Revised
NEEDHAM
ZONING BOARD OF APPEALS
AGENDA
WEDNESDAY, November 20, 2024 - 7:30PM

Charles River Room Public Service Administration Building 500 Dedham Avenue Needham, MA 02492	Also livestreamed on Zoom Meeting ID:820-9352-8479 To join the meeting click this link: https://us02web.zoom.us/j/82093528479

Minutes	Review and approve Minutes from October 17, 2024 meeting.
7:30 PM	**37 Moseley Avenue - Saybrook Construction, LLC**, *(Continued from October 17, 2024)* applied for a Variance pursuant to Sections 7.5.3, and MGL40A, Section 10, from the following provisions of Section 4.2.3 and any other applicable sections of the By-Law to permit the demolition of a deteriorated single family residential dwelling with detached garage and shed and to allow the construction of a new single-family residential dwelling with a side setback of 13.8 feet where 25 feet are required and a front yard setback of 20 feet where 30 feet are required. The lot contains 35,726 square feet, less than the required 43,560 square feet. The property is located at 37 Moseley Avenue, Needham, MA in the Single Residence A (SRA) Zoning District.
7:45 PM	**77 Charles Street** – Elmo Fudburger, LLC. applied for a Special Permit to allow the use for indoor athletic or exercise facility under Section 3.2.6.2 and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the By-Law to allow the operation associated with Burn Boot Camp. The property is located in the Mixed Use-128 (MU-128) zoning district.
8:00PM	**324 Chestnut Street** – Monsoon Indian Kitchen, Inc. applied for a Special Permit to allow the use for a take-out establishment dispensing prepared foods, and more than one non-residential use on a lot under Section 3.2.2 and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the By-Law to allow the operation of a take-out Indian restaurant. The property is located in the Chestnut Street Business (CSB) zoning district.

Next ZBA Meeting – December 19, 2024

8:00 PM **250 Highland Avenue** –Rainbow Angel, Inc. applied for a Special Permit to allow the use for a dine-in restaurant with accessory take-out under Section 3.2.5.2 and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the By-Law to allow the operation of a Taiwanese restaurant. The property is located in the Highland Commercial-128 (HC-128) zoning district.

8:15 PM **695 Highland Avenue** –DEI, Inc. applied for Plan Substitution, alteration or removal of conditions to provide relief to a Variance dated October 14, 1969, and to waive strict adherence to the number of required parking and the parking plan and design requirements under Sections 5.1.1.5, 5.1.2, 5.1.3, 7.5.3 and any other applicable sections of the By-Law to allow the operation of Dedham Savings Bank. The property is located in the Single Residence B (SRB) zoning district.

8:15 PM **378 Manning Street** – Driftwood Landing, LLC *(Continued from October 17, 2028)* applied for a Special Permit under Sections 1.4.7.4, and any other applicable Sections of the By-Law to permit the demolition, extension, alteration, enlargement and reconstruction of the lawful, pre-existing, non-conforming two-family dwelling and its replacement with a new two-family residence. The property is located in the Single Residential B District. Applicant has submitted a **Request for Withdrawal without Prejudice.**

Revision to Public Notice posted 11/14/2024.
Revision highlighted in yellow

NEEDHAM
ZONING BOARD OF APPEALS
MINUTES
THURSDAY, October 17, 2024 - 7:30PM

Charles River Room **Public Services Administration Bldg.** 500 Highland Avenue Needham, MA 02492	Also livestreamed on Zoom Meeting ID: 820-9352-8479

Pursuant to notice published at least 48 hours prior to this date, a meeting of the Needham Board of Appeals was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA 02492 on Thursday, October 17, 2024 at 7:30 p.m.

BOARD MEMBERS PRESENT: Howard Goldman, Vice-Chair; Nikolaos Ligris, Member; Peter Friedenberg, Associate Member.

BOARD MEMBER(S) ABSENT: Valentina Elzon and Jonathan Tamkin

STAFF PRESENT: Daphne M. Collins, Zoning Specialist

Howard Goldman, Acting Chair presided and opened the meeting at 7:30 p.m.

1. **MINUTES OF SEPTEMBER 19, 2024**
   Mr. Ligris moved to approve the minutes of August 15, 2024. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

2. **37 MOSELEY AVENUE**
   VARIANCE **PUBLIC HEARING CONTINUED TO NOVEMBER 20, 2024**
   The Applicant requested that the hearing be continued until November.
   Mr. Friedenberg moved to continue the Public Hearing to November 20, 2024 at 7:30 p.m., Charles River Room, PSAB, 500 Highland Ave., Needham, MA 02492. Mr. Ligris seconded the motion. The motion was unanimously approved.

3. **1133 HIGHLAND AVENUE**
   SPECIAL PERMIT **APPROVED**
   Mr. Ligris moved to grant Eclipse Dance Studio, LLC. a Special Permit to allow a private dance school under Section 3.2.1 and to waive strict adherence to the parking number, parking plan and design requirements under Sections 5.1.1.5, 5.1.2, and 5.1.3 of the By-Law. A written decision will be prepared. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

4. **858 GREAT PLAIN AVENUE**
   SPECIAL PERMIT **APPROVED**
   Mr. Friedenberg moved to issue a Special Permit under Section 3.2.1 of the By-Law to allow the applicant to operate as a private school; and to waive strict adherence to the parking number, under Sections 5.1.1.5 and 5.1.2 of the By-Law. A written decision will be prepared. Mr. Ligris seconded the motion. The motion was unanimously approved.

5. **378 Manning Street**
   SPECIAL PERMIT **PUBLIC HEARING CONTINUED TO NOVEMBER 20, 2024**
   The Applicant requested that the hearing be continued to November.
   Mr. Ligris moved to continue the Public Hearing to November 20, 2024 at 8:00 p.m., Charles River Room, PSAB, 500 Highland Ave., Needham, MA 02492. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

6. **1111 HIGHLAND AVENUE – INFORMAL MATTER**
   The Board granted a Special Permit on October 16, 1997 to Norfolk Lodge A.F. & A.M. allowing the selling of Christmas trees and related items during the holiday season based upon the submittal of a yearly letter of request with a letter from the Christ Episcopal Church allowing the selling on their premises. The requested sale period is from November 16 - December 24, 2024, Monday through Friday, 3:00 p.m.-9:00 p.m.; Saturday 9:00 a.m. to 6:00 p.m., and Sunday Noon to 6:00 p.m.

   Mr. Ligris moved to grant the Norfolk Lodge A.F. & A.M. permission to sell Christmas trees and related items at 1111 Highland Avenue as allowed by the 1997 Special Permit limited to the hours and period specified in the submitted letters. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:35 p.m.

A summary of the discussions on each subject, a list of the documents and other exhibits used at the meeting, the decisions made, and the actions taken at each meeting, including a record of all votes, are set forth in a detailed decision signed by the members voting on the subject and filed with the Town Clerk. Copies of the Decisions are filed at the Board website linked here: https://needhamma.gov/Archive.aspx?AMID=141&Type=&ADID=
or by contacting Daphne Collins, Zoning Specialist, dcollins@needhamma.gov or 781-455-7550, ext. 261.

The hearings can be viewed at http://www.needhamchannel.org/watch-programs/ and https://www.youtube.com/@TownofNeedhamMA/videos

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

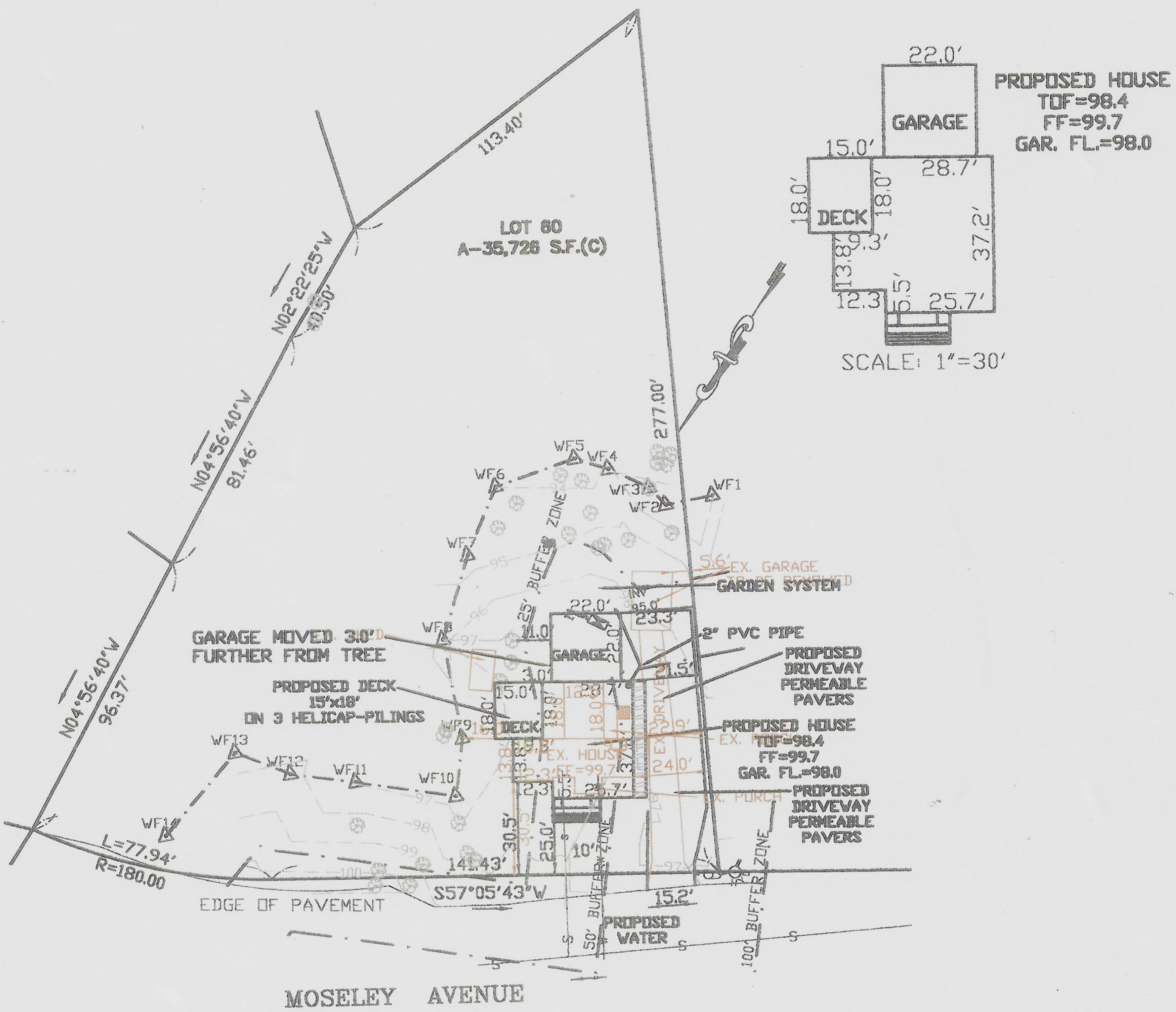
Assessor"s Map & Parcel Number: 213 LOT 60

Building Permit No. ____________ Zoning District: SRA

Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

DEMO/PROPOSED PLOT PLAN/FOUNDATION AS-BUILT/FINAL AS-BUILT
40' Scale



HEIGHT OF DWELLING 35.0'
FROM AVERAGE GRADE
TO THE RIDGE OF ROOF

COMMONWEALTH OF MASSACHUSETTS
A. MATTHEW BELSKI, JR.
No. 37557
PROFESSIONAL LAND SURVEYOR

11/12/24

Note: Plot Plans shall be drawn in accordance with Sections 7.2.1 and 7.2.2 of the Zoning By-Laws for the town of Needham. All plot plans shall show existing structures and public utilities, including water mains, sewers, drains, gaslines, etc.; driveways, Flood Plain and Wetland Areas, lot dimensions, dimensions of proposed structures, sideline offsets and setback distances, (allowing for overhangs) and elevation of top of foundations and garage floor. For new construction, elevation of lot corners at streetline and existing and approved street grades shall be shown for grading along lot line bordering streetline. For pool permits, plot plans shall also show fence surrounding pool with a gate, proposed pool and any accessory structures*, offsets from all structures and property lines, existing elevations at nearest house corners and pool corners, nearest storm drain catch basin (if any) and, sewage disposal system location in unsewered area.
(*Accessory structures may require a separate building permit— See Building Code)

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
The above is subscribed to and executed by me this 21 day of SEPTEMBER 2024.
Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip ______ Tel. No. (978) 363-8130
Approved ______________________ Director of Public Works Date ________
Approved ______________________ Building Inspector Date ________

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assessor"s Map & Parcel Number: 213 LOT 60

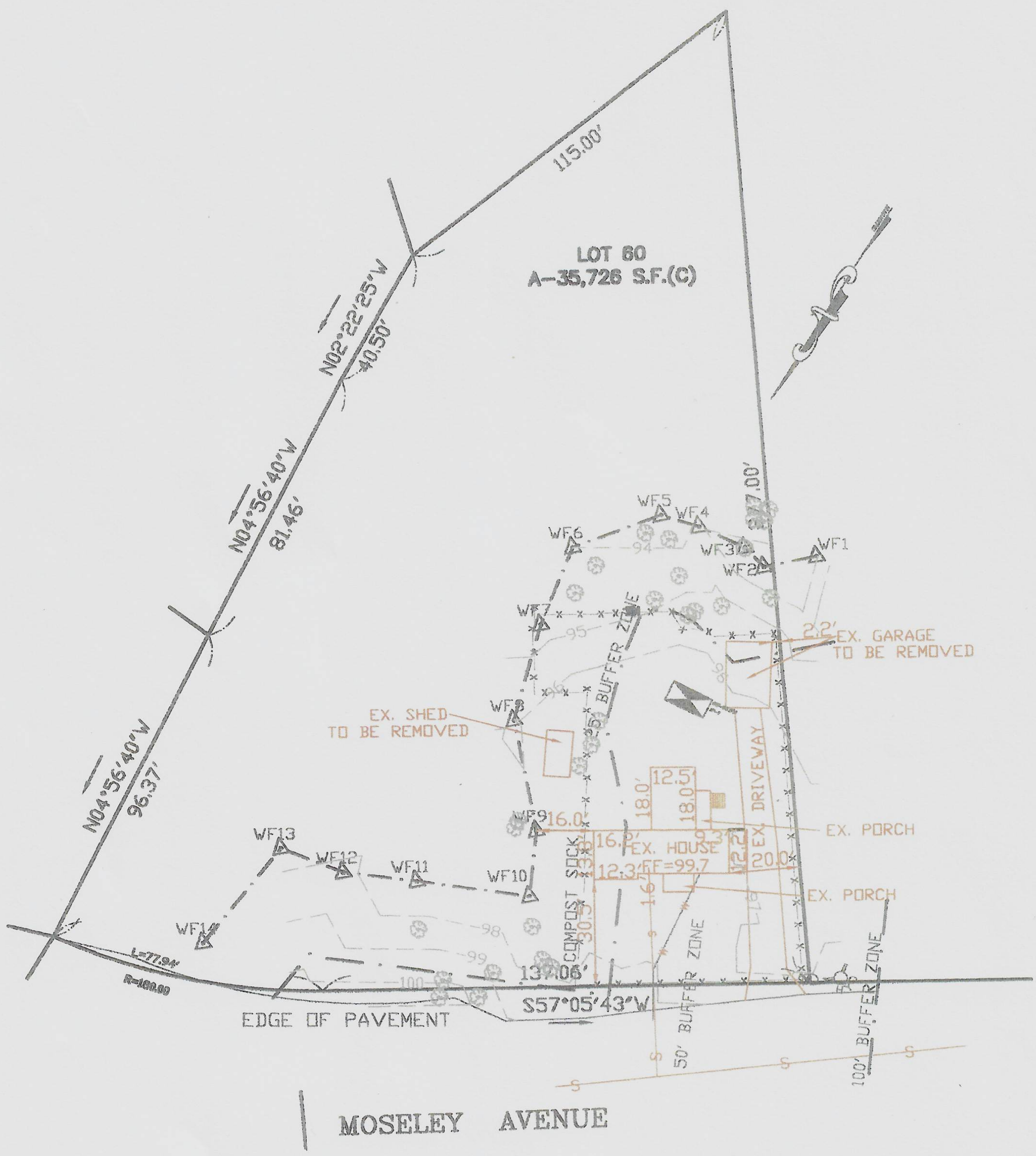
Building Permit No. ______________ Zoning District: SRA

Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

DEMO/PROPOSED PLOT PLAN/FOUNDATION AS-BUILT/FINAL AS-BUILT

40' Scale



11/12/24

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Address 35 MAPLE ST. City W. NEWBURY State MA Zip ______ Tel. No. (978) 363-8130
Approved ______________________ Director of Public Works Date ________
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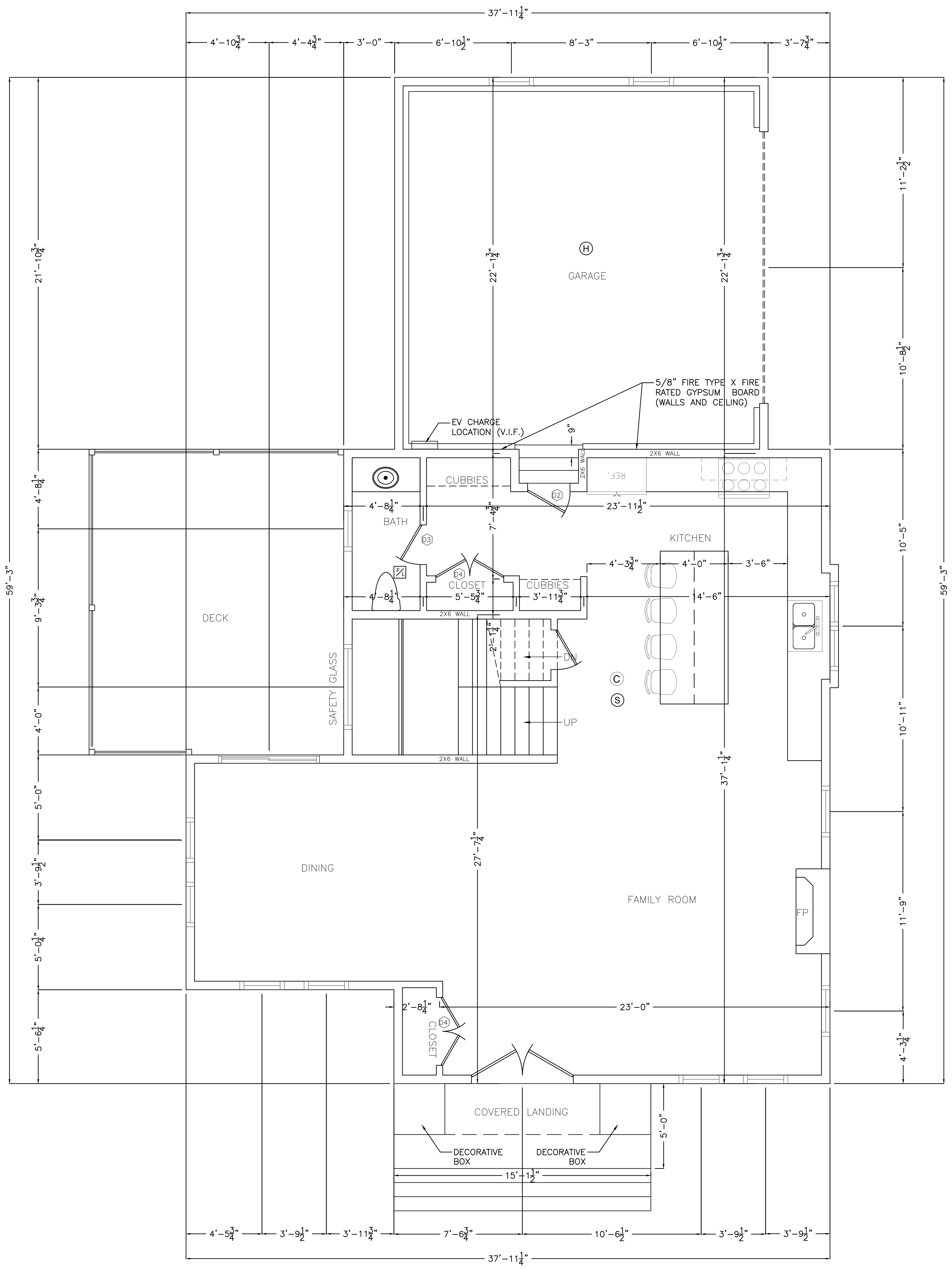


FIRST FLOOR PLAN

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO MASSACHUSETTS BUILDING CODE AND ALL FEDERAL, STATE AND TOWN OF NEEDHAM LAWS, CODES AND REGULATIONS AS EACH MAY APPLY.

2. ALL EXISTING CONDITIONS MUST BE VERIFIED IN FIELD. IF DISCREPANCIES ARE FOUND, THEY HAVE TO BE REPORTED TO THE ENGINEER PRIOR TO START OF WORK. OMISSIONS OR CONFLICTS BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND/OR THE SPECIFICATIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE START OF SUCH WORK.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE SCHEDULING AND WORK OF ALL TRADES AND SHALL CHECK ALL DIMENSIONS. ALL DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE ENGINEER AND SHALL BE RESOLVED PRIOR TO PROCEEDING WITH THE WORK.

4. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK AND SHALL BE SOLELY RESPONSIBLE FOR THE CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES, INCLUDING BUT NOT LIMITED TO BRACING AND SHORING.

5. THE CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR THE JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTY, AND THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.

6. ALL WORK SHALL BE PERFORMED IN A FIRST CLASS AND WORKMANLIKE MANNER IN CONFORMITY WITH THE PLANS AND SPECIFICATIONS, AND SHALL BE IN GOOD USABLE CONDITION AT THE COMPLETION OF THE PROJECT.

7. THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS, UTILITY LOCATIONS AND STRUCTURE PLACEMENT, PRIOR TO START OF THE WORK. THE CONTRACTOR WILL OBSERVE ALL POSSIBLE PRECAUTIONS TO AVOID DAMAGE TO SAME. ANY DAMAGE TO EXISTING STRUCTURES AND UTILITIES, WHETHER SHOWN OR NOT ON THE DRAWINGS, SHALL BE REPAIRED OR REPLACED AT THE CONTRACTOR'S EXPENSE.

8. PRIOR TO BIDDING THE WORK THE CONTRACTOR SHALL VISIT THE SITE AND THOROUGHLY SATISFY HIMSELF AS TO THE ACTUAL CONDITIONS AND QUANTITIES, IF ANY. NO CLAIM AGAINST THE OWNER OR ENGINEER WILL BE ALLOWED FOR ANY EXCESS OR DEFICIENCY THEREIN, ACTUAL OR RELATIVE.

9. CONTRACTOR IS RESPONSIBLE FOR ALL DEMOLITION AND RELOCATION WORKS, IF ANY.

PROPOSED GFA (GROSS FLOOR AREA) CALCULATION:

ZONING DISTRICT: SR-A

PROPOSED FLOOR AREA OF THE BUILDING:

1. 1ST FLOOR: 1,175 SF
2. GARAGE 489 SF
3. 2ND FLOOR: 1,664 SF
4. ATTIC: 665 SF (WITHIN 5' WALL) NOT INCLUDED IF FAR
5. BASEMENT: 1,175 SF NOT INCLUDED IF FAR

TOTAL PROPOSED FLOOR AREA OF THE BUILDING:

1,175 (1ST FL.) + 1,664 (2ND FL.) = 2,839 SF

INTERIOR DOORS SCHEDULE:

D1 2'-6" X 8'-0"
D2 2'-6" X 8'-0" FIRE RATED, 20M MIN
D3 2'-4" x 8'-0"
D4 4'-0" x 8'-0"
D5 5'-0" x 7'-0" UTILITY CLOSET

FOR EXTERIOR DOORS AND WINDOWS SEE WINDOW SCHEDULE AND BUILDING ELEVATIONS

DOOR HEIGHT TO BE VERIFIED WITH OWNER PRIOR TO DOOR ORDERING AND FRAMING

NOTE:
ALL FIRST FLOOR DOORS ARE 8' HEIGHT.
ALL SECOND FLOOR DOORS ARE 7' HEIGHT.
ALL BASEMENT DOORS ARE 7' HEIGHT.

NOTES:

1. ALL EXTERIOR WALLS ARE 2"x6" @ 16" O.C. UNLESS NOTED OTHERWISE.
2. ALL INTERIOR WALLS ARE 2"x4" @ 16" O.C. UNLESS NOTED OTHERWISE.
3. INTERIOR (DEMISING) WALL BETWEEN THE GARAGE AND THE BUILDING IS 2"x6" @ 16" O.C.
4. DIMENSIONS TO THE OUTSIDE (PERIMETER) WALLS ARE TO FACE OF STUDS OR EXTERIOR FACE OF THE FOUNDATION WALL.
5. INTERIOR DIMENSIONS SHOWN BETWEEN CENTERS OF THE INTERIOR WALLS.

S PHOTO ELECTRIC HARD WIRED SMOKE DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

FAN/LIGHT TO BE VENTED DIRECTLY TO OUTSIDE

C CARBON MONOXIDE DETECTOR

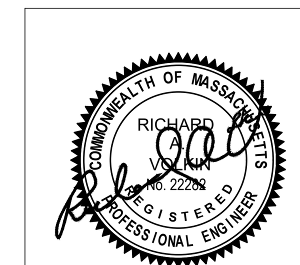
H HARD WIRED HEAT DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

DATE	REVISION
11/08/24	BUILDING REDUCED IN SIZE
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3', FAR REVISED
05/30/24	LAYOUT REVISED
05/06/24	STAIRCASE REVISED

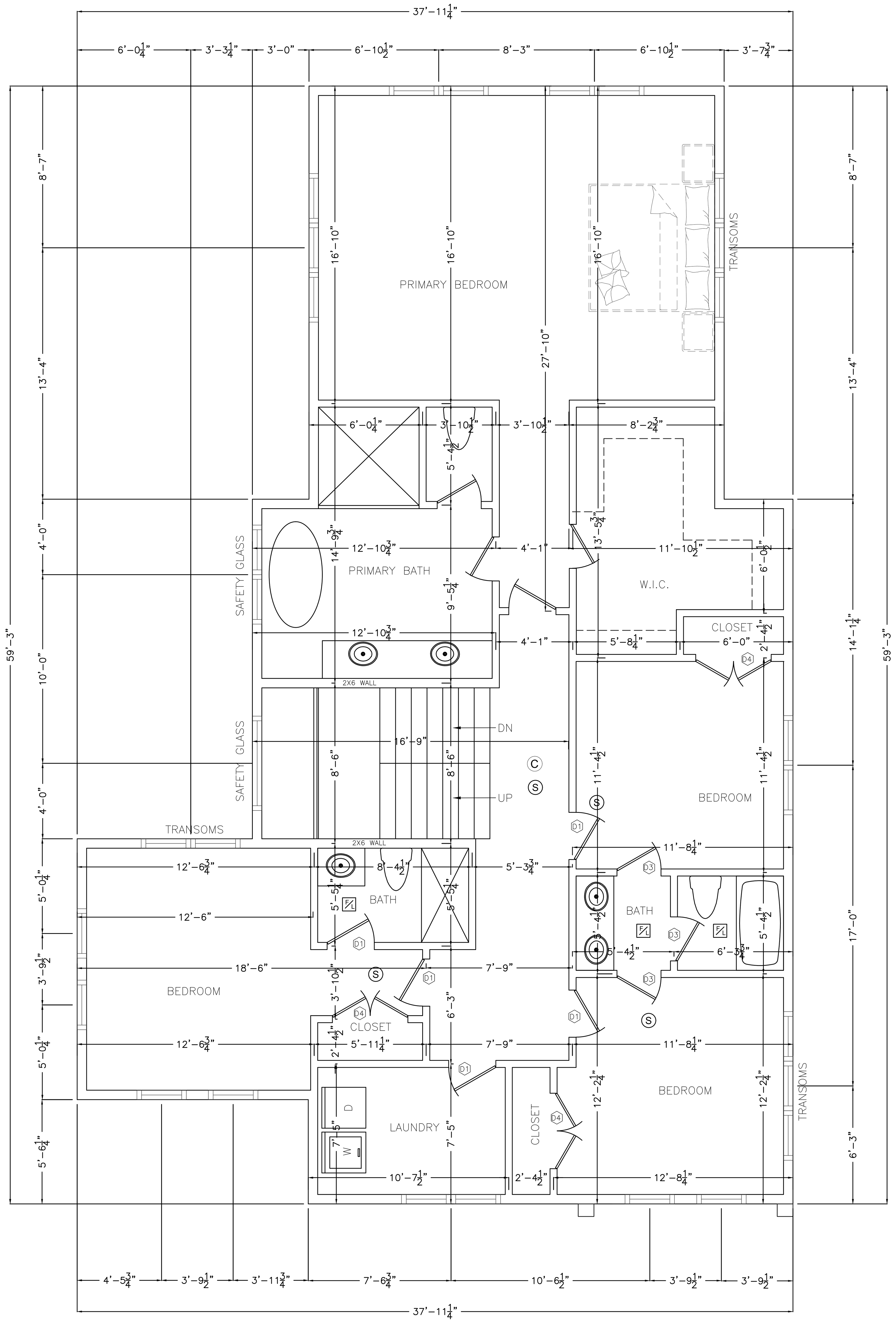
FIRST FLOOR PLAN

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

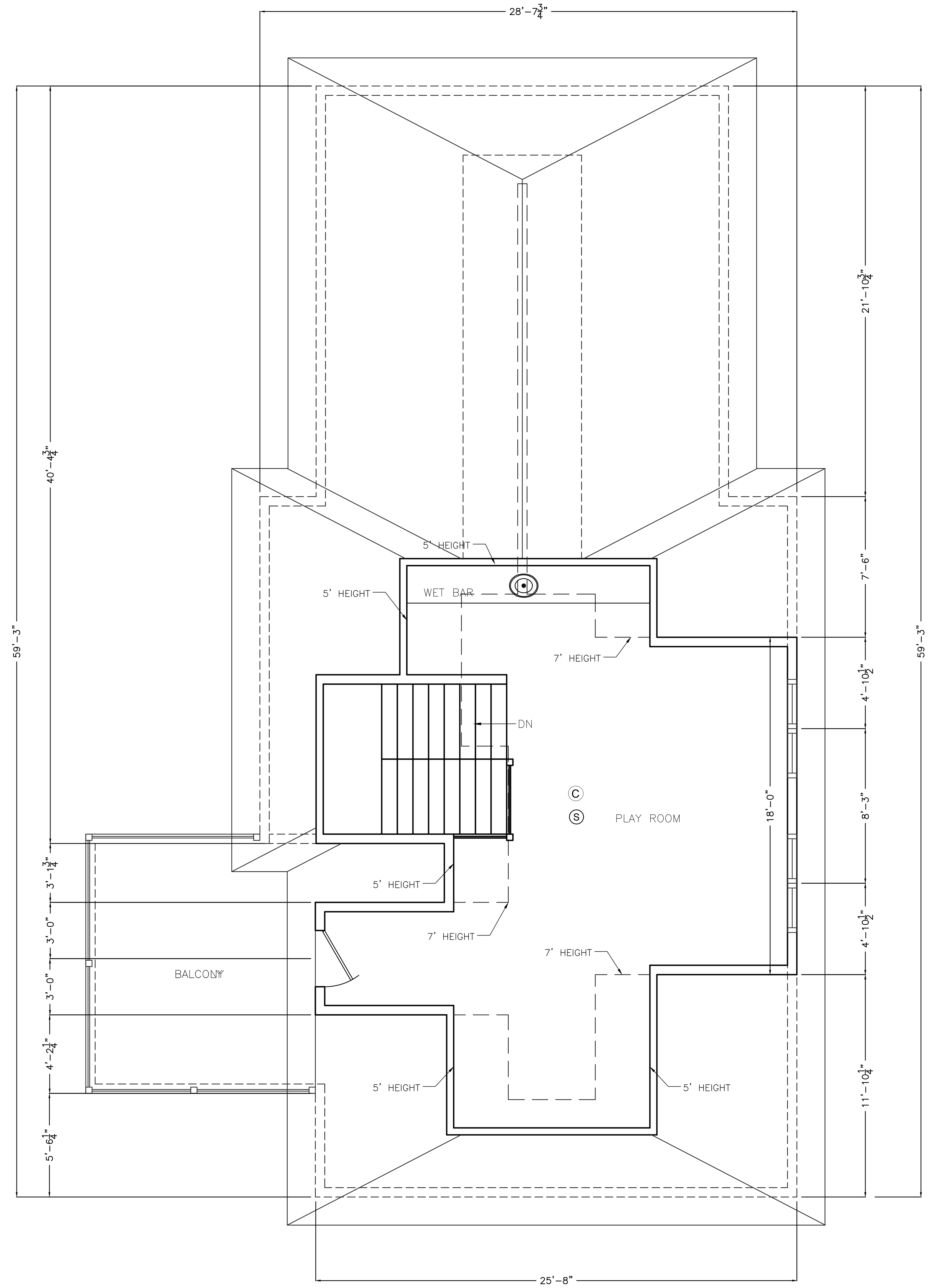
RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205



SCALE: 1/4"=1'-0"		
APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A-1
DATE: 11/30/2023	CHECKED BY: R.A.V.	



