The Board had no comments regarding this petition.

Petition to be filed with Town Clerk

EXHIBIT "A"

TOWN OF LAKEVILLE MASSACHUSETTS

ZONING BOARD OF APPEALS PETITION FOR HEARING

RECEIVED OCT 16 2020

Name of Petitioner: CHRISTOPHER S. CHAPIN
Mailing Address: 31 ALGEM ROAD, LAKEVILLE, MA 02347
Name of Property Owner: NYNELYON, INC. (CHRIS CHAPIN)
Location of Property: 15 SOUTH AVENUE
Property is located in a residential business industrial (zone)
Registry of Deeds: Book No. 53214 Page No. 321
Map 042 Block 025 Lot 008
Petitioner is: X owner tenant licensee prospective purchaser

Nature of Relief Sought:

Special Permit under Section (s) 6.1.3 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.)

ADDITION OF SF TO MAIN BUILDING VIA ADDITION OF SECOND FLOOR AS WELL AS CONSTRUCTION OF DETACHED 24 X 24 GARAGE.

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: CHRISTOPHER S. CHAPIN Date: 10/15/20
Signed: [Signature] Telephone: 508 728 2496
Owner Signature: [Signature] Owner Telephone: SAME

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

WILL YOU HAVE A REPRESENTATIVE OTHER THAN YOURSELF?

Yes No

SCOTT BOLDEN / CONTRACTOR (Name and Title)

GRANT OF RESTRICTIVE COVENANT



Bk: 40412 Pg: 111 Page: 1 of 1
Recorded: 10/06/2011 11:33 AM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds



I, CONWAY REALTY TRUST
MARTIN J. CONWAY ^{TRUSTEE} owner of property located at 15 South Avenue, LAKEVILLE, Massachusetts hereby grant to the TOWN OF LAKEVILLE, a municipal corporation organized under the laws of the Commonwealth of Massachusetts, acting through its Board of Health, the following use restriction shall run with the land and be for the benefit of the TOWN OF LAKEVILLE, on the land particularly described as Map 042 Block 025 Lot 008

DEED BOOK: 20543 PAGE: 149

filed with the Plymouth County Registry of Deeds.

SUBJECT TO THE FOLLOWING RESTRICTIONS:

Dwelling will remain a "Seasonal" (2) two-bedroom dwelling with no further expansion and no increase in flow to the septic system. It is to be made known that this Dwelling houses a "Tight Tank" that requires a Renewable Inspection and Maintenance Contract for the life of the system.

This deed is given to specifically include the above restrictions as per order of the LAKEVILLE BOARD OF HEALTH AND CANNOT BE REMOVED WITHOUT WRITTEN PERMISSION THEREOF

WITNESS my hand and seal this 5 day of OCT. 2011

Martin J. Conway
Signature of Owner(s) MARTIN J. Conway Trustee

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss.

10-5-11
Date

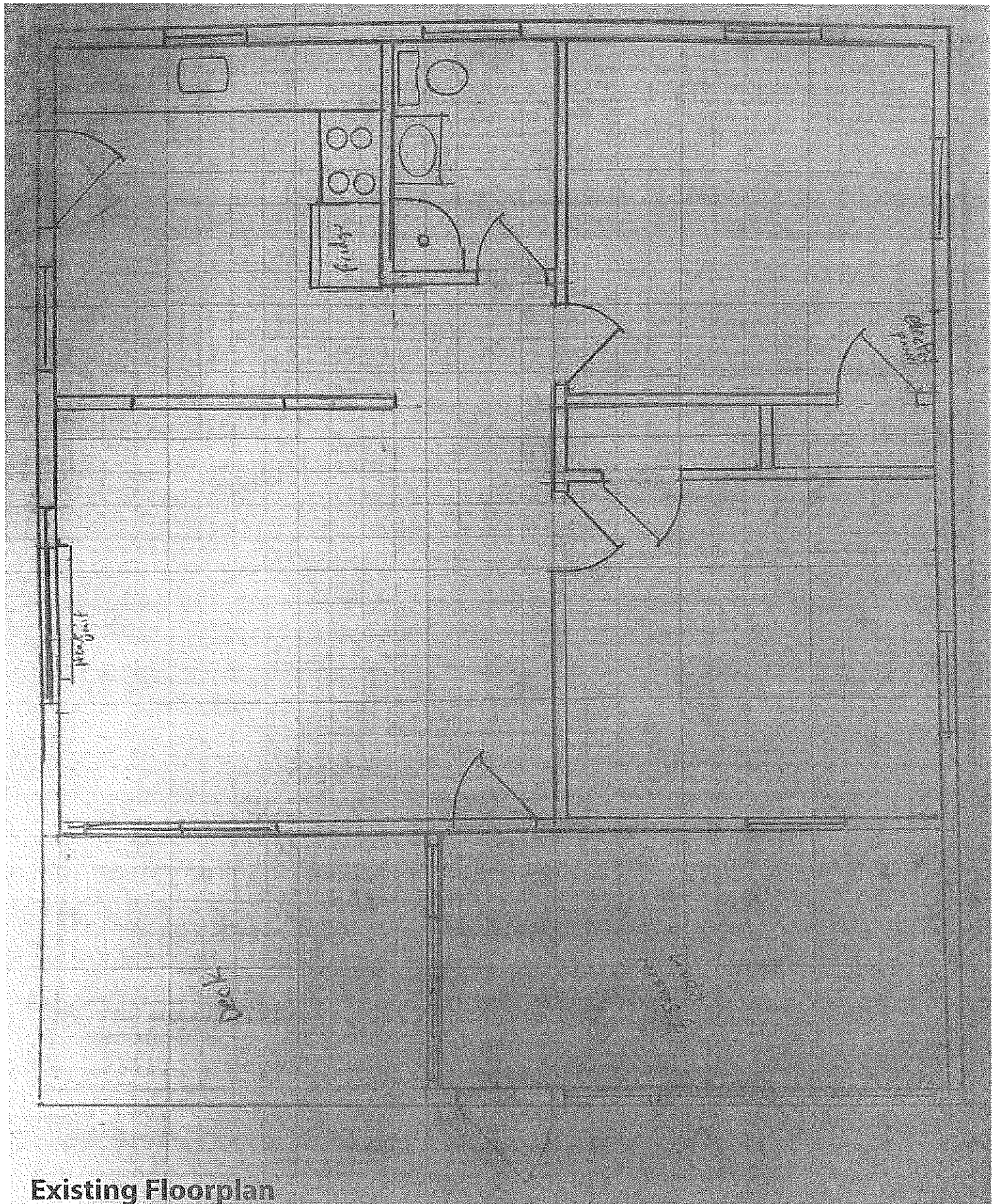
Then personally appeared the above named MARTIN J. CONWAY and acknowledged the foregoing instrument to be a free act and deed, before me.

MAIL ✓

Martin J. Conway
46 Nancy rd
Milton MA 02186

Linda R. Poteau
Notary Public
LINDA R. POTEAU
NOTARY PUBLIC
Commonwealth of Massachusetts
My commission expires Oct. 20, 2017