SECOND FLOOR PLAN



ATTIC PLAN

INTERIOR DOORS SCHEDULE:

- D1 2'-6" X 8'-0"
- D2 2'-6" X 8'-0" FIRE RATED, 20M MIN
- D3 2'-4" x 8'-0"
- D4 4'-0" x 8'-0"
- D5 5'-0" x 7'-0" UTILITY CLOSET

FOR EXTERIOR DOORS AND WINDOWS SEE WINDOW SCHEDULE AND BUILDING ELEVATIONS

DOOR HEIGHT TO BE VERIFIED WITH OWNER PRIOR TO DOOR ORDERING AND FRAMING

NOTE:
ALL FIRST FLOOR DOORS ARE 8' HEIGHT.
ALL SECOND FLOOR DOORS ARE 7' HEIGHT.
ALL BASEMENT DOORS ARE 7' HEIGHT.

- (S) PHOTO ELECTRIC HARD WIRED SMOKE DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES
- FAN/LIGHT TO BE VENTED DIRECTLY TO OUTSIDE
- (C) CARBON MONOXIDE DETECTOR
- (H) HARD WIRED HEAT DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

NOTE:
ALL ATTIC FLOOR WINDOWS TO BE EQUIPPED WITH CHILD-PROOF LOCK

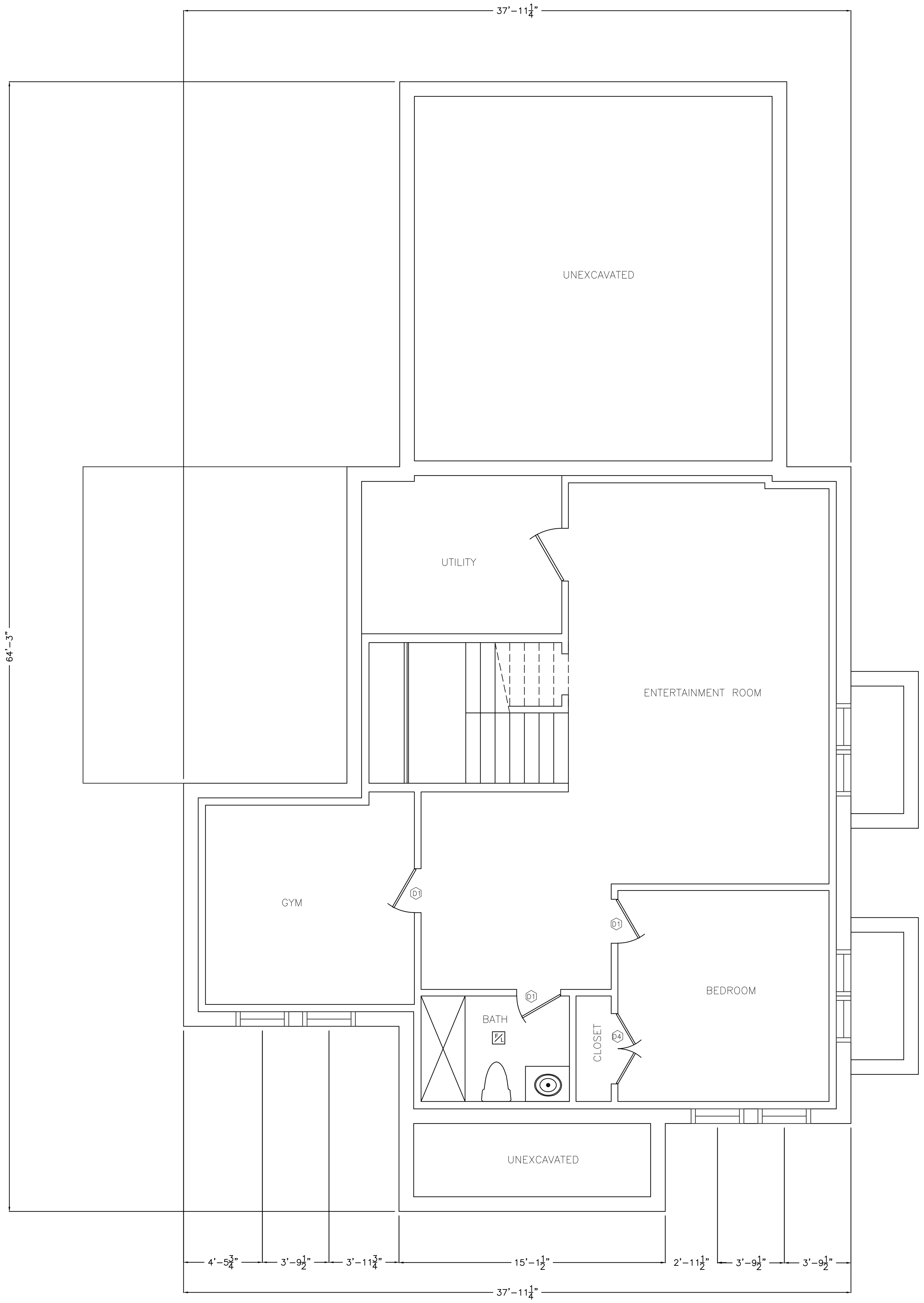
DATE	REVISION
11/08/24	BUILDING REDUCED IN SIZE
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	LAYOUT REVISED
05/06/24	STAIRCASE REVISED, ATTIC REVISED BASED ON NEW ROOF

SECOND FLOOR AND ATTIC PLANS

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"		
APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A-2
DATE: 11/30/2023	CHECKED BY: R.A.V.	



BASEMENT PLAN

DATE	REVISION
11/08/24	BUILDING REDUCED IN SIZE

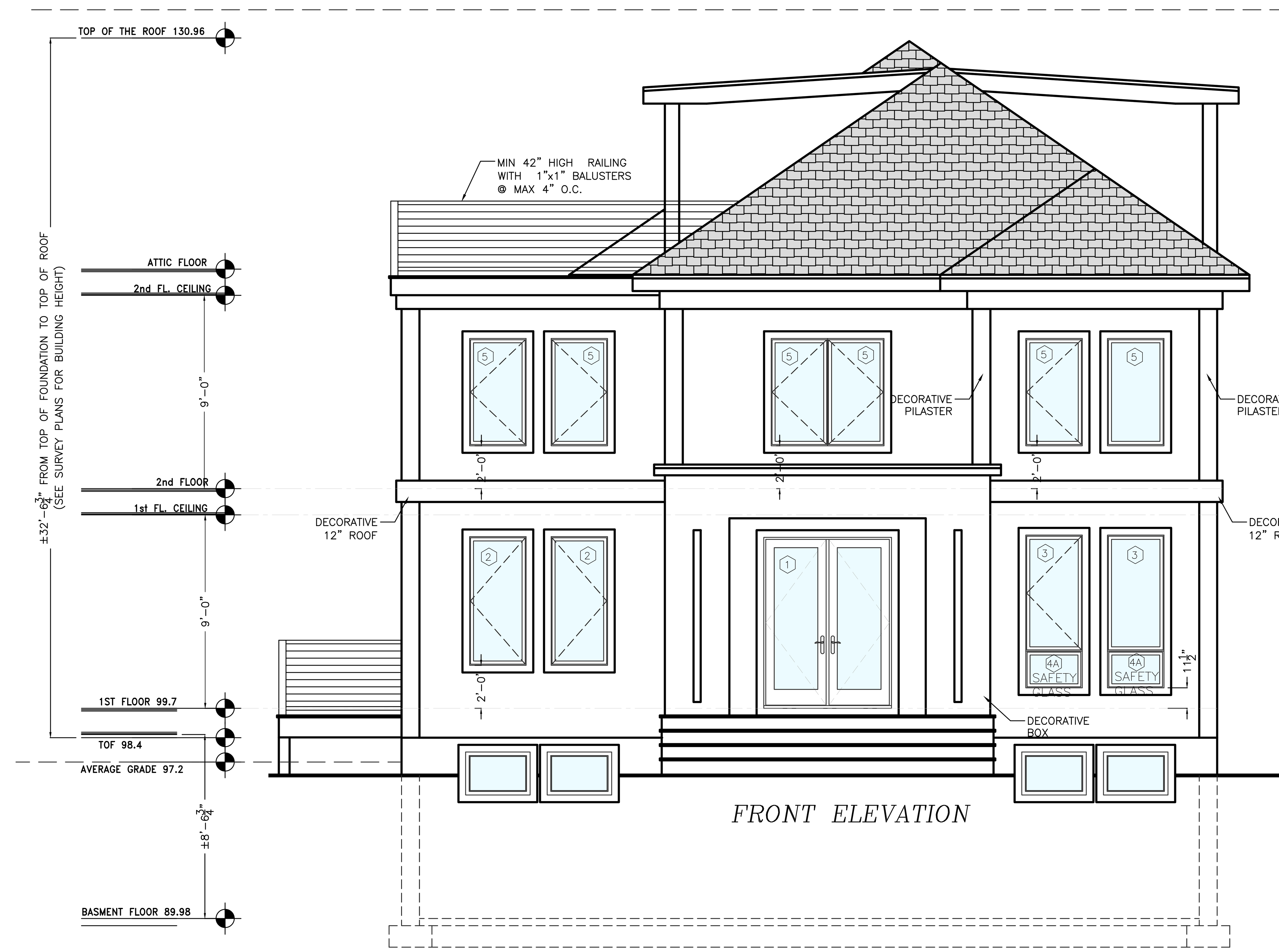
BASEMENT PLAN

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'–0"

APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A–3
DATE: 10/07/2024	CHECKED BY: R.A.V.	



FRONT ELEVATION

EXTERIOR DOORS AND WINDOWS SCHEDULE

400-SERIES CASEMENT WINDOWS BY ANDERSEN WITH LOW-E INSULATING GLASS, UNLESS NOTED OTHERWISE

No.	UNIT DIMENSIONS	MODEL		REMARKS
1	6'-0" x 8'-0"	CUSTOM		ENTRY DOOR
2	2'-7 1/2" x 5'-11 7/8"	CX16	*	
3	2'-7 1/2" x 5'-4 13/16"	CX155	*	
4	2'-7 1/2" x 1'-8 1/2"	AN281		TRANSOM WINDOW
4A	2'-7 1/2" x 1'-8 1/2"	AN281		TRANSOM WINDOW, SAFETY GLASS
5	2'-7 1/2" x 4'-11 7/8"	CX15	*	
5A	2'-7 1/2" x 4'-11 7/8"	CX15	*	SAFETY GLASS
6	2'-7 1/2" x 4'-0"	CX14	*	
7	2'-7 1/2" x 4'-4 13/16"	CX145	*	
8	16'-0" x 9'-0"	CUSTOM		GARAGE DOOR
9	5'-11 1/4" x 7'-11 1/2"	FWG6080		SLIDING DOOR
10	2'-11 15/16" x 1'-8 1/2"	AN51		TRANSOM WINDOW, SAFETY GLASS
11	4'-11 7/8" x 4-11 7/8"	P5050		PICTURE WINDOW, SAFETY GLASS

* EGRESS WINDOW MEETS OR EXCEEDS CLEAR OPENING OF 5.7 SF, CLEAR WIDTH 20" AND CLEAR HEIGHT 24"

Δ MEET CLEAR OPENING WIDTH OF 20" USING SILL HINGE CONTROL BRACKET W/ SPLIT-ARM OPERATOR SPECIFIED (BRACKET CAN BE PIVOTED FOR CLEANING POSITION) & MEET CLEAR OPENING WIDTH OF 22" WITH STRAIGHT-ARM OPERATOR SPECIFIED.

REAR ELEVATION

NOTES:

CONTRACTOR MUST VERIFY ALL SIZES AND ROUGH OPENINGS PRIOR TO ORDERING WINDOWS.
CONTACT WINDOW MANUFACTURER FOR DETAILS. CONTACT THE OWNER FOR FINAL SELECTION
OF DOORS AND WINDOWS PRIOR TO ORDERING AND PRIOR TO FRAMING DOOR AND WINDOW OPENINGS.
VERIFY CLEAR OPENINGS IN ALL BEDROOMS. MINIMUM CLEAR OPENING MUST BE 20 IN (W) x 24 IN (H) AND HAVE MINIMUM OF 5.7 S.F. OF CLEAR OPEN AREA FOR ANY WINDOW EXCEPT OF DOUBLE HUNG WINDOW (3.3 S.F. OF CLEAR OPEN AREA FOR DOUBLE HUNG WINDOW).
VERIFY LOCATIONS OF SAFETY GLASS WINDOWS AND DOORS PRIOR TO ORDERING WINDOWS AND DOORS.

SPECIFIC LOCATIONS:
1. GLAZING IN INGRESS AND MEANS OF EGRESS DOORS;
2. GLAZING IN FIXED AND SLIDING PANELS OF SLIDING DOORS AND SWINGING DOORS;
3. GLAZING IN STORM DOORS;
4. GLAZING IN UNFRAMED SWINGING DOORS;
5. GLAZING IN DOORS AND ENCLOSURES FOR BATHTUBS, STEAM ROOMS AND SHOWERS. GLAZING IN ANY PORTION OF A BUILDING WALL ENCLOSING THESE COMPONENTS WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE A STANDING SURFACE.
6. GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL ADJACENT TO A DOOR WHERE THE NEAREST EXPOSED EDGE OF THE GLAZING IS WITHIN A 24-INCH ARC OF EITHER VERTICAL EDGE OF THE DOOR IN A CLOSED POSITION AND WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE THE WALKING SURFACE.
7. GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL WHICH MEETS THE FOLLOWING CONDITIONS:
   a) EXPOSED AREA OF AN INDIVIDUAL PANE GREATER THAN 9 S.F.;
   b) EXPOSED BOTTOM EDGE LESS THAN 18 INCHES ABOVE THE FLOOR;
   c) EXPOSED TOP EDGE GREATER THAN 36" ABOVE THE FLOOR;
   d) ONE OR MORE WALKING SURFACES WITHIN 36 INCHES HORIZONTALLY OF THE PLANE OF THE GLAZING.

NOTE:
ALL ATTIC FLOOR WINDOWS TO BE EQUIPPED WITH CHILD-PROOF LOCK

DATE	REVISION
11/08/24	BUILDING REDUCED IN SIZE
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	ELEVATIONS REVISED BASED ON NEW ROOF
05/06/24	ELEVATIONS REVISED BASED ON NEW ROOF

FRONT AND REAR ELEVATIONS

37 MOSELEY AVENUE, NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"
APPROVED: R.A.V.
DATE: 11/30/2023
DESIGNED BY: I.B.
DRAWN BY: I.B.
CHECKED BY: R.A.V.
DRAWING No. A-4

RIGHT SIDE ELEVATION

LEFT SIDE ELEVATION

DATE	REVISION
11/08/24	BUILDING REDUCED IN SIZE
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	ELEVATIONS REVISED BASED ON NEW ROOF
05/06/24	ELEVATIONS REVISED BASED ON NEW ROOF

SIDE ELEVATIONS

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

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NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

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

APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A-5
DATE: 11/30/2023	CHECKED BY: R.A.V.	

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520 FAX (781) 465-6059

October 8, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Saybrook Construction, LLC
37 Moseley Avenue, Needham, MA

Dear Ms. Collins,

In connection with the pending application of Saybrook Construction, LLC (hereinafter the Applicant and "Sayrbook") concerning the property known and numbered 37 Moseley Avenue, Needham, MA (hereinafter the "Premises"), submitted herewith, please find the following revised plans:

1. Architectural plans prepared by RAV & Assoc., 21 Highland Avenue, Needham, MA 02494, consisting of five (5) sheets, as follows: i. First Floor Plan; ii. Second Floor and Attic Plans; iii. Basement Plan; iv. Front and Rear Elevations; and v. Side Elevations;

2. Proposed Plot Plan, dated September 21, 2024, stamped September 29, 2024; and

3. Existing Conditions Plan, dated September 21, 2024, stamped September 29, 2024.

Please note that the house depicted in these plans matches the house approved by the Conservation Commission in connection with Order of Conditions, DEP No. 234-896, except that the garage portion, to the rear of the house, has been shifted to the west / southwest three feet, to move it farther away from an existing tree that is being preserved.

If they have not already, hard copies will be delivered to your office today. If you have any comments, questions or concerns, or if you require any further information, please contact me so that I may be of assistance.

Sincerely,

George Giunta, Jr.

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assossor"s Map & Parcel Nunber: 213 LOT 60

Building Permit No. ____________ Zoning District: SRA

Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

$\boxed{\text{DEMO}}$/PROPOSED PLOT PLAN/FOUNDATION AS-BUILT/FINAL AS-BUILT
40' Scale

COMMONWEALTH OF MASSACHUSETTS
A. MATTHEW BELSKI, JR.
No. 37557
PROFESSIONAL LAND SURVEYOR

9/29/24

Note: Plot Plans shall be drawn in accordance with Sections 7.2.1 and 7.2.2 of the Zoning By-Laws for the town of Needham. All plot plans shall show existing structures and public utilities, including water mains, sewers, drains, gaslines, etc.; driveways, Flood Plain and Wetland Areas, lot dimensions, dimensions of proposed structures, sideline offsets and setback distances, (allowing for overhangs) and elevation of top of foundations and garage floor. For new construction, elevation of lot corners at streetline and existing and approved street grades shall be shown for grading along lot line bordering streetline. For pool permits, plot plans shall also show fence surrounding pool with a gate, proposed pool and any accessory structures*, offsets from all structures and property lines, existing elevations at nearest house corners and pool corners, nearest storm drain catch basin (if any) and, sewage disposal system location in unsewered area.
(*Accessory structures may require a separate building permit— See Building Code)

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
The above is subscribed to and executed by me this 21 day of SEPTEMBER 2024.

Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557

Address 35 MAPLE ST. City W. NEWBURY State MA Zip ______ Tel. No. (978) 363-8130

Approved ______________________ Director of Public Works Date ________

Approved ______________________ Building Inspector Date ________

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assessor"s Map & Parcel Number: 213 LOT 60

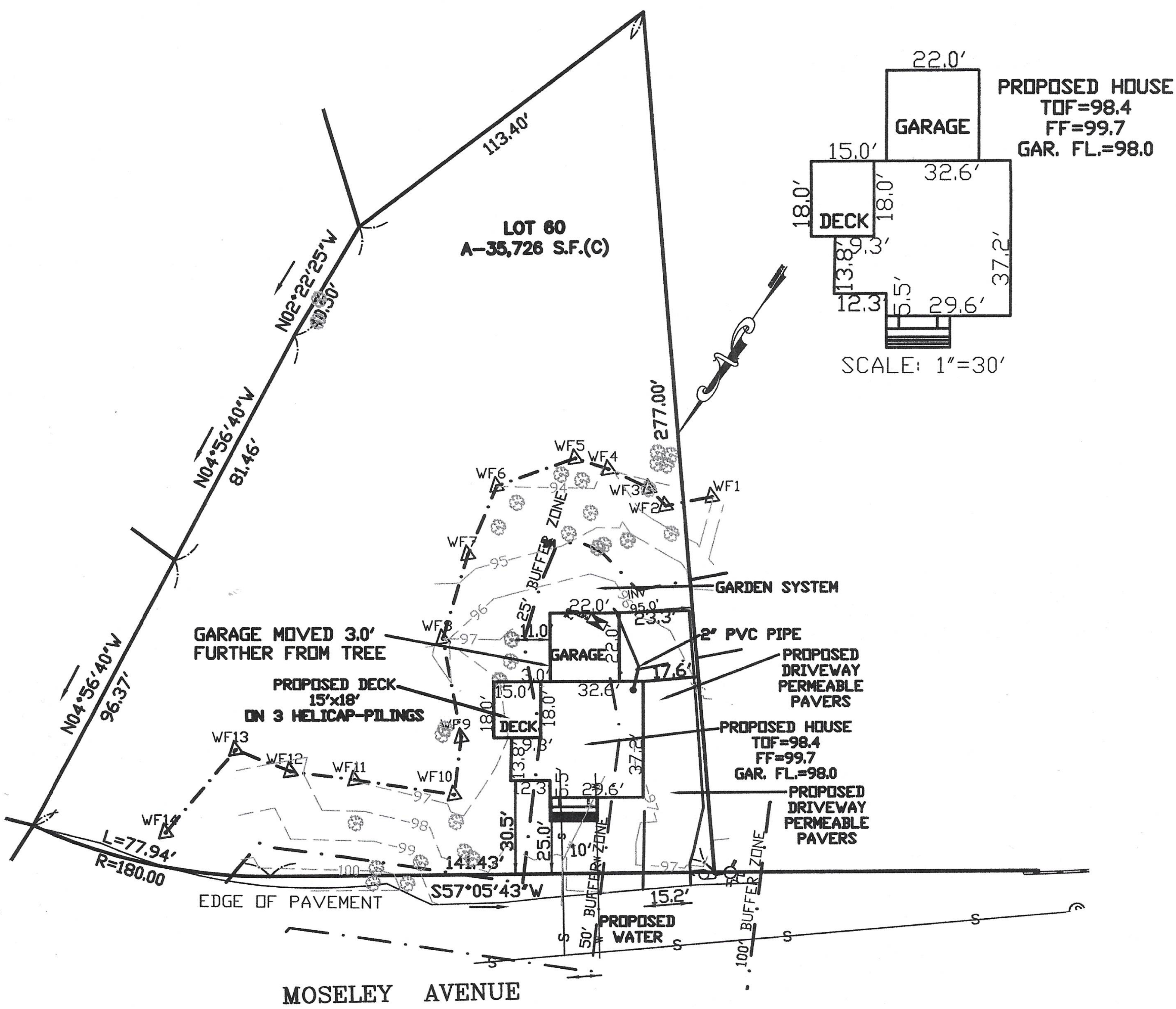
Building Permit No. ____________ Zoning District: SRA

Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE

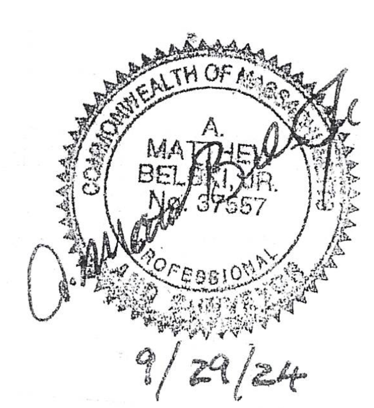
Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

DEMO/PROPOSED PLOT PLAN/FOUNDATION AS-BUILT/FINAL AS-BUILT

40' Scale



HEIGHT OF DWELLING 35.0'
FROM AVERAGE GRADE
TO THE RIDGE OF ROOF



9/29/24

Note: Plot Plans shall be drawn in accordance with Sections 7.2.1 and 7.2.2 of the Zoning By-Laws for the town of Needham. All plot plans shall show existing structures and public utilities, including water mains, sewers, drains, gaslines, etc.; driveways, Flood Plain and Wetland Areas, lot dimensions, dimensions of proposed structures, sideline offsets and setback distances, (allowing for overhangs) and elevation of top of foundations and garage floor. For new construction, elevation of lot corners at streetline and existing and approved street grades shall be shown for grading along lot line bordering streetline. For pool permits, plot plans shall also show fence surrounding pool with a gate, proposed pool and any accessory structures*, offsets from all structures and property lines, existing elevations at nearest house corners and pool corners, nearest storm drain catch basin (if any) and, sewage disposal system location in unsewered area.
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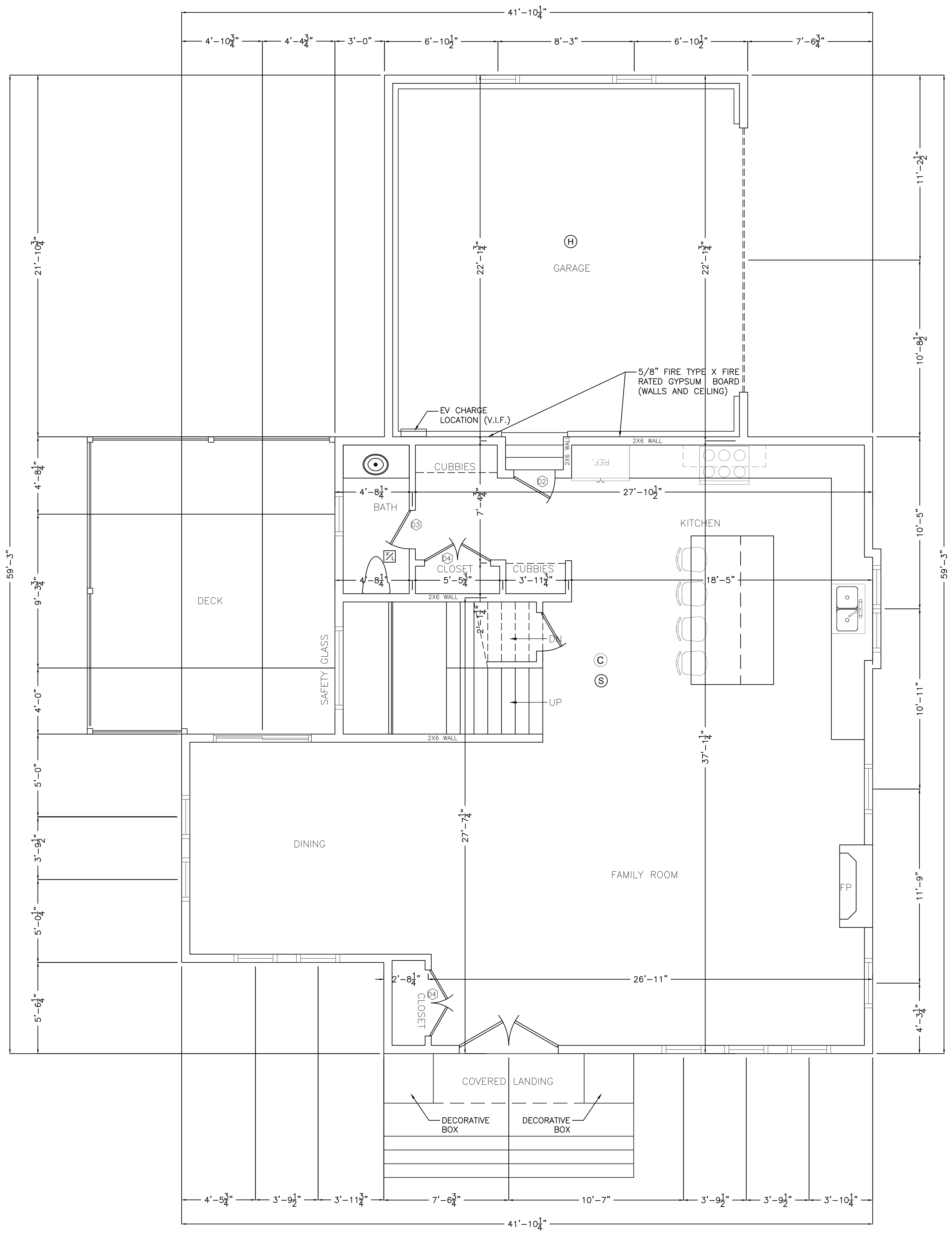
The above is subscribed to and executed by me this 21 day of SEPTEMBER 20 24.
Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip ______ Tel. No. (978) 363-8130
Approved ______________________ Director of Public Works Date ________
Approved ______________________ Building Inspector Date ________



FIRST FLOOR PLAN

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO MASSACHUSETTS BUILDING CODE AND ALL FEDERAL, STATE AND TOWN OF NEEDHAM LAWS, CODES AND REGULATIONS AS EACH MAY APPLY.

2. ALL EXISTING CONDITIONS MUST BE VERIFIED IN FIELD. IF DISCREPANCIES ARE FOUND, THEY HAVE TO BE REPORTED TO THE ENGINEER PRIOR TO START OF WORK. OMISSIONS OR CONFLICTS BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND/OR THE SPECIFICATIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE START OF SUCH WORK.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE SCHEDULING AND WORK OF ALL TRADES AND SHALL CHECK ALL DIMENSIONS. ALL DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE ENGINEER AND SHALL BE RESOLVED PRIOR TO PROCEEDING WITH THE WORK.

4. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK AND SHALL BE SOLELY RESPONSIBLE FOR THE CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES, INCLUDING BUT NOT LIMITED TO BRACING AND SHORING.

5. THE CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR THE JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTY, AND THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.

6. ALL WORK SHALL BE PERFORMED IN A FIRST CLASS AND WORKMANLIKE MANNER IN CONFORMITY WITH THE PLANS AND SPECIFICATIONS, AND SHALL BE IN GOOD USABLE CONDITION AT THE COMPLETION OF THE PROJECT.

7. THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS, UTILITY LOCATIONS AND STRUCTURE PLACEMENT, PRIOR TO START OF THE WORK. THE CONTRACTOR WILL OBSERVE ALL POSSIBLE PRECAUTIONS TO AVOID DAMAGE TO SAME. ANY DAMAGE TO EXISTING STRUCTURES AND UTILITIES, WHETHER SHOWN OR NOT ON THE DRAWINGS, SHALL BE REPAIRED OR REPLACED AT THE CONTRACTOR'S EXPENSE.

8. PRIOR TO BIDDING THE WORK THE CONTRACTOR SHALL VISIT THE SITE AND THOROUGHLY SATISFY HIMSELF AS TO THE ACTUAL CONDITIONS AND QUANTITIES, IF ANY. NO CLAIM AGAINST THE OWNER OR ENGINEER WILL BE ALLOWED FOR ANY EXCESS OR DEFICIENCY THEREIN, ACTUAL OR RELATIVE.

9. CONTRACTOR IS RESPONSIBLE FOR ALL DEMOLITION AND RELOCATION WORKS, IF ANY.

PROPOSED GFA (GROSS FLOOR AREA) CALCULATION:

ZONING DISTRICT: SR-A

PROPOSED FLOOR AREA OF THE BUILDING:

1. 1ST FLOOR: 1,322 SF
2. GARAGE 489 SF
3. 2ND FLOOR: 1,810 SF
4. ATTIC: 709 SF (WITHIN 5' WALL)

TOTAL PROPOSED FLOOR AREA OF THE BUILDING:

1,322 (1ST FL.) + 1,810 (2ND FL.) = 3,132 SF

NOTES:

1. ALL EXTERIOR WALLS ARE 2"x6" @ 16" O.C. UNLESS NOTED OTHERWISE.
2. ALL INTERIOR WALLS ARE 2"x4" @ 16" O.C. UNLESS NOTED OTHERWISE.
3. INTERIOR (DEMISING) WALL BETWEEN THE GARAGE AND THE BUILDING IS 2"x6" @ 16" O.C.
4. DIMENSIONS TO THE OUTSIDE (PERIMETER) WALLS ARE TO FACE OF STUDS OR EXTERIOR FACE OF THE FOUNDATION WALL.
5. INTERIOR DIMENSIONS SHOWN BETWEEN CENTERS OF THE INTERIOR WALLS.

INTERIOR DOORS SCHEDULE:

D1 2'-6" X 8'-0"
D2 2'-6" X 8'-0" FIRE RATED, 20M MIN
D3 2'-4" x 8'-0"
D4 4'-0" x 8'-0"
D5 5'-0" x 7'-0" UTILITY CLOSET

FOR EXTERIOR DOORS AND WINDOWS SEE WINDOW SCHEDULE AND BUILDING ELEVATIONS

DOOR HEIGHT TO BE VERIFIED WITH OWNER PRIOR TO DOOR ORDERING AND FRAMING

NOTE:
ALL FIRST FLOOR DOORS ARE 8' HEIGHT.
ALL SECOND FLOOR DOORS ARE 7' HEIGHT.
ALL BASEMENT DOORS ARE 7' HEIGHT.

S PHOTO ELECTRIC HARD WIRED SMOKE DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

FAN/LIGHT TO BE VENTED DIRECTLY TO OUTSIDE

C CARBON MONOXIDE DETECTOR

H HARD WIRED HEAT DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

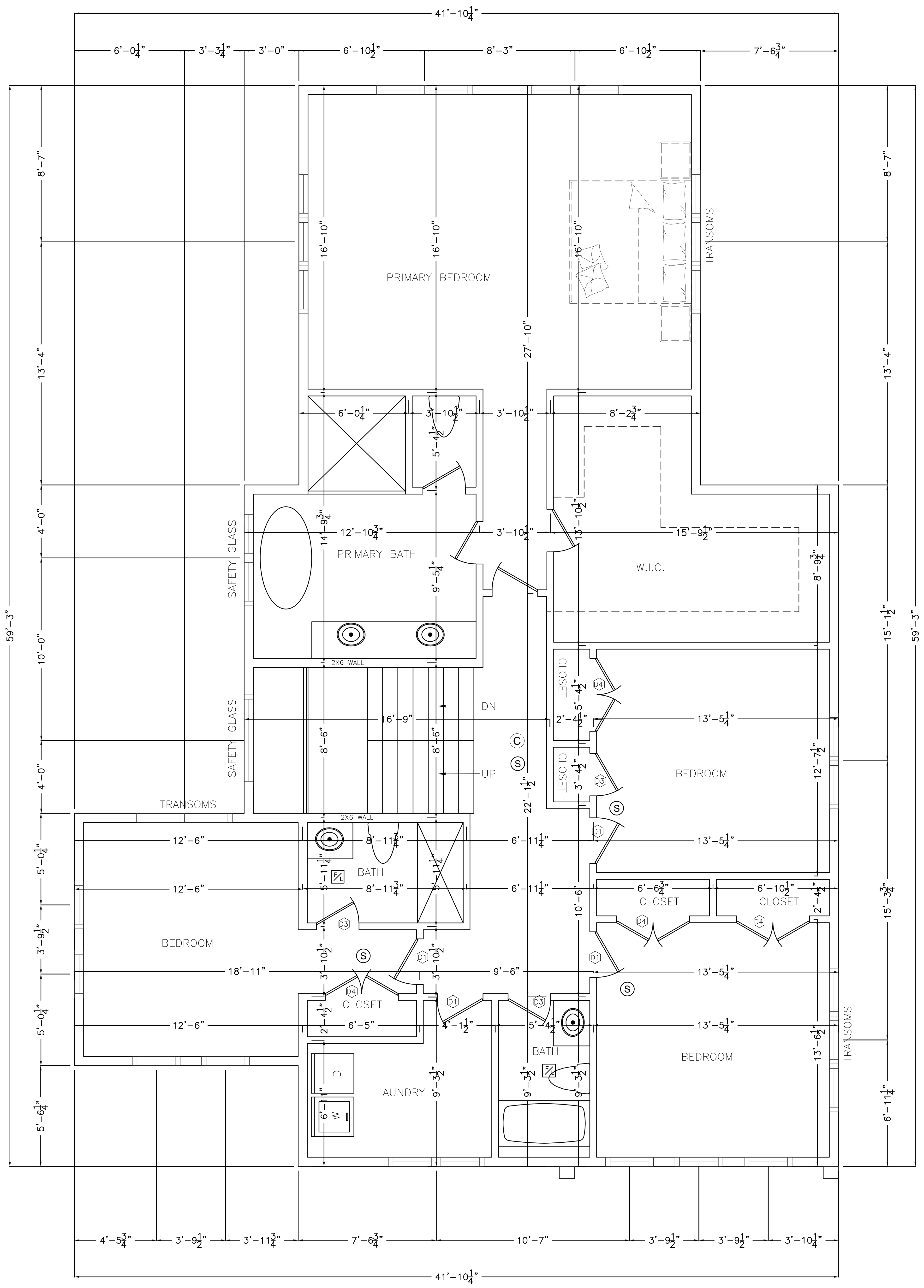
DATE	REVISION
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3', FAR REVISED
05/30/24	LAYOUT REVISED
05/06/24	STAIRCASE REVISED

FIRST FLOOR PLAN

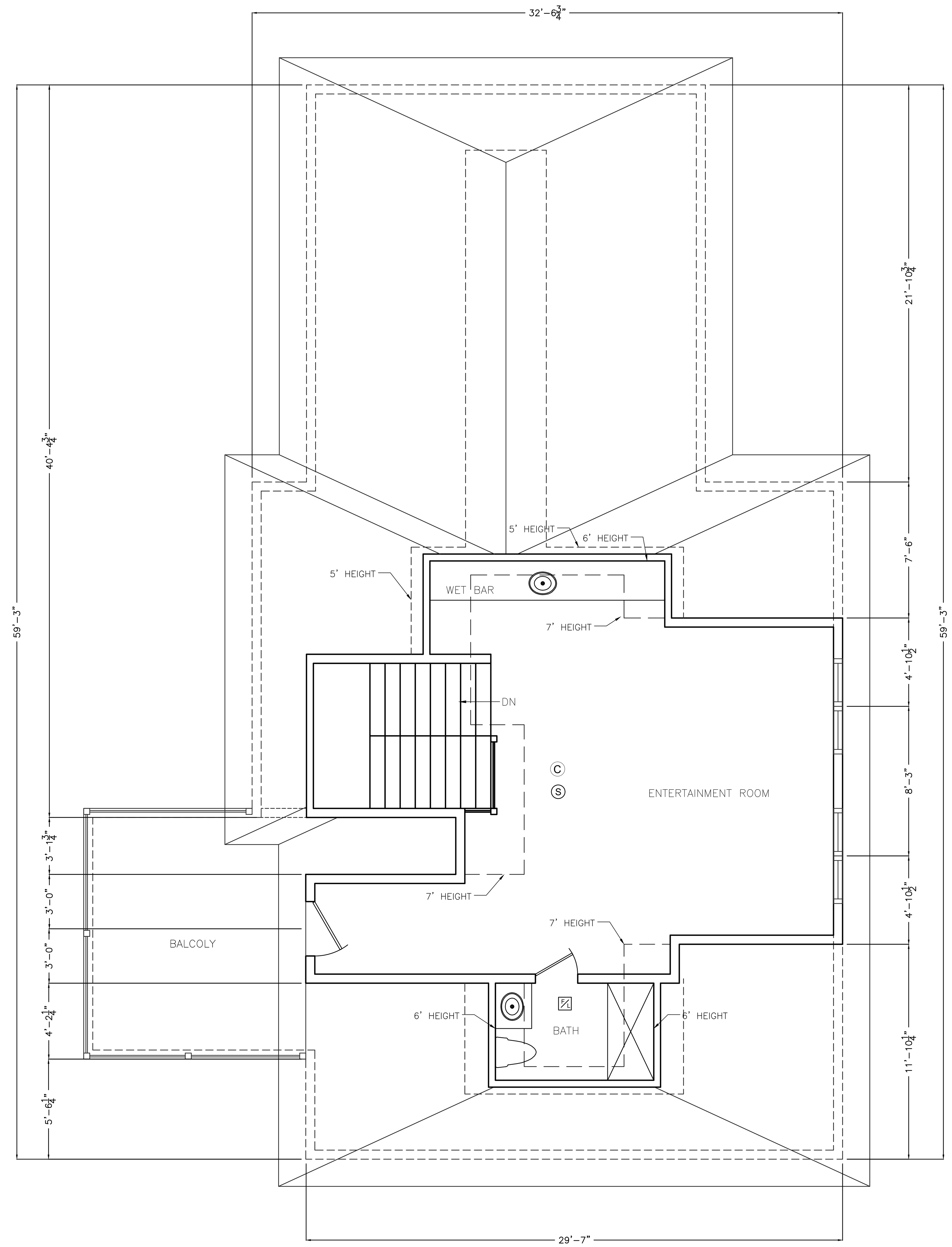
37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"
APPROVED: R.A.V. | DESIGNED BY: I.B. | DRAWING No.
DRAWN BY: I.B. | A-1
DATE: 11/30/2023 | CHECKED BY: R.A.V.



SECOND FLOOR PLAN



ATTIC PLAN

INTERIOR DOORS SCHEDULE:

- D1 2'-6" X 8'-0"
- D2 2'-6" X 8'-0" FIRE RATED, 20M MIN
- D3 2'-4" x 8'-0"
- D4 4'-0" x 8'-0"
- D5 5'-0" x 7'-0" UTILITY CLOSET

FOR EXTERIOR DOORS AND WINDOWS SEE WINDOW SCHEDULE AND BUILDING ELEVATIONS

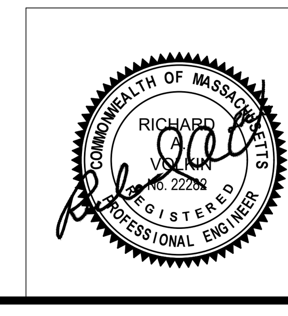
DOOR HEIGHT TO BE VERIFIED WITH OWNER PRIOR TO DOOR ORDERING AND FRAMING

NOTE:
ALL FIRST FLOOR DOORS ARE 8' HEIGHT.
ALL SECOND FLOOR DOORS ARE 7' HEIGHT.
ALL BASEMENT DOORS ARE 7' HEIGHT.

- (S) PHOTO ELECTRIC HARD WIRED SMOKE DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES
- FAN/LIGHT TO BE VENTED DIRECTLY TO OUTSIDE
- (C) CARBON MONOXIDE DETECTOR
- (H) HARD WIRED HEAT DETECTOR WITH SECONDARY (STANDBY) POWER SUPPLIED FROM MONITORED BATTERIES

NOTE:
ALL ATTIC FLOOR WINDOWS TO BE EQUIPPED WITH CHILD-PROOF LOCK

DATE	REVISION
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	LAYOUT REVISED
05/06/24	STAIRCASE REVISED, ATTIC REVISED BASED ON NEW ROOF

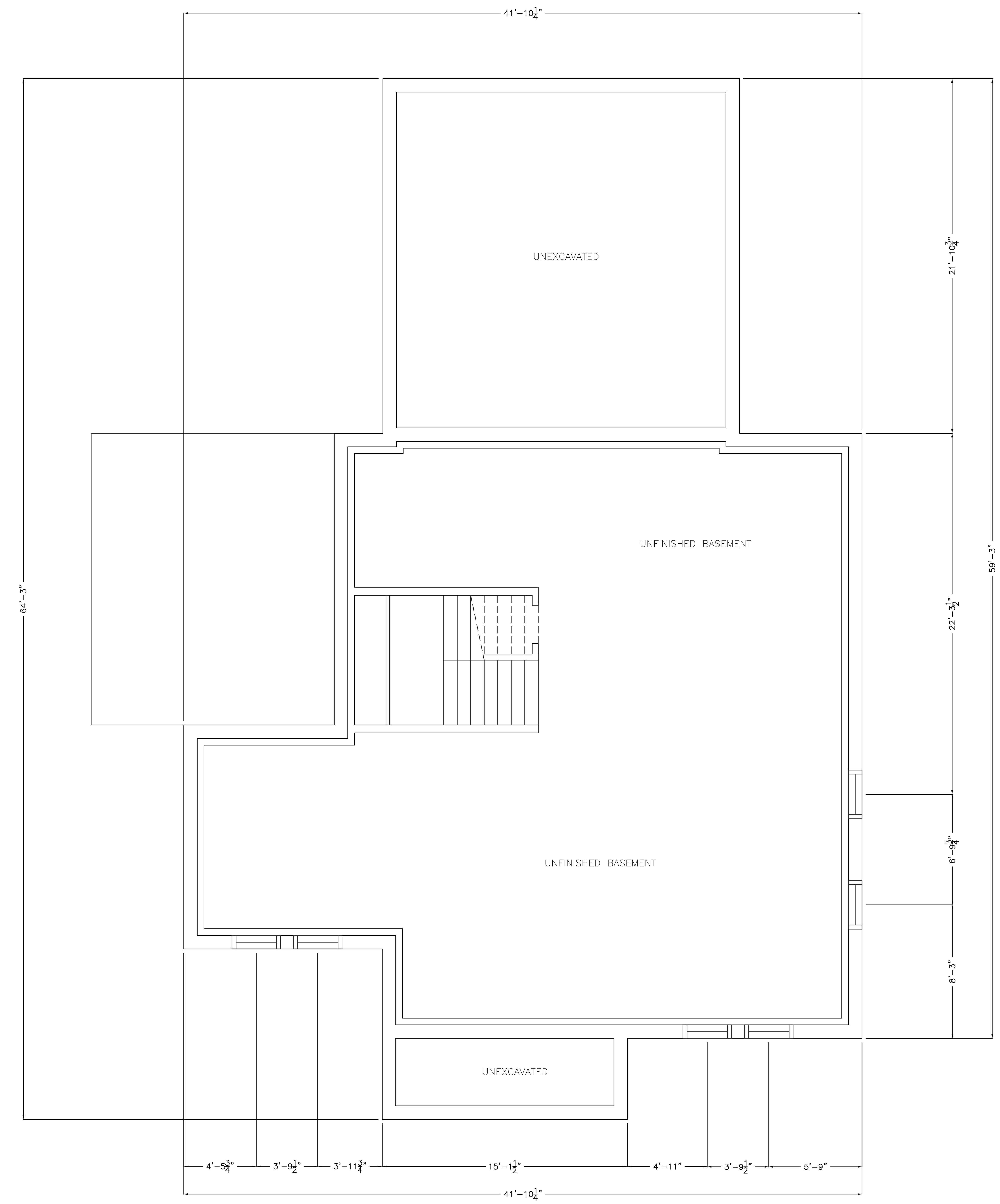


SECOND FLOOR AND ATTIC PLANS

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"		
APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A-2
DATE: 11/30/2023	CHECKED BY: R.A.V.	



BASEMENT PLAN

DATE	REVISION

BASEMENT PLAN

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"		
APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
DATE: 10/07/2024	DRAWN BY: I.B. CHECKED BY: R.A.V.	A-3

EXTERIOR DOORS AND WINDOWS SCHEDULE				
400-SERIES CASEMENT WINDOWS BY ANDERSEN WITH LOW-E INSULATING GLASS, UNLESS NOTED OTHERWISE				
No.	UNIT DIMENSIONS	MODEL		REMARKS
1	6'-0" x 8'-0"	CUSTOM		ENTRY DOOR
2	2'-7 1/2" x 5'-11 7/8"	CX16	•	
3	2'-7 1/2" x 5'-4 13/16"	CX155	•	
4	2'-7 1/2" x 1'-8 1/2"	AN281		TRANSOM WINDOW
4A	2'-7 1/2" x 1'-8 1/2"	AN281		TRANSOM WINDOW, SAFETY GLASS
5	2'-7 1/2" x 4'-11 7/8"	CX15	•	
5A	2'-7 1/2" x 4'-11 7/8"	CX15	•	SAFETY GLASS
6	2'-7 1/2" x 4'-0"	CX14	•	
7	2'-7 1/2" x 4'-4 13/16"	CX145	•	
8	16'-0" x 9'-0"	CUSTOM		GARAGE DOOR
9	5'-11 1/4" x 7'-11 1/2"	FWG6080		SLIDING DOOR
10	2'-11 15/16" x 1'-8 1/2"	AN51		TRANSOM WINDOW, SAFETY GLASS
11	4'-11 7/8" x 4-11 7/8"	P5050		PICTURE WINDOW, SAFETY GLASS

* EGRESS WINDOW MEETS OR EXCEEDS CLEAR OPENING OF 5.7 SF, CLEAR WIDTH 20" AND CLEAR HEIGHT 24"

Δ MEET CLEAR OPENING WIDTH OF 20" USING SILL HINGE CONTROL BRACKET W/ SPLIT-ARM OPERATOR SPECIFIED (BRACKET CAN BE PIVOTED FOR CLEANING POSITION) & MEET CLEAR OPENING WIDTH OF 22" WITH STRAIGHT-ARM OPERATOR SPECIFIED.

FRONT ELEVATION

REAR ELEVATION

NOTES:

CONTRACTOR MUST VERIFY ALL SIZES AND ROUGH OPENINGS PRIOR TO ORDERING WINDOWS.
CONTACT WINDOW MANUFACTURER FOR DETAILS. CONTACT THE OWNER FOR FINAL SELECTION OF DOORS AND WINDOWS PRIOR TO ORDERING AND PRIOR TO FRAMING DOOR AND WINDOW OPENINGS.
VERIFY CLEAR OPENINGS IN ALL BEDROOMS. MINIMUM CLEAR OPENING MUST BE 20 IN (W) x 24 IN (H) AND HAVE MINIMUM OF 5.7 S.F. OF CLEAR OPEN AREA FOR ANY WINDOW EXCEPT OF DOUBLE HUNG WINDOW (3.3 S.F. OF CLEAR OPEN AREA FOR DOUBLE HUNG WINDOW).
VERIFY LOCATIONS OF SAFETY GLASS WINDOWS AND DOORS PRIOR TO ORDERING WINDOWS AND DOORS.

SPECIFIC LOCATIONS:
1. GLAZING IN INGRESS AND MEANS OF EGRESS DOORS;
2. GLAZING IN FIXED AND SLIDING PANELS OF SLIDING DOORS AND SWINGING DOORS;
3. GLAZING IN STORM DOORS;
4. GLAZING IN UNFRAMED SWINGING DOORS;
5. GLAZING IN DOORS AND ENCLOSURES FOR BATHTUBS, STEAM ROOMS AND SHOWERS. GLAZING IN ANY PORTION OF A BUILDING WALL ENCLOSING THESE COMPONENTS WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE A STANDING SURFACE.
6. GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL ADJACENT TO A DOOR WHERE THE NEAREST EXPOSED EDGE OF THE GLAZING IS WITHIN A 24-INCH ARC OF EITHER VERTICAL EDGE OF THE DOOR IN A CLOSED POSITION AND WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE THE WALKING SURFACE.
7. GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL WHICH MEETS THE FOLLOWING CONDITIONS:
a) EXPOSED AREA OF AN INDIVIDUAL PANE GREATER THAN 9 S.F.;
b) EXPOSED BOTTOM EDGE LESS THAN 18 INCHES ABOVE THE FLOOR;
c) EXPOSED TOP EDGE GREATER THAN 36" ABOVE THE FLOOR;
d) ONE OR MORE WALKING SURFACES WITHIN 36 INCHES HORIZONTALLY OF THE PLANE OF THE GLAZING.

NOTE:
ALL ATTIC FLOOR WINDOWS TO BE EQUIPPED WITH CHILD-PROOF LOCK

DATE	REVISION
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	ELEVATIONS REVISED BASED ON NEW ROOF
05/06/24	ELEVATIONS REVISED BASED ON NEW ROOF

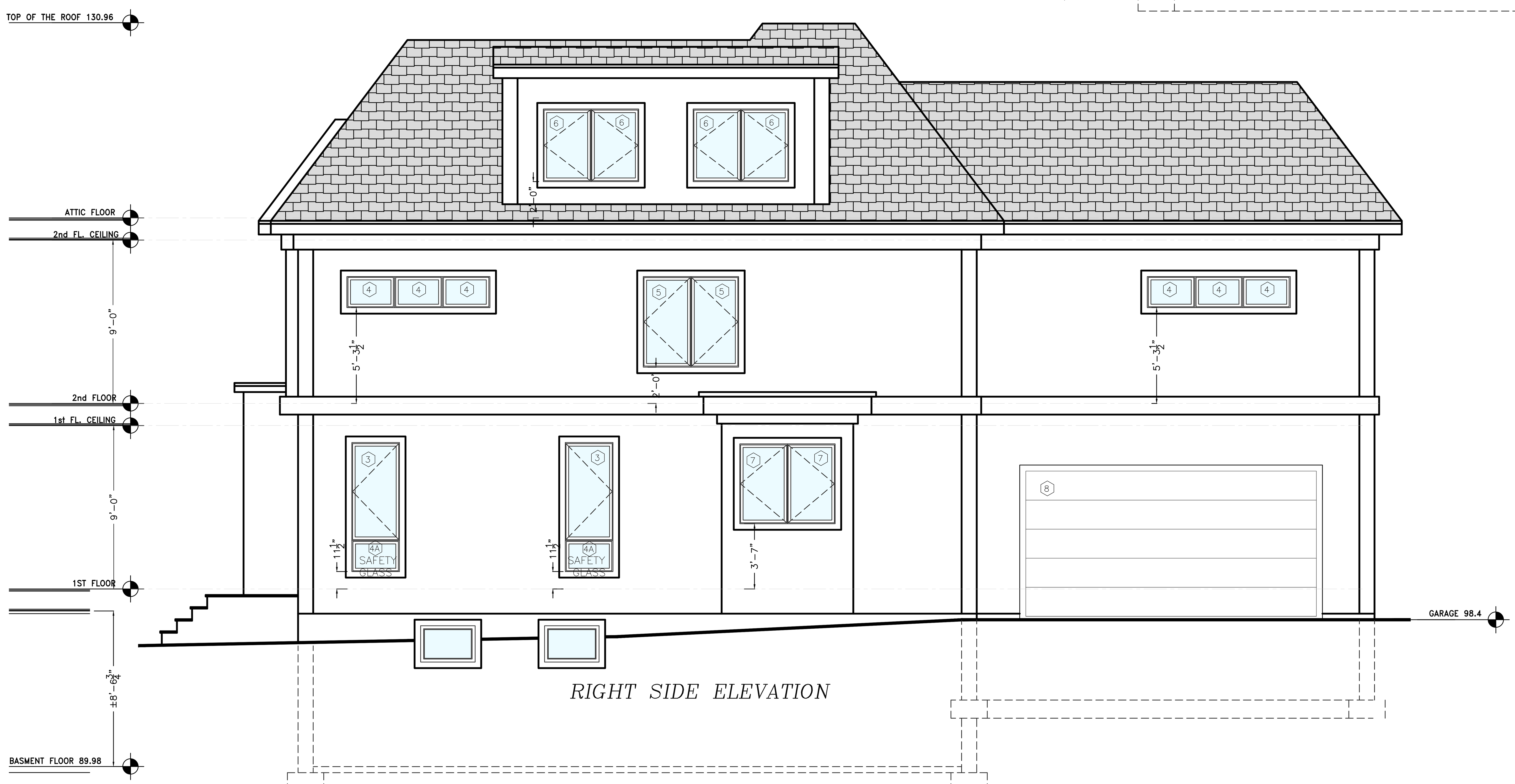
FRONT AND REAR ELEVATIONS

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"		
APPROVED: R.A.V.	DESIGNED BY: I.B.	DRAWING No.
	DRAWN BY: I.B.	A-4
DATE: 11/30/2023	CHECKED BY: R.A.V.	

LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

DATE	REVISION
10/07/24	FOOTPRINT REVISED, GARAGE SHIFTED BY 3'
05/30/24	ELEVATIONS REVISED BASED ON NEW ROOF
05/06/24	ELEVATIONS REVISED BASED ON NEW ROOF

SIDE ELEVATIONS

37 MOSELEY AVENUE,
NEEDHAM, MASSACHUSETTS

RAV & Assoc., Inc.
21 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS 02494
TELEPHONE: (781) 449-8200 FAX: (781) 449-8205

SCALE: 1/4"=1'-0"
APPROVED: R.A.V.
DATE: 11/30/2023
DESIGNED BY: I.B.
DRAWN BY: I.B.
CHECKED BY: R.A.V.
DRAWING No. A-5

Daphne Collins

From: Deb Anderson
Sent: Tuesday, November 12, 2024 12:28 PM
To: Daphne Collins; Justin Savignano; Thomas Ryder
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - November 12, 2024
Attachments: 37 Moseley Minor Modification Request.docx

The Conservation Commission approved a Request for Minor Modification (see attached) to the Order of Conditions that was issued on July 5, 2023, at their public meeting on October 24, 2024. The revised plan was dated 9/29/24 and stamped by A. Matthew Belsky, Jr. PLS. The only modification that was requested and approved was to move the proposed garage 3-feet away from a "protected" tree and the wetlands. If you have any questions, please feel free to contact me.

Debbie Anderson, PWS
Director of Conservation
Town of Needham
500 Dedham Avenue
Needham, MA 02492
781-455-7550 x 248

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, November 12, 2024 9:14 AM
To: Deb Anderson <andersond@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>
Subject: FW: 37 Moseley Avenue - ZBA Administrative Review - November 12, 2024

Reminder!
ZBA Review due today.
Thanks,
Daphne

Daphne M. Collins
Zoning Specialist
Zoning Board of Appeals
Planning and Community Development Department
Town of Needham – Public Services Administration Building
500 Dedham Street
Needham, MA 02492
781-455-7550, ext 261
dcollins@needhamma.gov
www.needhamma.gov

In- Person Staff Hours are Monday – Wednesday 8:30 am – 5:00pm
Remote Hours – Thursday 8:30 am – 5:00pm

Saybrook Construction

11 Shepard St

Brighton, MA 02135

SaybrookConstructionLLC@gmail.com

(617) 480-5990

Minor Modification Request for 37 Moseley Ave, Needham

Dear members of the Conservation Commission,

We, Saybrook Construction LLC, are requesting a minor modification for our property located at 37 Moseley Ave in Needham. With this minor modification we are requesting permission to move the garage three feet (3’) from the its current location in line at the rear/left of the home away from “T5”. We believe that this is would also be beneficial in order to further protect the tree during construction. We recently had the property re-surveyed by Field Resources, and as a result the correct and indicated property line is roughly 4’ closer to the neighbor on the right than we initially thought. With the results of this survey, even with the move, we are still further away from the neighbors lot on the right hand side than we would have previously been. We hope that you find our request favorable.

Thank you,

Saybrook Construction LLC

Mikhail Deychman & Daniel Deychman

September 30, 2024

Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel.781-455-7550 x 308

November 8, 2024

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: 37 Moseley Ave.

Dear Board Members,

This letter will serve to confirm that the change to this application, shifting of the garage, causes no additional concern for this office

The previous proposal showed a roof structure that violated the height limitation of section 4.2.3 as noted in my comment letter dated April 2, 2024.

This office has no objection to or other concerns about this proposal.

Sincerely,

Joe Prondak
Building Commissioner

Daphne Collins

From: Justin Savignano
Sent: Tuesday, November 12, 2024 3:02 PM
To: Daphne Collins
Cc: Thomas Ryder
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - November 11, 2024

All my comments from the first round are still valid with the revised plan set.

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 1:30 PM
To: Joseph Prondak <jprondak@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Deb Anderson <andersond@needhamma.gov>
Subject: 37 Moseley Avenue - ZBA Administrative Review - November 11, 2024

Hi Folks-

The applicant has submitted revised plans (attached) associated with:

37 Moseley Avenue – Saybrook Construction, LLC who is seeking a Variance to allow the demolition of an existing dilapidated single family, detached garage and shed and the reconstruction of a new single-family residential structure with attached garage.

The applicant is also seeking a relief for the right side setback where 25 feet are required; and a front setback which requires 30 feet are required. The property is located on a 35,726 square foot lot in the SRA Zoning District which has a minimum lot size requirement of 43,560.

I've also enclosed your previous comments.

I appreciate your comments no later than **November 12, 2024** to allow time for the applicant to respond prior to the hearing.

If you have any questions, feel free to contact me.

Thank you,

Daphne

Daphne M. Collins
Zoning Specialist
Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals
www.needhamma.gov/NeedhamYouTube

Town of Needham
Planning and Community Development
500 Dedham Avenue
Needham, MA 02492

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

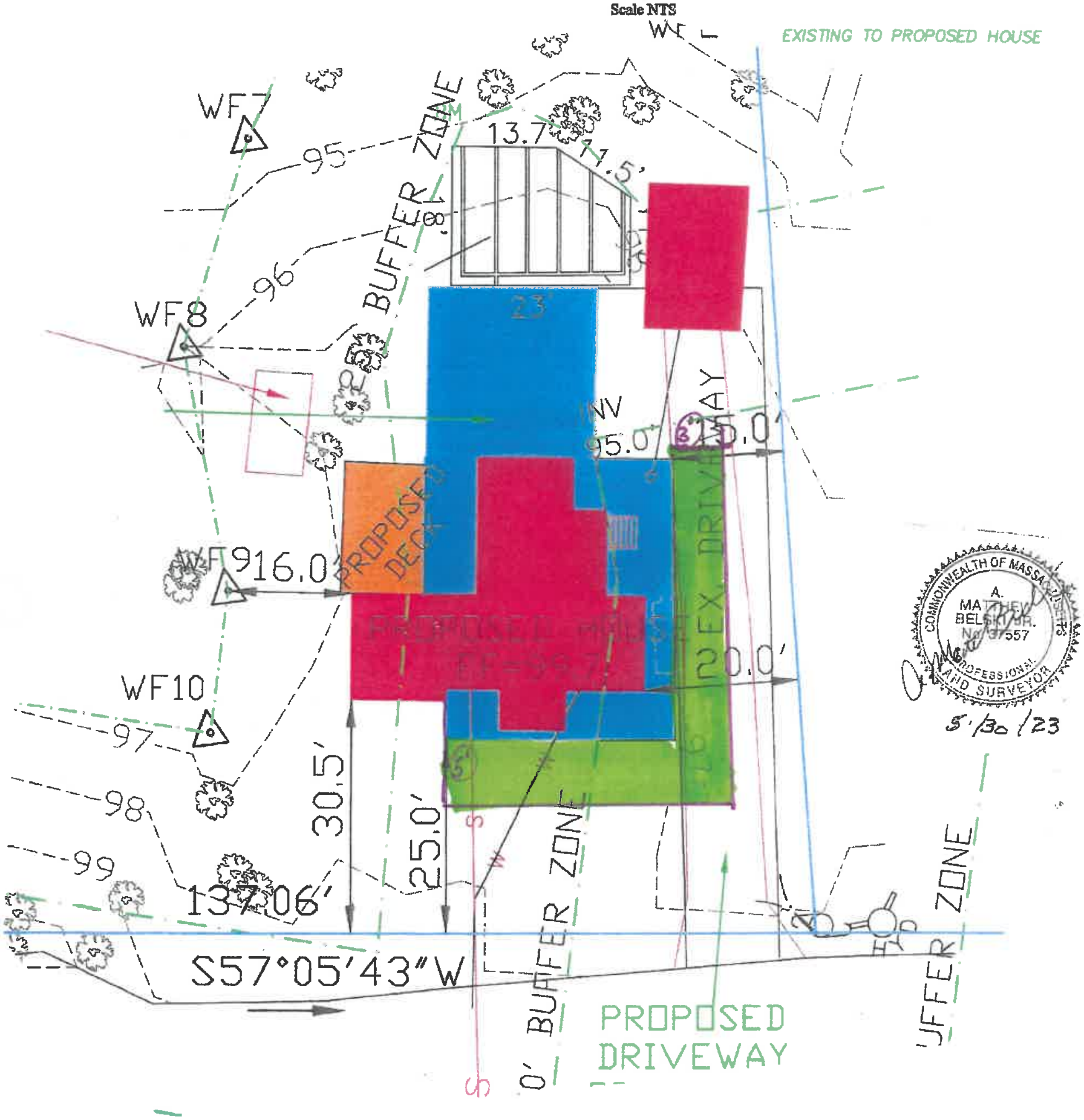
Assessor"s Map & Parcel Number: 213 LOT 60

Building Permit No. ____________ Zoning District: SRA

Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder MIKHAIL DEYCHMAN

DEMO/PROPOSED PLOT PLAN/FOUNDATION AS-BUILT/FINAL AS-BUILT
Scale NTS



Note: Plot Plans shall be drawn in accordance with Sections 7.2.1 and 7.2.2 of the Zoning By-Laws for the town of Needham. All plot plans shall show existing structures and public utilities, including water mains, sewers, drains, gaslines, etc.; driveways, Flood Plain and Wetland Areas, lot dimensions, dimensions of proposed structures, sideline offsets and setback distances, (allowing for overhangs) and elevation of top of foundations and garage floor. For new construction, elevation of lot corners at streetline and existing and approved street grades shall be shown for grading along lot line bordering streetline. For pool permits, plot plans shall also show fence surrounding pool with a gate, proposed pool and any accessory structures*, offsets from all structures and property lines, existing elevations at nearest house corners and pool corners, nearest storm drain catch basin (if any) and, sewage disposal system location in unsewered area.
(*Accessory structures may require a separate building permit— See Building Code)

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
The above is subscribed to and executed by me this 30 day of MAY 2023.

Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557

Address 35 MAPLE ST. City W. NEWBURY State MA Zip ______ Tel. No. (978) 363-8130

Approved ______________________ Director of Public Works Date ________

Approved ______________________ Building Inspector Date ________

Daphne Collins

From: Leslie Smith Jacobs <leslie.smithjacobs@gmail.com>
Sent: Thursday, April 18, 2024 11:55 AM
To: Daphne Collins; conservation
Subject: RE: Zoning Board of Appeals Meeting of 37 Moseley Avenue, Needham, MA Property
Attachments: 37 Moseley Ave_Needham_Report (1).pdf; Needham 37 Moseley Avenue_ortho_flagging.pdf

I became aware of several discrepancies being put on record concerning the property located at 37 Moseley Avenue, Needham, MA (circa 1922) which I would like to clarify to the Zoning Board of Appeals and the Conservation Commission.

My parents Harold W and Mildred E Smith were the owners of the property since 1950 until it was sold in 2022 (72 years). I was born in December 1952 and lived there until 1976. Since that time, I was intimately involved along with my brother, James Smith with assisting my parents with work on the property. I was their caretaker in their later years and at the property several times a week until my father Harold, passed in June 2020, and my mother most recently in January 2024.

The house and property are located in a wetlands area which was exacerbated in the 60's by the construction going on above us on Stratford Road, which changed the route of water coming down onto our property and the neighborhood. We have an active stream bordering the left side of the property which captured most of the runoff from Stratford Road, but some still pooled in our backwoods. We would clear the brook every year to make sure the water would flow out toward the town forest which bordered with our back property line. Our small backyard bordered on a vernal pool filled with skunk cabbage and other plants and blooms; moss associated with wetlands. The woods were filled with snakes, pollywogs, frogs, salamanders as well as pheasants, turkeys, quail, ducks, foxes, deer, beavers, skunks, raccoons, etc.

Our street was a private road and initially everyone had a septic system and installed sump pumps in their basements for the excess water table especially in the spring. That water would be pumped into the farthest part of our back yards or streams/culverts if available.

The Town of Needham installed a sewer line on our street in 1974. All neighbors voluntarily hooked up to the system between 1974-1976. My parent's house was **hooked up to the sewer line in July 1976.** We all ceased to use our septic systems although they still remained under ground on our properties.

My parents' basement was L shaped with concrete walls and floor. The majority of it was set up as my father's work and tool room with storage shelves. The other side housed the oil tank, oil burner, water heater, wood stove, washing machine and dryer. The sump pump was located under the side laundry sorting table next to the washer and back yard bulkhead. My parents also dug up part of the floor and set up drainage pipes and gravel before recementing the floor. The pipe they installed flowed into the sump pump pit where they would then drain out into the sewer system.

The sump pump ran primarily on electricity, but also had a backup generator located in the garage. The basement was dry and warm.

After my father passed away, my mother decided to sell the property in October 2022. She realized that the house was out of code and needed major renovation of the electrical, heating, and structure. It was put on the market as a knock down in a secluded wetlands area. My mother hired Oxbow Associates to do a Wet Lands Study of the property for any future prospects. Unfortunately, the study was not done in the spring when the flooding and wetlands are even closer to the house. She felt they should know what the buildable parameters were for the property and protection of the trees and vegetation. That study was provided and attached to this email.

The published description of the property included:
According to town records, the property is located in an SRA zone. Buyers are responsible for their due diligence and verification... See attached for site plan and orthophotograph of wetland boundary. The property information also included it had Public Sewer.

The one car garage was built before WWII and had a dirt floor. It was primarily utilized for storage of lawn care equipment, recyclables, and a generator in case of loss of electricity. The family cars were parked in the gravel driveway.

The backyard had an **open wood rack not a shed**, which my father used for storing wood for the wood stove which was in the basement. The stove was utilized during the oil/heating crisis as a heating option in the 1970-80's.