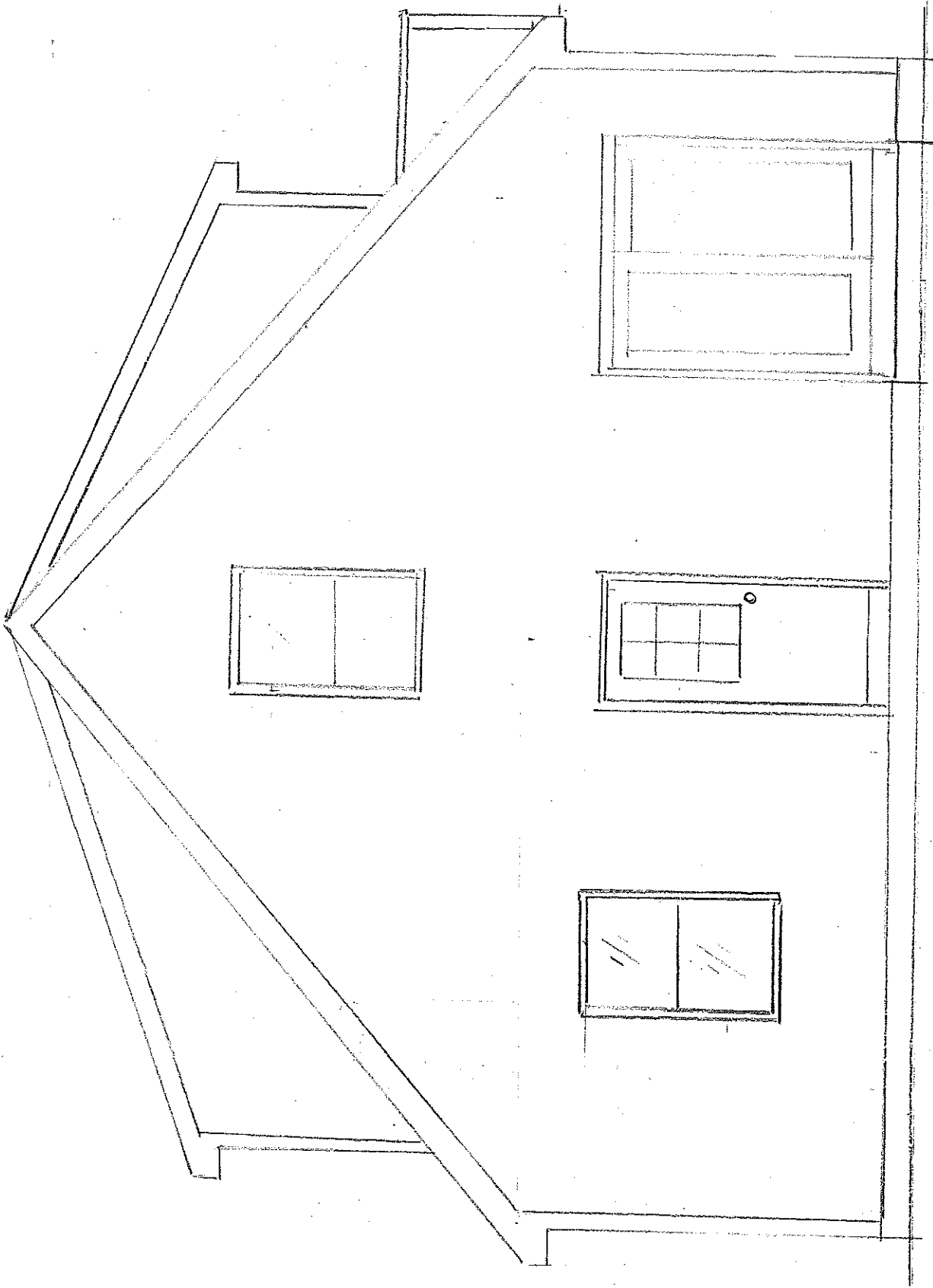
10/20/17



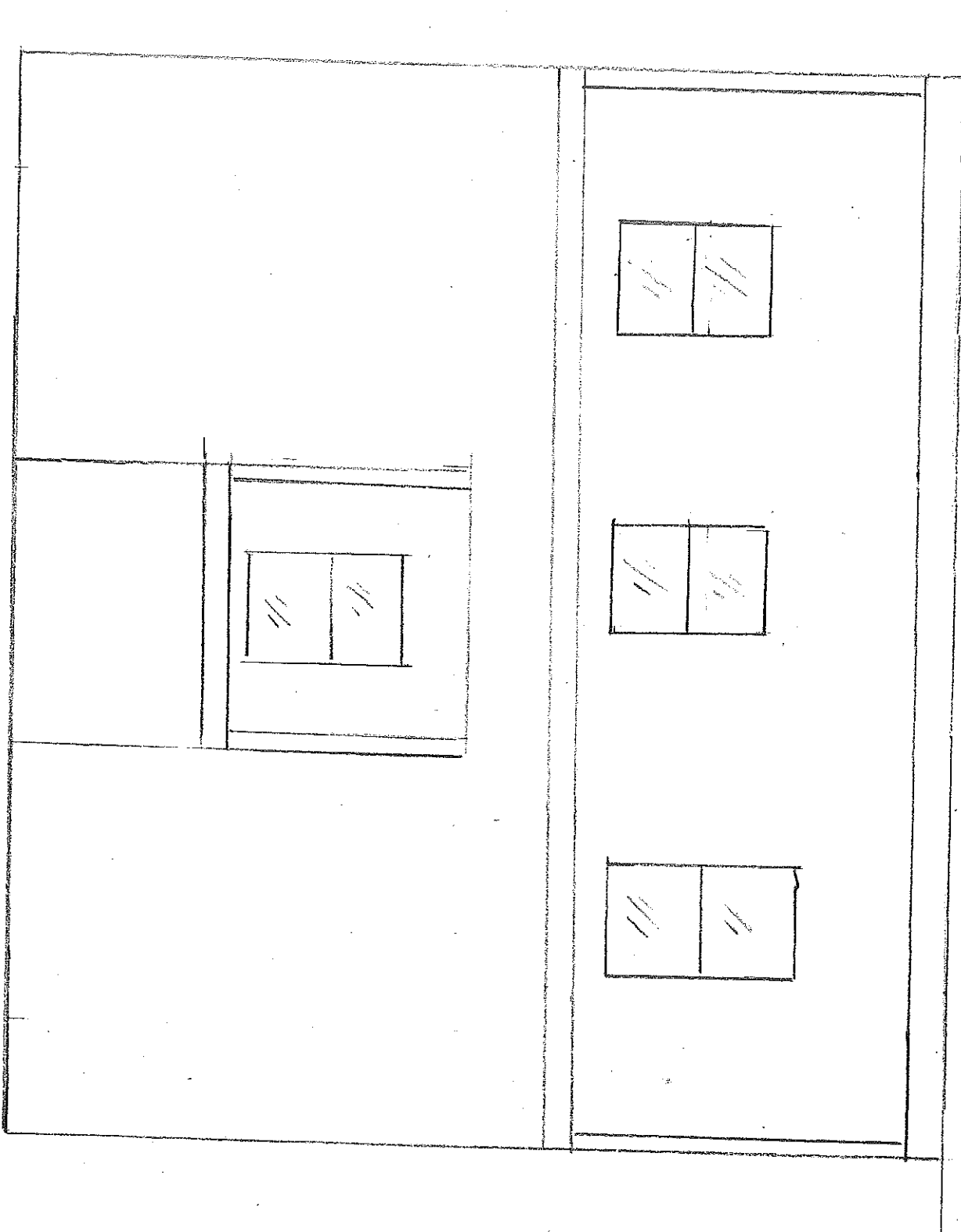
Existing Floorplan

15 South Avenue, Lakeville, MA

Not To Scale

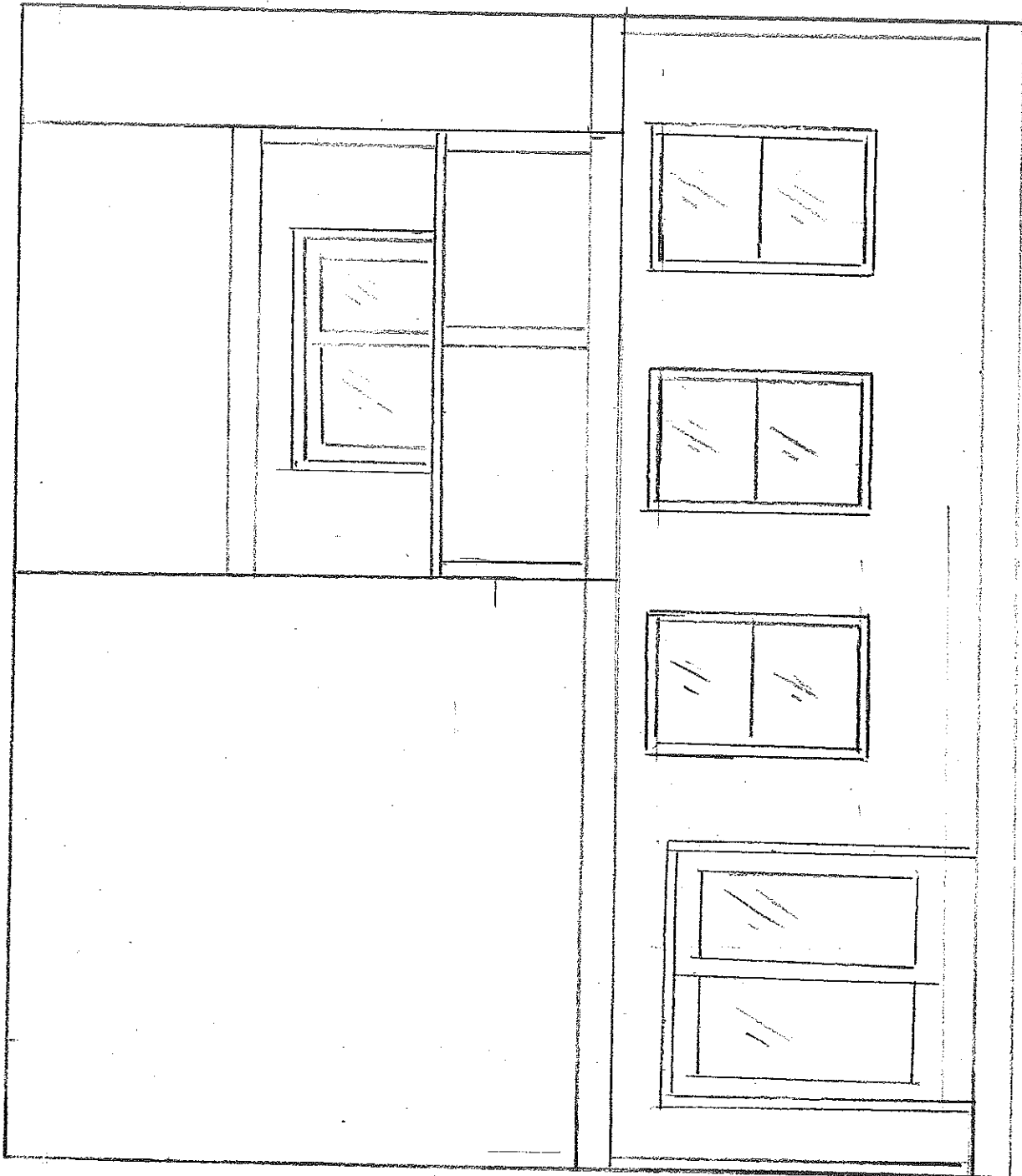


Right Side
44" = 1'-0"

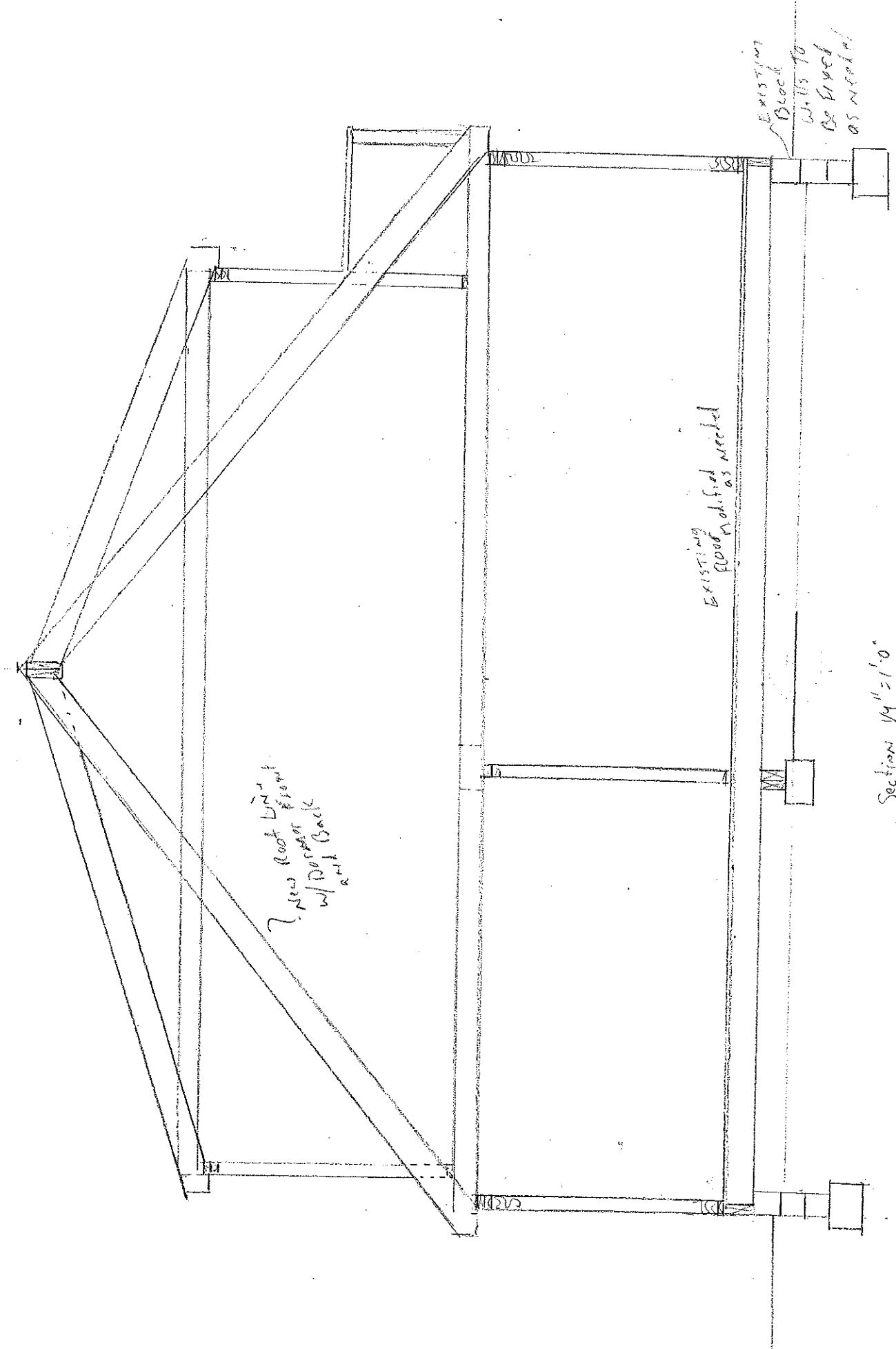


STREET SIDE

14'-10"



Water Side Elevation
1/4" = 1'-0"



New Roof Line
w/ Downstair
and Back

EXISTING
FLOOR modified
as needed

EXISTING
Block
walls to
be fixed
as needed

Section 1/4" = 1'0"

34' 4"

28' 9" 4"