The buyer, Saybrook Construction, LLC was told at closing that the power would be shut off and they would need to start the electric service so the sump pump would continue to work as well as the smoke detectors. From what I understand they never opened up a new account with Eversource for the property and the basement ultimately filled with water. There was still fuel in the oil tank that has been sitting there as well. With no heat and the dampness, the house is more than likely filled with mold. It has become quite hazardous since it has been sitting like this since November 2022 (18 months).

The Zoning Board needs to put a pause on the new proposed building plan under consideration since it has not gone through the proper review process. The Conservation Commission needs to review the new building plan proposed by Saybrook Construction, LLC, as it significantly changes the scope of the previously approved plan. The new proposal leaves a very large footprint on the land further affecting the wetlands, vegetation, and abutting neighbors next door and across the street. While some trees that were initially proposed to be cut down may now be retained, the overall environmental impact and effect on the neighborhood character appear to be severely exacerbated by this new design.

Our community has long benefitted from the mature trees in this area, which provide essential shade and help mitigate issues related to our regions rising water table. Replacing a modest five-room home with what can only be described as an oversized, looming, and out-of-place structure will undoubtedly have a detrimental effect on the local environment and disrupt the cohesive aesthetic of the neighborhood.

Saybrook Construction's claim of financial hardship as justification for such an excessive development strains credulity, as they have been well aware of the limitations of this property, particularly concerning the wetlands. Furthermore, there seems to have been a concerning lack of proper maintenance and due diligence after the property changed ownership. Specifically, the sump pump was not employed to mitigate the expected water in the basement, creating the current situation pictured in the filing, and there are conflicting statements regarding the status of the septic system.

I am available for any questions you might have pertaining to my statement of the property.

Sincerely,
Leslie Smith Jacobs
Email: leslie.smithjacobs@gmail.com
Cell: 508-769-0565
Attachments

September 26, 2022

Logan Jacobs
Compass
6 ½ Carlisle Street
Cambridge, MA 02139

774-573-0941
logan.jacobs@compass.com

Re: Preliminary Wetland Evaluation Report
37 Moseley Avenue
Needham, MA

Dear Mr. Jacobs:

In response to your request, Oxbow Associates, Inc. (OA: specifically, K. Cormier) evaluated the above-referenced site with you on September 14, 2022. This evaluation was conducted in accordance with standard methods for delineating vegetated wetlands under the Massachusetts Wetlands Protection Act (MGL Ch. 131, §40), its Regulations (310 CMR 10.00), and the Town of Needham Wetlands Protection Bylaw (Article 6) and its Regulations.

Existing Conditions and Wetland Resource Areas

This site is comprised of one parcel (199/213-0060) and is located south of Moseley Avenue, east of Charles River Street, and west of the Stratford Road. The property currently contains a single-family house, a paved driveway, a shed, and a landscaped yard.

Along the southeastern property boundary, there is an intermittent stream that flows easterly in a shallow channel. The stream originates from a wetland on the northside side of Mosely Avenue. The stream is approximately 1-3 feet in width with a defined narrow channel composed of mud banks with a mud and stone bottom. There was no water in the channel.

OA delineated the relevant wetland resource areas southeast of the property based on topographic features, surface hydrology, hydric soils, and vegetation. OA believes that the wetland resource areas located on or adjacent to the site are Bordering Vegetated Wetland (BVW 310 CMR 10.55) which is associated with the intermittent stream.

OA demarcated BVW with blue plastic flags labeled A1 – A15. The Upland vegetation consists of Norway maple (*Acer platanoides*), eastern white pine (*Pinus strobus*), oaks (*Quercus spp.*), multiflora rose (*Rosa multiflora*), honeysuckle (*Lonicera sp.*), poison ivy (*Toxicodendron radicans*), Virginia creeper (*Parthenocissus quinquefolia*), and teaberry (*Gaultheria procumbens*). Vegetation within the wetlands consisted of common jewel weed (*Impatiens capensis*), red maple (*Acer rubrum*), glossy buckthorn (*Frangula alnus*), Highbush blueberry (*Vaccinium corybosum*), alders (*Alnus* sp.), cinnamon fern (*Osmundastrum* *cinnamomeum*), poison ivy, multiflora rose, skunk cabbage (*Symplocarpus foetidus*), and Japanese knotweed.

According to the Massachusetts Natural Heritage and Endangered Species Program, Estimated Habitats of Rare Wildlife and Certified Vernal Pools (MassGIS 2021), there are no rare wildlife species' habitats or certified vernal pools on or adjacent the site.

Regulatory Implications and Recommendations

In OA's opinion, there are Bordering Vegetated Wetlands on the site that are regulated under the Wetlands Protection Act and the local Bylaw. The wetland boundaries are our interpretation of the local and state wetland regulations. However, the Needham Conservation Commission (NCC) must confirm the limits of the resource areas before any legal boundaries are established.

Any work within 100 feet of a BVW will require filing a Notice of Intent with the NCC. The filing must describe the nature of the proposed work and demonstrate that said work would not impact the functions and values of the wetland system and complies with the applicable performance standards for the various resource areas.

In addition, the Town of Needham requires a 25-foot no-alteration zone from the edge of a BVW, or a 50-foot no-alteration zone if the Buffer Zone is naturalized.

The attached GIS/GPS map we have provided can be used as a planning tool, however, OA recommends having the wetland resource area boundaries formerly delineated to determine the actual site constraints. We also recommend consulting a Professional Land Surveyor or Professional Engineer to generate a survey plan of site features and resource areas to determine the relationship between the proposed limit(s) of work and the 100-foot BVW buffer zones.

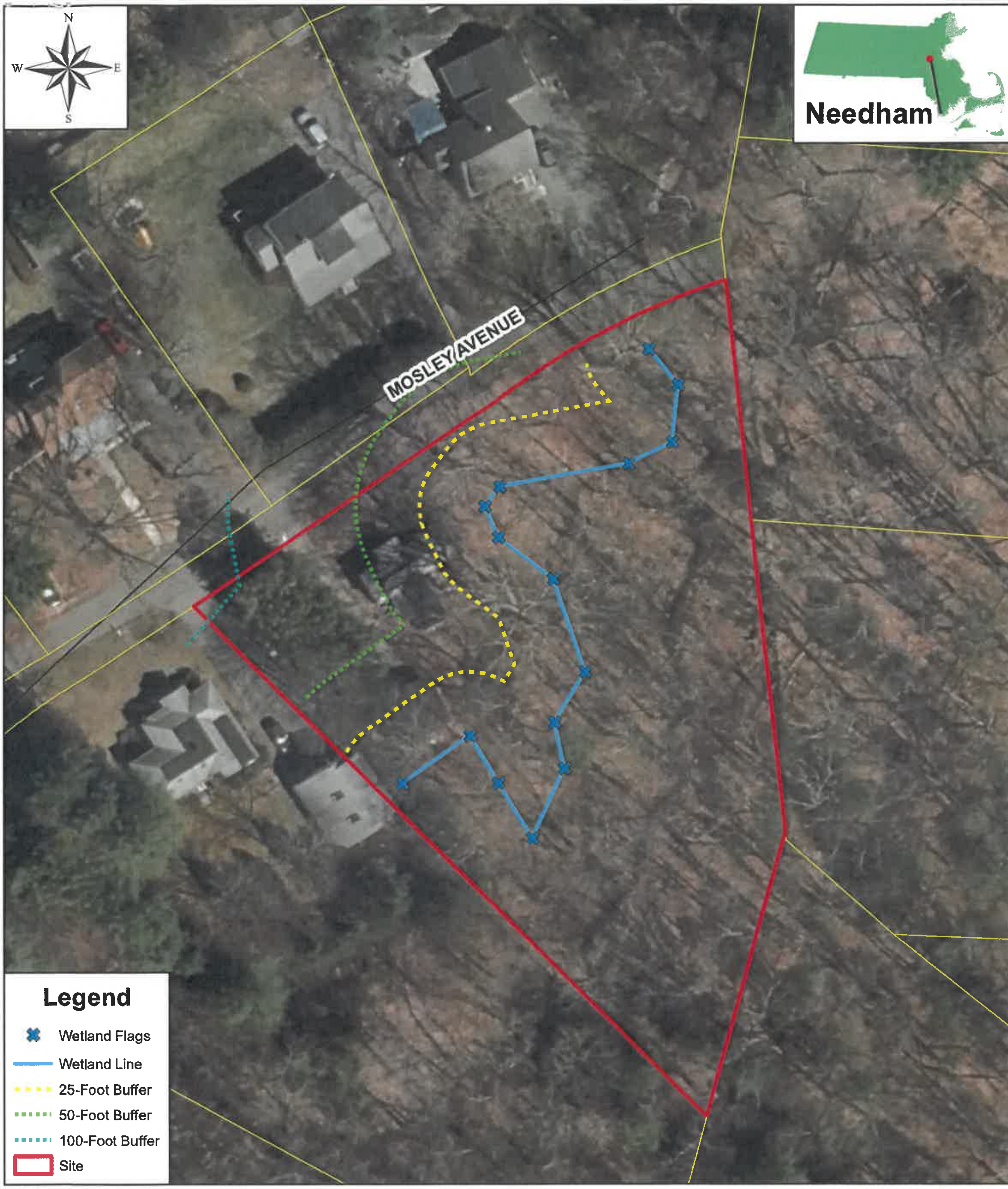
If you have any questions, please do not hesitate to contact us.

Sincerely,
Oxbow Associates, Inc.

Kyle Cormier

Kyle Cormier
Environmental Scientist

978.929.9058 · P.O. BOX 971 · ACTON, MA 01720 · WWW.OXBOWASSOCIATES.COM



OXBOW ASSOCIATES, INC.

1:600

1 inch = 50 feet

0 50 100
Feet

2021 Orthophotograph
37 Moseley Avenue
Needham, MA

September 16, 2022

Daphne Collins

From: Nancy Smith <ncampy@verizon.net>
Sent: Tuesday, September 17, 2024 5:32 PM
To: Daphne Collins
Subject: 37 Moseley Ave

I should have included this with the last email...I have changed the date. Leslie Smith Jacobs intends to resubmit her letter as well.
NS

September 17, 2024

Mr. Jonathan Tamkin, Chair, and Members
Zoning Board of Appeals
Public Services Administration Building
500 Dedham Avenue Needham, MA 02492
Re: 37 Moseley Avenue

Mr. Tamkin and Members of the Zoning Board of Appeals,

We, the residents of 10 Moseley Avenue, 11-13 Moseley Avenue, 24 Moseley Avenue, 29 Moseley
Avenue, 32 Moseley Avenue, 42 Moseley Avenue, and 48 Moseley Avenue, express the following
concerns regarding the variance filed by George Guinta, Jr. for Saybrook Construction, LLC about the
referenced address.

● There is an addition to the new plans that sits squarely in the 25' No Disturb Zone (see Exhibit A).
This is an addition that was not part of the original plan submitted to the Conservation Commission.
○ Only two helical pilings were approved as an exception in the 25’ No-Disturb Zone.
○ Changes have been made to the deck including the height of the deck being much closer
to the ground, obstructing sunlight for wild plants, to further impact the No-Disturb Zone.

● Due to the applicant’s negligence, the basement is currently filled with water which is the stated
“tremendous hardship” for which the applicant is requesting a variance. The basement for the
referenced property was dry and in good condition at the time of purchase as confirmed by the
prior owner.

● As to the applicant's claim of the house being prone to flooding, all homes on Moseley Avenue have wet basements and various mitigation systems; all have sump pumps that keep basements dry. All have backup generators in the event of a power outage. The previous owner provided a generator to the applicant for just such times.

● The applicant's sole reason for expanding the footprint of the original plan, approved by the Conservation Commission, was because of the "substantial hardship" of water in the basement. The basement can be restored and further mitigations put in place to ensure the basement remains dry and usable. The need for a variance, then, becomes moot.

This letter intends to bring awareness, concern, and information for the Board to consider and find against the variance request.

Sincerely,

Louisa Kania, 10 Moseley Avenue
Susan and Hector Fonseca, 11-13 Moseley Avenue
Barbara & Richard Cataldo, 24 Moseley Avenue
Nancy C. Smith, 29 Moseley Avenue
Kathleen and Robert Kemler, 32 Moseley Avenue
Anna G. and Peter Kerr, 42 Moseley Avenue
Pam Greenfield, 48 Moseley Avenue

Exhibit A **(source: page 36 of the Needham Zoning Board of Appeals Agenda - April 24, 2024)**

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520 FAX (781) 465-6059

October 24, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Elmo Fudburger, LLC
77 Charles Street, Needham, MA

Dear Ms. Collins,

Please be advised this office represents Elmo Fudburger, LLC (hereinafter the Applicant and "Fudburger") in connection with the proposed use of a portion of the property known and numbered both 77 Charles Street and 19 Wexford Street, Needham, MA (hereinafter the "Premises") as an indoor athletic or exercise facility. In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;

2. Seven copies of site plan and interior layout;

3. Seven copies of Memorandum in Support of Application of Elmo Fudburger, LLC;

4. Authorization letter from owner / landlord; and

5. Check in the amount of $500 for the applicable filing fee.

The Premises is situated between Charles Street and Wexford Street, and is occupied by an existing one-story branch commercial building. Most of the Premises is located in the Mixed Use-128 Zoning District, but a small corner of the property is in the Highland Commercial-128 Zoning District. The building is divided into several commercial rental units, used for variety of purposes, one of which is Fast Splits, a multi-sport retailer with a focus on cycling and including various cycling classes. The Fast Splits space is located entirely within the Mixed Use-128 Zoning District.

For several years, the Applicant has successfully operated a Burn Boot Camp location just a little way from the Premises on Needham Street, Newton. Now, the Applicant desires to relocate its business and use and occupy most, but not all, of the current Fast Splits space in connection therewith. Pursuant to the Zoning By-Law, a special permit pursuant to Section 3.2.6.2 is required for such use.

In addition, while there is sufficient parking on site to support the use in practice, the number of spaces required pursuant to the By-Law exceeds the number of spaces on site and the parking, which was created prior to the adoption of off-street parking requirements does not meet current standards. As a result, a waiver pursuant to Section 5.1.1.5, waiving strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements) is also required.

Kindly schedule this matter for the next hearing of the Board of Appeals. If you have any comments, questions or concerns, or if you require any further information in the meantime, please contact me so that I may be of assistance.

Sincerely,

George Giunta, Jr.

ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. *Failure to do so will delay the scheduling of the hearing.*

Applicant Information

Applicant Name	Elmo Fudburger, LLC		Date: 10/24/24
Applicant Address	121 Cedar Lane, Westwood, MA 02090		
Phone	508-340-5312	email	cmd5989@gmail.com
Applicant is ☐Owner; ☑Tenant; ☐Purchaser; ☐Other____________________ If not the owner, a letter from the owner certifying authorization to apply must be included			
Representative Name	George Giunta, Jr., Esq.		
Address	281 Chestnut Street, Needham, MA 02492		
Phone	617-840-3570	email	george.giuntajr@needhamlaw.net
Representative is ☑Attorney; ☐Contractor; ☐Architect; ☐Other____________________			
Contact ☑Me ☑Representative in connection with this application.			

Subject Property Information

Property Address	77 Charles Street		
Map/Parcel Number	Map 74 / Parcel 33	Zone of Property	Mixed Use-128 and Highland Commerical-128 Zoning Districts
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☐Yes ☑No			
Is property ☐Residential or ☑Commercial			
If residential renovation, will renovation constitute "new construction"? ☐Yes ☐No			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐Yes ☑No Do the spaces meet design requirements? ☐Yes ☑ No			
Application Type (*select one*): ☑Special Permit ☐Variance ☐Comprehensive Permit ☐Amendment ☐Appeal Building Inspector Decision			

ZBA Application For Hearing

Existing Conditions: Existing commercial building containing 20,104 square feet of area, divided into
several commercial rental units, with associated off-street parking area.

Statement of Relief Sought:
1. Special permit pursuant to Section 3.2.6.2 for an indoor athletic or exercise facility;
2. Special permit pursuant to Section 5.1.1.5 waving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and
3. All other relief as may be necessary and appropriate in connection with the operation of a Burn Boot Camp indoor athletic or exercise facility at the property known and numbered 77 Charles Street

Applicable Section(s) of the Zoning By-Law:
3.2.6.2, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other application Section or By-Law.

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	Proposed Conditions
Use		
# Dwelling Units		
Lot Area *(square feet)*		
Front Setback *(feet)*		
Rear Setback *(feet)*		
Left Setback *(feet)*		
Right Setback *(feet)*		
Frontage *(feet)*		
Lot Coverage *(%)*		
FAR *(Floor area divided by the lot area)*		
Numbers must match those on the certified plot plan and supporting materials		

ZBA Application For Hearing

Date Structure Constructed including additions:	Date Lot was created:

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions ***(Required)***	
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" ***(Required)***	
If applicant is tenant, letter of authorization from owner ***(Required)***	
Electronic submission of the complete application with attachments ***(Required)***	
Elevations of Proposed Conditions *(when necessary)*	
Floor Plans of Proposed Conditions *(when necessary)*	

Feel free to attach any additional information relative to the application. Additional information may be requested by the Board at any time during the application or hearing process.

I hereby request a hearing before the Needham Zoning Board of Appeals. I have reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector____________________
date of consult

Elmo Fudburger, LLC

Date: October 24, 2024 Applicant Signature George Giunta Jr
by its attorney,
George Giunta, Jr., Esq.

An application must be submitted to the Town Clerk's Office at townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA October 24, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
ELMO FUDBURGER, LLC
77 Charles Street, Needham, MA

The applicant, Elmo Fudburger, LLC (hereinafter, interchangeably, the "Applicant" and "Fudburger"), seeks a Special Permit pursuant to Section 3.2.6.2 of the Needham Zoning By-Law for an indoor athletic or exercise facility; a Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and all other relief as may be necessary and appropriate in connection with the operation of a Burn Boot Camp indoor athletic or exercise facility at the property known and numbered 77 Charles Street (the "Premises").

PRESENT USE / EXISTING CONDITIONS

The Premises is part of the property shown as parcel 33 on sheet 74 of the Assessor's Map for the Town of Needham, and is located within the Mixed Use-128 Zoning District.[1] The property contains approximately 46,647 square feet of land with 253.43 feet of frontage on Charles Street and 195.87 feet of frontage on Wexford Street. The property is occupied by an existing one-story mixed-use commercial building, known and numbered both 77 Charles Street and 19 Wexford Street, containing approximately 20,104 square feet of area in total, together with associated parking. According to the available record, it appears that the building was constructed in 1964 pursuant to Building Permit no. 5660.

The building is divided into multiple rental units, currently occupied by G Medical (a/k/a Pharmaceutics), a wholesale distributor of medical supplies and pharmaceuticals, 4,838 square feet; Golftec, a golf retailer with accessory golf instruction, 3,662 square feet; and Pure Performance Training, an indoor athletic facility, providing scheduled one-to-one training and

[1] A very small part of the property, at the southeast corner, away from and not including the Premises, is situated in the Highland Commerical-128 Zoning District.

small group training of five clients or less, 5,753 square feet, and Fast Splits, a precision multisport retailer with a focus on cycling and including cycling instruction, 5,851 square feet.[2]

The Premises is a part of the aforementioned Fast Splits unit and consists of approximately 4,600 square feet of area. The remainder of the Fast Splits unit, consisting of approximately 1,251 square feet of area, will remain as landlord space, to be used for office and / or storage.

PROPOSED USE / ACTIVITY

Burn Boot Camp was started by husband and wife Devan and Morgan Kline in 2012 in North Carolina. It started in the parking lot of a gymnastics studio and quickly gained popularity. Franchising began not long after, in 2015, and today Burn Boot Camp is in 38 states, with over 400 awarded franchise locations and growing. The core of the program is a

In 2018, Christine D'Amico, the principal behind Fudburger and a lifelong athlete, opened Burn Boot Camp Newton, just up the road from the Premises, on Needham Street, as a lifestyle fitness facility designed to inspire, empower, and transform the lives of busy women and their families. In the over six years since, she and her staff have helped countless clients with the mantra "if it doesn't challenge you it doesn't change you". For a variety of reasons, she would now like to relocate her successful business to Needham.

The core of Burn Boot Camp is a series of 45 minute workouts consisting of a warm up, a dynamic workout and a finisher. The workouts are tailored to each client's fitness level, and can be modified up or down. But the Burn Boot Camp experience is about more than just the workout. It is also about building a community, primarily of women, who generally represent 90% of clientele. As a part of the community aspect, Burn Boot Camp offers free childcare, plus healthy food recipes and personal fitness consultations.

The proposed Needham location would be open Monday through Friday, 5:15 AM through 10:30 AM and then 4:00 PM through 7:30 PM, and Saturdays, 7:00 AM through 11:00 AM. The facility would be closed all other times, including Sundays. The maximum number of customers on site at any given time would be 45, which would be expected to occur during the first hour of operation, and there would be a maximum of 4 staff on site at any given time.

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[2] Pure Performance Training was the subject of Major Project Site Plan Special Permit dated February 7, 2012, issued by the Planning Board, a copy of which is provided herewith for reference.

PARKING

Section 5.1.1.3 of the By-Law provides that any change or conversion of a use in a mixed-use structure, to a use which requires additional off-street parking requires compliance with Sections 5.1.2 and 5.1.3 for the entire structure, subject to certain exceptions none of which apply to the current situation.

Section 5.1.2 of the By-Law, Required Parking, sets forth various categories of uses and their associated parking demand. As set forth in that Section, an "Indoor Athletic or Exercise Facility or Personal Fitness Service Establishment" requires "one space for each 150 square feet or fraction thereof gross floor area and one space for each three employees to be employed or anticipated to be employed on the largest shift." Applying this standard to the Premises results in a parking demand for the proposed use of the Premises of 33 spaces, calculated as follows: 4,600 square feet ÷ 150 = 30.66 spaces + 2 spaces for staff (4 @ 1 space / 3 employees = 2 spaces) = 32.66 spaces = 33 spaces, rounded up. This an increase of 17 spaces over the minimum required for the current Fast Splits use, calculated as follows: Fast Splits 4,600 square feet @ 1/300 = 15.33 = 16 spaces; 33 – 16 = 17 spaces.[3]

Because the Premises is located within a mixed use building, the parking demand for the entire building is required to be considered when evaluating parking. The parking demand for the current tenants in the building (excluding the Premises, but including the remainder space to be retained by the landlord, as discussed above) is a total of spaces 71 as follows:

G Medical, 11 parking spaces[4]
Golftec: 13 paces[5]
Pure Performance Training: 42 parking spaces[6]
Remainder of Fast Splits space retained by landlord: 5 spaces[7].[8]

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[3] It is not entirely clear what the correct parking demand should be for the current Fast Splits activity. Certainly, the retail component would qualify for the retail standard of one parking space per 300 square feet of space. However, Fast Splits also offers a variety of cycling classes, for which parking demand would typically be calculated in addition to the retail component. As a result, while the above calculation utilizes the base retail standard, the actual standard applicable to the Fast Splits use is likely higher.

[4] Calculated as follows: calculated as follows: 2,637 square feet warehouse @ 1 space / 850 square feet = 3.10 spaces + 2,201 square feet office space @ 1 space / 300 square feet = 7.34 spaces; 3.10 + 7.34 = 10.44 = 11 spaces, rounded up

[5] Calculated as follows: 3,662 square feet @ 1/300 = 12.21 = 13 spaces, rounded up;

[6] As determined by the Planning Board and set forth in Major Project Site Plan Special Permit Decision, Application No. 2012-01

[7] Calculated as follows: 1,251 square feet @ 1 space / 300 = 4.17 = 5 spaces rounded up. Note that this calculation follows a conservative approach, using the office parking standard. However, in practice, it is entirely possible that the landlord retained space will be used for passive storage, and therefore not generate any actual parking demand.

Adding the proposed Burn Boot Camp demand of 33 spaces to the 71 spaces calculated above, results in a grand total parking demand of 104 spaces. This is an increase of 17 over the existing parking demand of 87 spaces.[9]

There are a total of 62 parking spaces on site divided between a main lot, on the side of the building, containing 35 spaces, 10 spaces on the Charles Street side of the building, 11 spaces on the Wexford Street side of the building and 3 parallel spaces on each side of the building. As a result, there will be a shortfall of 42 spaces and a parking waiver is required. However, for the reasons set forth below, the Applicant is confident that adequate parking exists on site to support the proposed use, due to the nature of the use, the applicable characteristics of the other tenants in the building and observed, actual parking demand.

As indicated above, the Applicant anticipates that peak demand will occur in the early morning hours; likely between 5:15 AM and 7:30 AM. During that time, there is reduced use in the rest of the building. Golftec is open 9:00 AM through 8:00 PM, Monday through Thursday, 9:00 AM through 7:00 PM on Friday and 9:00 AM through 5:00 PM on Saturday and Sunday. G Medical is open 7:00 AM through 9:00 PM, seven days per week, but based on information provided by the landlord, has minimal staffing during the first hour of operation. Pure Performance Training, which is on the other side of the building, is open 6:00 AM through 8:00 PM, Monday through Friday and 8:00 AM through 12:00 PM Saturday and Sunday. Therefore, from 5:15 AM through 7:00 AM, the Applicant will be the only business in the building that will be open.

In addition, the various tenants were canvased for their typical parking demand during the hours the Applicant will be open. In response, Golftec indicated their expectation that a maximum of 4 spaces would generally be in use between the hours of 7:00 AM and 10:00 AM and a maximum of 8 spaces between 4:00 and 6:00 PM, depending on the time of year. G Medical indicated that for the past four years, they have used only one space in the front of the building and three in the side lot, between the hours of 7:00

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[8] Parking demand for the landlord retained space has been calculated based on a conservative approach, using the office parking standard. However, in practice, it is entirely possible that this space will be used for passive storage, and therefore will not generate any actual parking demand.

[9] If the Premises were included in the parking calculation for the building, based on retail use (see footnote 3 above), the total parking demand for the building would be 87 spaces. Note that this is 12 spaces more than the total, overall parking demand established by the Planning Board in 2012, likely due to the changes in tenancies over the intervening 12 years.

AM and 3:00 PM, and only one or two spaces after 4:00 PM. Pure Performance Training indicated that generally, between six and eight spaces are in regular use for staff and clients between the hours of 7:00 and 10:00 AM, with between six and ten spaces in regular use between 4:00 and 7:00 PM.

These estimates of use are consistent with the parking survey conducted by the landlord, in coordination with the Applicant. In particular, parking counts were conducted on three consecutive days, Tuesday, October 8, 2024, Wednesday, October 9, 2024 and Thursday, October 10, 2024, during the hours when the Applicant will be open. The counts from the survey are set forth at Exhibit A attached hereto. As indicated, the maximum number of vehicles on site occurred at 9:00 AM and again at 10:00 AM on Tuesday, October 8, with a total of 19 cars counted. This means that, even at the time of peak observed usage in the parking area, there were still 43 parking spaces available, 10 spaces in excess of the total calculated parking demand for the proposed use.

The existing parking area, which has been in existence since prior to the adoption of off-street parking requirements, does not comply with most of the current design requirements. In particular, the parking area does not or likely does not comply with the requirements of section 5.1.3 (a) relative to minimum lighting; (f) relative to parking space size; (h) relative to parking space layout; (i) relative to width of maneuvering aisle; (j) relative to parking setbacks; (k) relative to landscaping areas; (l) relative to trees; and (n) relative to bicycle racks. While the parking lot is pre-existing and no changes are proposed, a parking waiver from the design requirements is still required.

LAW

Massachusetts General Laws, Chapter 40A, Section 9 states as follows: "Special Permits may be issued only for uses that are in harmony with the general purpose and intent of the ordinances of the by-law, and shall be subject to general or specific provisions set forth therein; and that such permits may also impose conditions, safeguards, and limitations on time and use."

Section 3.2.6.2 of the Town of Needham Zoning By-Laws requires the issuance of a Special Permit for the operation of an "indoor athletic or exercise facility" in the Mixed Use-128 Zoning District.

Section 7.5.2.1 of the By-Laws (Finding and Determination), as applicable to the application of Fudburger, requires that prior to granting a special permit, the Board of Appeals must make a finding and determination that the proposed use of the Premises for an indoor athletic or exercise facility:

> (a) complies with the criteria or standards of section 3.2. of the By-Law which refers to the granting of the requested special permit;
>
> (b) is consistent with 1) the general purposes of the By-Law as set forth in paragraph 1.1,[10] and 2) the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in the By-Laws; and
>
> (c) is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area.

Section 5.1.1.5 authorizes and allows the Board to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 where a particular use, structure or lot, owing to special circumstances, does not warrant the application of the parking requirements of Section 5.1.2 or the design requirements contained in Section 5.1.3. In addition, pursuant to Section 5.1.1.5 the Board is directed to consider whether the issuance of the special permit would be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is further consistent with the intent of the Zoning By-Law.

DISCUSSION / ANALYSIS

The applicant contends that the proposed use of the Premises for an indoor athletic or exercise facility complies with the requirements of Section 3.2.6.2 of the By-Law and is further in harmony with the general purpose and intent of the Zoning By-Law. The proposed use is compatible with current uses in the area, the other uses at the property, and further does not interfere with the character of the neighborhood.

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10 Section 1.1 states that it is "The purpose of [the] By-Law [to] promote the health, safety, convenience, morals or welfare of the inhabitants of Needham; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities under the provisions of General Laws, Chapter 40A. The use, construction, alteration, height, area and location of buildings and structures and the use of premises in the town of Needham are regulated as [provided by the By-Laws]"

Section 3.2.6.2 requires a Special Permit for an indoor athletic or exercise facility in the Mixed Use-128 Zoning District. However, no additional requirements are imposed or otherwise set forth. Therefore, the proposed use will comply with the criteria and standards of Section 3.2.6.2 upon the issuance of the requisite Special Permit. Furthermore, the proposed use of the Premises is consistent with the requirements of Section 1.1, as the provision of athletic training and instruction will promote the convenience and welfare of the inhabitants of the Town of Needham.

The proposed use of the Premises for an athletic or exercise facility, as proposed does not warrant the application of the parking requirements of Section 5.1.2, and the issuance of the requested parking waiver will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and will further be consistent with the intent of the Zoning By-Law.

While there is a significant shortfall of parking spaces on paper, based on the demand calculations required by the Zoning By-Law, in practice, there is ample parking available on site to support the various uses in the building, including the proposed new use. At the time of peak use, there were only 19 vehicles parked on site, two or three of which were associated with contractors performing work at the direction of the landlord. As a result, even at the time of peak parking use there were still 43 parking spaces available on site. This is because, in practice, the tenants in the building do not utilize the full amount of parking that is allocated to their uses by the Zoning By-Law. Moreover, even if actual parking demand were to increase in the future, the peak period of demand anticipated by the Applicant is between 5:15 and 7:30 AM. During that time, at least two of the other tenants are not open. And the one tenant with any material activity during that time (i.e., Pure Performance Training) is located on the opposite side of the building, accessed via Wexford Street, with ample and separate parking.

CONCLUSION

Based on the facts and discussion set forth above, Fudburger asserts that the proposed use of the Premises for an indoor athletic or exercise facility will not affect the neighborhood, surrounding area or the Town in any adverse material or significant way. Moreover, while parking waivers are necessary, the calculated parking demand for the property does not accurately reflect actual demand, and the proposed indoor athletic or exercise facility is anticipated to experience peak use during a time when most, if not all the other tenants in the building are not even open. Furthermore, while a parking waiver from current parking design standards is also required, the parking area has been in existence since prior to the adoption of off-street parking requirements, and no change or alteration is being proposed.

The use of the Premises for an indoor athletic or exercise facility is in harmony with the general purpose and intent of the By-Law, and there are special circumstances that warrant the granting of parking waivers. Therefore, Fudburger asserts that the issuance of the requested special permits is both proper and appropriate and should be granted.

Respectfully submitted,
Elmo Fudburger, LLC,
by its attorney,

____
George Giunta, Jr., Esq.
281 Chestnut Street
Needham, Massachusetts 02492
781-449-4520

EXHIBIT A
Parking Count Results

1. Tuesday, October 8, 2024

Time		Side (Main) Lot	Charles Street Side	Wexford Side		Total
8:00 AM		7*	3	4		14*
9:00 AM		11*	4	4		19*
10:00 AM		11**	3	5		19**
4:00 PM		9	1	5		15
5:00 PM		8	2	6		16

* Two of the observed vehicles were contractors performing work for landlord
** Three of the observed vehicles were contractors performing work for landlord

2. Wednesday, October 9, 2024

Time		Side (Main) Lot	Charles Street Side	Wexford Side		Total
8:20 AM		6*	2	2		10*
9:15 AM		3	3	2		8
10:20 AM		5	4	6		15
4:00 PM		0	0	0		0
5:00 PM		5	5	7		17

* Four of the observed vehicles were from Enterprise Rent-a-Car, located on Wexford Street, and parked without permission

3. Thursday, October 10, 2024

Time		Side (Main) Lot	Charles Street Side	Wexford Side		Total
8:15 AM		3	4	3		10
9:15 AM		4	4	4		12
10:20 AM		6	3	3		12
3:45 PM		5	1	7		13
5:45 PM		5	5	2		12

Commercial Street, 229 LLP c/o Corben Equity Partners

22 Comeau Street, Wellesley, MA 02481

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: 77 Charles Street, Needham, MA
Application for Zoning Relief

Dear Mrs. Collins,

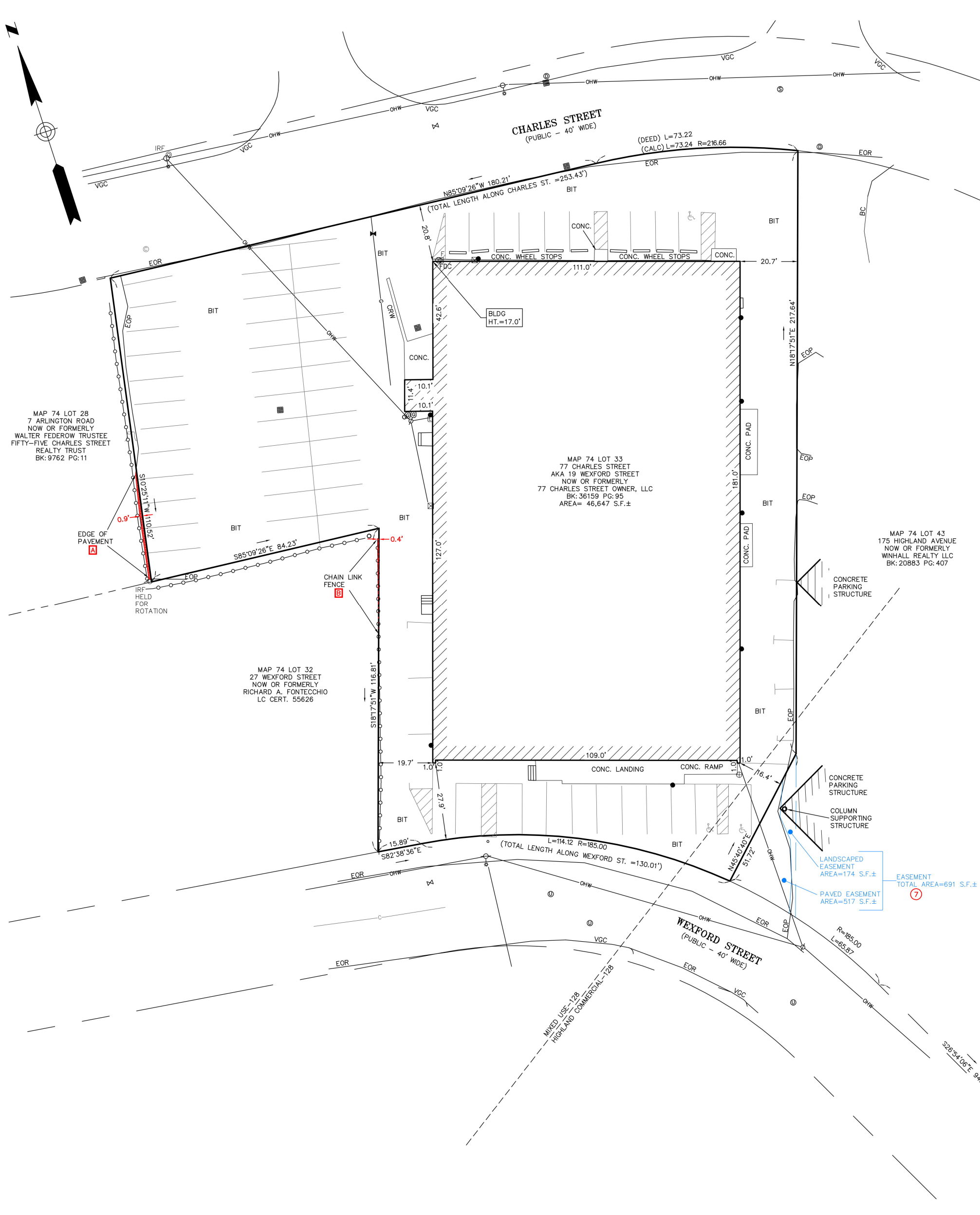
Please accept this letter as confirmation that Commercial Street 229 Limited Partnership, owner of the commercial property known and numbered 19 Wexford Road / 77 Charles Street, Needham, MA (the "Premises"), has authorized Elmo Fudburger, LLC, and its principal, Christine Sandonato, prospective tenant, acting on their own or through their attorney, George Giunta, Jr., Esquire, to make application for special permits and any and all other zoning, planning, general by-law and other relief that may be required or appropriate in connection with the use of the Premises for an indoor athletic or exercise facility with accessory retail sales and class instruction. In connection therewith, Elmo Fudburger, LLC, its principal, Christine Sandonato, and Attorney Giunta are all specifically authorized to execute, sign, deliver and receive all necessary documentation related thereto, including, without limitation, Application for Hearing.

Sincerely,

Commercial Street 229 Limited Partnership

Scott Ravelson
comm St. 229 LP
managing partner

By Scott
duly authorized



SCHEDULE A – LEGAL DESCRIPTION

A certain parcel of land with the buildings thereon on the Southerly side of Charles Street, Needham, Massachusetts, shown on a Plan of Land in Needham, Massachusetts, Cheney Engineering co., Needham, Massachusetts, October 6, 1964, revised October 29, 1964, recorded Norfolk Deeds Book 4211, page 674, and bounded and described according to said plan as follows:

NORTHERLY by Charles Street 253.43 feet;

EASTERLY by land now or formerly of Philbrick Realty Trust, 217.64 feet;

SOUTHEREASTERLY by other land of said Philbrick Realty Trust, 51.72 feet;

SOUTHERLY by Wexford Street, 130.01 feet;

WESTERLY by land now or formerly of Anthony Berejik, 116.81 feet;

SOUTHERLY by land of said Anthony Berejik, 84.23 feet;

WESTERLY by land now or formerly of Orzlo Nardone, Richard J. Nardone, and Oreste J. Nardone, 110.52 feet.

NOTES

1. THIS PLAN WAS PREPARED FROM AN ACTUAL ON THE GROUND FIELD SURVEY CONDUCTED BY WSP ON MAY 13, 2018; JANUARY 24, 2020 AND LAST VISITED ON NOVEMBER 18, 2022.

2. THE HORIZONTAL DATUM SHOWN HEREON REFERENCES THE MASSACHUSETTS STATE PLANE COORDINATE SYSTEM NAD 83 AND WAS ESTABLISHED USING RTK GPS SURVEY TECHNIQUES REFERENCING THE MACORS GPS NETWORK.

3. THE LOCUS PROPERTY IS LOCATED IN THE MIXED USE –128 WITHIN THE WIRELESS COMMUNICATIONS FACILITIES TOWERS OVERLAY, ADULT USE OVERLAY AND MIXED USE OVERLAY DISTRICTS. ZONING DISTRICTS PER MAP ENTITLED "TOWN OF NEEDHAM, MASSACHUSETTS ZONING MAP" LAST REVISED ON APRIL 1, 2018 AND AS DESCRIBED IN A ZONING REPORT PREPARED BY ZONING INFO, INC. DATED JANUARY 30, 2020.

4. THE SUBJECT AREA IS LOCATED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE REATE MAP PANEL 36 OF 430, COMMUNITY PANEL NUMBER 255215–036–E, EFFECTIVE DATE JULY 17, 2012.

5. AT THE TIME OF THE SURVEY THERE WAS NO OBSERVED EVIDENCE OF ANY RECENT EARTH MOVING WORK OR CONSTRUCTION.

6. THE LAND DEPICTED ON THE SURVEY IS THE SAME AS THE LAND DESCRIBED IN FIDELITY NATIONAL INSURANCE COMPANY COMMITMENT NUMBER 2490–S DATED NOVEMBER 11, 2022.

7. THE SUBJECT PROPERTY SHOWN HEREON HAS ACCESS TO CHARLES AND WEXFORD STREET, BOTH PUBLIC WAYS.

PLAN REFERENCES

NORFOLK COUNTY REGISTRY OF DEEDS

1. PLAN BOOK 4211 PAGE 674. (LOCUS PARCEL)
2. PLAN NUMBER 386 OF 1964. (CHARLES STREET LAYOUT)
3. PLAN NUMBER 414 OF 1956. (WEXFORD STREET LAYOUT)
4. PLAN NUMBER 1158 OF 1987. (175 HIGHLAND AVENUE)
5. DEED BOOK 29665 PAGE 318. (EASEMENT PLAN)

UNRECORDED PLANS

6. "SITE PLAN OF LAND IN NEEDHAM, MA" PREPARED BY EVERETT M. BROOKS CO. DATED JANUARY 4, 2012.
7. "ALTA/NSPS LAND TITLE SURVEY" PREPARED BY WSP DATED JUNE 11, 2018.

UTILITY STATEMENTS

THE LOCATION OF THE UTILITIES AS SHOWN HEREON HAVE BEEN COMPILED FROM VISIBLE STRUCTURES ONLY. NO SUB–SURFACE UTILITY INVESTIGATION OR RESEARCH WAS DONE AT ANY LEVEL FOR THIS PLAN. THE ACTUAL LOCATION OF ALL UTILITIES AND UNDERGROUND STRUCTURES SHALL BE CONSIDERED APPROXIMATE AND SHALL BE VERIFIED BY THE OWNER PRIOR TO ANY CONSTRUCTION. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICES OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED.

SCHEDULE B II – EXCEPTIONS

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I – Requirements are met.(NOT SURVEY RELATED)
2. Rights or claims of parties in possession.(NOT SURVEY RELATED)
3. Any lien or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.(NOT SURVEY RELATED)
4. Liens for taxes and assessments which become due and payable subsequent to the Date of Policy. (NOT SURVEY RELATED)
5. (RESERVED)
6. Exact acreage or square footage of the Land is not insured.(NOT SURVEY RELATED)
7. Easement Agreement for access from Winhall Realty LLC to Richard S. Epstein and Kenneth P. Epstein, Trustees of E&S Realty Trust dated January 31, 2012 recorded with said Registry of Deeds in Book 29665, Page 315. (PLOTTED)
8. Decision of the Planning Board of the Town of Needham dated February 7, 2012 and recorded at Book 29710, Page 370. (NOT PLOTTABLE)

LIST OF ENCROACHMENTS

A PAVEMENT ALONG THE WESTERLY PROPERTY LINE.

B CHAIN LINK FENCE ALONG THE WESTERLY PROPERTY LINE.

ZONING TABLE PER ZONING REPORT – SEE NOTE #3

SITE REQUIREMENTS BASED ON ZONING REPORT.

MINIMUM LOT AREA REQUIRED = 2 ACRES
MINIMUM LOT AREA EXISTING = 1.07 ACRES
MINIMUM LOT FRONTAGE REQUIRED = 100 FT.
MINIMUN LOT FRONTAGE EXISTING = 130.33 FT. ALONG WEXFORD STREET
MAXIMUM LOT COVERAGE ALLOWED = 30,320.6 S.F.
MAXIMUM LOT COVERAGE EXISTING = 20,138.2 S.F.
MAXIMUM FLOOR AREA RATIO ALLOWED = 3.00
MAXIMUM FLOOR AREA RATIO EXISTING = 0.43
MINIMUM OPEN SPACE REQUIRED = 9,329 S.F.
MINIMUM OPEN SPACE EXISTING = 0 S.F.
MAXIMUM BUILDING LENGTH ALLOWED= 200 FT.
MAXIMUM BUILDING LENGTH EXISTING = 111 FT.
MAXIMUM HEIGHT ALLOWED = 54 FT.
MAXIMUM HEIGHT EXISTING = 17 FT.
FRONT SETBACK REQUIRED = 5 FT. ALONG CHARLES AND WEXFORD STREET
FRONT SETBACK EXISTING = 20.8 FT. ALONG CHARLES STREET
FRONT SETBACK EXISTING = 27.9 FT. ALONG WEXFORD STREET
SIDE SETBACK REQUIRED = 10 FT.
SIDE SETBACK EXISTING = 16.4 FT.
REAR SETBACK ALLOWED = 10 FEET
REAR SETBACK EXISTING = N/A

PARKING SPACES

PARKING SPACES REQUIRED = 62

EXISTING PARKING SPACES
59 REGULAR PARKING SPACES
3 HANDICAP PARKING SPACES

TOTAL PARKING SPACES = 62

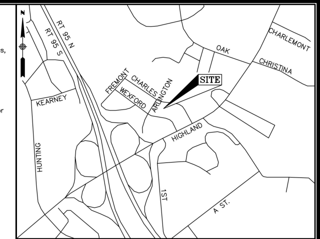
CERTIFICATION:

TO: COMMERCIAL STREET 229 LP

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11, 13, 14, 16 AND 17 OF TABLE THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 13, 2018; JANUARY 24, 2020 AND LAST REVISITED ON NOVEMBER 18, 2022.

COMMONWEALTH OF MASSACHUSETTS
DARREN J. HARDY
NO. 48385
REGISTERED
PROFESSIONAL LAND SURVEYOR

DARREN J. HARDY, P.L.S. NOVEMBER 18, 2022
REG. NO. 48385
WSP USA, Inc.



LOCUS MAP
(N.T.S.)

LEGEND

- IRF IRON ROD FOUND
- SBDH STONE BOUND WITH DRILL HOLE
- SBLP STONE BOUND LEAD PLUG
- CATCH BASIN
- DRAIN MANHOLE
- ROOF DRAIN
- NO LABEL MANHOLE
- SEWER MANHOLE
- ELECTRIC BOX
- ELECTRIC METER
- GAS METER
- GAS VALVE
- CABLE MANHOLE
- WATER GATE
- UTILITY POLE
- UTILITY POLE WITH LIGHT
- UTILITY POLE WITH LIGHT AND TRANSFORMER
- STUMP
- POST
- BOLLARD
- HANDICAP PARKING
- FDC FIRE DEPARTMENT CONNECTION
- FA FIRE ALARM
- EOP EDGE OF PAVEMENT
- EOR EDGE OF ROAD
- VGC VERTICAL GRANITE CURB
- CRW CONCRETE RETAINING WALL
- ABUTTERS LOT LINE
- PROPERTY LINE
- EASEMENT
- RIGHT OF WAY LINE
- CHAIN LINK FENCE
- GAS LINE
- UNDERGROUND CABLE
- OHW OVERHEAD WIRES
- ENCROACHMENT AREA

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

REVISION	
DATE	DESCRIPTION

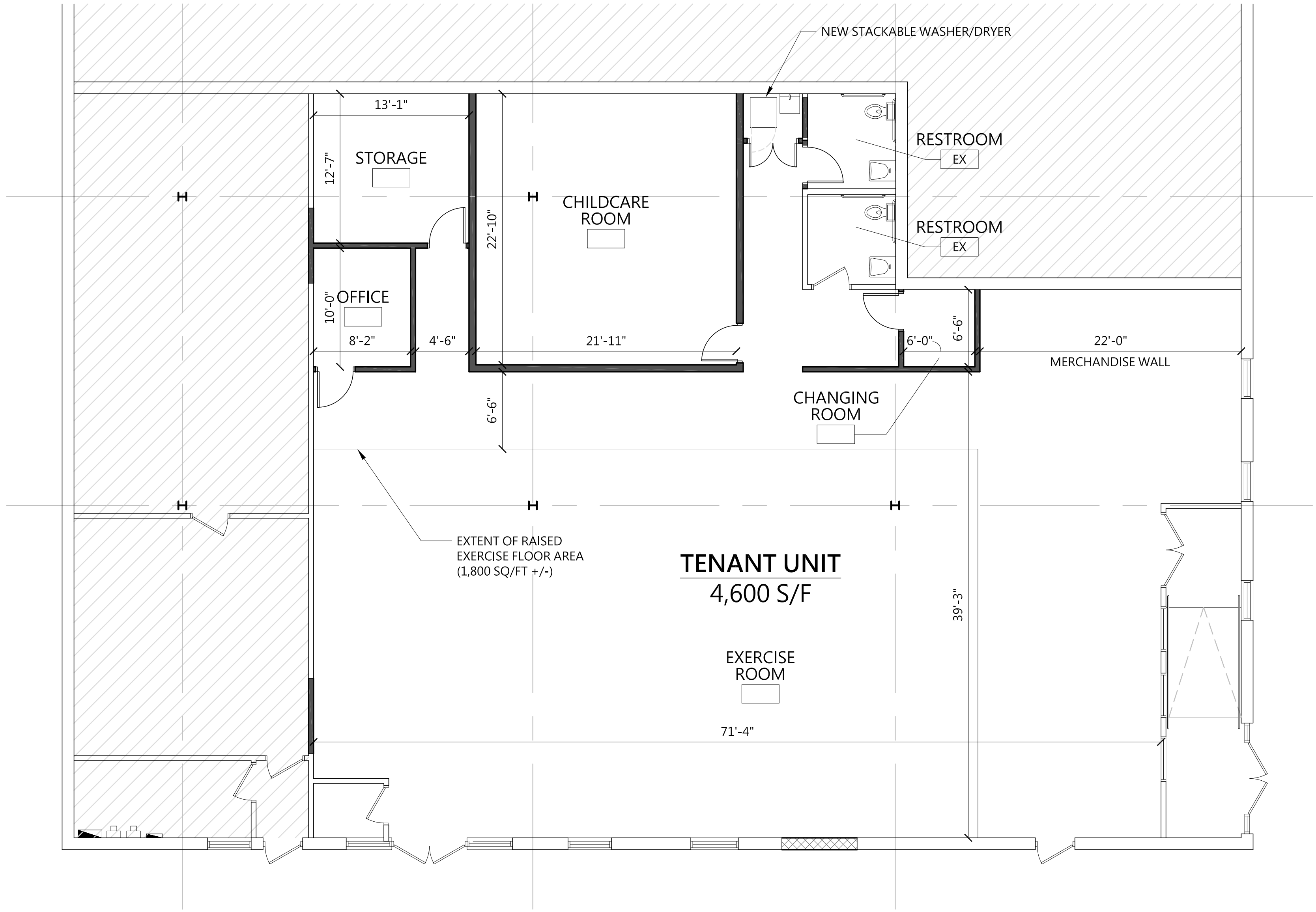
ALTA/NSPS LAND TITLE SURVEY

77 CHARLES STREET
NEEDHAM, MASSACHUSETTS
PREPARED FOR
COMMERCIAL STREET 229 LP

WSP USA Inc.
10 Al Paul Lane, Suite 103
Merrimack, NH 03054
603.324.0894

Drawn By	MS	Date	Job No.
Surveyed By	CP, JT, JF	NOVEMBER 22, 2022	30902289
Checked By	DJH	Scale	Sheet No.
Book No.	N-288	1" = 20'	1 OF 1

30902289.001-1.dwg



FLOOR PLAN - PROPOSED

SCALE: 1/8" = 1'-0"

Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel.781-455-7550 x 308

April 2, 2024

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: 77 Charles St.

Dear Board Members,

I have reviewed the application for a Special Permit and Parking Waivers for the proposed indoor athletic facility, Burn Boot Camp, and have the following comments.

1. The building itself faces both Charles and Wexford St. And is also known as 19 Wexford St.
2. The property is primarily located in a Mixed Use-128 Zoning District. A small portion of the lot (not the building) is located in a Highland Commercial-128 district. Section 1.5 (Variation) of the Zoning Bylaw states (in-part) that dimensional requirements are controlled by the district in which 50% or more of the lot is located.
3. The building is located entirely within the Mixed Use-128 District and Section 3.2.6.2 requires a Special Permit for this use.
4. The parking lot is located in both previously mentioned districts, but parking requirements are based on use, not the particular zoning district.
5. The applicant is seeking a waiver of the parking requirements in sections 5.1.2 (required Number of Spaces) and 5.1.3 (design requirements).

I agree with the applicants' analysis of the zoning requirements in that they have captured all applicable provisions and have no objection to this proposal.

Sincerely,

Joe Prondak
Building Commissioner

TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023

November 12th, 2024

Needham Zoning Board of Appeals
Needham Public Safety Administration Building
Needham, MA 02492

RE: Case Review-Special Permit
77 Charles Street - Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit pursuant to Section 3.2.6.2 to occupy the current commercial retail space as a gym and relief on zoning bylaws 5.1.1.5, 5.1.2 and 5.1.3

The documents submitted for review are as follows:

- Application for Special Permit dated 10/24/24
- Cover letter by George Giunta Jr dated 10/24/24
- Applicants Memorandum in Support of Application of Elmo Fudburger, LLC dated 10/24/24 by Elmo Fudburger, LLC
- Exhibits A Parking Results 10/8/24,10/9/24,10/10/254
- Lot Survey by WSP dated 11/22/22
- Proposed Floor Plan

Our comments and recommendations are as follows:

- The engineering department has no comment or objection to the request.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas A Ryder
Town Engineer

tryder

Daphne Collins

From: Tom Conroy
Sent: Wednesday, November 6, 2024 10:24 AM
To: Daphne Collins
Subject: RE: 77 Charles Street - ZBA Administrative Review - Due November 12, 2024

Hi Daphne,
No issues with Fire.
Thanks,
Tom

Thomas M. Conroy
Fire Chief - Needham Fire Department
tconroy@needhamma.gov
Ph (781) 455-7580

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 11:27 AM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 77 Charles Street - ZBA Administrative Review - Due November 12, 2024

Good Morning -

77 Charles Street – Elmo Fudburger, LLC is seeking a Special permit for use as an indoor athletic or exercise facility as well as waiving of strict adherence to parking number and parking plan and design requirements associated with operation of a Burn Boot Camp franchise.

Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **November 12, 2024** to allow time for the applicant to respond prior to the hearing.

If you have any questions, feel free to contact me.

Thank you,

Daphne

Daphne M. Collins
Zoning Specialist

Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals

Daphne Collins

From: John Schlittler
Sent: Monday, November 4, 2024 2:35 PM
To: Daphne Collins
Subject: RE: 77 Charles Street - ZBA Administrative Review - Due November 12, 2024

Police has no issue with this

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 11:27 AM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
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Attached please find the application with its associated back-up documents for your information and review.

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If you have any questions, feel free to contact me.

Thank you,

Daphne

Daphne M. Collins
Zoning Specialist
Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals
www.needhamma.gov/NeedhamYouTube

Town of Needham
Planning and Community Development
500 Dedham Avenue
Needham, MA 02492

Regular Office Hours: Mon-Wed 8:00am – 5:00pm
Remote Hours: Thurs 8:00am-3:00pm

Daphne Collins

From: Tara Gurge
Sent: Friday, November 8, 2024 11:13 AM
To: Daphne Collins
Subject: RE: 77 Charles Street - ZBA Administrative Review - Due November 12, 2024 / Public Health comments

Daphne –

The Public Health Division conducted the Zoning Board review for the proposal for the property located **at #77 Charles St**. The Public Health Division has no comments to share at this time.

Thanks,

TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health

please consider the environment before printing this email

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 11:27 AM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 77 Charles Street - ZBA Administrative Review - Due November 12, 2024

Good Morning -

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520 FAX (781) 465-6059

October 24, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Monsoon Indian Kitchen, Inc.
324 Chestnut Street, Needham, MA

Dear Ms. Collins,

Please be advised this office represents Monsoon Indian Kitchen, Inc. (hereinafter the Applicant and "Monsoon") in connection with the proposed operation of a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere at the property known and numbered 324 Chestnut Street, Needham, MA (hereinafter the "Premises"). In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;

2. Seven copies of site plan and interior layout plan;

3. Seven copies of Memorandum in Support of Application of Monsoon Indian Kitchen, Inc.;

4. Seven copies of letter of Paramjit Singh;

5. Seven copies of authorization letter; and

6. Check in the amount of $500 for the applicable filing fee.

Monsoon is an established restauranteur, having operated an Indian restaurant in Central Square, Cambridge since 1974. One of the members, who lives in Needham, would like to bring the same level of service and cuisine to his home community, through a take out restaurant at the Premises, in the former Home Kitchen location.

While the proposed use falls within the same use category and generates the same parking demand as the prior use, because the prior use was authorized by special permit, and because the prior use has ceased operation, new special permits are required. In particular, a special permit for the use itself, as well as more than one non-residential use on a lot is required pursuant to Section 3.2.2. In addition, a special permit pursuant to Section 5.1.1.5 waiving strict adherence with the off-street parking requirements of Sections 5.1.2 and 5.1.3 is also required.

Kindly schedule this matter for the next hearing of the Board of Appeals. If you have any comments, questions or concerns, or if you require any further information in the meantime, please contact me so that I may be of assistance.

Sincerely,

George Giunta, Jr.

ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. *Failure to do so will delay the scheduling of the hearing.*

Applicant Information

Applicant Name	Monsoon Indian Kitchen, Inc.	Date: 10/24/24
Applicant Address	C/O Paramjit Singh 77 Putnam Street, Needham, MA 02494	

Phone	617-680-7128	email	paramsaini@hotmail.com

Applicant is ☐Owner; ☑Tenant; ☐Purchaser; ☐Other____________________

If not the owner, a letter from the owner certifying authorization to apply must be included

Representative Name	George Giunta, Jr., Esq.		
Address	281 Chestnut Street, Needham, MA 02492		
Phone	617-840-3570	email	george.giuntajr@needhamlaw.net

Representative is ☑Attorney; ☐Contractor; ☐Architect; ☐Other____________________

Contact ☑Me ☑Representative in connection with this application.

Subject Property Information

Property Address	324 Chestnut Street, Needham, MA 02492		
Map/Parcel Number	Map 46 Parcel 19	Zone of Property	CSB - Chestnut Street Business

Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain?
☐Yes ☑No

Is property ☐Residential or ☑Commercial

If residential renovation, will renovation constitute “new construction”?
☐Yes ☐No N/A

If commercial, does the number of parking spaces meet the By-Law requirement? ☐Yes ☑No
Do the spaces meet design requirements? ☐Yes ☑ No

Application Type (*select one*): ☑Special Permit ☐Variance ☐Comprehensive Permit ☐Amendment ☐Appeal Building Inspector Decision

ZBA Application For Hearing

Existing Conditions:
Approximately 1,179 square foot take out establishment primarily engaged in the dispensing of prepared foods, located in mixed-use building consisting of approximately 10,916 square feet of
commercial space. Existing use was authorized pursuant to Board of Appeals Decision issued to Home Kitchen, Inc., dated July 11, 2019.

Statement of Relief Sought:
1. Special permit pursuant to Section 3.2.2 for a take out establishment engaged in the dispensing of prepared foods;
2. Special permit pursuant to Section 3.2.2 for more than one non-residential use on the lot;
3. Special permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and

4. All other relief as may be necessary for the operation of a take out establishment primarily engaged in the dispensing of prepared foods in the commercial space known and numbered 324 Chestnut Street.

Applicable Section(s) of the Zoning By-Law:
3.2.2, 5.1.1.5, 5.1.2, 5.1.3, 7..5.2 and any other applicable section or By-Law.

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	**Proposed Conditions**
Use		
# Dwelling Units		
Lot Area *(square feet)*		
Front Setback *(feet)*		
Rear Setback *(feet)*		
Left Setback *(feet)*		
Right Setback *(feet)*		
Frontage *(feet)*		
Lot Coverage *(%)*		
FAR *(Floor area divided by the lot area)*		
Numbers must match those on the certified plot plan and supporting materials		

ZBA Application For Hearing

Date Structure Constructed including additions:	Date Lot was created:

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions ***(Required)***	
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" ***(Required)***	
If applicant is tenant, letter of authorization from owner ***(Required)***	
Electronic submission of the complete application with attachments ***(Required)***	
Elevations of Proposed Conditions *(when necessary)*	
Floor Plans of Proposed Conditions *(when necessary)*	

Feel free to attach any additional information relative to the application. Additional information may be requested by the Board at any time during the application or hearing process.

❖❖❖❖

I hereby request a hearing before the Needham Zoning Board of Appeals. I have reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector______________________
date of consult

Monsoon Indian Kitchen, Inc.

Date: 10/24/24 Applicant Signature George Giunta Jr

by its attorney, George Giunta, Jr., Esq.

An application must be submitted to the Town Clerk's Office at townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA October 24, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
MONSOON INDIAN KITCHEN, INC
324 Chestnut Street, Needham, MA

The applicant, Monsoon Indian Kitchen, Inc. (hereinafter, interchangeably, the "Applicant" and "Monsoon"), seeks a Special Permit pursuant to Section 3.2.2 of the Needham Zoning By-Law for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere; a Special Permit pursuant to Section 3.2.2 for more than one non-residential use on the lot; a Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and all other relief as may be necessary and appropriate in connection with the operation of a take out Indian restaurant at the property known and numbered 324 Chestnut Street (the "Premises").

PRESENT USE / EXISTING CONDITIONS

The Premises is part of the property shown as parcel 19 on sheet 46 of the Assessor's Map for the Town of Needham, and is located within the Chestnut Street Business Zoning District. The property contains approximately 27,932 square feet of land with 139.66 feet of frontage on Chestnut Street and is occupied by an existing mixed-use commercial building, known and numbered 320-332 Chestnut Street, and containing approximately 10,916 square feet of area divided among seven rental units. The Premises, which is one such unit, consists of approximately 1,179 square feet of space. It was most recently used and occupied by Home Kitchen as a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere. Prior thereto, it was used and occupied by Prelude Gifts for retail purposes. The Home Kitchen take out use was permitted pursuant to Decision of the Board of Appeals dated July 11, 2019, but the restaurant closed sometime in the past year.[1]

PROPOSED USE / ACTIVITY

The family behind Monsoon Indian Kitchen, Inc. has been in the restaurant business since 1974, when they opened their first location in Central Square, Cambridge. That restaurant is still open today; a testament to the quality and consistency of the food and service. Now, Paramjit Singh, a member of the family and a Needham resident wants to bring the same level of dedication and commitment to his home community, by offering a takeout experience that emphasizes health-conscious, authentic Indian cuisine. Mr. Singh brings over 20 years of experience to the kitchen and combines traditional cooking methods with novel ingredients to create innovative meals.

The take-out restaurant will feature delicious family recipes such as chicken Tikka Masala, Shrimp Curry, Vegetable Curry, and freshly baked Naan bread, among other specialties. The menu will cater to the diverse tastes of the community, with options for vegetarians and those seeking healthier alternatives. Families and individuals will be able to pick up freshly prepared meals to enjoy in the comfort of their homes, sharing nourishing, delicious food with loved ones.

The hours of operation are anticipated to be 10:00 AM to 10:00 PM, seven days each week. In the beginning, a maximum of five employees are anticipated to be on site at any given time: an owner representative, a manager, a chef and two support staff. However, the chef and support staff will be living within walking distance, and therefore will not be parking on site. Moreover, over time, as the restaurant is established, the owner representative is expected to be present on only a limited basis. Therefore, once the restaurant is up and running smoothly, only the manager is anticipated to park on site.

In general, Monsoon is proposing to maintain the same layout as Home Kitchen and to re-use the existing equipment. However, Monsoon intends to add a small grab and go beverage refrigerator in the front area, as well as a bar / counter and 4-6 stool for customers who are waiting for food. To be clear, this is not an area intended or designated for eating, but rather, a convenience for customers waiting for their order.

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[1] A copy of the Decision is provided herewith.

<u>PARKING</u>

Section 5.1.1.3 of the By-Law provides that any change or conversion of a use in a mixed-use structure, to a use which requires additional off-street parking requires compliance with Sections 5.1.2 and 5.1.3 for the entire structure. In addition, whereas a special permit parking waiver was granted in connection with the prior Home Kitchen use, pursuant to the provisions of Section 5.1.1.3, the base parking demand would be based on the prior use, and a new waiver is required.

Section 5.1.2 of the By-Law, Required Parking, sets forth various categories of uses and their associated parking demand. The proposed take out restaurant use falls within the "restaurant" category which requires one space for every 3 seats, plus ten spaces per take-out service station. Whereas the proposed stools are not for service or eating, same should not be counted in the parking calculation. Under such approach, the parking demand associated with the proposed take out restaurant would be 10 parking spaces. However, if the stools were to be included, and assuming a maximum of 6 stools, the parking demand would increase to 12, based on 10 spaces for the take out station and 1 space for every 3 seats.

Moreover, because the Premises is located within a mixed use building, the parking demand for the entire building is required to be considered in connection with the request for a parking waiver. The current uses and associated parking demand for the plaza (excluding the Premises) are as follows:

Dragon Chef (1,230 square feet take out restaurant @ 10 spaces / take out)	10 spaces
Sweet Tomatoes (21 seats @ 1 space / 3 seats + 10 spaces for take out)	17 spaces
Elizabeth Grady salon (1,180 square feet @ 1 space / 300 square feet = 3.93 spaces)	4 spaces
Dellaria Salon (1,072 square feet @ 1 space / 300 square fee = 3.57 spaces)	4 spaces

Organic Nails (1,095 square feet @ 1 space / 300 square feet = 3.65 spaces)	4 spaces
Chestnut Street Animal Hospital (2,600 square feet @ 1 space / 200 square feet = 13 spaces)	13 spaces

Therefore, the total parking demand for all other current uses at the property is 52 spaces. Adding the take out parking demand for the proposed Monsoon Kitchen use would increase the total demand to 62 spaces. And if parking is included for the maximum of 6 waiting seats, the total demand would increase to 64 spaces.

There are a total of 42 parking spaces located on the Property. Whereas this is less than the total parking demand, a parking waiver is required. Furthermore, the waiver required is either 20 or 22 spaces, depending on whether parking demand is included for the proposed waiting stools.

The existing parking area, which has been in existence since prior to the adoption of off-street parking requirements, complies with many, but not all of the current design requirements. In particular, the parking area does not comply with the requirements of section 5.1.3 (a) relative to minimum lighting; (j) relative to parking setbacks; (k) relative to landscaping areas; and (l) relative to trees. While the parking lot is pre-existing and no changes are proposed, a parking waiver from the design requirements is still required.

LAW

Massachusetts General Laws, Chapter 40A, Section 9 states as follows: "Special Permits may be issued only for uses that are in harmony with the general purpose and intent of the ordinances of the by-law, and shall be subject to general or specific provisions set forth therein; and that such permits may also impose conditions, safeguards, and limitations on time and use."