Water Side

Vaulted Ceiling

Dining

Spice Rack

Kitchen

Break

Bed

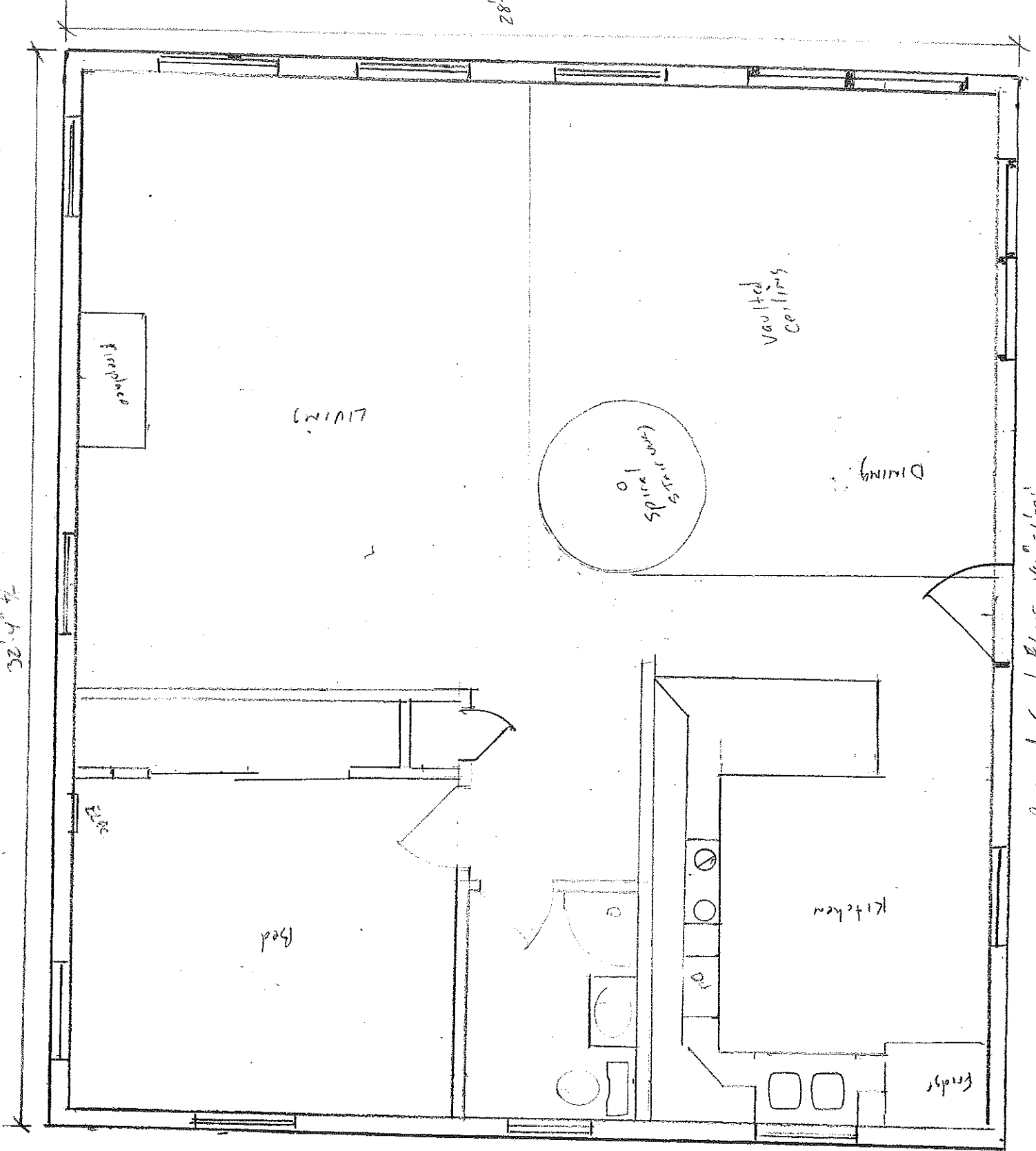
Elec

Fireplace

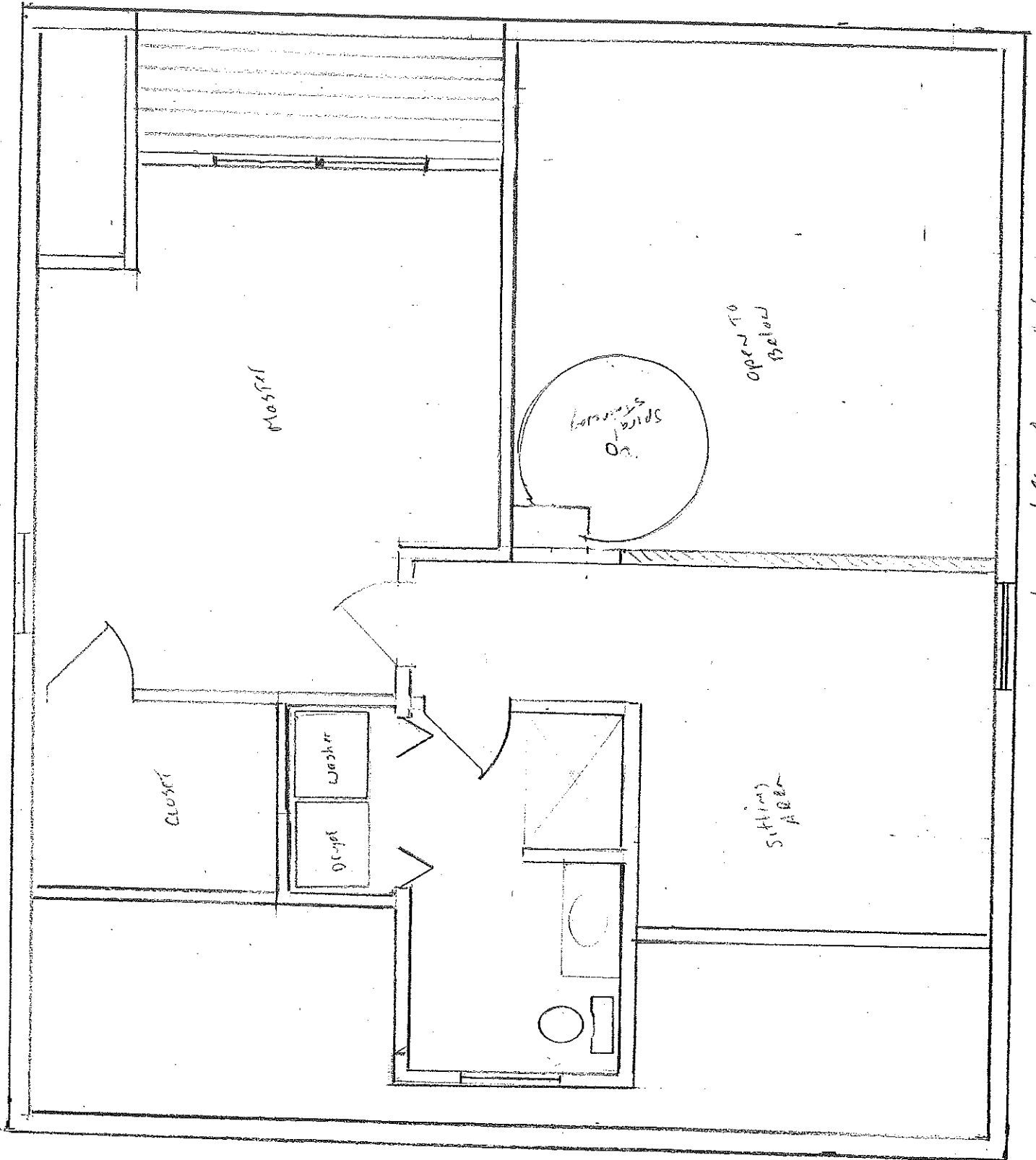
LIVING

Front

Proposed First Floor 14' x 10'

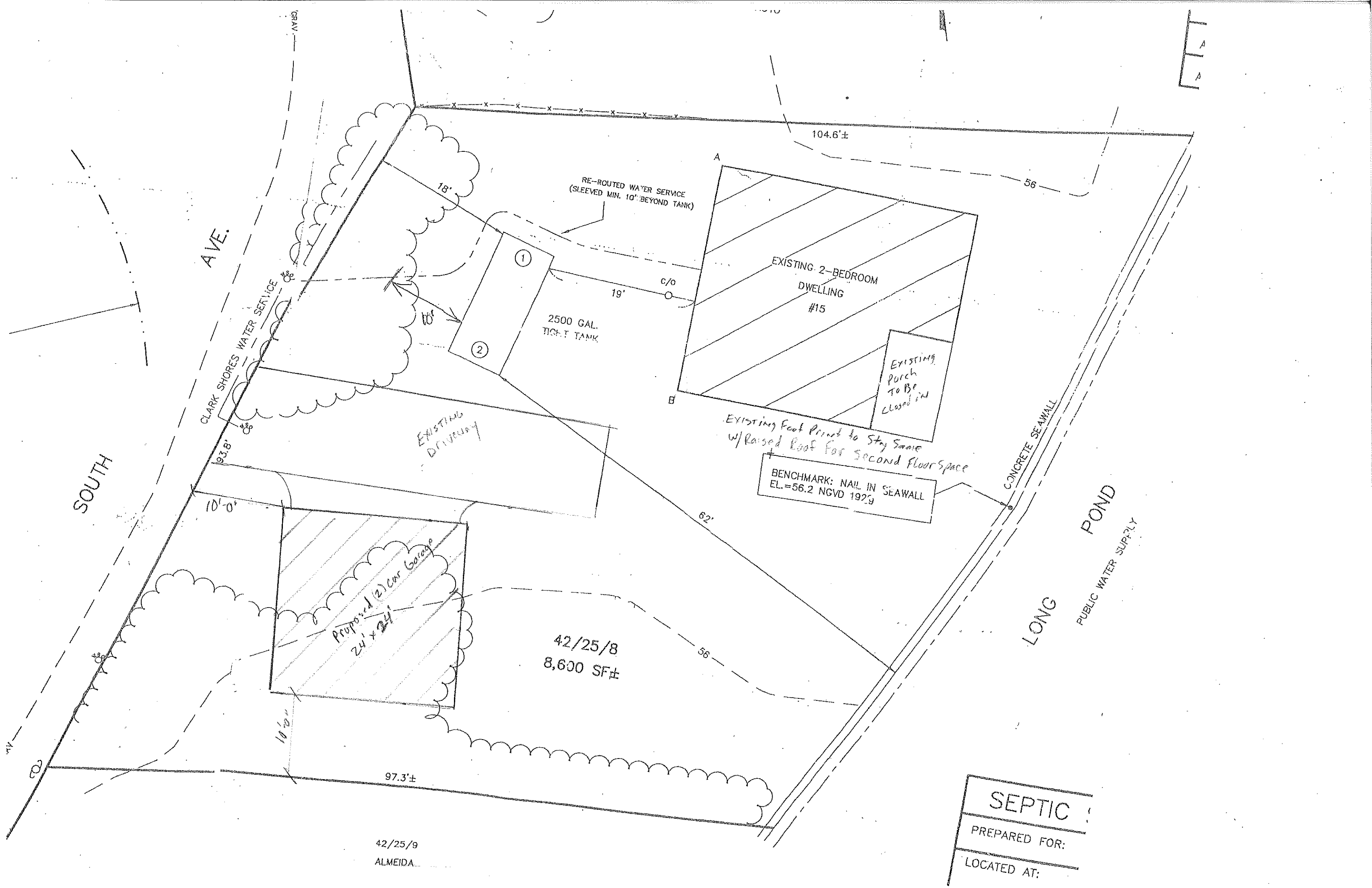


~~FRONT~~
Balcony



Proposed Second Floor Area: 44' x 10'

~~FRONT~~
SIDE



AVE.

SOUTH

LONG POND

PUBLIC WATER SUPPLY

104.6'±

56

RE-ROUTED WATER SERVICE
(SLEEVED MIN. 10' BEYOND TANK)

EXISTING 2-BEDROOM
DWELLING
#15

EXISTING
Porch
To Be
Closed in

2500 GAL.
TOILET TANK

Existing Foot Print to Stay Same
w/ Raised Roof for Second Floor Space

BENCHMARK: NAIL IN SEAWALL
EL. = 56.2 NGVD 1929

EXISTING
DRIVEWAY

Proposed (2) Car Garage
24' x 24'

42/25/8
8,600 SF±

97.3'±

42/25/9
ALMEIDA

SEPTIC
PREPARED FOR:
LOCATED AT:

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
May 7, 2020
Remote meeting**

On May 7, 2020, the Zoning Board held a remote meeting. It was called to order by Chairman Foster at 4:00. Mr. Foster asked if anyone was recording. There was no response, but he advised that he would be recording.

Members present:

Donald Foster, Chair; David Curtis, Vice-Chair; John Olivieri, Jr., Clerk;
Janice Swanson, Vice-Clerk; James Gouveia, Member

Also present:

Paul Turner, Robert Forbes, Zenith Consulting Engineers, applicant's engineer, Nick Lanney, Town peer review engineer, Michael O'Shaughnessy, attorney for the applicant, Derek Maksy, abutter, Amy Kwesell, Town Counsel

Mr. Foster then read an explanation of the Governor's March 12, 2020, Executive Order which allowed public meetings to be held remotely. The meeting will be aired in real time and will also be posted on the LakeCam website. In addition, the meeting will be available on LakeCam's Facebook account.

Turner hearing, continued – 44 & 46 Rhode Island Road

Mr. Foster opened the continued Turner hearing at 4:02 and read the legal ad into the record. Mr. Foster asked members if they had attended the first meeting in regards to this hearing. All members advised they had attended that hearing. Mr. Curtis then made a statement that one of the agents in the office that he is affiliated with made a proposal to represent Mr. Turner in the sale of the property if this be approved. He would not personally be involved with that but he did want to make it known. Mr. Foster asked if that would have any personal benefit to him. Mr. Curtis replied that it would not. The only benefit would be if he actually wound up having a buyer for one of the units but it would be representing the buyer not representing the seller.

Mr. Foster asked if Mr. Curtis's disclosure raised any concerns. Atty. Kwesell advised that it does. Did Mr. Foster anticipate closing this hearing tonight? Mr. Foster said that he would like to but he didn't know. Atty. Kwesell noted this was a Comprehensive Permit so only a majority of the Board is needed to approve. Her concern is that even if it's another employee at his firm bringing in that sale, that sale will benefit the entire firm

in some way. It could be argued there is a financial interest. Her advice would be to contact the State Ethics Commission and get a ruling.

Atty. O'Shaughnessy said in respect to closing this hearing today, the way they've done this in the past is if the Board was comfortable, the next step would be a Decision with both attorneys working together to iron out the details. This would be presented to the Board at their next meeting to look at and sign if they were so inclined. Atty. Kwesell replied if that was the way the Board wanted to go, then the hearing would not be closed tonight. If the Board has any questions while drafting the Decision, they could not take any information from the applicant. That would also weigh on Mr. Curtis's decision whether to participate tonight because now he has time.

Mr. Foster added the other thing was they have five Board members but they only need a simple majority vote of three. Atty. Kwesell said that was correct. Mr. Foster said one option is for Mr. Curtis to abstain from voting. Atty. Kwesell said that would be provided he didn't participate. He would be abstaining from the hearing. She noted if the Board wanted to go the way Atty. O'Shaughnessy has suggested, there will not be deliberation tonight. Deliberation won't happen until they have a draft Decision. Mr. Foster asked Board members what their opinion was of delaying the deliberation and vote or moving ahead with a vote of four members. Ms. Swanson stated she was in favor of accepting Atty. O'Shaughnessy's suggestion if Mr. Turner was not opposed. Mr. Olivieri agreed. Mr. Foster said they should then move forward with the data and information they have.

Mr. Foster then read the February 7, 2020, letter from the Board of Health into the record. It stated they would need to review septic plans prior to any construction, but for the project in general, the Board finds no issue. Mr. Forbes said that no plans would be presented until this process with the ZBA has been completed. Mr. Foster then read the February 12, 2020, memo from the Board of Selectmen. They had no comment on the application. The February 18, 2020, memo from the Planning Board asked if any consideration had been given to this project being considered as a 40R. They also wanted to know if any condo documents had been received. Atty. O'Shaughnessy responded that he thought this had been discussed at the last meeting. No condo documents have been prepared at this time as they were not yet at that point. He would imagine that any condition of approval will include that they would have to provide a draft of these to the Board for review and approval by Counsel.

Mr. Foster then read the February 20, 2020, letter from the Fire Chief. It stated the Fire Department had no objection to the dimension of the proposed road as all the specifications are fire compliant. However, beyond their jurisdiction and just noted as an observation, the width of the proposed road appears to be less than 24 feet in width. It had also been communicated at the walk through of the property that a hydrant would be needed at the beginning of the road. There does not appear to be a compliant hydrant identified on the plan. Mr. Forbes responded there had been a mistake on the plans and it wasn't showing an existing hydrant at the Rhode Island Road intersection. In discussion

with the Taunton Water Department, they had been asked to put a hydrant inside the development as well.

Mr. Foster also read the February 19, 2020, memo from the Conservation Commission. They had received a Request for Determination of Applicability (RDA) for this site. If it is determined that the small wetland area is non-jurisdictional, no further action would be required. If the wetland is subject to regulation, a Notice of Intent would be required. Mr. Forbes said it had been determined the wetland in question was a vegetated area but it did not meet the requirements of a jurisdictional wetland, and the Conservation Commission agreed with that determination. He pointed out that they were still protecting that area anyway and will not be going into it, filling it, or doing anything with it.

Mr. Foster said he had a February 19, 2020, letter from Nick Lanney, their peer review engineer. It contained 11 bullet points. Had they covered this at their last meeting? Mr. Lanney said he thought the only thing outstanding was the sidewalk. Mr. Forbes said that was correct. Mr. Foster added he thought there had been some additional questions that had come up for additional discussion, and Mr. Lanney had responded in his April 13, 2020, email. Mr. Lanney said that was correct. Mr. Foster said these issues were traffic, sidewalks, water, and also the alleged dump that is on an adjacent lot.

Mr. Lanney said that was correct and began to address the issues. Mr. Lanney said the point that he had made in regards to the width of road of the cul-de-sac with respect to emergency vehicles is, it had appeared the Fire Chief was looking for 24' wide road. If they had a 20' road with a 4' sidewalk would that satisfy the Fire Chief? Mr. Forbes said they had gone over this subsequent to anything Mr. Lanney was involved in. He does have a response from the Fire Chief on that, and he could go over that when it was convenient to the Board.