Section 3.2.2 of the Town of Needham Zoning By-Laws (Schedule of Use Regulations) requires the issuance of a Special Permit for the operation of a "take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere" as well as "more than one non-residential building or use on a lot" in the Chestnut Street Business Zoning District.

Section 7.5.2.1 of the By-Laws (Finding and Determination), as applicable to the application of Monsoon, requires that prior to granting a special permit, the Board of Appeals must make a finding and determination that the proposed use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere:

> (a) complies with the criteria or standards of section 3.2. of the By-Law which refers to the granting of the requested special permit;
>
> (b) is consistent with 1) the general purposes of the By-Law as set forth in paragraph 1.1,[2] and 2) the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in the By-Laws; and
>
> (c) is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area.

Section 5.1.1.5 authorizes and allows the Board to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 where a particular use, structure or lot, owing to special circumstances, does not warrant the application of the parking requirements of Section 5.1.2 or the design requirements contained in Section 5.1.3. In addition, pursuant to Section 5.1.1.5 the Board is directed to consider whether the issuance of the special permit would be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is further consistent with the intent of the Zoning By-Law.

DISCUSSION / ANALYSIS

The applicant contends that the proposed use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere as one of multiple non-residential uses at the property complies with the requirements of Section 3.2.2 of the By-Law and is further in harmony with the general purpose and intent of the Zoning By-Law. The proposed use is compatible with current uses in the area, the other uses within the property, and further does not interfere with the character of the neighborhood.

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[2] Section 1.1 states that it is "The purpose of [the] By-Law [to] promote the health, safety, convenience, morals or welfare of the inhabitants of Needham; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities under the provisions of General Laws, Chapter 40A. The use, construction, alteration, height, area and location of buildings and structures and the use of premises in the town of Needham are regulated as [provided by the By-Laws]"

Section 3.2.2 requires a Special Permit for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere and for multiple non-residential uses on a lot within the Chestnut Business District. However, no additional requirements are imposed for either activity. Therefore, the proposed use, as one of several non-residential uses at the property, will comply with the criteria and standards of Section 3.2.2 upon the issuance of the requisite Special Permit. Furthermore, the proposed use of the Premises is consistent with the requirements of Section 1.1, as the provision of quality prepared food will promote the convenience and welfare of the inhabitants of the Town of Needham.

The proposed use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere does not warrant the application of the parking requirements of Section 5.1.2, and the issuance of the requested parking waiver will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and will further be consistent with the intent of the Zoning By-Law.

A significant portion of the calculated parking demand for the plaza is the take out demand for both the proposed use and for the existing Sweet Tomatoes restaurant. Together, these two elements combine for a total of 20 out of the 62 to 64 required spaces. However, as the Board has noted in previous cases, the requirement of the By-Law for 10 parking spaces for take out is an arbitrary number and does not necessarily accurately reflect reality. Furthermore, if parking demand is included for the waiting stools (resulting in a total parking demand of 64), same would result in a double count, as the customers sitting on the stools would also be included in the take out parking demand. Finally, in addition to the 42 spaces available on site, there are approximately 12 on street parking spaces within easy walking distance of the Premises.

For all practical purposes, the parking demand for the plaza will remain the same with the proposed Monsoon take out restaurant as it was previously. In 2019, the Board determined that there was sufficient parking and sufficient basis for the issuance of a parking waiver. Whereas the proposed use is substantially similar to the prior use, and whereas no material changes have been, or are being proposed for the property, conditions are substantially and materially the same and the re-issuance of the parking waiver is appropriate

CONCLUSION

Based on the facts and discussion set forth above, Monsoon asserts that the proposed use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere will not affect the neighborhood, surrounding area or the Town in any adverse material or significant way. From 2019 though 2023 the Premises was used and operated for a substantially similar use without significant issue or incident. While the operational aspects and hours are different, they are not so different as to likely cause any different impact.

Moreover, while parking waivers are necessary, the calculated parking demand does not accurately reflect actual demand, and a substantially similar use, with the same parking demand, operated without incident for several years. Furthermore, the parking area has been in existence since prior to the adoption of off street parking requirements, and there are approximately twelve on street spaces available within walking distance of the Premises, providing additional parking.

The use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere is in harmony with the general purpose and intent of the By-Law, and there are special circumstances that warrant the granting of parking waivers. Therefore, Monsoon asserts that the issuance of the requested special permits is both proper and appropriate and should be granted.

Respectfully submitted,
Monsoon Indian Kitchen, Inc.
by its attorney,

George Giunta, Jr., Esq.
281 Chestnut Street
Needham, Massachusetts 02492
781-449-4520

Paramjit Singh
77 Putnam Street
Needham, MA 02494

Oct 10, 2024

Zoning Board of Directors
500 Dedham Ave, Needham, MA-02492

Dear Members of the Zoning Board,

My name is Paramjit Singh, a proud resident of Needham, and I am writing to formally request a special permit to open a new family-run Indian takeout restaurant in our town. Our restaurant, Monsoon Indian Kitchen, will serve the local community with healthy, flavorful Indian food, rooted in family traditions passed down for generations.

My family has been in the restaurant business since 1974, when we opened our first location in Cambridge's Central Square. This restaurant remains in operation to this day, a testament to the quality and consistency of our food and service. Now, as a Needham resident, I am eager to bring that same level of dedication and commitment to the community where I live, by offering a takeout experience that emphasizes health-conscious, authentic Indian cuisine.

Monsoon Indian Kitchen will feature delicious family recipes such as chicken Tikka Masala, Shrimp Curry, Vegetable Curry, and freshly baked Naan bread, among other specialties. Our menu will cater to the diverse tastes of our community, with options for vegetarians and those seeking healthier alternatives. Families and individuals will be able to pick up freshly prepared meals to enjoy in the comfort of their homes, sharing nourishing, delicious food with loved ones.

Please know that this venture is not about making a quick profit; it is about contributing to the vibrancy and well-being of our town. My goal is to create a reliable, high-quality takeout service for Needham's residents to enjoy, helping families come together over flavorful meals that reflect our heritage. I am committed to the success of this restaurant because it serves the community I love, and I believe it will be a wonderful addition to Needham.

I kindly ask for your support in granting the special permit needed to open this restaurant. I am happy to provide any additional information or answer any questions that you may have. Thank you for considering my request, and I look forward to the opportunity to serve our community through Monsoon Indian Kitchen.

Sincerely,
Paramjit Singh

October 11, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: 324 Chestnut Street, Needham, MA
Application for Zoning Relief

Dear Mrs. Collins,

Please accept this letter as confirmation that Petrini Corporation, owner of the commercial space known and numbered 324 Chestnut Street, Needham, MA (the "Premises"), being part of the property known and numbered 320-334 Chestnut Street, has authorized Monsoon Indian Kitchen, Inc., tenant, acting on its own or through its attorney, George Giunta, Jr., Esquire, to make application for special permits and any and all other zoning, planning, general by-law and other relief that may be required or appropriate in connection with the use of the Premises for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere, or other related use. In connection therewith, Monsoon Indian Kitchen, Inc. and Attorney Giunta are specifically authorized to execute, sign, deliver and receive all necessary documentation related thereto, including, without limitation, Application for Hearing.

Sincerely,

Petrini Corporation

Robert J Hentschel

By Robert J. Hentschel
duly authorized

ZONING LEGEND

ZONING DISTRICT: CHESTNUT STREET BUSINESS

	REQUIRED	PROVIDED	COMPLIANCE
MIN. AREA	10,000 S.F.	27,932 S.F.±	YES
MIN. FRONTAGE	80'	139.66'±	YES
MIN. YARD –FRONT	20'	9.7'±	EXISTING NON–CONFORMING
–SIDE	0/50' (NOTE 1)	3.5'±/67.5'±	YES
–REAR	50' (NOTE 1)	9.9'±	EXISTING NON–CONFORMING
MAX. STORIES	3	1	YES
MAX. HEIGHT	40'	<40'	YES
MAX FAR	0.7	0.40 ±	YES
PARKING TOTAL	(NOTE 2)	42 (NOTE 2)	WAIVER (NOTE 2)

ZONING BYLAW 5.1.3 PARKING PLAN AND DESIGN REQUIREMENTS

	REQUIRED	PROVIDED	COMPLIANCE
A) PARKING ILLUMINATION	1 FOOT CANDLE	EXISTING	EXISTING CONDITION (NO CHANGE)
B) LOADING REQUIREMENTS	ADEQUATE	EXISTING	EXISTING CONDITION (NO CHANGE)
C) HANDICAPPED PARKING	2	2	YES
D) DRIVEWAY OPENINGS	SEC 4.4.5	EXISTING	EXISTING CONDITION (NO CHANGE)
E) COMPACT CARS	50% MAX (8'X16')	9.3%	YES
F) PARKING SPACE SIZE	9'x 18.5'	EXISTING	YES
G) BUMPER OVERHANG	1' OVERHANG	NA	NA
H) PARKING SPACE LAYOUT	SEC. 5.1.3.H	COMPLIES	YES
I) AISLE WIDTH	24' (90 DEG. STALL)	27.3'±	YES
MIN. DRVWY. WIDTH	(SEC 4.4.5) 18'	>18'	YES
J) PARKING SETBACK			
–FRONT	20'	0.2'±	EXISTING NON–CONFORMING
–SIDE	4'/25' (NOTE 3)	4.5'	(NOTE 3)
–REAR	25'	9.9'±	EXISTING NON–CONFORMING
–BUILDING	5'	2.6'±	EXISTING NON–CONFORMING
K) LANDSCAPED AREAS	10%	EXISTING	EXISTING CONDITION (NO CHANGE)
INTERIOR LANDSCAPING	2.5%	EXISTING	EXISTING CONDITION (NO CHANGE)
L) TREES	1 PER 10 SPACES	EXISTING	EXISTING CONDITION (NO CHANGE)
M) LOCATION	WITHIN LOT	WITHIN LOT	YES
N) BICYCLE RACKS	1/20 SPACES	2	EXISTING

NOTES:

1) 50' SETBACK REQUIRED FOR PORTIONS OF LOT ADJOINING RESIDENTIAL DISTRICT. 0' REQUIRED IF NOT ADJOINING RESIDENTIAL DISTRICT.

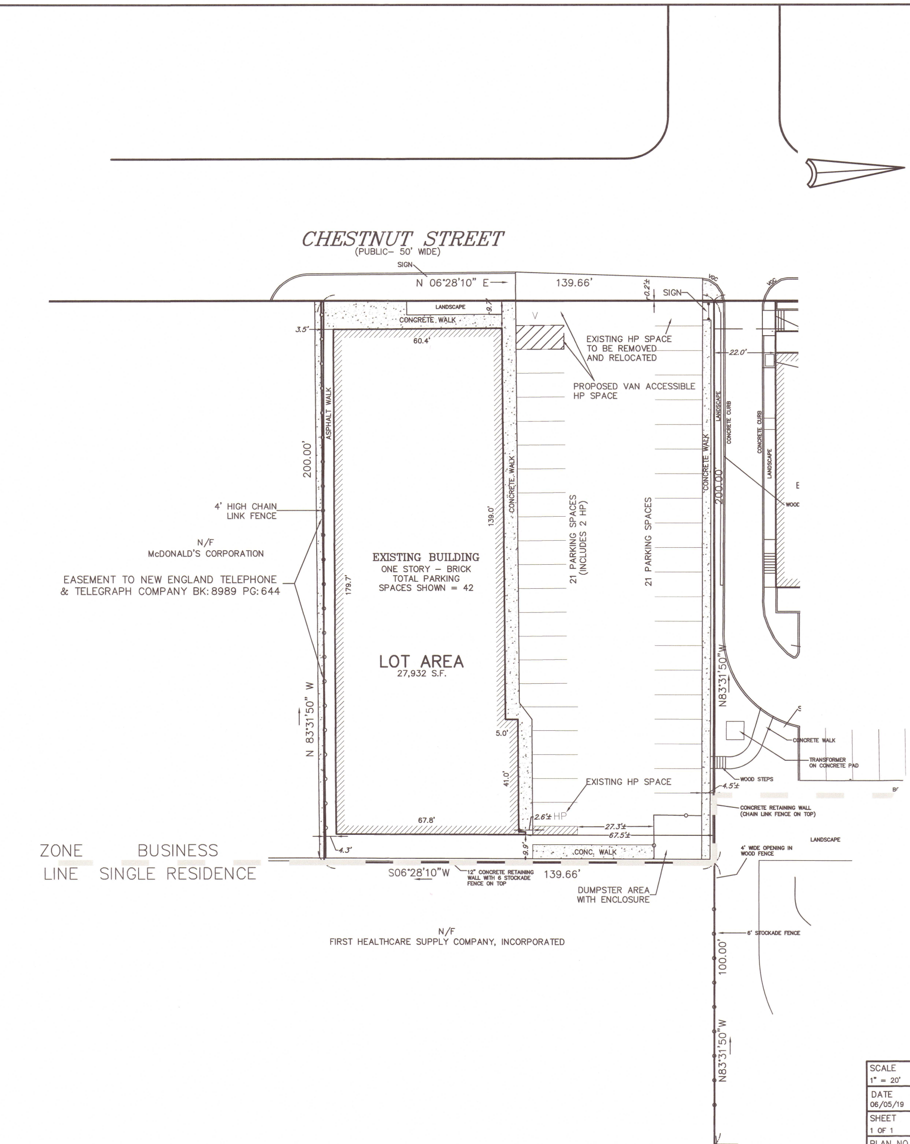
2) SWEET TOMATOES 2,500 S.F. & 21 SEATS @ 1 SPACE / 3 SEATS = 7 SPACES
& TAKE OUT STATION = 10 SPACES
TOTAL SWEET TOMATOES REQUIRED = 17 SPACES
HOME KITCHEN 1,179 S.F. (TAKE OUT RESTAURANT) = 10 SPACES)
ELIZABETH GRADY 1,180 S.F. @ 1 SPACE / 300 S.F. = 4 SPACES
DELLARIA SALONS 1,072 S.F. @ 1 SPACE / 300 S.F. = 4 SPACES
NAIL SALON 1,095 S.F. @ 1 SPACE / 300 S.F. = 4 SPACES
DRAGON CHEF 1,230 S.F. (TAKE OUT RESTAURANT = 10 SPACES)
CHESTNUT STREET ANIMAL HOSPITAL 2,600 S.F. @ 1 SPACE / 200 S.F. = 13 SPACES

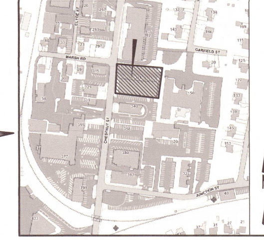
TOTAL REQUIRED = 62 SPACES

42 SPACES PROVIDED ON SITE. WAIVER REQUESTED FOR 20 SPACES.

3) 25' SETBACK REQUIRED FOR PORTIONS OF LOT ADJOINING RESIDENTIAL DISTRICT. 4' REQUIRED IF NOT ADJOINING RESIDENTIAL DISTRICT.

EXISTING PARKING IS COMPLIANT TO SIDE SETBACK FOR PORTIONS ADJOINING NON–RESIDENTIAL ZONE & IS EXISTING NON–CONFORMING FOR SIDE AND REAR PORTIONS ADJOINING RESIDENTIAL DISTRICTS





LOCUS MAP
(NOT TO SCALE)

PLAN REFERENCES:

1. "Plan of Land in Needham, Mass." dated Dec. 7, 1988, scale 1" =20' by Needham Survey Associates, Inc. recorded as plan No. 1363 of 1988 in Plan Book 376.

2. "Plan of Existing Parking Layout in Needham, Mass." dated Aug. 12, 1989, scale 1" = 20', by Needham Survey Associates, Inc.

3. "Plan of Land in Needham, Massachusetts" by Survey Resources dated Nov. 11, 1985 and filed with the Norfolk County Registry of Deeds as Plan No. 36 of 1986.

4. Plan to Accompany Petition for Acceptance, Chapel Street, Needham, Mass. dated Nov. 1928 by Lester C. Hollis, Engineer.

5. "Plan of Land in Needham, Mass., Jan. 16, 1980, Scale: 1" =40', Cheney Engineering Co., Inc." recorded as Plan No. 83 of 1980 in Book 5701 Page 33.

6. "Plan of Land in Needham, Mass., Mar. 24, 1968, Scale: 1" =40', Cheney Engineering Co., Inc." recorded as Plan No. 224 of 1969 in Book 4583 Page 345.

NOTES:

1.) Underground features have been compiled, in part, based upon information furnished by others. This information is to be considered approximate and Kelly Engineering Group, Inc. does not take responsibility for subsequent errors or omissions which may have been incorporated into this plan as a result. Additionally, other such features may exist on the site, the existence of which are unknown to Kelly Engineering Group, Inc. The size, location, and existence of all such features must be verified by the appropriate authorities prior to construction.

2.) The site detail and surface improvements depicted hereon were obtained by a field survey of the property in February of 2019 by Kelly Engineering Group, Inc.

CURRENT OWNER:

PETRINI CORPORATION
Deed Bk: 18702 Pg: 291
Assessor's Parcel I.D. 199/046.0-0019

FLOOD ZONE DESIGNATION:

The surveyed premises is located within Flood Zone "X" (areas determined to be outside the 0.2% annual chance floodplain as shown on The Flood Insurance Rate Map (FIRM) For the Town of Needham, Mass. Dated 07/17/2012, Community Panel Number 25021C0038E.

COMMONWEALTH OF MASSACHUSETTS
DAVID NOEL KELLY
CIVIL
NO. 37942
REGISTERED PROFESSIONAL ENGINEER

6/10/19

Digitally signed by David Noel Kelly P.E.
DN: cn=David Noel Kelly P.E., o=Kelly Engineering GRoup, Inc., ou, email=dkelly@kellyemgoineeringgroup.com, c=US
Date: 2019.06.05 16:35:57 -04'00'

Steven Horsfall
2019.06.05
17:30:29 -04'00'

GRAPHIC SCALE

20 0 10 20 40 80

(IN FEET)
1 inch = 20 ft.

REV	DATE	REVISION	BY

SCALE 1" = 20'
DATE 06/05/19
SHEET 1 OF 1
PLAN NO. 2019–024–LA00
DISK REF NO. F:\P\2019–024
DRAWN BY GSH
CHKD BY GSH
APPD BY SMH

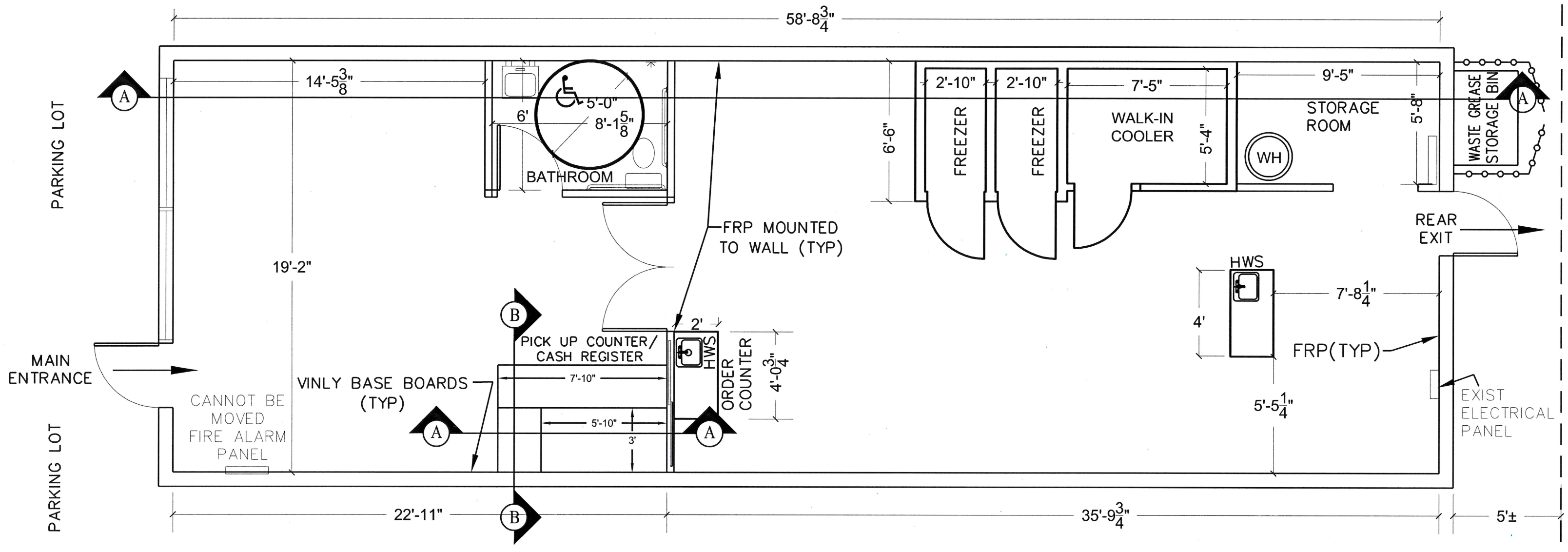
PETRINI
320–332 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS

PLAN TO ACCOMPANY
SPECIAL PERMIT APPLICATION

KELLY ENGINEERING GROUP, INC.
CIVIL ENGINEERING CONSULTANTS
0 CAMPANELLI DRIVE · BRAINTREE MA · 02184
PHONE: 781 843 4333 FAX: 781 843 0028

COMMONWEALTH OF MASSACHUSETTS
STEVEN M. HORSFALL
No. 41608
PROFESSIONAL LAND SURVEYOR

SHEET NO.
1



LEGEND:

HWS HANDWASH SINK
FRP FIBERGLASS REINFORCED POLYESTER PANEL
WH WATER HEATER

FLOOR LAYOUT PLAN

SCALE: 3/16"=1'

NOTES:

1. KITCHEN PLUMBING SHALL BE INSPECTED & APPROVED BY PLUMBING INSPECTOR.
2. WALLS AT PREP TABLE AND 3-BAY SINK AREAS ARE IMPERVIOUS NON-CORRADBALE MATERIAL, STAINLESS STEEL OR. FIBERGLASS REINFORCED POLYESTER PANEL (FRP).
3. COOKING FLOOR IS QUARRY TILE.
4. ALL FOOD PREP FLOOR AREAS ARE POURED SEAMLESS CONCRETE.
5. KITCHEN CEILING IS PLASTIC COATED.
6. SEE SITE PLAN FOR TRASH DUMPSTER & RECYCLING BIN.
7. GREASE STORAGE CONTAINER IS PROVIDED ON-SITE AT THE REAR OF THE BUILDING WITHIN FENCE ENCLOSURE.
8. THERE IS NO BASEMENT IN THIS UNIT.

COMMONWEALTH OF MASSACHUSETTS
HOOSHMAND S. AFSHAR No. 38375
PROFESSIONAL

12/11/19

TAJ ENGINEERING, LLC
CIVIL & STRUCTURAL ENGINEERS, LAND SURVEYORS
PROJECT MANAGEMENT, PERMITTING
225 STEDMAN ST, SUITE 36B, LOWELL, MA, 01851
7 MONTVIEW ROAD, CHELMSFORD, MA, 01824
PHONE: 978-250-8173 FAX: 978-770-0632
Info@tajengineering.net

PROPOSED CATERING KITCHEN
FLOOR LAYOUT PLAN
324 CHESTNUT ST.
NEEDHAM, MA

PREPARED FOR:
PARSHAVI PATEL

JOB. NO:	19-596
DATE:	12/11/2019
SCALE:	3/8" = 1 FT.
SHEET:	1 OF ??

SHEET NO.
A.1.1

Daphne Collins

From: John Schlittler
Sent: Monday, November 4, 2024 2:31 PM
To: Daphne Collins
Subject: RE: 324 Chestnut Street - ZBA Administrative Review - Due November 12, 2024

Police has no issues with this

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 11:58 AM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 324 Chestnut Street - ZBA Administrative Review - Due November 12, 2024

Good Morning -

324 Chestnut Street - Monsoon Indian Kitchen is seeking a Special Permit for use as a take-out establishment of prepared foods as well as waiving of strict adherence to parking number and parking plan and design requirements associated with operation of an Indian restaurant.

Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **November 12, 2024** to allow time for the applicant to respond prior to the hearing.

If you have any questions, feel free to contact me.

Thank you,

Daphne

Daphne M. Collins
Zoning Specialist

Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals
www.needhamma.gov/NeedhamYouTube

Town of Needham
Planning and Community Development
500 Dedham Avenue
Needham, MA 02492

Regular Office Hours: Mon-Wed 8:00am – 5:00pm
Remote Hours: Thurs 8:00am-3:00pm

Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel.781-455-7550 x 308

April 2, 2024

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: 324 Chestnut St.

Dear Board Members,

I have reviewed the application for Special Permits and Parking Waivers for the proposed Take-out (prepared food) establishment and have the following comments:

1. The property is located in the Chestnut Street Business Zoning District.
2. Section 3.2.2, under the BUSINESS tab (pg. 43) within the table requires a Special Permit for a take-out establishments, primarily engaged in the dispensing of prepared foods for off-site consumption.
3. Section 3.2.2, under the MANUFACTURING tab (pg. 46) within the table requires a Special Permit for more than one use on a lot.
4. The applicant is seeking a waiver of the parking requirements in sections 5.1.2 (required Number of Spaces) and 5.1.3 (design requirements).

I mostly agree with the applicants' analysis of the zoning requirements except that this establishment is primarily take-out. Therefore, I do not believe it necessary to count the proposed 6 stools toward the parking-demand requirement. Also, whereas the requirement for a Special Permit for "more than one use on a lot" is under the MANUFACTURING tab, it seems this should not apply here as there are no manufacturing uses on this site. Otherwise, I have no further comments nor objections to this proposal.

Sincerely,

Joe Prondak
Building Commissioner

TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023

November 12th, 2024

Needham Zoning Board of Appeals
Needham Public Safety Administration Building
Needham, MA 02492

RE: Case Review-Special Permit
324 Chestnut Street - Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit pursuant to Section 3.2.2 to use the space as a takeout establishment and relief on zoning bylaws 5.1.2 and 5.1.3

The documents submitted for review are as follows:

- Application for Special Permit dated 10/24/24
- Cover letter by George Giunta Jr dated 10/24/24
- Applicants Memorandum in Support of Application of MONSOON INDIAN KITCHEN, INC dated 10/24/24 by George Giunta, Jr., Esq.
- Letter by Paramjit Singh dated 10/10/24
- Letter by Petrini Corp dated 10/11/24
- Site Plan by Kelly Engineering Dated 06/05/19
- Proposed Catering Kitchen by Taj Engineering LLC dated 12/11/19

Our comments and recommendations are as follows:

- The engineering department has no comment or objection to the request.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas A Ryder
Town Engineer

Daphne Collins

From: Tara Gurge
Sent: Friday, November 8, 2024 1:55 PM
To: Daphne Collins
Subject: RE: 324 Chestnut Street - ZBA Administrative Review - Due November 12, 2024 / Public Health comments

Daphne –

In reference to the ZBA Plan review **for #324 Chestnut Street,** the Public Health Division has the following comments. See below:

- The new food establishment owner must fill out and submit an online Public Health Division Food Permit Plan Review packet for review and approval, which includes a food permit application, through the Towns new ViewPoint Cloud online permitting system. Here is the direct link to the permit application and plan review - https://needhamma.viewpointcloud.com/categories/1073/record-types/1006516 . The relevant documents must be uploaded online for review and approval, including a copy of a food service equipment layout plan, and any new equipment spec sheets and copies of staff Servsafe food training certifications, etc. Once the online permit fees are paid and the permit application approved, pre-operation inspections must be conducted prior to issuance of a food permit, which must be issued prior to operation. Please keep in mind – Detailed interior and exterior (if applicable) seating plans will also need to be submitted as part of this food permit plan review process.

- As part of this food permit approval process, please keep in mind that sufficient parking lot spaces must also be made available for two full-size dumpsters, one designated for trash and the other designated for recycling only. These dumpsters must be on approved dumpster pick up service schedules to accommodate sufficient proper trash and recycling containment and disposal, to prevent the risk of attracting pests and unsanitary conditions.

Please let us know if you have any questions on these requirements, or feel free to have the owner contact me directly on these permit requirements.

Thanks,

TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health

please consider the environment before printing this email

TOWN OF NEEDHAM
MASSACHUSETTS

BOARD OF APPEALS

SPECIAL PERMIT

Home Kitchen, Inc., Applicant
324 Chestnut Street
Map 46, Parcel 19

July 11, 2019

Home Kitchen, Inc. made application to the Board of Appeals for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law for a take-out establishment primarily engaged in the dispensing of prepared foods, for more than one non-residential use on a lot where such uses are not detrimental to each other, and to waive strict adherence to the parking and design requirements. The request is associated with the establishment of Home Kitchen, Inc., an Indian food delivery, take out and catering service with limited retail sales of pre-packaged foods. The property is located at **324 Chestnut Street, Needham, MA** in the Chestnut Street District. A public hearing was held in the Select Board Chambers, Needham Town Hall, 1471 Highland Avenue, Needham, MA, on Thursday, July 11, 2019 at 7:30 p.m.

Documents of Record:

- Application for Hearing, dated June 14, 2019, Clerk stamped June 14, 2019.
- Letter from Robert T. Smart, Jr, dated June 14, 2019.
- Owner authorization Letter, Robert J. Hentschel, Director, Petrini Corporation.
- Description of Proposed Operation at 324 Chestnut Street.
- Proposed Catering Kitchen Floor Plan, A-1, TAJ Engineering, stamped by Hooshmand S. Afshar, Professional Land Surveyor, June 14, 2019.
- Parking Study, Robert J. Hentschel, Director, Petrini Corporation, June 13, 2019.
- Special Permit Application of Home Kitchen, Inc, 324 Chestnut Street Memo, prepared by Robert T. Smart, Jr., Esq., June 14, 2019.
- Plan to Accompany Special Permit Application, prepared by Kelly Engineering Group, Inc., stamped by David Noel Kelly, Professional Engineer, and Steven M. Horsfall, Professional Surveyor, dated June 10, 2019.
- Letter from David Roche, Building Commissioner, May 31, 2019.
- 320 Chestnut Street, ZBA Special Permit, May 31, 2007.

- Letter from Lee Newman, Director of Planning and Community Development, July 3, 2019.
- Letter from Thomas Ryder, Assistant Town Engineer, July 3, 2019.
- Email from Tara Gurge, Assistant Public Health Director, July 1, 2019.
- Email from Dennis Condon, Chief of Department, Fire Department, June 26, 2019.

July 11, 2019

The Board included Jon D. Schneider, Chairman; Howard S. Goldman, Member; and Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 8:00 p.m. by reading the public notice. The meeting was held in the Select Board Chambers, Needham Town Hall, 1471 Highland Avenue, Needham, MA

Robert Smart, representative for the Applicant, reported that the Applicant is proposing to locate a catering, delivery and take out of Indian food with limited retail of prepackaged foods in the 1,179 square feet retail space formerly occupied by Prelude Gifts in the Chestnut Street Plaza. The Chestnut Street Plaza includes the following establishments: Sweet Tomatoes, Elizabeth Grady, Dellaria Salons, Nail Salon, Dragon Chef and Chestnut Street Animal Hospital. The parking lot has 42 spaces, plus an additional eight on-street parking spaces on Chestnut Street and four on-street spaces on Marsh Road.

The business will not include any seating and will focus on food preparation for take-out, catering, and delivery. There will be five employees – the owner, the manager, one chef, and two staff. The business hopes to add an additional chef in the future. Only two of the six employees will park on site.

The hours of operation will be Monday through Saturday 10:00 a.m. to 9:00 p.m., and Sunday 7:00 a.m. to 3:00 p.m. The expected peak hours of business will be Monday through Saturday 4:30 p.m. to 7:30 p.m., and 10:00 a.m. to 2:00 p.m. on Sunday.

The Applicant is seeking a waiver of 20 spaces and parking design requirements. The waiver is 6 more than granted in the last Special Permit at the Plaza for Sweet Tomatoes. All the tenants identified in the Sweet Tomatoes Special Permit are the same except for Prelude Gifts. Prelude Gifts had a parking demand of 4 spaces; the Applicant has a parking demand of 10 spaces. Mr. Smart did not think the parking usage generated by the Applicant would ever reach 10 spaces.

On Wednesday, June 12, 2019 a parking count was conducted every half hour. The highest usage count was at 1:30 p.m. when there were only 11 vacant spaces. The count included the spaces on Chestnut Street and Marsh Road. Mr. Schneider suggested that the number in the By-Law wasn't as critical as whether the parking worked for the occupants. He reasoned that a lack of parking would create business challenges for the establishments.

Bob Hentschel, Director of Petrini Corporation, thought the Applicant's business was compatible with those of the Plaza because of its dinner focus, no seating, and the quick trip generation associated with pick-up and delivery. He reported that the parking lot is tight at times, but the wait for an available space is short.

Mr. Hentschel stated that there are 2 handicapped spaces. They had been moved when the lot was restriped. They are located in the parking row adjacent to the building at either end of the row. They are compliant with state regulations.

Mr. Schneider inquired if they had problems with commuters using the available parking spots. Mr. Hentschel said that based on the parking count they did not observe that kind of parking abuse.

Parshavi Patel, Applicant, described Home Kitchen as a business serving two working parent Indian households who want to maintain their culture and provide healthy authentic Indian home-cooked style meals for their families. The Applicant will provide 2 to 7 meals per week delivered to customers who select the meals the week before. Bhuren Patel reported that they were experienced business owners of a pharmacy in Waltham where they established a successful niche in the era of CVS by providing special apps for orders and by making deliveries. These same types of delivery would be applied to Home Kitchen. They are developing an app and web site for Home Kitchen. He expects a 90 second pick-up and delivery turn around. They hired Sandeep Shekhda who has 5 years of experience cooking authentic Indian meals for residents of an Indian retirement community.

Mr. Patel said only two parking spaces would be used by staff since the kitchen staff will be arriving by public transportation or carpooling. The two spaces will be used by himself and the chef. Ms. Patel will be walking from their residence which is only a half mile away. The most delivery cars they will have are two.

At different times, Mr. Goldman and Mr. Schneider conducted site visits of the lot and found the lot to be well occupied. Mr. Smart referred them to the parking survey which indicated that the peak parking time was around 1:30 p.m. on weekdays which is not the peak time for the Applicant's business which is at dinner time. The survey also indicated that at the dinner hours there was plenty available parking.

The Applicant will be purchasing the necessary stock for the business. There will be no outside deliveries by third parties. There is no back door, so all deliveries will be made from the front door.

Comments received:

- The Fire Department had no concerns.
- The Health Department requires, prior to the building permit issuance, that a Food Establishment Plan Review be submitted and reviewed by the Needham Public Health Department; sufficient trash and a separate recycling dumpster be provided; and no nuisance odor violations occur.
- The Engineering Department had no comment but noted that prior to the issuance of the permit, the Applicant will need to investigate with the DPW's Sewer Division and the Board of Health whether the grease traps are adequate to discharge kitchen wastewater into the sewer system.

- The Planning Board had no comment.

There were no comments from the public.

The trash requirements for the business are minimal as there is no eating at the site which will generate post-meal trash. The standard condition of keeping the premises clean of all debris will be included.

Howard Goldman moved to grant a Special Permit to the Applicant for a take-out, catering establishment engaged in preparing Indian food, that more than one non-residential use be allowed at the location and to waive strict adherence to parking number and design requirements with the following conditions:

- no more than two cars be allowed for staff in the parking lot;
- the hours of operation will be Monday through Saturday from 10:00 a.m. to 9:00 p.m. and Sunday 7:00 a.m. to 3:00 p.m.;
- there will be no seating and only one take-out station;
- efforts will be made to prevent the release of noxious odors and harmful chemicals;
- the trash generated by the business will be contained properly in rubbish containers for timely removal;
- the outside and surrounding area will be kept free of garbage;
- the Special Permit is issued to this Applicant only and cannot be transfer or assigned to another entity without prior approval from this Board after a hearing with notice;
- failure to comply with this Special Permit may result in a public hearing and the revocation of the Special Permit.

Mr. Friedenberg seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:35 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The Premises consist of a building and associated off street parking for 42 vehicles and is numbered 320-332 Chestnut Street. It is situated in the Chestnut Street Business District and contains seven rental units occupied by various uses. The Applicant intends to take over the space previously occupied by Prelude Gifts in the Chestnut Street Plaza.

2. The Applicant seeks a special permit to operate a catering, delivery, and take out Indian food restaurant with limited retail of prepackaged foods with one take out counter and no seating. Hours of operation would be from Monday through Saturday from 10:00 a.m. to 9:00 p.m. and Sunday from 7:00 a.m. to 3:00 p.m. The peak hours are expected to occur from Monday through Saturday 4:30 p.m. to 7:30 p.m. and Sundays from 10:00 a.m. to 2:00p.m.

3. A maximum of five employees on site is proposed by the Applicant with an additional employee to be added in the future. Only two employees will park on-site because the others will arrive using public transportation, carpooling, or by walking. The proposed usage will result in the need for 10 parking spaces under section 5.1.2(9) of the By-Law. The Applicant stipulates that no more than 2 parking spaces at the site will be used by staff at any time. There will be no outside deliveries by third parties, but otherwise all other deliveries are expected to be through the front door.

4. The restaurant use with take-out is allowed with a special permit under Section 3.2.2 and Section 7.5.2.

5. The existing parking spaces, built prior to current design requirements, do not comply with design requirements of Section 5.1.3 of the By-law and would require a waiver under section 5.1.1.5 of the By-law. No changes in the building footprint or in the parking lot are contemplated.

6. With the Applicant's proposed use at the Premises, 10 parking spaces are required and the previous tenant use in this space required 4 parking spaces. Hence, there is increased parking demand for 6 additional spaces for this proposed use.

7. The Applicant submitted a parking analysis from the owner of the Premises, Petrini Corporation. This parking analysis considered 12 on-street parking spaces on Marsh Road and Chestnut Street and 42 parking spaces in the off-street lot for the Premises for a total of 54 parking spaces. The parking analysis shows that the peak parking demand occurs at 1:30 p.m. when 11 parking spaces are available from the main off-site location. The parking analysis also indicates that there are parking spaces available during the Applicant's peak time for business.

8. The proposed use is consistent with the general purpose of the Zoning By-law, is compatible with the characteristics of the surrounding area, is not detrimental to the other uses at the Premises, and is in harmony with the general intent and purposes of the By-law pursuant to the requirements of 7.5 of the Zoning By-law.

Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board, by unanimous vote, grants the Applicant (1) a Special Permit under Sections 3.2.2 and 7.5.2 and other applicable Sections of the Zoning By-law for a take-out establishment primarily engaged in the dispensing of prepared foods at 324 Chestnut Street, (2) a Special Permit under 3.2.2 of the Zoning By-laws to allow more than one residential use at the premises where such uses are not detrimental to each other, and (3) a Special Permit under Sections 5.1.1.5 and 5.1.2 and 5.1.3 of the Zoning By-laws to waive the strict adherence to the parking and design requirements, subject to the following conditions:

1. The restaurant will contain no seats for onsite food consumption and only one take out station,

2. The hours of operation will be from Monday through Saturday from 10:00 a.m. to 9:00 p.m. and Sunday from 7:00 a.m. to 3:00 p.m.

3. No more than two employees will be allowed to park at the Premises at any one time.

4. The Applicant will make efforts to prevent the release of noxious odors and harmful chemicals.

5. Waste generated by the Applicant will be controlled and stored in rubbish containers for timely removal from the Premises. The outside area and surrounding neighborhood will be kept free of trash and garbage.

6. This Special Permit is issued to the Applicant only, and may not be transferred set over or assigned by the Applicant to any other person or entity without the prior written approval of the Board of Appeals following such hearing and notice, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient. Any transfer of control by the person(s) or entities owning the business, directly or indirectly, or by operation of the law, shall be deemed a transfer/assignment requiring approval of the Board.

7. Failure to comply with each and any of the foregoing conditions at any time may constitute cause for the revocation of this Special Permit by the Board after hearing, with notice to the Applicant, and with such other notice as the Board in its sole discretion, shall deem due and sufficient.

Jon D Schneider

Jon D. Schneider, Chairman

Howard S. Goldman, Member

Peter Friedenberg, Associate Member

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520 FAX (781) 465-6059

October 25, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Rainbow Angel, Inc.
250 Highland Avenue, Needham, MA

Dear Ms. Collins,

Please be advised this office represents Rainbow Angel, Inc. (hereinafter the Applicant and "Rainbow") in connection with the proposed operation of a dine-in restaurant with accessory take-out at the property known and numbered 250 Highland Avenue, Needham, MA (hereinafter the "Premises"). In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;

2. Seven copies of site plan and interior layout plan;

3. Seven copies of Memorandum in Support of Application of Rainbow Angel, Inc.;

4. Authorization letter from owner / landlord; and

5. Check in the amount of $500 for the applicable filing fee.

The Premises is situated at the corner of Highland Avenue and First Avenue, in the Highland Commercial-128 Zoning District. It is the location of the former Mighty Subs restaurant, which contained 62 seats and did a good amount of take-out business. Mighty Subs closed in July, 2023, leaving the Premises vacant and in rough shape.

The owners of Rainbow have been operating a high-quality Taiwanese restaurant at 108 Oak Street, in the Newton Upper Village neighborhood, since 2014. For several reasons, they now desire to relocate their business around the corner to the Premises. Given its proximity to their current location and its history of use for dine-in and take-out food service, the Premises is an excellent location for their proposed relocation.

With the exception of signage, Rainbow is not proposing any alterations or changes to the exterior of the Premises. Moreover, Rainbow is similarly not proposing any change or alteration to the existing parking area.

Although the Premises was used for food services purposes for over 30 years, the Building Commissioner has determined that the new restaurant must undergo review from scratch and that new special permits are required. In particular, a special permit for the use itself is required pursuant to Section 3.2.5.2 and a special permit pursuant to Section 5.1.1.5 waiving strict adherence with the off-street parking requirements of Sections 5.1.2 and 5.1.3 is also required.

Kindly schedule this matter for the next hearing of the Board of Appeals. If you have any comments, questions or concerns, or if you require any further information in the meantime, please contact me so that I may be of assistance.

Sincerely,

George Giunta, Jr.

ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. *Failure to do so will delay the scheduling of the hearing.*

Applicant Information

Applicant Name	Rainbow Angel, Inc.	Date: 10/25/24
Applicant Address	1 Centennial Drive, Norwood, MA 02062	
Phone	617-910-8171	email chingchu114@yahoo.com

Applicant is ☐Owner; ☑Tenant; ☐Purchaser; ☐Other____________________

If not the owner, a letter from the owner certifying authorization to apply must be included

Representative Name	George Giunta, Jr., Esq.	
Address	281 Chestnut Street, Needham, MA 02492	
Phone	617-840-3570	email george.giuntajr@needhamlaw.net

Representative is ☑Attorney; ☐Contractor; ☐Architect; ☐Other____________________

Contact ☐Me ☑Representative in connection with this application.

Subject Property Information

Property Address	250 Highland Avenue (a/k/a 254 Highland Avenue)		
Map/Parcel Number	Map 300 / Parcel 58	Zone of Property	Highland Commercial-128 Zoning District

Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain?
☐Yes ☑No

Is property ☐Residential or ☑Commercial

If residential renovation, will renovation constitute "new construction"?
☐Yes ☐No

If commercial, does the number of parking spaces meet the By-Law requirement? ☐Yes ☑No

Do the spaces meet design requirements? ☐Yes ☑ No

Application Type (*select one*): ☑Special Permit ☐Variance ☐Comprehensive Permit ☐Amendment ☐Appeal Building Inspector Decision

ZBA Application For Hearing

Existing Conditions: Commercial 1,584 square foot building on 5,541 square foot lot and associated
parking area. Building is former location of Mighty Subs, which closed in July, 2023.

Statement of Relief Sought:
1. Special permit pursuant to Section 3.2.5.2 for a a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter.
2. Special Permit pursuant to Section 3.2.5.2 for a take-out operation accessory to said restaurant
3. Special permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and

4. All other relief as may be necessary for the operation of a dine-in / take-out restaurant in the commercial building known and numbered 250 Highland Avenue.

Applicable Section(s) of the Zoning By-Law:
3.2.5.2, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable seciton or By-Law.

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	**Proposed Conditions**
Use		
# Dwelling Units		
Lot Area *(square feet)*		
Front Setback *(feet)*		
Rear Setback *(feet)*		
Left Setback *(feet)*		
Right Setback *(feet)*		
Frontage *(feet)*		
Lot Coverage *(%)*		
FAR *(Floor area divided by the lot area)*		
Numbers must match those on the certified plot plan and supporting materials		

ZBA Application For Hearing

Date Structure Constructed including additions:	Date Lot was created:

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions ***(Required)***	
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" ***(Required)***	
If applicant is tenant, letter of authorization from owner ***(Required)***	
Electronic submission of the complete application with attachments ***(Required)***	
Elevations of Proposed Conditions *(when necessary)*	
Floor Plans of Proposed Conditions *(when necessary)*	

Feel free to attach any additional information relative to the application. Additional information may be requested by the Board at any time during the application or hearing process.

❖❖❖❖

I hereby request a hearing before the Needham Zoning Board of Appeals. I have reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector____________________
date of consult

Rainbow Angel, Inc.

Date: October 25, 2024 Applicant Signature *George Giunta Jr*
by its attorney,
George Giunta, Jr., Esq.

An application must be submitted to the Town Clerk's Office at townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA October 25, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
RAINBOW ANGEL, INC
250 Highland Avenue, Needham, MA

The applicant, Rainbow Angel, Inc. (hereinafter, interchangeably, the "Applicant" and "Rainbow"), seeks a Special Permit pursuant to Section 3.2.5.2 of the Needham Zoning By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter, and a take-out operation accessory to such restaurant.; a Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and all other relief as may be necessary and appropriate in connection with the operation of a dine-in / take-out asian restaurant at the property known and numbered 250 Highland Avenue (the "Premises").

PRESENT USE / EXISTING CONDITIONS

The Premises is part of the property shown as parcel 58 on sheet 300 of the Assessor's Map for the Town of Needham, and is located within the Highland Commercial-128 Zoning District. The property contains approximately 5,541 square feet of land with 55.78 feet of frontage on Highland Avenue and 86.42 feet of frontage on First Avenue. The Premises is occupied by an existing one-story commercial building, known and numbered both 250 Highland Avenue and 254 Highland Avenue, containing approximately 1,584 square feet of area. It was used and occupied for over thirty years as a dine-in / take-out restaurant; since approximately 1989, by Mighty Subs, which closed in July, 2023, with approximately 62 seats, and before that, since 1964, by Redd's Deli, with approximately 74 seats.[1]

PROPOSED USE / ACTIVITY

Since February, 2014, the Applicant has operated a Taiwanese restaurant in the Newton Upper Falls Village, at 108 Oak Street, Newton, under the name Jean and Lee Kitchen. The restaurant has been featured multiple times in the Boston Globe and since Covid, has done more take-out than dine-in business. At present, approximately 65% of business is derived from take-out orders.

For a variety of reasons, including the changes and commotion taking place in that neighborhood, they now would like to relocate just around the corner to Needham. Between its proximity to the existing restaurant and the fact that the Premises was used for over 30 years for dine-in and take-out food service, it seemed like an ideal location.

The new restaurant will feature much the same menu as at the Newton Upper Falls location, with a variety of authentic Taiwanese dishes, including several vegan options, savory noodle soups and flavorful stir-fries. The current menu is provided herewith as Exhibit D by way of example. The restaurant is expected to do much of its business via take-out, as at the current location, but will include 20 seats at tables for dine-in, as shown on the floor plan submitted herewith. The restaurant is expected to be open between the hours of 11 AM and 9 PM, six days each week; closed on Tuesdays. However, it is possible that operations may be expanded to seven days per week depending on business and availability of staff.

It is expected that a maximum of four to five employees will be on site at any given time: the owner / manager, a chef and two to three support staff. However, only the owner / manager will park on site, with all other employees utilizing off-site parking, public transportation or alternative means of transport.[2]

Notwithstanding the longstanding historical use of the Premises for food service use as set forth above, the Building Commissioner determined, for a number of reasons, that the proposed new restaurant needs to undergo review from scratch, and thus, special permits are required, both for the use and relative to parking.

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[1] See Exhibit A, certificate of occupancy no. 15212, dated August 7, 1990, for Mighty Subs, Exhibit B, Building Permit No. 5586, dated June 15, 1964 for Redd's Deli, and Exhibit C, layout for Redd's Deli, depicting 74 seats, and. Mighty Subs maintained the same layout as Redd's, except that the large 12 seat table in the middle of the left side of the space was removed.

[2] Depending on the number of cars driven by staff, the Applicant will secure an appropriate number of off-site parking spaces or arrange alternate transportation.

PARKING

As indicated above, the Building Commissioner determined that the new restaurant would need to start from scratch with respect to permitting. Therefore, it either needs to comply with the provisions of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirement), or obtain a waiver. Section 5.1.2 sets forth various categories of uses and their associated parking demand, including a "restaurant" category which requires one space for every 3 seats, plus ten spaces per take-out service station. As a result, the new restaurant will require a total of 17 parking spaces, calculated as follows:

20 seats @ 1 space / 3 seats = 6.67 spaces = 7 spaces, rounded up + 10 spaces for take-out = 17 spaces

There are a total of 5 parking spaces located at the Premises, as shown on the site plan provided herewith. Whereas this is less than the total parking demand, a parking waiver of 12 spaces is required.

In addition, the existing parking area, which has been in existence since prior to the adoption of off-street parking requirements, complies with a few, but not all the current design requirements. In particular, the parking area does not comply with the requirements of section 5.1.3 (a) relative to illumination; (c) relative to handicap parking; (d) relative to driveway openings; (h) relative to parking space layout; (i) width of maneuvering aisle; (j) relative to parking setbacks; (k) relative to landscaping areas; (l) relative to trees; and (n) relative to bicycle racks. While the parking lot is pre-existing and no changes are proposed, a parking waiver from the design requirements is still required.

LAW

Massachusetts General Laws, Chapter 40A, Section 9 states as follows: "Special Permits may be issued only for uses that are in harmony with the general purpose and intent of the ordinances of the by-law, and shall be subject to general or specific provisions set forth therein; and that such permits may also impose conditions, safeguards, and limitations on time and use."

Section 3.2.5.2 of the Town of Needham Zoning By-Laws (Uses Permitted by Special Permit) requires the issuance of Special Permits for the operation of a "restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter" as well as a "take-out operation accessory to the above restaurant" in the Highland Commercial-128 Zoning District.[3]

Section 7.5.2.1 of the By-Laws (Finding and Determination), as applicable to the application of Rainbow, requires that prior to granting a special permit, the Board of Appeals must make a finding and determination that the proposed use of the Premises for dine-in restaurant with accessory take-out:

> (a) complies with the criteria or standards of section 3.2. of the By-Law which refers to the granting of the requested special permit;
>
> (b) is consistent with 1) the general purposes of the By-Law as set forth in paragraph 1.1,[4] and 2) the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in the By-Laws; and
>
> (c) is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area.

Section 5.1.1.5 authorizes and allows the Board to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 where a particular use, structure or lot, owing to special circumstances, does not warrant the application of the parking requirements of Section 5.1.2 or the design requirements contained in Section 5.1.3. In addition, pursuant to Section 5.1.1.5 the Board is directed to consider whether the issuance of the special permit would be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is further consistent with the intent of the Zoning By-Law.

DISCUSSION / ANALYSIS

The applicant contends that the proposed use of the Premises for a dine-in restaurant with accessory take-out complies with the requirements of Section 3.2.5.2 of the By-Law and is further in harmony with the general purpose and intent of the Zoning By-Law. The proposed use

[3] Section 3.2.5.2 also requires a special permit for a "take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere".

is compatible with current uses in the area, continues the long-standing use of the Premises for food service, and further does not interfere with the character of the neighborhood.

Section 3.2.5.2 requires a Special Permit for a dine-in restaurant with accessory take-out in the Highland Commercial-128 Zoning District. However, no additional requirements are imposed. Therefore, the proposed use will comply with the criteria and standards of Section 3.2.5.2 upon the issuance of the requisite Special Permit. Furthermore, the proposed use of the Premises is consistent with the requirements of Section 1.1, as the provision of quality prepared food will promote the convenience and welfare of the inhabitants of the Town of Needham.

The proposed use of the Premises for a dine-in restaurant with accessory take-out does not warrant the application of the parking requirements of Section 5.1.2, and the issuance of the requested parking waiver will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and will further be consistent with the intent of the Zoning By-Law.

A significant portion of the calculated parking demand derives from the requirement of the By-Law applicable to take-out. However, as the Board is aware, the requirement of the By-Law for 10 parking spaces for a take-out station is arbitrary and does not accurately reflect reality. In addition, two-hour parking is allowed along the northerly side of Cabot Street, within easy walking distance of the Premises. Finally, the Premises was used for many years for dine-in and take out food service, with substantially more seating than currently proposed. In fact, Mighty Subs required a minimum of 31 parking spaces: 21 for the seats (62 seats @ 1 space / 3 seats = 20.67 spaces, rounded up = 21 spaces) and 10 for the take-out station. Thus, the proposed restaurant is a net reduction in parking demand of 14 spaces. So, whereas the proposed use is substantially similar to the prior use, but with substantially reduced seating, and whereas no material changes have been, or are being proposed for the property, conditions are substantially and materially the same and the issuance of a parking waiver is appropriate.

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[4] Section 1.1 states that it is "The purpose of [the] By-Law [to] promote the health, safety, convenience, morals or welfare of the inhabitants of Needham; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities under the provisions of General Laws, Chapter 40A. The use, construction, alteration, height, area and location of buildings and structures and the use of premises in the town of Needham are regulated as [provided by the By-Laws]"

CONCLUSION

Based on the facts and discussion set forth above, Rainbow asserts that the proposed use of the Premises for a dine-in restaurant with accessory take-out will not affect the neighborhood, surrounding area or the Town in any adverse material or significant way. For over 30 years the Premises was used and operated for substantially the same use, but with more seats, without significant issue or incident. While the type of food is different and the number of seats reduced, these factors are not reasonably likely to lead to any increased impact; and are actually likely to result in reduced impact.

Moreover, while parking waivers are necessary, the calculated parking demand does not accurately reflect actual demand, and a substantially similar use, with an even greater parking demand, operated without incident for many years. Furthermore, the parking area has been in existence since prior to the adoption of off-street parking requirements, and no changes or modifications are proposed thereto.

The use of the Premises for a dine-in restaurant with accessory take-out is in harmony with the general purpose and intent of the By-Law, and there are special circumstances that warrant the granting of parking waivers. Therefore, Rainbow asserts that the issuance of the requested special permits is both proper and appropriate and should be granted.

Respectfully submitted,
Rainbow Angel, Inc.
by its attorney,

George Giunta, Jr., Esq.
281 Chestnut Street
Needham, Massachusetts 02492
781-449-4520

EXHIBIT A

Certificate of Occupancy no. 15212

FIELD COPY

TOWN OF NEEDHAM
470 Dedham Ave.
Needham,MA.02192
455-7542

BUILDING PERMIT

DATE 8/7/90 ~~XXXX~~ 19 90 PERMIT NO. 15212

APPLICANT Mark Koenig ADDRESS 56 Kearney Rd.Needham,MA.02192 (NO.) (STREET) n/a (CONTR'S LICENSE)

PERMIT TO Certificate of Occupancy (TYPE OF IMPROVEMENT) ( ) NO. STORY Restaurant (PROPOSED USE) NUMBER OF DWELLING UNITS -0-

AT (LOCATION) 250 Highland Ave. (NO.) (STREET) ZONING DISTRICT B

BETWEEN Corner of Highland Ave. (CROSS STREET) AND First Ave. (CROSS STREET)

SUBDIVISION ____ LOT ____ BLOCK ____ LOT SIZE ____

BUILDING IS TO BE ____ FT. WIDE BY ____ FT. LONG BY ____ FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCTION

TO TYPE 2-C USE GROUP A-3 BASEMENT WALLS OR FOUNDATION ____ (TYPE)

REMARKS: Leassee (Fred Cialdea dba Mighty Subs)

AREA OR VOLUME ____ (CUBIC/SQUARE FEET) ESTIMATED COST $ 4,000 PERMIT FEE $ ~~25.00~~

OWNER ~~Mark Koenig~~
ADDRESS ~~56 Kearney Rd.~~

BUILDING DEPT. BY ____

FORM NO. BOCA-BP 1989

EXHIBIT B

Building Permit No. 5586

APPLICATION

Plans must be submitted and approved by this Department before a permit for erection will be granted. Separate application required for every building.

No Construction to be Started until Permit is Issued.

Needham, Mass., June 15 19 64

No. 5586

TO THE INSPECTOR OF BUILDINGS:

Provide a new [illegible] door (for [illegible]) - (as per plan)

The undersigned hereby applies for a permit to build, according to the following specifications:

1. Purpose of Building Int. alterations – Non bearing partitions & installing non bearing partition separate kitchen
2. First-class .... Second-class .... Third class ....
   Fourth—Class .... Fifth—Class .... Sixth—Class ....
3. Zoning District ~~RS 350~~ RS 250 (assessor's records)
4. Location, St. and No. ~~[illegible]~~ Highland Ave. Nearest St. [illegible]
5. Owner Mr. Nathaniel Cohen Address [illegible] Tel. ....
6. Builder Ben [illegible] Address 221 No. Beacon St. Brighton Tel. AL4-0302
7. Size of Building—Front .... Rear .... Depth ....
8. No. of Feet Level of Ground to Highest Point of Roof ....
9. Set Back from Street .... Right Side .... Left Side ....
10. Area of Lot .... No. of Rooms .... Baths .... Lavs. ....
11. Material of Foundation .... Material of Underpinning ....
12. Size of Girder .... Kind ....
13. Size of Sills .... Posts ....
14. First Floor Timbers .... Second .... Third ....
15. Size of Corner Braces .... Outside Window and Door Studs ....
16. Size of Bridging .... Rafters ....
17. Roof Covering .... Exterior Wall Covering ....
18. Is the Roof to be Flat, Pitch, Mansard or Hip ....
19. Heated by Steam, Furnace, Hot Water, Air Conditioned ....
20. Oil Burner .... Gas Fired .... Coal ....
21. Plumbing .... Wiring ....
22. Estimated Value 3 ool
23. Plans Submitted ....

In addition to the foregoing statement this building will be constructed under the Building and Zoning By-Laws of the Town of Needham. It shall not be lawful to start construction or demolition before obtaining a formal Permit. Permit card to be displayed until work is completed.

REQUIRED ________ FURNISHED
________ $1000. - BOND ________
________ ST. D.C. FE. [illegible] ________
________ SAFETY [illegible] ________

Fee, $ 10.00

Sign Here Benjamin [illegible]

Address 221 No. Beacon St. Brighton Mass

EXHIBIT C

Redd's Deli Layout

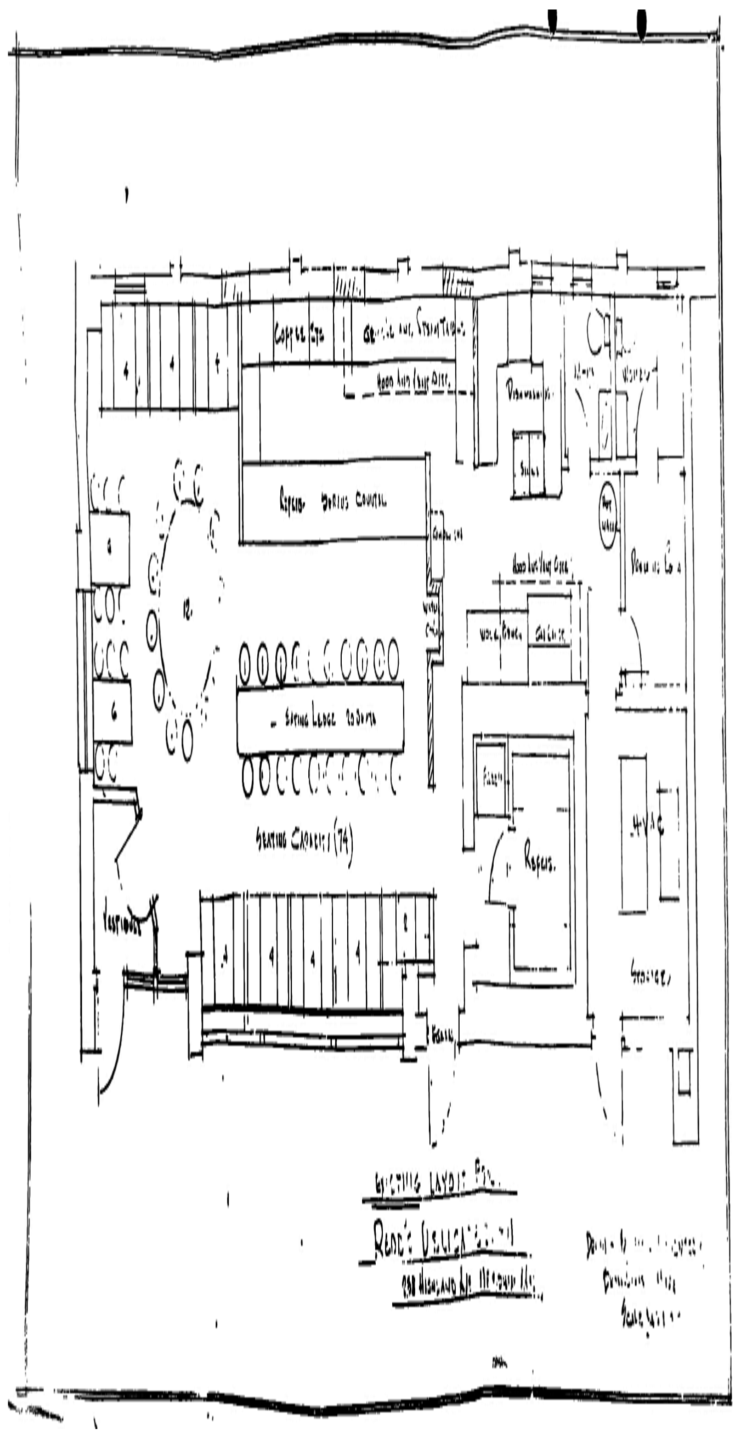


EXHIBIT D

Current Menu Offerings

SPECIALS Homemade Sweetened Soy Milk Fried Dough Fried Mini Steamed Buns W/Condensed Milk Purple Glutinous Rice Ball Sesame Fried Buns Crispy Pumpkin Pastry filled w/red bean paste coated in sesame. Crispy Taro Pastry filled w/ red bean paste coated in sesame Three cup fresh Calamari Chili Hot Pepper w/Chicken Gizzards Chive Pockets Chive Pork Steamed Dumpling	**COLD DISH** Five Spiced Roast Beef Beef Shank & Tripe in Chill Oil Spicy Beef Tendon Spicy Pork Tripe Shredded Pork Ear Tofu Skin Taiwanese Style Kim Chi Salted peanut Anchovies w/Peanuts
SOUP Pickled Mustard Fish Fillet Soup West Lake Fish Fillet Parsley Soup West Lake Minced Beef Parsleys Soup Tofu & Vegetable Soup Wonton Soup Hot & Sour Soup Egg Drop Soup	**TAIWANESE RICE BOX** Shrimp, Beef, Chicken & Veggie Over Rice Fried Pork Chop Over Rice Fried Chicken Cutlet Over Rice Braised Pork Over Rice Minced Pork Over Rice
STARTERS Stinky Tofu Salt & Pepper Chicken (bone-in) Beef on Sticks (4) Spicy Fried Chicken Wings (6) Xiao Long Bao (8) Pan Fried Pork Dumplings (8) Sliced Roast Beef Wrap Steamed Buns With Braised Pork (2) Chicken on Sticks (4) Fried Chicken Wings (6) Steamed Wonton in Hot Sauce Pan Fried Pork Buns (3) Crab Rangoon (8) Taiwanese Steamed Sticky rice Taiwanese Sausage (w/ fresh garlic) Scallion Pancake Vegetarian Egg Rolls (2) Savory Tea Braised Egg(6) Taiwanese Meatball (Bah-wan) Fried mini buns w/condensed milk	**SEAFOOD** Szechuan Roasted Fish Bubbling Flounder Fish Fillets Salt & Pepper Shrimp Pineapple Shrimp Delight of Three (shrimp, beef, chicken & vegetables) Salt & Pepper Calamari Kung Pao Calamari Salt & Pepper Flounder Fish Fillet Szechuan Spicy Flounder Fish Fillet Sweet & Sour Flounder Fish Fillet Stir Fried Shrimp with Cashew Shrimp with Broccoli Shrimp with Mixed Vegetables Shrimp with String Bean & Ginger Baby Shrimp with Tofu Stir Fried Flounder Fish Fillet w/vegetables Salt & Pepper Soft Shell Crab Steamed Clam w/ Minced Shrimp in Clear Noodles. 3 Cup Calamari Salt & Pepper Yellow Croaker

VEGETABLES

Three Cup Fried Tofu with Chinese Eggplant
Stir-Fried Tomato with Egg
Home Style Fried Tofu with Mixed Vegetables
Ma Po Tofu
Chinese Eggplant with Basil Leaves
Chinese Eggplant with Garlic Sauce
Broccoli in Garlic Sauce
Fried Tofu w/ Brocooli in Garlic Sauce
Sautéed String Beans
Sautéed Shanghai Baby Bok Choy
Sautéed Taiwanese Cabbage
Sautéed Pea Pod Stem

LAMB/BEEF

Lamb in Spicy Sauce
Cumin Lamb
Bubbling Flank Steak
Orange Beef *
Sesame Beef
Beef with Hot Chill Pepper
Beef with Mixed Vegetables
Beef with String Bean & Ginger
Beef with Broccoli
Kung Pao Beef w/Peanuts
Stir fry Beef & Vegetables in Sha-Cha Sauce

CHICKEN/DUCK

Diced Fried Chicken with Chill Dry Pepper
Three Cup Chicken (bone-in)
General Chicken
Pineapple Chicken
Orange Chicken
Sesame Chicken
Chicken with Broccoli
Chicken with Cashew Nuts
Chicken with Garlic Sauce
Chicken with Mixed Vegetables
Chicken with String Bean & Ginger
Kung Pao Chicken w/Peanuts
Stir Fried Spicy Chicken
Mango Chicken
Crispy Duck (half)
Salted Duck (half)
Kung Pao Chicken

PORK

Salt & Pepper Pork Ribs
Sweet & Sour Pork Ribs
Taiwanese Style Twice Cooked Pork
Pork Tripe with Chili Hot pepper
Spicy Ground Pork with Clear Noodle
Shredded Pork with Bamboo Shoot & Dried Tofu
Ko Cha Dish *(Pork, Calamari, Dried Tofu & Vegetables)
Shredded Pork with String Bean & Ginger
Chili Hot Pepper w/Pork Instestine
(FLY HEAD) Minced Pork w/ Chive Vegetables
Braised Ground Pork Meatball in Brown Ssauce
Pork Belly Stewed w/ Bamboo Shoots

NOODLE SOUP

Seafood with Vegetables Noodle Soup
Spicy Beef Sirloin Noodle Soup
Spicy Beef Tendon Noodle Soup
Pork with Pickled Cabbage Noodle Soup
Pork with Snow Cabbage Noodle Soup
Abalone w/ Vegetable Noodle Soup.