Mr. Lanney said the next item was the groundwater level. Zenith did a bunch of test pits witnessed by the Board of Health. It looks like from those results the water table is over ten feet below grade. He wouldn't classify the groundwater as being too high. Mr. Lanney advised after researching the division of the land for these lots, the plan shows that the landfill did not extend onto the lots purchased for this project. He did a soft walk on the property, and it is obvious where the landfill stops. It is not on this property and does not encroach on this 40B project. Mr. Foster said that he thought a portion of land had been carved out because of this. Mr. Lanney said he thought this was Lot C, which will create a buffer between the landfill and the development. That Lot C is not a part of this project but a separate piece noted on the plan as a non-buildable lot. It is close to 100 feet and will act as a buffer. Mr. Forbes said that was correct, and it was just over 100 feet.

Mr. Foster asked if they knew of any plans to clean that up. Mr. Forbes said that he, Mr. Turner, and Atty. O'Shaughnessy had met several times with DEP in regards to the solid waste issue on the abutting parcel. They were told the essentials of the landfill being cleaned up could not be discussed with them at that time. DEP did ask them to create

that 100-foot buffer. They could not require it, but Mr. Turner volunteered to do it. That is the Parcel C that Mr. Lanney referred to. Mr. Forbes said the testing that was done at the time determined they weren't finding any contamination in the wells around that landfill. He did not know the status of the clean up but knew that three options had been given. The first was to leave it alone. The second was to cap the landfill. The third was to remove all the material from the landfill and render it clean so that the land could be reused. Mr. Lanney said there are two groundwater monitoring wells between Lot C and the landfill. Mr. Forbes said that was correct, and there are a number of monitoring wells out there for the landfill. Mr. Maksy had environmental assessment done of the entire property and more monitoring wells were put in with association of that. He noted those wells have come back clean as well. Mr. Foster asked if any fencing was proposed. Mr. Forbes said not on their end. DEP did not want them to put a fence up. That 100-foot buffer was in case it was needed to maintain the monitoring at the landfill over time.

There was a question as to if the landfill was listed. Mr. Lanney said that this was not a listed waste site. Mr. Foster said he thought the concern was this is a dump from a hospital that has been closed for years, and people don't really know what was thrown in there. It could pose a physical as well as a medical risk. That is the story that always comes up but to his knowledge there has been no direct evidence of that. Atty. Kwesell said that she did not necessarily agree with the fact that DEP has requested no fencing. They can still go in and monitor even if there's fencing. If the groundwater samples have come back clean, why don't they just get copies of the most recent results.

Mr. Forbes clarified their property is 20 to 25 feet from the landfill. DEP did not want them to put a fence on the property line because that would leave 20 to 25 feet of buffer, and they like to have 100 feet. The requirement DEP imposes on the fencing is on the landfill owner not the abutter. Mr. Foster asked if they agreed that the landfill issue is moot at this point. Mr. Forbes said it is, as far as DEP is concerned with what they are doing here. They asked for that 100-foot buffer, and Mr. Turner voluntarily gave that to them by setting aside that parcel.

Mr. Foster said he had received via email a few comments from Mr. Derek Maksy. He had raised the issue that 16 residential families, in between 2 residential homes, bordering an existing landfill could have a negative impact on the homes and potentially be an attractive nuisance to the new 40B homeowners. Is the applicant amenable to installing a fence with some trees to provide privacy to the neighboring homes and protection to the applicant's future owners? Are they willing to put in some type of a fencing system to provide some kind of visual and physical border between residential properties and that dump area?

Mr. Forbes said there are some existing trees on Parcel C, and it is vegetated to some degree. There is no intention of taking any of those trees down. He was not sure what anyone cleaning up that landfill would do with that vegetation, but it was his understanding that Mr. Maksy owned that property. Mr. Maksy then responded it was correct there were three options in regards to the landfill. He was the owner, and if he decided to not do anything, then there is no need to put fence in there. However, if you

are going to put 16 homes in there with children, it is going to be an attractive nuisance and not just that property, but the industrial property behind it when it gets developed. He is trying to protect not just the landfill and the property but also his potential homeowners. Ms. Swanson said it might be nice if they had a fence, but does Mr. Turner have to put it up. Homeowners that own their property could put a fence up on their land for protection. She didn't know about making them put up a fence between the properties. Mr. Forbes added that if they did put a fence up it would essentially serve as a small visual buffer to it only. The landfill is accessible by anybody and anyone by just going around the fence. It would not prohibit access to the landfill. There would have to be a locked gate around the entire landfill. Mr. Maksy spoke again to the need for a fence especially where the property might be further developed. Atty. O'Shaughnessy responded they did not see this as a health or safety issue. They have provided a robust planting plan already. If the Board wanted some markers to denote the property line, they would be happy to put them in but he did not see the benefit of putting a fence in if this site was accessible from all around.

Mr. Foster asked Mr. Turner to comment on the issue. Mr. Turner said that if Mr. Maksy wanted to fence the entire part that he owns, then he'll fence his piece that abuts it. Mr. Maksy said that was not a requirement for him to do that, and he had no interest in doing that. Mr. Turner said he understood and to put a 300-foot fence so you can walk around both sides doesn't make any sense. Mr. Maksy noted that he still owned two other lots on either side, and when he sold them, they could be fenced in. If Mr. Turner fenced his property, they would then all be connected. Mr. Foster asked Mr. Turner if he would agree to that. Mr. Turner said that he would. Mr. Maksy said he greatly appreciated that. Mr. Foster also thanked Mr. Turner.

Mr. Foster said he would like to move onto traffic. He asked Mr. Lanney to speak to the review he had done of the traffic engineers report. Mr. Lanney stated that the general conclusion of the report was that if the project was built there would be minor impact on the level of service. Level of service is how long someone has to wait before they make a left-hand turn into the project or to try to make a right- or left-hand turn coming out. He said in most conditions the level was A and in one condition the level was B, which is a ten second delay. This is an acceptable level of service.

Mr. Lanney said the engineer had pointed out several improvements to the plan. Vehicles exiting the site should be placed under stop sign control with a marked stop line provided. Another would be to provide an appropriate location for a school bus waiting area in consultation with the Lakeville Public Schools which he had done. They also made suggestions to cut the vegetation and regrade the east end of the site. He would add in his recommendation that when this is done by the developer the traffic engineer come out and confirm that the site distance has been achieved by the regrading and vegetation removal. He would say overall the traffic report was a positive report, and the development will have negligible or little impact.

Mr. Foster said the issue had been raised at their last meeting by a neighbor who was concerned about speeding and accidents occurring. Mr. Lanney said that he recalled in

the report there were no accidents. However, there was an observation the mean speed of traffic going east on Rhode Island Road was 39 miles per hour and westbound was 37 miles per hour. The posted speed limit is 35, so people do tend to drive above the speed limit. Mr. Forbes said they did do an analysis of the vehicle accidents there and looked at a five-year period and there were four accidents in that area, but that is what they've claimed is below the Mass DOT average crash rate for this class roadway. He didn't know if you would consider any number of crashes acceptable, but its not considered a problem if you're in that range. Mr. Foster thought at this point they could put the traffic issue to rest. It sounds as if the anticipated impact on the traffic from these 16 residences is essentially none. Atty. O'Shaughnessy said as far as the improvements about the clearing and grading they had no problem with it.

Mr. Foster asked Mr. Lanney if there was anything else that should be covered this afternoon. Mr. Lanney replied the sidewalk. Has the developer agreed to that? Mr. Forbes replied at the last meeting, they stated they didn't have any problem providing that sidewalk if that's something the Board wants them to do. Mr. Foster asked Board members for their opinion on the sidewalk. Ms. Swanson thought it would be nice for the people who move in but who maintains that sidewalk. She noted the Planning Board has actually allowed subdivisions to go in with waiving the sidewalk on a smaller street but, it wasn't for a 40B. She did not know how the other members felt but, she was fine either way.

Mr. Olivieri said if this is going to be a condo association, it's not going to be the Town's responsibility to maintain the sidewalk but the unit owners. It sounds like a relatively short road that is a dead end. He thought this was brought up by the Fire Chief, but was it a mandate? If it wasn't, he would leave it up to the developer. Mr. Curtis noted that would be a place for children to stand instead of standing out in the street while they're waiting for the school bus.

Atty. O'Shaughnessy said there are a couple of outstanding issues from the last time they met, and this kind of dovetails with it. One of the issues they had was the sufficiency of the road to handle the Town of Lakeville's fire apparatus. Mr. Forbes prepared a truck turning plan and sent it to the Fire Chief. It shows the roadway being 20 feet wide and 30 feet around the cul-de-sac. I think there is something on file actually saying the Fire Chief is okay with the roadway layouts. Mr. Foster said they did have that memo. Atty. O'Shaughnessy said the other thing they have going on is they have Cape Cod berms that provide a little overhand on each side of the road for the fire truck. As far as the sidewalk goes, again one of the issues that came up before was the extent of the work that was being done on Route 79, as the Board was concerned about them coordinating with those improvements. The Route 79 improvements stop by Clear Pond Road, keeping that in mind, if the Board was inclined for them to put the sidewalk in, they will do it but they prefer not to.

Mr. Foster asked Mr. Gouveia what he thought. He replied he didn't see where they really needed the sidewalk. There are no other sidewalks in the area. Ms. Swanson agreed there was no reason for it. There are many streets in Lakeville where parents

drive their children down to the bus stop, or they walk. This is a fairly short street that kids would have to navigate, so she didn't know if it was necessary. Mr. Foster said it sounds like at this point the consensus is that the sidewalk is probably not necessary, and it is a small development.

Mr. Foster asked Mr. Forbes and Mr. Lanney if they had missed anything. Mr. Forbes replied there are a couple of minor issues from the last meeting. People were concerned about the proximity of the project to their well. They put a plan together that had been submitted to the Board. He could also show the plan that had been prepared for the Fire Chief where he had stated that he had no problem with access to the property. It shows the fire ladder truck entering and able to maneuver down the road, around the cul-de-sac, and back out again without touching the curbs now that they have provided Cape Cod berms.

Mr. Forbes then displayed the abutter well plan information. They were 179 and 181 feet away and the requirement is 100 feet. The people that were the most concerned were on Rush Pond Road. Those distances were 230, 240, 350, and more than 450 feet away. There is also a parcel that Mr. Maksy still owns between the residents on Rush Pond Road and the project. He next displayed the fire truck turning plan which showed you could come in, get around, and get out again without having any impact to the berms or having any problem getting in from Rhode Island Road.

Mr. Forbes said one other issue was with the building height. He displayed the architectural drawing of the elevation of the site. He said it was a typical two-story residential dwelling and what the 29 feet represents is 18 inches of reveal on the foundation. Mr. Turner does not like it to be that much so this is a worst-case scenario. He wanted to put that on record for the abutters that were concerned about the building height. Mr. Foster noted at 29 feet they were 6 feet under the bylaw requirements. Mr. Forbes said that was correct.

Mr. Foster said he would like to go over the list of requested waivers in the plan. Atty. Kwesell asked if any Board of Health relief or waivers were needed. Atty. O'Shaughnessy replied none were needed. Atty. Kwesell said was it correct they were not subdividing land but combining two lots. Atty. O'Shaughnessy said that was correct. She then asked where the Board had ended up with the sidewalks. Was it a no for the whole development? Mr. Foster replied the consensus seems like it is not necessary to have a sidewalk. Atty. Kwesell said it would be her preference to have the Board vote on the waivers at the next meeting. When they work on the draft decision, they might have less or more waivers, so it is beneficial to wait.

Mr. Foster asked if there were any abutters present who would like to speak. Mr. Maksy said that part of that property being purchased required there were to be no wells installed for irrigation or public use. Atty. O'Shaughnessy said they have a water allocation from the Board of Selectmen. Once this project is wrapped up, Mr. Turner will go to the City of Taunton to get it approved on their end. There are no wells on site. There were no other comments from abutters.

Mr. Foster then discussed what their next steps would be. Atty. O'Shaughnessy said he would like to work with Atty. Kwesell in getting a draft of a decision going. Mr. Foster and Atty. Kwesell were okay with that. Mr. Foster asked Mr. Curtis to work on the conflict of interest issue he had before the next meeting. Atty. Kwesell said for the next meeting there should be a draft decision which will be forwarded to the members for their review. They would then deliberate on that decision at that next meeting. They will vote on the waivers and deliberate on the findings and conditions. She will also send a list of outstanding issues if there are any to be addressed first.

After discussion, it was agreed to continue the meeting until June 4, 2020. Mr. Olivieri made a motion, seconded by Mr. Gouveia, to continue the public hearing on Old Field Estates until June 4, 2020, at 4:00 p.m. at the Lakeville Public Library unless otherwise noted on the agenda and Town website.

Roll Call Vote: Mr. Olivieri-Aye, Ms. Swanson-Aye, Mr. Curtis-Aye, Mr. Gouveia-Aye, Mr. Foster-Aye

The hearing closed at 5:19.

Mr. Foster adjourned the meeting at 5:20.

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
October 1, 2020
Remote meeting**

On October 1, 2020, the Zoning Board held a remote meeting. It was called to order by Chairman Olivieri at 7:18. LakeCam was recording, and it was streaming on Facebook Live. There was no response when Mr. Olivieri asked if anyone was recording.

Members present:

John Olivieri, Jr., Chair; Jeffrey Youngquist, Vice-Chair, Nora Cline, Clerk; Gerry Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Sheedy, Associate

Also present:

Chris Campeau, appointed Associate but not yet sworn in, Atty. Amy Kwesell, Atty. Peter Saulino, Francis and Noreen Morrissey, Sue Furtado, Nick Iafrate, Elaine Johnson, Lisa and Shawn Cusson, Anthony Zucco, Gerry Desrosiers, Kevin Fuller, Kevin Healey, Michael and Maureen Martowska, Mary and Bill Tribou, Jess Leary, Kevin Huerth, Marie Scarpelli, Christopher Maher, Colleen Cummings

Agenda item #1

Mr. Olivieri read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely.

Buginga hearing, continued – 33 Shore Avenue

Mr. Olivieri opened the continued Bugginga hearing at 7:20 and read the legal ad into the record. He then read the correspondence from the various Town Boards into the record. The August 12, 2020, letter from the Board of Health stated as long as the shed was recently built and did not have a bedroom or any plumbing, they had no objection to the structure. The August 17, 2020, memo from the Conservation Commission advised the entire lot, including the shed, is within the 100-foot buffer zone. The Commission approved the Notice of Intent and an Order of Conditions was issued. The August 17, 2020, memo from the Planning Board indicated they had no comment regarding the petition.

Mr. Youngquist advised that he would have to recuse himself from this hearing. Mr. Olivieri then asked Mr. Sheedy to participate in the hearing. Mr. Olivieri asked who

would like to speak for this petition. Atty. Peter Saulino was present. He advised he maintained an office at 550 Locust Street in Fall River, and represented the applicant in the petition before the Board. The petition seeks an after-the-fact Special Permit. The reason for this request is because the property was put up for sale, and it was discovered the shed is not in conformance with the bylaw. As a consequence, they are here before the Board to ask for an after-the-fact Special Permit on the grounds the shed exists currently and there is no detriment to the neighborhood in a variety of respects.

Atty. Saulino advised under 6.3.2 an accessory building like this could be approved and maintained in this location within the setback provided a Special Permit is granted by this Board. He also noted Section 7.4 lays out the elements through which this Board can find for a Special Permit. Atty. Saulino then read that section into the record. He advised he would submit this was more of an error than an attempt to do something under the cover of night. This property went before the Conservation Commission and the Town on a Notice of Intent and the subject structure is shown on the plan.

Atty. Saulino stated the request should be granted because the proposal is not noxious. It is consistent with the residential seasonal use on the pond currently. There is really no other place to locate it on the site to make it conforming. In his opinion, given the pre-existing nature of this lot and the fact that the building is already there without issue, it should be allowed and the request is not more detrimental than what is there.

Mr. Olivieri asked if Board members had any questions. Mr. Carmichael asked how long the shed had been there. Atty. Saulino was unsure but estimated less than ten years. Mr. Noble asked if it had been confirmed that there was no plumbing to the existing shed. Mr. Frank Morrissey, the new owner, replied the inside of the shed was just two by fours. There is no plumbing or electrical and the shed will be used for storage. Mr. Olivieri asked if there was any intention to install plumbing. Mr. Morrissey responded there was not. He advised they might want to condition that there would be no plumbing allowed. Mr. Carmichael said he felt they could not do that but could say the shed would not be allowed to be habitable in their Decision.

Mr. Olivieri asked if anyone from the public would like to comment. No one spoke.

Mr. Carmichael then made a motion, seconded by Ms. Cline, to approve the petition for the Special Permit with the following condition:

1. The shed will not be habitable.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri – Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:30.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health Correspondence August 12, 2020

Conservation Commission correspondence of August 17, 2020

Planning Board correspondence of August 17, 2020

Iafrate/Johnson hearing, continued – Bettys Neck Road-M065-B004-L025

Mr. Carmichael recused himself from this petition. Mr. Olivieri opened the continued Iafrate/Johnson hearing at 7:30 and read the legal ad into the record. He also read the correspondence from the various Town Boards. The August 12, 2020, letter from the Board of Health advised that although the lot is in a sensitive area, it would be possible to install a septic system in the lower right corner of it. The August 17, 2020, memo from the Conservation Commission stated they had no objection to the project at this location. The Planning Board memo of August 17, 2020, had no comment on the petition.

Next was a letter from Shawn and Lisa Cusson who were abutters to the property. They raised several questions and concerns they wanted to be addressed. After reading the letter into the record, Mr. Olivieri asked Mr. Iafrate to explain what he wanted to do and possibly respond to some of the questions that had been brought up. Mr. Iafrate said some of the information that he had been able to gather on this lot was there was a previous house that burnt down in 1980. It was a three-bedroom house with a two-car garage that was built in approximately 1946. It was a single level home. The way the lot sits right now it has 225 feet of frontage, and it is just under 48,000 square feet. What he is looking to do is build a single-family home on spec. They want to construct a three-bedroom, two and a half baths, with a two-car garage that would have approximately 2,300 square feet.

Mr. Olivieri asked what the distance was between the septic and the Cusson's well. Mr. Iafrate replied they hadn't gotten that far. They have done a perc test but they have not designed the septic fully and placed it on the lot yet. They would work hand in hand with the Board of Health for the placement of the system if the Special Permit is granted. He noted there are certain setbacks from wells that have to be met, and they will have to abide by.

Mr. Olivieri asked how much of the land he planned on clearing and would he be open to creating some type of buffer zone. Mr. Iafrate replied he was 100% open to leaving a buffer. He advised they haven't placed the septic system, the well, or even the exact location of the house. He would be more than willing to work with those abutters and keep them informed and leave a buffer there. Mr. Olivieri asked if Board members had any questions.

Ms. Cline asked if it was correct that they did not have a plan site indicating where everything would be located on the lot. Mr. Olivieri replied that was correct. Mr.

Youngquist asked if the lot existed prior to subdivision control law. Mr. Iafrate said that Lakeville adopted their Zoning By-law in 1959, and it wasn't until 1973 the minimum lot size and frontage came into play.

Mr. Noble asked if the house would be in the location as shown on the plan submitted. Mr. Iafrate responded that was put onto the plan but would not be the actual location. They still have to locate a septic system in accordance with the Board of Health and also the well. The dotted lines on the plan were the minimum setback requirements and the house would go somewhere within those. He expected he would try to keep it closer to Bettys Neck for the reason of the abutter and to keep some privacy. It would be in the upper portion of that dotted square. He estimated it would be between 40 to 50 feet off the road. Mr. Noble asked if he knew the location of the prior structure. Mr. Iafrate said he did not. They did find the abandoned septic system.

Mr. Noble asked Mr. Olivieri if it was possible to request Mr. Iafrate to provide more detailed drawings in regards to the proposed dwelling, septic, and well. Mr. Olivieri said they could request whatever they wanted, however, the septic and well distances were under the purview of the Board of Health. As far as the design of the house, that is also not their purview. They can ask for more but it has to be for the right reasons. Mr. Noble said that if Mr. Iafrate was looking to put a porch and a patio in, it would be a continuance of the non-conformity.

Mr. Olivieri said the reason Mr. Iafrate was here was because of the size of the lot. If he was within the setback, they would have to include that in the Special Permit or he would have to come back and get an additional permit. Atty. Kwesell replied Mr. Olivieri was correct. Generally, she would say the Board would want to know exactly where everything is going to be. In this instance, they are dealing with a bylaw section that allows a house that has been demolished by fire or something like that to be reconstructed either in the same footprint where it was, or within the current setbacks. As they don't know where the house was prior, it has to be constructed within current setbacks.

Mr. Olivieri then asked if there were any abutters present that would like to comment. Mr. Anthony Zucco of 14 Bettys Neck stated the only problem that he had was that it is a non-conforming lot. It is his understanding that if a house is destroyed for any reason and it is not rebuilt within two years, it loses its grandfathered rights. Could they provide clarification? Atty. Kwesell responded Section 6.1.1 states exactly what the abutter said. If there has been abandonment over two years, the non-conforming structure meaning on the non-conforming lot shall lose its protected status, and any future use has to conform with the bylaw. That would be impossible on an undersized lot. The bylaw goes on to say provided, however, that by the issuance of a Special Permit, the Zoning Board of Appeals may reestablish the protected non-conforming status of such use, building, or structure. Atty. Kwesell explained that by applying for a Special Permit the two years essentially goes away. She said that when you have the situation where there is the unintentional destruction of a pre-existing, non-conforming structure, you are allowed to rebuild it within the footprint or if you don't know the footprint it has to be built within the current setbacks.

Mr. Gerry Desrosiers of 3 Bettys Neck Road was concerned that the property was 30% less than the current minimum lot size as well as the fact, there is no existing plan with regard to septic and well location. He thought this would detract from neighborhood property values. Mr. Olivieri said that it has been discussed that the plan will have to meet all current setbacks and guidelines. The septic system will have to meet all Board of Health requirements. Mr. Olivieri said that the Board will have to determine if they think this project will be more detrimental to the neighborhood.

Mr. Olivieri said he would like to return to the buffer issue. He knew there was not yet a set of specific plans but did Mr. Iafrate have any idea of what distance that buffer might be? Mr. Iafrate replied he thought a 60-foot buffer would give him only about 11 feet of yard. He would be more than willing to go about 35 to 40 feet but 60 feet might be extreme. Mr. Olivieri asked Board members what they thought about that as a requirement.

Mr. Noble thought it was reasonable. Mr. Sheedy agreed. Ms. Cline said it was reasonable but her concern was not knowing all the dynamics involved with the land and if it was going to be achievable. Mr. Iafrate advised the Board he did not own this property but was in the process of potentially purchasing it. For him to get to the point of having the septic designed and approved, the well location, and to have a full site plan ready for permitting is a huge financial burden without owning the property. They had wanted to find out if they could acquire a Special Permit before they began investing into those types of costs.

Mr. Olivieri said that was understandable. He noted the Board seemed to be amenable to potentially granting the Special Permit, although he did not want to get ahead of himself, but with some type of condition to make sure there is some type of buffer. To Mr. Iafrate's point, he did not know where the Board of Health is going to allow him to place the septic and well. He advised that process would be public and open as well. If there is a condition on this Special Permit regarding a buffer setback it would be contingent on the approved placement of the systems by the Board of Health. Mr. Iafrate agreed that it was difficult to iron out an exact setback that they could work with until those locations are determined and approved. Mr. Noble thought the provisions made were reasonable.

Mr. Zucco said the property aggressively slopes up to a hill. His septic system and leaching field are at the top of that hill. They had to be placed there because of the Tamett Brook. He did not know how much of that hill will have to be excavated for the placement of the house. That hill over time may erode and affect the leach field above it. This was a concern to him. Mr. Olivieri understood the concern but he was not sure it was their purview to condition something along those lines.

Mr. Youngquist then made the motion to approve the request to construct a single-family home. Mr. Noble wanted to second the motion but wanted to add the provision that Mr. Iafrate maintain a buffer zone of up to 35 feet or the most that will be possible after the approved placement of the septic system and well by the Board of Health. Mr.

Youngquist then revised his motion to include the provision. Mr. Noble seconded the motion.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Sheedy-Aye, Mr. Olivieri – Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 8:08.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health Correspondence August 12, 2020

Conservation Commission correspondence of August 17, 2020

Planning Board correspondence of August 17, 2020

Shawn & Lisa Cusson correspondence of August 15, 2020

Fuller hearing, continued – 32 Fuller Shores Road

Mr. Olivieri opened the continued Fuller hearing at 8:09 and read the legal ad into the record. He then read the correspondence from the various Town Boards. The August 10, 2020, letter from the Board of Health indicated that the sketch shown appears to have already been built. The addition is supposed to be for storage but under Title V it would be categorized as a bedroom. Therefore, the applicant is required to upgrade the existing septic system prior to getting approval for an addition that includes a bedroom and any ZBA approval should be pending Board of Health approval. The August 17, 2020, memo from the Conservation Commission advised the entire project is within 100' buffer zone and will require a Request for Determination of Applicability (RDA). Erosion controls will be required as part of the RDA. The August 17, 2020, memo from the Planning Board made no comment regarding the petition.

Mr. Olivieri then asked the petitioner or a representative to advise the Board regarding the proposed project. Mr. Fuller was present. He stated they were working on the septic system. He was putting a dormer on the cottage which turned into a "mess" and they ended up adding a 20' x 11' room which they want to call a bedroom. They are now going to use the existing small bedroom as storage. Mr. Olivieri asked Mr. Fuller if he was aware that he now needed Board of Health approval. Mr. Fuller responded that Foresight Engineering was working on that for him. Mr. Olivieri then asked where were they in regards to the Conservation Commission. Mr. Kevin Healy, relative of the petitioner said that should be sometime next week, and Darrin from ForeSight Engineering was working on both of those issues.

Mr. Olivieri asked members if they had any questions. Mr. Carmichael asked Mr. Fuller if he had started construction without a permit. Mr. Fuller said he had not but had pulled

a permit for a roof and a shed dormer. When he got into construction, he found a lot of rot and then immediately called the Building Inspector down and was told he would need a Special Permit. Mr. Olivieri said that he thought that what was being done based on the information they had in front of them did not appear to be any more detrimental to the neighborhood. If he had come to the Zoning Board with Board of Health and Conservation approval, this would have been a simple one to approve.

Mr. Olivieri said that prior to him being the Chair, he did not have an issue approving petitions subject to another Board's approval. However, this still has to go through those two Boards and it appears that it hasn't gone anywhere yet. He would ask for Town Counsel's recommendation. Atty. Kwesell replied because this is an after the fact petition, it has to be conditional. If he does not get Conservation and Board of Health approval, it would have to be removed because there is no Special Permit. Mr. Olivieri asked if members thought this fit the criteria and it was not more detrimental to the neighborhood. Ms. Cline said she did not think it was more detrimental but she did have some environmental concerns so she was okay with the conditions. Mr. Carmichael thought Board of Health should limit the number of bedrooms based on the size of the septic system.

Ms. Cline then made the motion, seconded by Mr. Youngquist, to approve the petition subject to the following condition:

1. The applicant must receive approval from both the Board of Health and the Conservation Commission.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Olivieri – Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 8:21.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health Correspondence August 10, 2020

Conservation Commission correspondence of August 17, 2020

Planning Board correspondence of August 17, 2020

Martowska hearing, continued - 2 Edgewater Drive

Mr. Olivieri opened the continued Martowska hearing at 8:22 and read the legal ad into the record. He also read the correspondence from the various Town Boards. The September 8, 2020, letter from the Board of Health recommended a Title V inspection be done since the system was built in 1977. However, as there is no requirement for

inspections for accessory structures if there is no plumbing in either of the structures, the Board of Health would have no objection to what is proposed. The September 15, 2020, memo from the Planning Board recommended that any lot coverage over the allowed 25% be permeable.

Mr. Youngquist recused himself from this petition. Mr. Olivieri said that Mr. Sheedy would then participate. Mr. Olivieri then asked Atty. Kwesell if she would give the Board a synopsis of this petition as there was quite a bit involved with it. Atty. Kwesell advised here they have a 30,000 square foot lot with a dwelling on it. There is a proposed pavilion which will be approximately 5.1 feet from the side lot line while the 44' x 28.5' proposed garage is 10 feet from the other side lot line. These both qualify as accessory structures and the petitioners are here because no accessory structure is allowed in the setbacks without a Special Permit. The lot is also at the maximum 25% impervious lot coverage.

Atty. Kwesell stated there has been litigation between this property owner and the abutter which resulted in a Settlement Agreement which was provided by the abutter. The Settlement Agreement provides in paragraph 3 that the garage can only be a certain size and every time the garage size increases it has to be further from the lot line. It also states that no matter what it can be no larger than 28' x 24'. However, there is an amendment to the Agreement that states if no Variance is required for the garage then that paragraph is not applicable. In this instance a Variance is not required, a Special Permit is required. Atty. Kwesell said that this is one of those instances when you have to look at the entire lot. The lot appears to be large enough to meet setbacks with at least the garage.

Mr. Olivieri then asked Mr. & Mrs. Martowska or their representative to speak to this petition. Mr. Martowska stated the petition was a multi-faceted request. This will improve the property and includes the following items: paving the driveways, adding terracing down to the steep slope from the house to the lake, adding patio areas, stairways for safety, and the pavilion. He will focus on the garage first. He did first look at putting the garage within the setback requirements, and he could do that. He thought it benefitted his neighbors with the current proposed placement. If he could, he would move the garage closer to the street. but he was limited because of the location of his well. The neighbor to the south, their house is closer to the water and less than 20 feet from the south property line. If the request is not approved, he would be forced to put the garage 40 feet from the street and 20 feet in which would make it more visible to the neighbor's entry way into their house. Across from the property line was their garage which he believed was in the setbacks. He had turned the garage so the neighbor would see the width of it rather than the length which he thought would be less offensive. A lot of the property line side of the garage would be parallel or overlooking their garage but his garage would be longer.

Mr. Olivieri then asked if Board members would like to comment on the garage or if they wanted to hear the entire presentation. Ms. Cline said she did have several concerns regarding the garage. The first was with the 10 feet setback. She also noted on that side

it appears there are two propane tanks; that was a concern. She also said that in constructing the garage there seems to be a lot of vegetation that will have to be removed. Will the erosion and soil removal be addressed by the Conservation Commission?

Mr. Martowska responded that Conservation was already involved. A lot of that vegetation has already been removed. He noted that an error had been discovered on the engineer's drawing. Although it shows the coverage at 24.9% with 7,893 square feet. Those two numbers don't match. He said the original plan was at 28% coverage but he worked with Outback Engineering to reduce that to 25% by narrowing the driveway and changing other things around to reduce the amount of covered area. As far as the propane tanks, the intent for one of the pads is his tank and the other pad is for an exterior generator.

Mr. Carmichael stated when reading through the paperwork the agreement from 2009 limits the size of the structure with a maximum size of 24' x 28'. Now the proposal is 40' x 28'. Was that correct as there were no measurements on the Site Plan. Mr. Martowska replied the attorney had already discussed that point and indicated that because he did not need to get a Variance that limitation no longer applied. This petition requests a Special Permit. Mr. Martowska said there are different requirements for a Variance and Special Permit. Once he didn't need a Variance, he could go back to what the Town would allow him to do, in this case a Special Permit. If he hadn't asked for the reduced setbacks, he could place that garage in a different location within the setbacks without the need for the Special Permit but by right. Mr. Carmichael said but the Special Permit is asking for it to be closer to the lot line. Mr. Martowska said that was correct. Mr. Carmichael said he felt that was the same thing that the agreement of 2009 was trying to restrict him from doing. That was his feeling.

Mr. Olivieri then said if there were no further questions from the Board he would like the Martowskas to finish their presentation. Mr. Martowska continued because they have had some issues with heavy winds off the lake causing damage, they had thought a pavilion would be preferable to an umbrella. There had been a one car garage/shed on the property line which he had torn down when he built the house so it is not in their recent records. He is asking for a 5-foot setback for the pavilion which he would like defined as 5 feet to the center of the column. He stated their neighbors on the north side have a boat house, and the upper part of it is used as a deck. That deck portion is 5 to 6 feet away from his property line. He said they had no problem with what he was doing.

Mr. Martowska said regarding the walkway going down to the lake, it has sidewalls to help protect the stairway. At its closest point, he would want that sidewall to be five feet from the property line. However, due to the angling of the property lines, it does get wider as you get down closer to the lake. He is trying to make better use of his property as well as minimize some of the run-off. Ms. Martowska added that they feel this is in general harmony of the bylaw. They don't feel its noxious but rather an improvement and enhances the neighborhood. It is also consistent with current use and character of surrounding neighbors.

Mr. Olivieri then asked for any Board member questions. Mr. Noble asked for a clarification regarding the impervious coverage. Mr. Martowska replied that he hoped the 24.9% coverage was correct, but there was an obvious error. He is waiting for an answer from Outback Engineering. Mr. Sheedy asked if they would be willing to use different materials that allow water to percolate down into the ground. Mr. Martowska said that was something that had been discussed and addressed.

Mr. Olivieri then said if there were no additional questions from the Board, he would open it up to the public. Mr. and Mrs. Tribou of 4 Edgewater Drive were present. Mrs. Tribou stated that they had quite a few concerns about the whole proposal. They are dealing with a large garage, patio, and other paved areas on a lot that is severely elevated in relationship to their property, and it will also affect additional lower lying properties as they will hear from various neighbors. It is a non-conforming lot that is peculiar in its shape. They are most concerned with the run-off and soil erosion due to the elevation and the additional impervious coverings which still has not been resolved as far as the correct percentage. Mrs. Tribou said the elevation is extreme in relationship to the property and neighborhood. They are constantly dealing with storm run-off. She felt it would be different if it was a flat neighborhood but its not. She said granting this Special Permit would cause great detriment to other neighbors.

Mrs. Tribou then began to discuss the size of the garage. She noted it was larger than the Martowskas' foundation size. It is larger than any garage in the neighborhood. Most of the garages coming in from Nelson Shore Road are 24' x 24' with their garage being 24' x 26'. The property across the street is 24' x 24', and the property next to them on 33 Nelson Shore Drive is 24' x 33'. The garage is out of scale with the neighborhood and diminishes their property. It does not keep with the character of the neighborhood or any other garage in the neighborhood.

Mr. Olivieri asked Mrs. Tribou to comment on the legal document that had been submitted. Mr. Tribou replied that it had been agreed that the garage would be 24' x 24' if it was 20 feet from their property and 5 feet from the boundary line. For every foot inside that 5 feet, so if it was 6 feet, it could increase to 24' x 25' but the maximum size it could be was 24' x 28' if they required a Variance. If no Variance was required then that was not applicable, but he disagreed and felt they are asking for a Variance. Mr. Olivieri said the confusion may be that you can apply for a Special Permit or Variance but from a technicality standpoint, they decided to apply for a Special Permit which null and voids that agreement.

Mr. Carmichael thought this did not pass the straight face test just because they were applying for a Special Permit. He still saw this as a Variance and the agreement should still be kept at 28' x 24'. That was his feeling. Mr. Tribou added that it was also mentioned in the Settlement Agreement that it would be one-story and it would be a two-car garage. They are also concerned with the idea of the propane tank generator. He asked if that space could be permitted for livable space after the fact?

Mr. Olivieri then asked Town Counsel how bound were they as the ZBA to follow that agreement if various members of the Board felt maybe it wasn't the exact intent, and there was confusion over the words Special Permit or Variance. Technically, the agreement says as long as it's not a Variance, how much should that weigh in on their part? Atty. Kwesell replied the document was submitted and is part of the record so it can be considered. She thought it goes to the detriment of the neighborhood or not. There is confusion over the word Variance, and they are varying the setbacks but there is a section in the bylaw that allows them to do that by Special Permit. The Board needs to look at this and decide is this more detrimental to the neighborhood? Could they make these 20 feet? This is relief from the requirements of the Zoning By-law, and are they entitled to that relief particularly for the garage, that needs to be said. She noted it is a private agreement and if this Board did anything in violation or opposition to that agreement it is a private matter, and it has nothing to do with this Board. However, it was submitted so it can be considered but shouldn't be the deciding factor. Mr. Olivieri said they were not then obligated to act on it. Atty. Kwesell said they were not and if they do issue something out of line with it, it was a private matter.

Mrs. Tribou said regarding the size and character of the garage, she would urge each Board member to look at that. She went through the entire neighborhood and other than a horse barn, there is nothing that comes close to this size in the neighborhood with the average being 24' x 24'. She said they are doing some lovely things over there, but it needs to be in keeping with the neighborhood and shouldn't hurt the neighbors in regards to soil erosion, the runoff and all the problems they have, and then adding to the impervious area. Mrs. Tribou said they do have a concern with the turnaround location being in an area where there is a severe decline toward the water and their property. This is not only in regards to the water but also snow removal.

Mrs. Tribou said that Ms. Cline had also brought up a good point regarding the placement of the propane tanks. She said that in Section 7.4.1.2 the advantages of the proposed use are supposed to outweigh any detrimental effects on the neighborhood and the environment, and they do not. There is a reasonable alternative. She also noted that the lot should have been prepared and graded in a manner where it was not a detriment to the drainage of them and others. Mr. Olivieri thanked Mrs. Tribou for her comments and asked for additional public comment.

Ms. Jess Leary of 6 Edgewater Drive then spoke. She was two houses south of the Martowskas and one of the lowest points on the lake. Her concern is drainage and water runoff as it all comes down to her and then to the Huerths. She also did not believe it was in character with the neighborhood, but reiterated her main concern was the drainage. Mr. Huerth of 8 Edgewater Drive asked if there was some type of reclaim system for the roof of this proposed building? Every new construction in this neighborhood has had to put in multiple galley systems to take that rainwater. Is there one on this plan? Mr. Martowska responded, at this point, there was no reclaim system on the roof. Mr. Huerth said that was crazy with the size of the roof. If this is going to be a two-story building aesthetically, it will overpower everything else. Secondly, if that roof rainwater is not going back into the existing soil and percing back to the lake, it's coming down the hill

and washing it out. He has to regrade that hill on a regular basis which is not an easy process. There are now three neighbors that have some major problems with this, at the least it should have some kind of rain reclaim system. It also should be sized to go with the neighborhood. A two-story 40-foot building is not, but a 24' x 24' is what sounds to him was the spirit of the agreement. Mr. Huerth asked if an impact study could be done to see how much water was going to go down that hill from a roof that size. Mr. Olivieri said that he couldn't answer that but there are reasons they have coverage requirements in Town.

Mr. Olivieri asked Board members if they had anything additional to add. Mr. Sheedy said he thought the concerns of the neighbors should carry significant weight. Those concerns were the water runoff, the size of the structure, and not in keeping with the character of the neighborhood. His feeling was this project was not what the agreement intended. It does not feel like the intent was being honored. Mr. Carmichael agreed with Mr. Sheedy. He stated the run-off and size of the structure were problems. He did not see this moving forward. Ms. Cline agreed. She found it to be detrimental not only to the value, but the environment. She felt there are alternatives that should be explored.

Mr. Olivieri then stated to the Martowskas that at this juncture, they could take a vote but he was not sure if that outcome would be favorable. He did tend to agree that the spirit of the agreement was not being met. He would like to have the clarification of the impervious coverage. There are three abutters who have expressed the concern of the water runoff which is tied to that coverage issue. He would call a vote but he would recommend continuing the hearing in order to sit down with Outback and revisit the plan to make it more palatable to the by-law and the comments that have been raised by the Board members.

Mr. Martowska responded if he was to move that garage 40 feet from the street and 20 feet from the side line, the size of the garage would be approved by the Building Commissioner. That had been made clear to him. He only needs this permit to bring it closer to the property line. He thought the option of moving it to comply with the setbacks was worse for the neighbor. Mr. Olivieri said to clarify the argument he is making is he is going to make this better for his neighbors by this placement, but three neighbors do not agree. Mr. Martowska felt the only detriment the Board should be addressing is the fact of being closer to the property line. Is that positioning going to be detrimental? The size of the garage should be off the table from the standpoint, he can and will build that size garage because he doesn't need to go to the Board for it.

Mr. Martowska also did not agree with the comments that had been made about the agreement. He then stated that if he got approved he would not be surprised if the neighbor appealed it. If he gets denied, he will appeal it. He believed from a legal standpoint, as the attorney had made clear, there is a difference between a Special Permit and a Variance and from a technicality standpoint they can argue that later. He did not feel the Board should get involved in that. Regarding the water runoff, statements had been made that were not true. The downspouts from his house go underground and down to the lake, and that was approved by the Conservation Commission. He also relocated

the turn around so he can run that toward his front yard or down to the lake but not the Tribou's property. He is willing to do something to help mitigate some of the runoff by collecting it into a dry well to help it percolate better as opposed to it running down the street.

Mr. Olivieri said at this time he could ask for a motion to vote on the petition, or he could ask for a motion to continue. If they continue, he would suggest providing all the backup and engineering data to show where the runoff is and to show the impact on the surrounding area as opposed to the anecdotal evidence they had heard. He could also point out the properties that have four-car garages as opposed to two-car garages to determine what the percentage is and what the character is. To Mr. Martowska's point, the Zoning Board Members do have the ability to go view this property. What was his preference in the motion?

Mr. Martowska said that he would ask for a motion to continue but what did the Board expect with that continuance? Mr. Olivieri asked Mr. Martowska if he felt he could provide any requested materials by their next scheduled meeting date which was October 15th. Mr. Martowska said that he would have to confirm with Outback but he hoped that could be achieved.

Mr. Carmichael then made the motion, seconded by Mr. Noble, to continue the Martowska hearing until October 15, 2020, at 7:00 p.m.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri – Aye

The following are what Board members asked to be provided to them for their next meeting:

- Engineering plans that show exactly what the water impact is and the correct impervious coverage percentage.
- The proposed water reclamation system.
- A reduction of size to the garage if it stays in the proposed location, and the roof drainage system.

Ms. Leary said she was not available on that date. Mr. Olivieri replied that she could submit any additional information to Ms. Murray, and it would get read into the record. He also suggested Mrs. Tribou could do the same thing.

The hearing closed at 9:27

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health Correspondence of September 8, 2020

Planning Board correspondence of September 15, 2020
Settlement agreement between Maureen and Michael Martowska and Mary and
William Tribou
Amended Site Plan from September 17, 2020

Maher hearing, continued – 8 Lincoln Street

Mr. Olivieri opened the continued Maher hearing at 9:28 and read the legal ad into the record. He also read the correspondence from the various Town Boards. The September 8, 2020, letter from the Board of Health stated they had no objection to the proposed porch addition. The September 15, 2020, memo from the Planning Board had no comment on the petition. Mr. Olivieri then asked Mr. Maher what he wanted to do.

Mr. Maher replied he would like to add a six-foot farmers porch on to the front of the house. Mr. Olivieri noted it appeared the only reason he had to come before them was because of the front setback. Everything else was complying. Mr. Maher said that was correct. Mr. Olivieri then asked if Board members had any comments or questions.

Mr. Carmichael said this was an architectural feature, and it would increase property value to the neighborhood. He thought it was a good idea. There were no other comments. Mr. Olivieri stated that he also did not believe it was a detriment. It was something that would not bother anyone, add to the value of the house, and there would be some shrubbery as well. He asked if there were any abutters present who would like to speak to this. No one spoke. Mr. Olivieri said he would entertain a motion if there were no further comments.

Ms. Cline made the motion, seconded by Mr. Carmichael, to grant the request for a Special Permit as submitted.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye,
Mr. Carmichael-Aye, Mr. Olivieri – Aye

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 9:34.

Old Business

Ms. Murray said she had a question for Atty. Kwesell. At the August Zoning meeting, the Board voted for a modification to the LeBaron Comprehensive Permit. Today Attorney Mather tried to drop that off at the Town Clerk's office and have her sign off on it, but it had never been submitted. She was not quite sure how that should be handled. Atty. Kwesell clarified the Decision had not been turned into the Town Clerk. Ms. Murray replied Mr. Foster had signed it before he resigned, and Atty. Mather had it but

did not submit it. Atty. Kwesell said the Town Clerk could not sign off on it until it has been submitted and it has been 20 days. Atty. Mather could try to get a constructive approval but that would take longer than the 20 days. The fastest thing would be to file it and wait the 20 days. She would call Atty. Mather in the morning and let him know.

Ms. Cline made a motion, seconded by Mr. Carmichael, to adjourn the meeting.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye,
Mr. Carmichael-Aye, Mr. Olivieri – Aye

Meeting adjourned at 9:44.

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
October 15, 2020
Remote meeting**

On October 15, 2020, the Zoning Board held a remote meeting. It was called to order by Chairman Olivieri at 7:02. LakeCam was recording, and it was streaming on Facebook Live.

Members present:

John Olivieri, Jr., Chair; Jeffrey Youngquist; Vice-Chair, Nora Cline, Clerk; Gerry Noble, Vice-Clerk; Chris Carmichael, Member; Christopher Campeau, Associate; Christopher Sheedy, Associate

Also present:

Atty. Amy Kwesell, Michael and Maureen Martowska, Bill and Mary Tribou, Kevin Hueth, Jamie Bissonnette, from Zenith Consulting Engineers (ZCE), Atty. Michael O'Shaughnessy, David Morrissey, Mallory Reis, Paul Turner

Agenda item #1

Mr. Olivieri read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely.

Martowska hearing, continued - 2 Edgewater Drive

Mr. Olivieri opened the continued Martowska hearing at 7:02. He advised that they had received an email earlier today from Ms. Martowska requesting the hearing be continued. He then read the email into the record. Therefore, they would not get into any other information besides voting on the continuance. He then asked for a motion.

Mr. Carmichael made a motion, seconded by Mr. Noble, to continue the Martowska hearing until November 19, 2020, at 7:00 p.m.

Roll Call Vote: Mr. Noble-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Sheedy-Aye, Mr. Olivieri – Aye

The hearing closed at 7:05.

Poillucci hearing – 39 Cross Street

Mr. Olivieri opened the Poillucci hearing at 7:06 and read the legal ad into the record. Mr. ~~Jamie~~ Bissonnette from ZCE was present. He then shared his screen and displayed the plan. He advised they were in front of the Board tonight with a Special Permit request for three individual residential dwellings. He advised the majority of the property is zoned business but there is small area to the south that is residential. The applicant is requesting to be able to construct single family homes on those three lots. They have approvals from the Planning Board and Conservation. He explained there is a commercial development planned for 5 Harding Street but surrounding this residential area with new houses seems to be a better fit for the neighborhood.

Mr. Olivieri then read the correspondence from the various Town Boards into the record. The October 2, 2020, letter from the Board of Health stated that based on the information that had been provided there was no reason for the Board of Health to recommend denial due to any public health issues. The Planning Board memo of October 9, 2020, recommend approval of the petition. It advised the subdivision had been approved with the condition the lots be used for residential use. Mr. Olivieri then asked Atty. O'Shaughnessy to summarize the letter he had submitted to the Board.

Atty. O'Shaughnessy said as Mr. Bissonnette had said they are seeking a Special Permit to allow three single family dwellings to be constructed in the business zone. Atty. Kwesell wanted to note the application had an error on it. It stated the Special Permit was being sought under 7.4.6 but it should be 7.4.1. This means that the public notice also had an error. She wanted to make it clear to Board members that they were looking at Section 7.4.1. Mr. Olivieri asked if that precluded them from moving forward with this as they knew what the intent was. Atty. Kwesell said that was correct. As long as the intent of what the applicant wanted to do was correct and set forth in the public notice, then the Board is welcome to change the relief requested. The intent was made clear. Atty. O'Shaughnessy's letter was clearly addressing the correct sections of the Zoning By-law.

Atty. O'Shaughnessy continued and advised that the Board has to consider if the advantages of the proposal outweigh any detrimental effects and if those effects on the neighborhood and the environment will not be greater than could be expected from development which could occur if the special permit were denied. Atty. O' explained that right now, they could do a commercial development by right. When they were in front of the Planning Board this was a hot topic of conversation. He believed their decision was contingent upon this being developed as a single-family residential development.

Atty. O'Shaughnessy continued the last consideration was if the applicant has no reasonable alternative available to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood. He noted this all ties together. There is residential development here now. They went through the Planning Board process and

they believe it is consistent with that part of the street and they would ask this Board to grant this permit.

Mr. Olivieri asked if it was correct that access off this would be from Cross Street and that access to the other development would be from Route 44. Mr. Bissonnette said that was correct. Mr. Olivieri asked Board members if they had any questions or comments. Mr. Carmichael asked how close Bella Way was to Harding Street. Mr. Bissonnette replied it was at least several hundred feet. Mr. Carmichael then asked what the buffer was between Bella Way and Harding Street and the proposed commercial property. Mr. Bissonnette replied that a large amount of the property is being put into a conservation restriction. He would estimate between 50% or 60% between the Harding Street and Cross Street portion. Mr. Carmichael said he was concerned with there being enough buffer if they allow these single-family homes between a potential commercial development and the noise. He would prefer that business stay as business but if there is enough buffer and this is a rural neighborhood, he wouldn't have a problem with it.

Mr. Bissonnette then pulled up the plan and shared his screen. He displayed the location of the commercial development in the front, the limits of the property line for Bella Way, and then the dashed line which indicated the limit of work. He advised that line was set in stone based on the endangered species program at Natural Heritage. He stated that what remains in between is woodland. He estimated at least a couple of hundred feet of buffer. Mr. Carmichael asked what the proposed commercial development would be. Mr. Bissonnette replied contractor bays. Mr. Carmichael said that with a couple of hundred feet buffer between the residents and the proposed commercial property, he saw the potential for a conflict with noise and problems for this neighborhood.

Mr. Sheedy said that Mr. Carmichael had brought up a good point. If people are spending a good amount on a new house and there is contractor bay noise going on behind them, that is a legitimate concern and point of consideration. Mr. Bissonnette wanted to point out that the other side of it would be if they put business in these proposed areas which they could do by right, there are more additional, existing homes that will have a noise impact to them. He believed that overall, they had been in favor of a residence over commercial building.

Mr. Sheedy asked if that line precluded them from doing any type of industrial beyond that land. Mr. Bissonnette clarified the property was business and not industrial. He explained that there will be a conservation restriction with property markers put on that line. It will be monitored on a yearly basis to ensure that no encroachments go beyond that line and that will be in perpetuity. That is a hard line that cannot be disturbed. Sheedy asked if they couldn't do residential would that become unusable? Mr. Bissonnette replied that right now these lines for the limits for work have been negotiated with Natural Heritage. If they don't do the residential subdivision here, they go back to the drawing board with them and create new limits. They are looking to lockup a certain percentage of the overall lot. He believed they did have over four acres of approved, disturbed area on the Cross-Street portion they could work with. That could be

commercial buildings in that area. He thought the existing neighbors would prefer residential over commercial.

Mr. Olivieri then asked abutters present if there were any comments or questions. Mr. David Morrissey of 37 Cross Street then spoke. He asked if this parcel was going to stay zoned business. Mr. Olivieri replied that it was currently business and the request for a special permit was to allow them to put residential. Mr. Morrissey asked if it was correct that he heard the Board of Health approved this subdivision. Mr. Olivieri said the Board of Health's purview is to make sure it meets all Board of Health regulations not necessarily zoning. Mr. Morrissey asked as a member of that Board did Mr. Poillucci exclude himself from any of these votes. Mr. Olivieri said that he would have to check with the Board of Health regarding that. He asked if anyone present representing the applicant could speak to that issue.

Mr. Bissonnette replied he was not present at any meeting and was not sure if that was even discussed at a meeting. He explained usually with these Board reviews, including the Planning Board, they do not invite you to attend and it is just something they talk about. If he happens to be at the meeting and sees it on the agenda, he would stay and speak to it but most of the time they do not. Mr. Morrissey noted that they have started to do some work over there. They have gone back and forth with this over a year now. He does not feel that they have been forth coming with information, and the commercial thing has been held over their heads. The work they have started over there has already caused some issues so he would not offer an opinion either way if he wanted residential or commercial. He felt one way at one point, but he was starting to get some discomfort about this whole project.

Mr. Bissonnette responded he believed the work Mr. Morrissey was referring to was silt fence, or turtle fencing. The site is an endangered species habitat and because of that turtle sweeps had to be done by the 15th of October. The fencing was put up in the approved locations and the biologists went out and did the sweeps. As far as excavators or shovels in the ground, they are not doing that. Ms. Mallory Reis an abutter also had some concerns. The first is that traffic is going to be coming from Cross Street and that would affect her property as well as her neighbors. There were chain saws back there cutting down some trees for the turtles and it was very loud. She asked where this traffic is going to come from for this development. If its commercial wouldn't it have to come from Harding Street?

Mr. Bissonnette replied in business zone like that you could have a number of things. With contractor bays, you could have cars in and out but not necessarily tractor trailers or things of that nature. The intended use of the development is bays for electricians, plumbers, etc. This would be a place for their office, vehicles, keep supplies, meet up with their employees, etc. The commercial access is off Route 44 and the residential would be from Cross Street. Mr. Bissonnette stated that traffic generated from three houses should not be a large amount.

Ms. Reis asked if it was correct that if this residential use passes, it has to stay residential or a home occupation that anyone can do would also be allowed. Mr. Bissonnette replied the Zoning Board can put any type of limitation they want to on a Special Permit as long as it is a legal condition. The Planning Board referenced the fact that their approval of the subdivision roadway is only for things that are allowed in a residential use subdivision, such as at home businesses. If they are going back to the commercial aspect, they would have to change the roadway. It would need to be a bigger road, heavier duty, and built for more traffic.

Ms. Reis said that once the trees are taken down and the houses are built, the commercial aspect of this at 200 feet did not have much leeway for noise travel. She asked if something had been put in place to stop that. Mr. Bissonnette replied there will be a vegetated buffer on the back-property lines and at the back of Mr. Morrissey's property line a fence will be constructed. Mr. Olivieri asked that it be confirmed that there was no connection between the proposed three house lot subdivision and the commercial development. Mr. Bissonnette said the nice part of this is they are putting the only connecting area into a conservation restriction so they couldn't even construct one in the future if all goes as it has been planned.

Mr. Olivieri then asked Atty. Kwesell if they could restrict it to residential use and only an at home business. Atty. Kwesell said that was correct, and that was what was requested. The Planning Board has also limited it to residential use. Mr. Olivieri asked if abutters had any additional questions or if there was anyone on Facebook that would like to speak. No one spoke or had questions. Mr. Olivieri asked Mr. Carmichael and Mr. Sheedy who had brought up concerns about residential in the business zone and also the proximity to the development. Did they have any particular issues they wanted to ask of the abutters?

Mr. Carmichael replied that it appeared that more had come to light and because there will only be 200 feet of buffer between the proposed residential and commercial zone, he had a problem with that. In his experience, he has had sound problems between residential and commercial zones that have more than 1,000 feet as a buffer. He sees this as a protentional conflict. Mr. Olivieri said that he understood the concern. He would be more concerned doing this if there were more abutters that were opposed to it. He was familiar with the area, and there are existing homes there now. The neighbors are probably opposed to anything going behind them, as anybody would be, but would they want something like a warehouse instead of a residential subdivision.

Mr. Olivieri asked if there were any outstanding issues from the Planning Board that had been raised but not dealt with. Mr. Bissonnette replied that he was not aware of any outstanding issues. There had been several Planning Board meetings, and he thought they had addressed the majority of them. He has met Ms. Reis on site and walked her property. He has also spoken with Mr. Morrissey several times. He agreed that they don't love the idea of this being developed, but he does believe the residential use is going to have a lesser impact on them than a commercial use.

Mr. Youngquist then made a motion to grant the petition to allow residential use in the business zone and to mirror the decision of the Planning Board.

Atty. Kwesell recommended that motion restrict the Special Permit to residential uses only, rather than mirroring the Planning Board. The Planning Board issued a subdivision approval which is not a Special Permit. There are a lot of other things in that approval which is not their jurisdiction. She would say the Special Permit is limited to three residential dwellings. If something else wants to happen in the future, they would have to come back and have to be able to have another use with a residential dwelling like an accessory structure. Mr. Bissonnette asked if that would include allowed uses in the residential zone like an in-home business. Atty. Kwesell replied yes, whatever happens in the future has to be allowed with a residential dwelling. A Special Permit might be required for that but what they are doing is not limiting that.

Mr. Youngquist amended his motion to include the condition that the Special Permit was limited to three residential dwellings. The motion was seconded by Ms. Cline.

Mr. Carmichael thought the motion should be amended to include additional screening or landscaping on this residential side. Atty. Kwesell advised if it was thought it would make it less detrimental to the neighborhood it was something that would fall into a Special Permit condition. Mr. Olivieri asked Mr. Bissonnette to explain what they currently had in place to address this. Mr. Bissonnette replied right now behind Ms. Reis' house the land is cleared into the applicant's site. The applicant has agreed to re-establish trees and a buffer zone and also to keep a buffer zone that is on the recorded plan. Where they could not provide a vegetated buffer, they have provided a fence. Ms. Reis confirmed this had been agreed to.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Olivieri –Aye
Mr. Carmichael-Nay

Ms. Murray explained the timing of the filings, the appeal period, etc.

The hearing closed at 7:48.

Documents distributed for the hearing:

Petition packet

Legal ad

Board of Health correspondence of October 2, 2020

Planning Board correspondence of October 9, 2020

Old Field Estates – 44 & 46 Rhode Island Road

Mr. Olivieri advised this was a request to change the Comprehensive Permit for this project, Old Field Estates. He asked Atty. O'Shaughnessy to explain what it was they were asking for. Atty. O'Shaughnessy replied this past June a Comprehensive Permit

was issued for sixteen three-bedroom units in eight duplex style buildings on Rhode Island Road. In the decision, there was a condition that units 1, 5, 7, and 10 would be affordable units. They are asking the Board tonight to allow them to make a small change to the Permit and change unit 7 as affordable to unit 14.

Atty. O'Shaughnessy said in his opinion, this would be a minor modification. Tonight, the Board can vote if they find this is a substantial change or an insubstantial change. If they feel it is substantial, they must go through the public hearing process. He noted there is no difference in the size of the units. The location has changed but they want to do that to spread it out. Mass Housing, the subsidizing agency, did not have a problem with the change. Atty. O'Shaughnessy added the largest difference would be Unit 14, the unit they are seeking as affordable now, has a walk out basement and Unit 7 does not.

Mr. Olivieri said members should have in their packets the layout which shows which units are being moved and where. Although they were moving things around, it did not appear that they were creating anything different than what was there. He asked Board members if they had any comments or questions. Mr. Carmichael asked what the order of construction was. Atty. O'Shaughnessy was unsure of the sequence but stated that one out of four units built is affordable. Mr. Campeau asked what the primary driver was behind the switch. Atty. O'Shaughnessy said this proposed change would spread out the affordable units more than what is currently approved.

Atty. Kwesell wanted to point out that Unit 14 is now on Rhode Island Road. They are taking a unit off of the cul-de-sac and putting it on a Main Road. Atty. O'Shaughnessy said that was correct, and to offset that location there will be a walk out basement. Atty. Kwesell said prior to this change from Unit 11 to Unit 16 none were affordable so there was not one affordable on that whole side of the project. She noted that she had come in at the end of the project and didn't recall this. Atty. O'Shaughnessy then went through the plan and the affordable units. Atty. Kwesell said that by moving this affordable they are distributing them more but they now have two affordable units on Rhode Island Road. Atty. O'Shaughnessy said that was correct. If that was a concern, they could switch Unit 1 and Unit 2.

Mr. Olivieri asked what Board members thought about that. Mr. Carmichael said he thought Atty. Kwesell was correct and they should switch Unit 1 and Unit 2. Ms. Cline agreed. Atty. O'Shaughnessy then asked Mr. Turner if he would be okay with that switch. Mr. Turner said he would like to point out that there are four units on Rhode Island Road. Two of them do face Rhode Island Road but Unit 14 and Lot 1 are on the subdivision road.

Mr. Olivieri said their decision tonight was if the request was substantial or not. Mr. Carmichael asked Mr. Turner if he would consider switching Unit 13 to affordable. Mr. Turner replied that he was not open to that option. Ms. Cline said as she read the requirements for insubstantial or substantial, and whether they flip or don't flip, she did not view this as a substantial change where more hearings would be required. Atty. Kwesell said that according to the regulations this did not seem to be a substantial

modification. She had only pointed it out because she was curious whether Mass Housing had noticed the same thing. When you are driving into Old Field Way, the first two are the affordable units. Usually, they like to see them spread out. She continued that things that are substantial are, for example, an increase of 10% or more in bedrooms, a decrease in units, but in her opinion, this did not seem to fall into anything considered substantial under the 40B regulations.

Atty. O'Shaughnessy then read the email from Mass Housing. Atty. Kwesell asked if they had seen the plan. Atty. O'Shaughnessy replied he believed that he had provided the plan to them. He noted that they are still in the final approval process so Mass Housing would get a second cut at it, if they did have an objection. Mr. Olivieri said that he had seen the email, and that he would agree with Ms. Cline that this was not a substantial change requiring more hearings. Mr. Olivieri then asked if anyone else would like to speak.

There was a question in the chat from Sharon Dennis who asked why did it matter where the affordable units were. Mr. Olivieri replied that it was required by the regulations that they be distributed evenly. He said if there was nothing further, he would ask for a motion to consider the change insubstantial.

Mr. Youngquist made that motion. It was seconded by Mr. Noble.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Olivieri – Aye

Documents distributed:

Atty. Michael O'Shaughnessy correspondence of September 25, 2020
Old Field Estates plan revised plan of September 16, 2020
Old Field Estates original Decision

Meeting minutes

Mr. Olivieri asked Atty. Kwesell what the process was for the minutes from the meetings of the prior Board. She replied it was a ministerial vote. She would prefer a person that attended the meeting make the motion, and the second if it is possible. The rest of it is just confirming, from the people that were there, that the minutes are accurate. Ms. Murray advised the minutes were not available. She had mistakenly put the wrong date on the agenda but would have them available for their next meeting.

Mr. Carmichael then made a motion, seconded by Mr. Youngquist, to adjourn the meeting.

Roll Call Vote: Mr. Noble-Aye, Mr. Youngquist-Aye, Ms. Cline-Aye, Mr. Carmichael-Aye, Mr. Olivieri – Aye

Meeting adjourned at 8:07.

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2020 FALL E-WORKSHOPS



The 2020 Fall E-Workshops

The CPTC Fall E-Workshops open for registration are listed below. More will be added as they are opened. Workshops are about 2 hours long and include electronic handouts covering the subject. Workshop credit is indicated by CPTP ([../credit-certif.html](#)).

Registration (<https://portal.masscptc.org/Register>) must be done online. We encourage online payment however we will accept checks. Be aware there will be lengthy delays in processing checks. More information is at the bottom of this page regarding checks, refunds and registration.

Printable Brochure

(<https://drive.google.com/file/d/1rU1ZGoz9oq6TSgfTOFI8A5AKei9hDYWZ/view?usp=sharing>)

6. Use of Design Review

- **Date:** Thurs, November 12, 6:00-8:00 PM
- **Credits:**
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Design review is a process that municipalities can undertake to improve the visual quality of structures and promote good design for the benefit of the public. This session will clarify the appropriate scope and authority for the use of design guidelines, the types of standards that can be implemented, and how that can be accomplished. The session will also explain how design review guidelines can be developed, administered and enforced in a fair and predictable manner.

Speakers:

- **Ken Buckland**, Town of Wareham

Sponsor:

- **Northern Middlesex Council of Governments**

Register (<https://portal.masscptc.org/Register>)

7. Fair Housing

- **Date:** Monday, November 16, 6:30-8:30 PM
- **Credits:**
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Fair housing laws regulate the development, leasing, buying and selling of real estate, as well as state and municipal housing programs, and aspects of municipal land use. This module will describe how land use regulations have been (and continue to be) used to exclude groups from specific neighborhoods and properties, and provide a detailed overview of federal and state laws intended to prevent discrimination and promote equity in housing. A special focus will be on the role of the municipality in enforcing a commitment to fair housing, and the potential consequences of not doing so.

Speakers:

- **Judi Barrett**, Barrett Planning Group

Sponsor:

- **Pioneer Valley Planning Commission**
- **Citizen Planner Training Collaborative**

Register (<https://portal.masscptc.org/Register>)

8. Planning with Community Support

- **Date:** Wednesday, November 18, 6:30-8:30 PM
- **Credits:** CPTC Certificate, Level II (Planning Boards Only)
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

The course describes how to conduct a planning process, with an emphasis on a comprehensive or master plan that will ultimately have the support of the community. A variety of public participation strategies will be examined, including plan implementation processes. The course will cover how to design the community engagement process.

Speakers:

- **Ezra Glenn**, Massachusetts Institute of Technology

Sponsor:

- **Old Colony Planning Council**

Register (<https://portal.masscptc.org/Register>)

9. The Next Chapter of 40B

- **Date:** Tuesday, December 1, 6:00-8:00 PM
- **Credits:**
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Topics will include the following: reviewing the initial application for compliance with 40B eligibility and submission requirements; noticing and conducting the required public hearing; scheduling a site visit; retaining Peer Review consultants; securing sufficient project information to make an informed decision; holding deliberation sessions; drafting and issuing the Comprehensive Permit decision; and managing the Comprehensive Permit.

Speakers:

- **Judi Barrett**, Barrett Planning Group

Sponsor:

- **Montachusett Regional Planning Commission**

Register (<https://portal.masscptc.org/Register>)

10. Roles and Responsibilities of Planning & Zoning Boards

- **Date:** Wednesday, December 2, 6:00-8:00 PM
- **Credits:** CPTC Certificate Level I
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Join us if you are a new Board member or building inspector. This program will launch you into your role as a local official, introduce you to the functions of the two boards and the main tools of planning and zoning. This session will also include an introductory discussion of the Open Meeting, Public Records, and the Conflict of Interest Laws.

Speakers:

- **Bob Mitchell**, FAICP, Consultant

Sponsor:

- **Franklin Regional Council of Governments**
- **Pioneer Valley Planning Commission**

Register (<https://portal.masscptc.org/Register>)

11. Drafting Zoning Amendments

- **Date:** Monday, December 7, 3:00-5:00 PM
- **Credits:**
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

While regular review and amendment of a municipality's zoning ordinance or bylaw in response to changing needs and circumstances is essential to ensuring that it remain up-to date, the process can be tricky. This course will provide a step-by-step roadmap on how to adopt and amend zoning codes in accordance with the strict requirements of G.L. 40A Section 5. Local officials and staff will gain an understanding of what type and scope of amendments are permissible; the relationship between zoning and other municipal planning documents; and the essential role of the Planning Board in the process. Tips for drafting zoning amendments, and strategies for successfully getting them passed will also be addressed.

Speakers:

- **Brian Currie, AICP, Consultant**

Sponsor:

- **Merrimack Valley Planning Commission**
- **Citizen Planner Training Collaborative**

Register (<https://portal.masscptc.org/Register>)

12. Adopting and Revising Rules and Regulations of Boards

- **Date:** Wednesday, December 9, 6:00-8:00PM
- **Credits:**
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Boards of appeal and planning boards frequently choose to, or are required to, adopt rules and regulations governing process, procedure and even the substance of their application reviews. While such documents are an important source of authority for boards, they also make life easier for board members and applicants by providing a clear road map for a fair and predictable process. This session will clarify which types of zoning, non-zoning and subdivision rules and regulations are mandatory and which are voluntary; describe what they can and cannot cover; and explain how they get adopted and amended. The regulatory framework for establishing fees and using consultants will also be discussed.

Speakers:

- **Jonathan Silverstein, Attorney, KP Law**

Sponsor:

- **Metropolitan Area Planning Council**

Register (<https://portal.masscptc.org/Register>)

13. Vested Rights and Nonconforming Uses and Structures

- **Date:** Monday, December 14, 6:00-8:00 PM
- **Credits:** CPTC Certificate Level II
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

The course will cover the issue of vested rights under zoning and subdivision law, why they exist, and how they affect the work of the Zoning Boards of Appeals and Planning Boards. Participants will learn what the Zoning Act says about vested rights and the way it occurs. This session will answer the question regarding whether nonconforming structures and uses can change and if so, how much. Finally, the course will address how judicial decisions shape the way provisions of the Zoning Act are interpreted today.

Speakers:

- **Barbara Saint Andre**, Town of Medway

Sponsor:

- **Metropolitan Area Planning Council**

Register (<https://portal.masscptc.org/Register>)

14. Special Permits & Variances

- **Date:** Thursday, December 17, 6:00-8:00 PM
- **Credits:** CPTC Certificate Level II
- **Cost:** \$20 - Fall E-Workshop - Register (<https://portal.masscptc.org/Register>)

Participants will learn about the difference between special permits and variances; the issues and criteria for decision-making; and procedural requirements. Additionally, the course will discuss who has the authority to issue special permits and variances and how judicial decisions guide the way we work with them.

Speakers:

- **Ilana Quirk**, Attorney

Sponsor:

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