HOT POT

Spicy Fish Fillet, Tofu & Vegetables w/Clear Noodle Hot Pot
Seafood, Tofu & Vegetable w/Clear Noodle Hot Pot
Beef Sirloin, Tofu & Vegetable w/Clear Noodle Hot Pot
Intestine with Tofu Hot Pot

FRIED RICE / RICE CAKE

Rice Cake (Pick one: Vegetables, chicken, pork, beef, shrimp)
House Fried Rice (includes chicken, pork & shrimp)
Taiwanese Sausage Fried Rice
Fried Rice (Pick one: Vegetables, chicken, pork, beef, shrimp)
Brown Rice
White Rice
Stir Fried Seafood Rice Cake

STIR-FRIED NOODLE

Sha Cha Beef Noodle
House Lo-Mein (includes chicken, pork & shrimp)
Lo-Mein (Pick one: Vegetables, chicken, pork, beef, shrimp)
Rice Noodle (Pick one: Vegetables, chicken, pork, beef, shrimp)
Stir Fried Seafood Udon
Stir Fried Beef Chow Foon

DESSERTS

Fried Taro Ball w/ Red Bean
Ginger Silken Tofu Custard with Peanuts
2pcs Pumpkin Pastry filled w/Red Bean Paste
Fried mini buns w/ condensed milk

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: 254 Highland Avenue, Needham, MA
Application for Zoning Relief

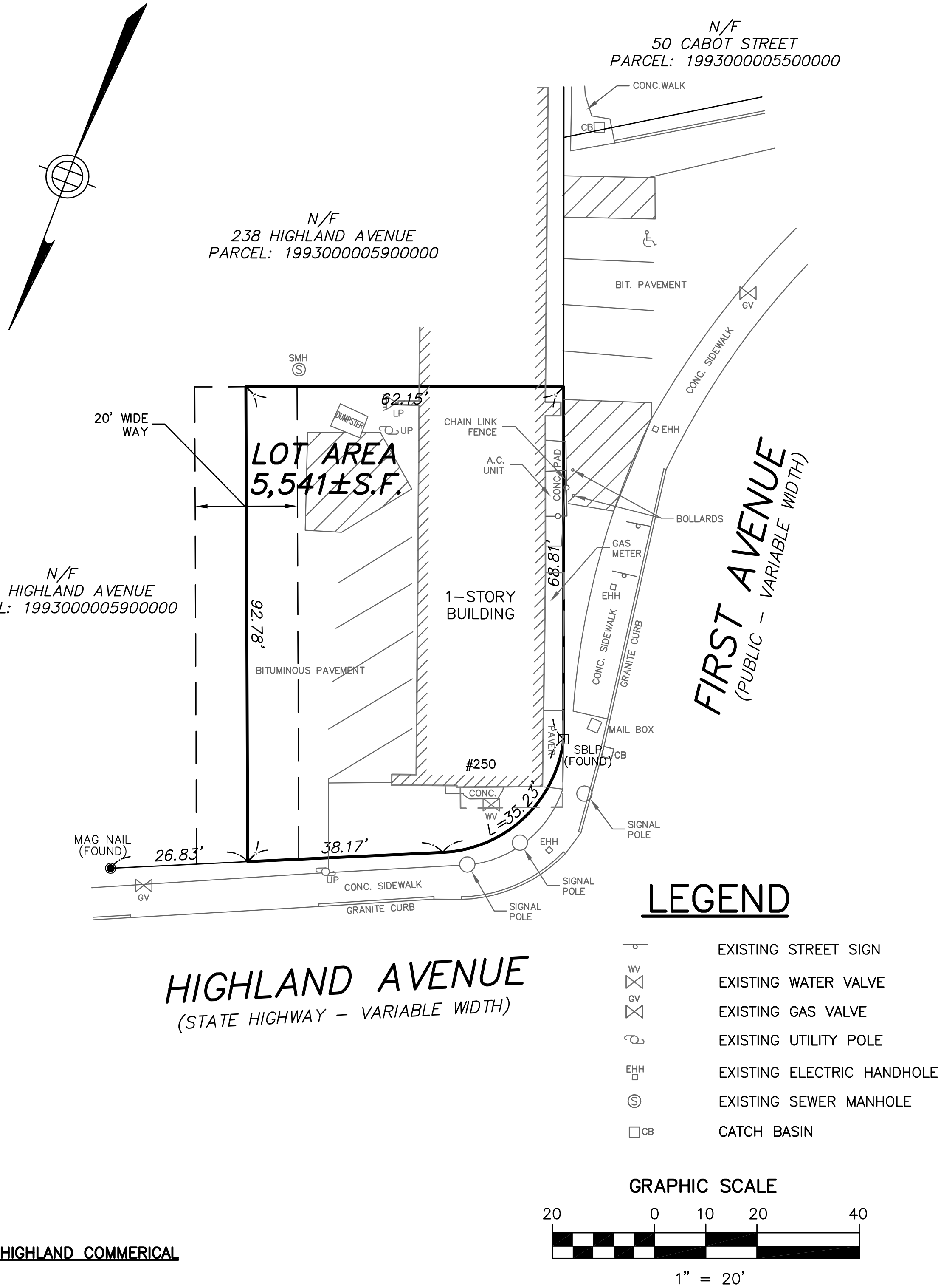
Dear Mrs. Collins,

Please accept this letter as confirmation that 250 Highland, LLC, owner of the commercial property known and numbered 254 Highland Avenue, Needham, MA, also known as 250 Highland Avenue (the "Premises"), has authorized Rainbow Angel, Inc., and its principal, Ching C.L. Cheng, tenant, acting on its own or through its attorney, George Giunta, Jr., Esquire, to make application for special permits and any and all other zoning, planning, general by-law and other relief that may be required or appropriate in connection with the use of the Premises for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter, including a take-out operation accessory thereto, or other food service related use. In connection therewith, Rainbow Angel, Inc., Ching C.L. Cheng and Attorney Giunta are specifically authorized to execute, sign, deliver and receive all necessary documentation related thereto, including, without limitation, Application for Hearing.

Sincerely,

250 Highland, LLC
Sylvia Makarios

By
duly authorized Sylvia Makarios, Manager



ZONE: HIGHLAND COMMERICAL

RECORD OWNER:
250 HIGHLAND LLC
L.C. CERT# 210676

PLAN REFERENCE:
LOT 4 ON L.C. PLAN No. 28413–C

COMMONWEALTH OF MASSACHUSETTS
SCOTT M. CERRATO
No. 50049
PROFESSIONAL LAND SURVEYOR

I HEREBY CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL INSTRUMENT SURVEY MADE ON THE GROUND IN OCTOBER 2024 AND THE STRUCTURES DEPICTED HEREON ARE LOCATED AS SHOWN.

DATE SIGNATURE

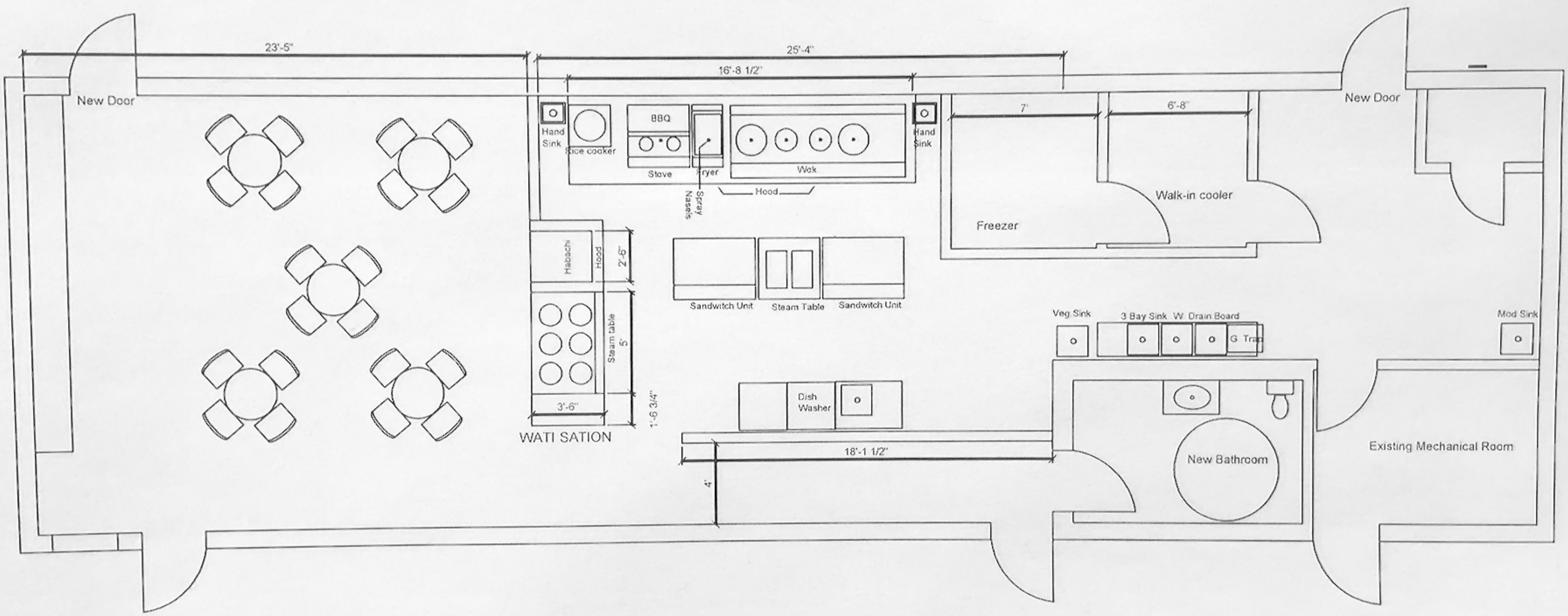
Cerrato Land Surveying

PLOT PLAN

250 HIGHLAND AVENUE
NEEDHAM, MASSACHUSETTS
PARCEL ID: 1993000005800000

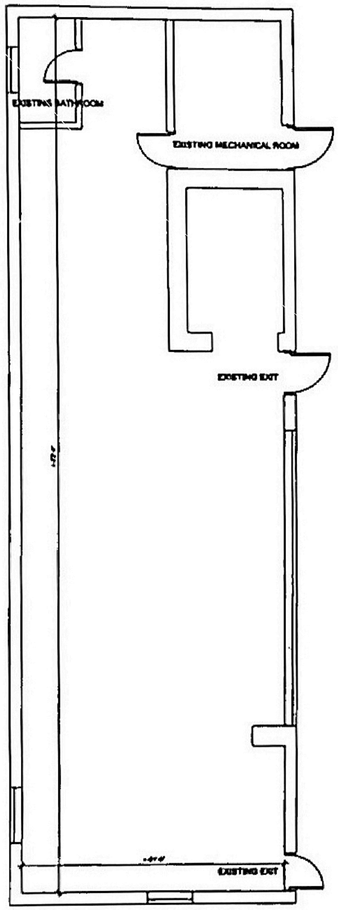
SCOTT CERRATO, PLS
51 WAREHAM STREET
MEDFORD, MA. 02155

OCTOBER 5, 2024
PHONE: (781) 775-3724
www.cerrato-survey.com

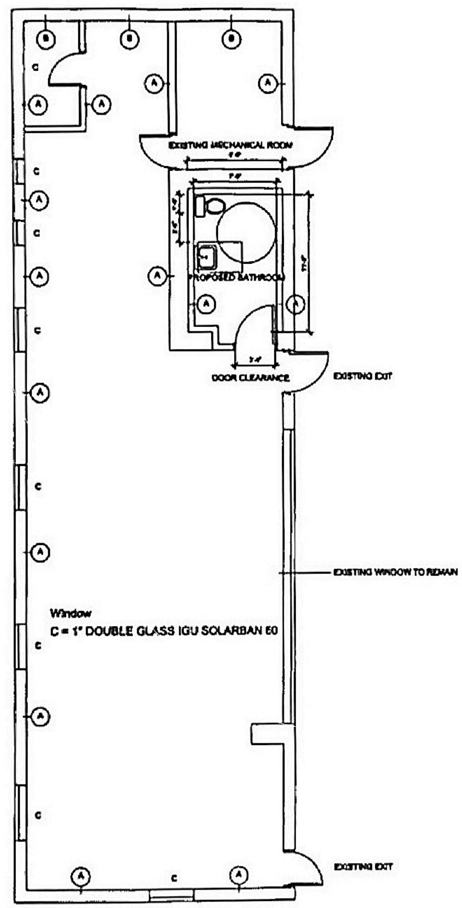


PROJECT:

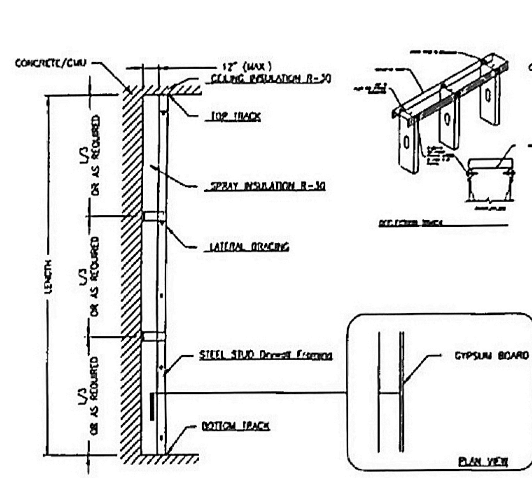
250 HIGHLAND AVE.
NEEDHAM, MASS.



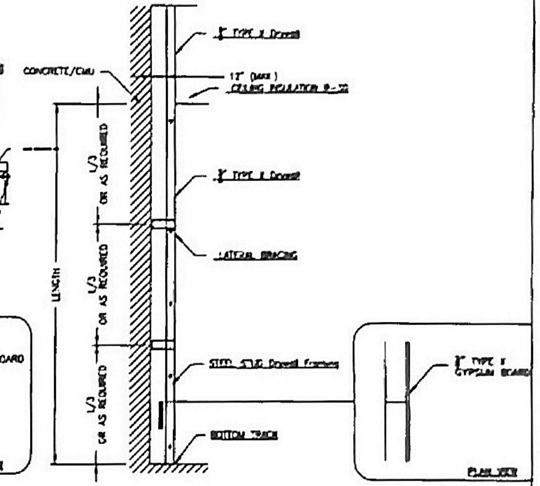
EXISTING PLAN



PROPOSED PLAN



(1) TYPICAL WALL A
TYPICAL FURRING WALL



(1) TYPICAL WALL B
TYPICAL FURRING WALL

Project : This submission is for the perimeter wall insulation, adding one ADA bathroom and ceiling insulation.

Fire separation requirements, Fire protection system, Ceil requirements are not part of this drawings and should be coordinated with the future tenant.

Suite 250 Highland Ave Needham MA. The suite located within an existing one story building. Unprotected non sprinklered

EXISTING USE HIGHLAND COMMERCIAL-128.

TOTAL FLOOR AREA 1584- SQ FT No change in area

No changes to structure of building
Fire protection plan should be provided by another company and aprove by Fire Department.

The general contractor and his/her sub-contractor shall confirm to the requirements of the latest IBC and as amended by the Massachusetts building code and coordinate with the City of Needham Fire Department for all fire alarm systems and requirements prior to commencing work.

The general contractor and the sub-contractor shall confirm to all state, local codes and coordinate with the City of Needham MA inspectional department and fire department for final locations of controls, exists signs, lighting emergency lighting etc.

REGISTERED ARCHITECT
ALIREZA FAMILI
No. 951221
COMMONWEALTH OF MASSACHUSETTS

REV NO.	DESCRIPTION TO REVISION	REV BY	DATE
1	ISSUE FOR BUILDING PERMIT	AF	MAR 11 2024

CUSTOMER: Mr Theodore Markarics

PROJECT: 250 Highland Ave Needham MA

TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023

November 12th, 2024

Needham Zoning Board of Appeals
Needham Public Safety Administration Building
Needham, MA 02492

RE: Case Review-Special Permit
250 Highland Ave - Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special permit pursuant to Section 3.2.5.2 for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter, Special Permit pursuant to Section 3.2.5.2 for a take-out operation accessory to said restaurant, and Special permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements)

- Application for Special Permit dated 10/25/24
- Cover letter by George Giunta Jr dated 10/25/24
- Applicants Memorandum in Support of Application of Rainbow Angel Inc dated 10/25/24 by George Giunta, Jr., Esq.
- Exhibit A – Building Permit dated8/7/90
- Exhibit B – Building Permit Application 6/15/64
- Exhibit C – Redd's Deli Layout
- Exhibit D – Current Menu Offerings
- Board of Appeals ruling dated 8/16/07
- Existing Conditions Site Plan by Cerrato Land Survey
- Interior Layout Plan consisting of 2 sheets

Our comments and recommendations are as follows:

- The engineering department has no comment or objection to the request.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas A Ryder
Town Engineer

tryder

Daphne Collins

From: Tom Conroy
Sent: Wednesday, November 6, 2024 10:25 AM
To: Daphne Collins
Subject: RE: 250 Highland Avenue - Administrative Review - Due November 11, 2025

Hi Daphne,
No issues with Fire.
Thanks,
Tom

Thomas M. Conroy
Fire Chief - Needham Fire Department
tconroy@needhamma.gov
Ph (781) 455-7580

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 1:07 PM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 250 Highland Avenue - Administrative Review - Due November 11, 2025

Good Afternoon-

250 Highland Avenue – Rainbow Angel Inc. is seeking a Special Permit for use as a dine-in restaurant with accessory take-out as well as waiving of strict adherence to parking number and parking plan and design requirements associated with operation of an Taiwanese restaurant.

Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **November 12, 2024** to allow time for the applicant to respond prior to the hearing.

If you have any questions, feel free to contact me.

Thank you,

Daphne M. Collins
Zoning Specialist
Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals
www.needhamma.gov/NeedhamYouTube

Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel.781-455-7550 x 308

November 7, 2024

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: 250 Highland Ave.

Dear Board Members,

I have reviewed the application for a Special Permit and Parking Waivers for the proposed restaurant with an accessory take-out food counter and have the following comments:

1. The property is located in the Highland Commercial-128 Zoning District.
2. Records indicate that the original use of this building as a deli began when the area was zoned BUSINESS and restaurants were simply a permitted use. The change to the sub-shop came in the late 80s/ early 90s and was likely permitted as a continuation of a pre-existing non-conforming use, even though new restaurants were required to obtain Special Permits in that era. It is noted that there were no major changes to the premises at that time.
3. Although the sub shop has been gone a short time, the physical space has been gutted, including the removal of all restaurant equipment. Because of this I felt the best path for this proposal would be a Special Permit consistent with the current section 3.2.5.2 (h) and (i) of the Zoning Bylaw.
4. The applicant is seeking a waiver of the parking requirements in sections 5.1.2 (required Number of Spaces) and 5.1.3 (design requirements).

I agree with the applicant’s analysis of the zoning requirements. If successful, I would suggest a condition that permanent signage be installed at the head of each of the 5 on-site parking spaces limiting their use exclusively to this establishment.

Sincerely,

Joe Prondak
Building Commissioner

TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
JANUARY 31, 1989

RECEIVED
TOWN CLERK
NEEDHAM

'89 FEB 27 P5:35

NATHANIEL COHEN

Upon the application of Nathaniel Cohen (Redd's Deli), 10 Winter Park Road, Framingham, MA, tenant, to the Board of Appeals for a special permit under Section 3.2 of the Zoning By-law to allow a 24-hour BayBank Teller Machine at Redd's Deli, 250 Highland Avenue, a public hearing was held at the Town Hall, Needham, MA on Tuesday, January 31, 1989 in the evening pursuant to notice thereof published in a local newspaper and mailed to all persons interested.

Appearing with the applicant was Paul F. Gavin, Vice President, BayBank Norfolk County Trust Company, 90 Glacier Drive, Westwood, MA.

Mr. Gavin stated that BayBank would like to establish an automatic teller machine at Redd's Delicatessen Restaurant which would be located outside at the front of the building at 250 Highland Avenue. Access to the machine would be from the outside; Mr. Cohen would be giving up six seats inside the restaurant to provide space for the security. Mr. Gavin stated that he anticipates most customers will walk to the machine from Industrial Park offices, however, there will be parking to the side of the building for those who drive. He continued that some customers will stop in the morning as they drive to work. He submitted pictures of the proposed location of the ATM to the Board.

In reply to a query from the Board, Mr. Gavin stated that there would be no protective covering from the weather. He continued that most of the transactions take place between 3 p.m. and Midnight although it would be accessible 24 hours a day. He anticipates that there will be about 10 transactions per hour during those hours and possibly 100 vehicles per day to the machine.

Mr. Cohen stated that he has had his business there for 25 years and there has not been congestion in the area, nor parking problems.

John Terrazzino, 238 Highland Avenue appeared in opposition to the application stating that his concern was that more cars will be stopping at the site. He felt that most customers would not walk, but would drive to the machine and he objected to increased traffic in the area. He also felt customers would use his premises for overflow parking. No one appeared in favor. Chairman Henkoff read into the record a letter from the Planning Board dated January 12, 1989 which stated: "The Planning Board recommends denial of the application because of the already congested traffic situation at the intersection of Highland Avenue and First Avenue, and because there is practically no off-street parking available on the subject premises." The hearing was closed at 9:30 p.m., however, all members wanted to view the site. Deliberation, therefore, was continued to the next scheduled meeting.

TOWN OF NEEDHAM
BOARD OF APPEALS
NOTICE OF HEARING

Public notice is hereby given that **Nathaniel Cohen (Redd's Deli), 10 Winter Park Road, Framingham, MA**, tenant, has made application to the Board of Appeals for a special permit under Section 3.2 of the Zoning By-law to allow a 24-hour Baybank Teller Machine at **Redd's Deli, 250 Highland Avenue.** Upon said application, a public hearing will be held at the **Town Hall, Needham, MA on Tuesday, January 31, 1989** in the evening at 8:30 p.m. at which time and place all persons interested may appear and be heard.
(DT)Ja13,20

Decision

On the basis of the evidence presented at the hearing on the application by Nathaniel Cohen (the "applicant") for a special permit under Section 3.2 of the Zoning By-law to allow the installation of a Baybank automatic teller machine as a second use in the building located at 250 Highland Avenue presently used by the applicant to operate a delicatessen style restaurant, and on the basis of an inspection of the locus and of the surrounding area made separately by individual Board members, the Board does not find that the two proposed uses in the same building are not detrimental to each other for the reason that each use will generate vehicular traffic and will create a need for vehicular parking in the most heavily trafficked area in the Town which already suffers from an insufficient number of parking spaces. The granting of this special permit would not be in harmony with the general purposes and intent of the Zoning By-law. Therefore, following due and open deliberation after motion duly made and seconded, the Board by unanimous vote denies the application for a special permit to allow the installation of an automatic teller machine as a second use in the building at 250 Highland Avenue presently being used by the applicant for the operation of a restaurant.

Hertz N. Henkoff, Chairman

William J. Tedoldi, Member

Andrew D. Frieze, Member

TOWN OF NEEDHAM
MASSACHUSETTS

BOARD OF APPEALS

October 15, 1957

STARKWEATHER REALTY TRUST

Upon the application of Harold S. Burns and Linell E. Studley, Trustees of Starkweather Realty Trust, Needham, Massachusetts, and Norfolk County Trust, 1319 Beacon Street, Brookline, Massachusetts, as prospective purchaser, to the Board of Appeals for a variance from Section 10 of the Zoning By-Laws, or any other applicable provision of the Building and Zoning By-Laws necessary to subdivide the land at 250 Highland Avenue, Needham Heights, so that Lot "A" as shown on plan filed with application will have less area and frontage than prescribed under the Zoning By-Laws, a public hearing was held on Tuesday, October 15, 1957, in the evening, at the Town Hall, Needham, Massachusetts, pursuant to notice thereof mailed to all persons interested and published in a local newspaper.

In the absence of Mr. S. G. Tattersall, at the request of the Chairman Mr. Benjamin Y. Piper served in his place on the Board.

Attorney Lewis H. Parks, 75 Federal Street, Boston, representing all the petitioners, was present at the hearing and submitted "Plan of Land in Needham, Mass., Cheney Engineering Co., dated August 26, 1957," hereinafter referred to as "Plan A" and made a part of the record. He stated that the proposed lot would have a frontage of 52.20' on Highland Avenue and would contain 5,937 square feet and the rear lot line would go through the building at the point where the present Norfolk County Trust Bank now ends. He stated that with the exception of the Industrial Center, the lots in this area are all smaller than required.

Building Inspector Robert B. Wyness was represented at the hearing but made no recommendation.

Mr. Daniel Wheeler of Cabot, Cabot & Forbes was present at the hearing and stated that their main concern was parking at the side of the Bank on First Avenue which is one of the entrances to the Industrial Center.

Hearing closed at 8:28 P.M.

continued ....

TOWN OF NEEDHAM
MASSACHUSETTS

BOARD OF APPEALS

NOTICE OF HEARING

Public notice is hereby given that Harold S. Burns and Linell E. Studley, Trustees of Starkweather Realty Trust, Needham, Massachusetts and Norfolk County Trust, 1319 Beacon Street, Brookline, Massachusetts, as prospective purchaser, have made application to the Board of Appeals for a variance from Section 10 of the Zoning By-Laws, or any other applicable provision of the building and zoning by-laws necessary to subdivide the land at 250 Highland Avenue, Needham Heights so that Lot "A" as shown on plan filed with application will have less area and frontage than prescribed under the zoning by-law.

Upon said application a public hearing will be held at the Town Hall, Needham, Massachusetts on Tuesday, October 15, 1957 at 8:00 p.m. at which time and place all

The Board finds that adjoining areas have been developed by the construction of buildings on lots smaller than required by the Zoning By-Laws and that the standard established in the immediate neighborhood does not require lots as large as prescribed.

By unanimous vote, the Board grants to Starkweather Realty Trust a variance permitting subdivision of land at 250 Highland Avenue, so that lot "A", as shown on "Plan A", shall have a frontage of 52.20' on Highland Avenue, and an area of 5,937 square feet, subject to the following conditions:

1. that a solid wall of masonry with no openings shall be provided where the new lot line passes through the existing building.

2. that the open area northeasterly from existing building shall be developed and maintained as a parking lot for employees and patrons, shall be adequately posted as such, and that all reasonable efforts shall be made by owners of this property to prevent any parking on First Avenue.

Herbert L. Moore

Herbert L. Moore, Chairman

Enos G. Nickerson

Enos G. Nickerson, Member

Benjamin Y. Piper

Benjamin Y. Piper, Special Member

Daphne Collins

From: Tara Gurge
Sent: Friday, November 8, 2024 2:13 PM
To: Daphne Collins
Subject: RE: 250 Highland Avenue - Administrative Review - Due November 11, 2025 / Public Health Division comments

Daphne –

In reference to the ZBA Plan review **for #250 Highland Avenue,** the Public Health Division has the following comments. See below:

- The new food establishment owner must fill out and submit an online Public Health Division Food Permit Plan Review packet for review and approval, which includes a food permit application, through the Towns new ViewPoint Cloud online permitting system. Here is the direct link to the permit application and plan review - https://needhamma.viewpointcloud.com/categories/1073/record-types/1006516 . The relevant documents must be uploaded online for review and approval, including a copy of a food service equipment layout plan, and any new equipment spec sheets and copies of staff Servsafe food training certifications, etc. Once the online permit fees are paid and the permit application along with proposed floor plans are approved, pre-operation inspections must be conducted prior to issuance of a food permit which must be issued prior to operation. Applicant plans and food permit application must be submitted prior to the start of construction. Please keep in mind – Detailed interior and exterior (if applicable) seating plans will also need to be submitted as part of this food permit plan review process.

- As part of this food permit approval process, please keep in mind that sufficient parking lot spaces must also be made available for two full-size dumpsters, one designated for trash and the other designated for recycling only. These dumpsters must be on approved dumpster service schedules to accommodate sufficient proper trash and recycling containment and disposal, to prevent the risk of attracting pests and unsanitary conditions. Again, applicant must provide sufficient space in the parking area or elsewhere on asphalt/concrete for trash, recycling and their waste cooking oil/grease disposal.

Please let us know if you have any questions on these requirements, or feel free to have the owner contact me directly on these permit requirements.

Thanks,

TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520 FAX (781) 465-6059

October 25, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: DEI Incorporated
695 Highland Avenue, Needham, MA

Dear Ms. Collins,

Please be advised this office represents DEI Incorporated (hereinafter the Applicant and "DEI") in connection with the proposed alteration of the property known and numbered 695 Highland Avenue, Needham, MA (hereinafter the "Premises") and its continued use for bank purposes. In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;

2. Seven copies of site and elevation plans;

3. Seven copies of Memorandum in Support of Application of DEI Incorporated;

4. Authorization letter from owner / landlord agent; and

5. Check in the amount of $200 for the applicable filing fee.

The Premises is located at the corner of Highland Avenue and Webster Street, and is occupied by an existing one-story branch bank building with associated drive-up banking. The building and the use of the Premises for bank purposes was authorized by Variance, dated October 14, 1969, issued to Mary W. Mack and Needham National Bank, as modified and affected by Decision of the Board of Appeals, dated August 16, 2007, issued to Sovereign Bank. The building was most recently used as Santander Bank branch, and closed in 2023. Dedham Savings bank intends to use and occupy the Premises as a branch bank.

In connection therewith, Dedham Savings, through their representative, DEI, would like to make certain modifications to the building and the site. First, they would like to reconstruct the drive-up canopy, keeping it in the same location, but making it slightly bigger so that it extends just under two feet further from the building. Second, they would like to add new landscaping to improve the visual effect and appeal. Third, they would like to reconfigure a portion of the parking area, to provide additional landscaping and better movement on site. All these modifications comply with applicable dimensional requirements, although the existing parking area does not comply with current design requirements.

In order to effectuate the aforesaid changes, plan substitution and / or additional relief is required pursuant to the 1969 variance. In addition, because the existing parking area does not comply with current applicable design requirements, a design waiver pursuant to Section 5.1.1.5 is required for the parking related modifications.

In addition, the 1969 variance contains several conditions, including a prohibition on use or transferability by anyone other than the original grantees. This condition was compliant when imposed. But as a result of subsequent amendments to the Zoning Enabling Act, such condition is now prohibited and therefore in violation of applicable law. As a result, the Applicant has asked that such condition be removed.

Finally, one of the other conditions was that the Premises always include a total of 17 parking spaces. This condition was imposed prior to the adoption of off-street parking requirements and appears to have been based on the original plan for a two-story building. Under current parking requirements, the building, as actually constructed, requires a total of 8 parking spaces. Whereas there has been a change in circumstance, notably, the adoption of off-street parking requirements and the construction of a small than anticipated building, the Applicant has asked that such condition be removed or modified. As a part of the modifications proposed, three parking spaces would be removed, leaving 14 spaces on site; six more than required. Therefore, if modified, the Applicant has asked that such condition only require 14 spaces.

Kindly schedule this matter for the next hearing of the Board of Appeals. If you have any comments, questions or concerns, or if you require any further information in the meantime, please contact me so that I may be of assistance.

Sincerely,

George Giunta, Jr.

ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. ***Failure to do so will delay the scheduling of the hearing.***

Applicant Information

Applicant Name	DEI Incorporated (Attn: Jennifer King)	Date: 10/25/24
Applicant Address	1550 Kemper Meadow Drive, Cincinnati, OH 45240	
Phone	513-699-4718	email jking@dei-corp.com

Applicant is ☐Owner; ☐Tenant; ☐Purchaser; ☑Other GC for prospective tenant, Dedham Savings

If not the owner, a letter from the owner certifying authorization to apply must be included

Representative Name	George Giunta Jr, Esq.	
Address	281 Chestnut Street, Needham, MA 02492	
Phone	617-840-3570	email george.giuntajr@needhamlaw.net

Representative is ☑Attorney; ☐Contractor; ☐Architect; ☐Other______________________

Contact ☑Me ☑Representative in connection with this application.

Subject Property Information

Property Address	695 Highland Avenue		
Map/Parcel Number	Map 77 / Parcel 14	Zone of Property	Single Residence B (SRB)

Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain?
☐Yes ☑No

Is property ☐Residential or ☑Commercial (property is zoned residential, but used for commercial purposes)

If residential renovation, will renovation constitute "new construction"?
☐Yes ☑No

If commercial, does the number of parking spaces meet the By-Law requirement? ☑Yes ☐No
Do the spaces meet design requirements? ☐Yes ☑ No

Application Type (*select one*): ☑Special Permit ☑Variance ☐Comprehensive Permit ☐Amendment ☐Appeal Building Inspector Decision

ZBA Application For Hearing

Existing Conditions: Commercial building used for bank purposes, built and used pursuant to Variance, dated October 14, 1969, issued to Mary W. Mack and Needham National Bank, as modified by Decision of the Board of Appeals, dated August 16, 2007, issued to Sovereign Bank.

Statement of Relief Sought:

1. Plan substitution and / or further relief relative to Variance, dated October 14, 1969, issued to Mary W. Mack and Needham National Bank, as modified by Decision of the Board of Appeals, dated August 16, 2007, issued to Sovereign Bank;
2. Special Permit pursuant to Section 5.1.1.5 waiving strict adherence with the off-street parking requirements of Section 5.1.3 (Parking Plan and Design Requirements); and
3. Any and all other relief necessary and appropriate to permit the alteration of the Premises as shown in the plans and materials submitted herewith; the modification of conditions in the aforesaid Variance, and the continued use of the Premises for bank purposes.

Applicable Section(s) of the Zoning By-Law:

3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2, 7.5.3 and any other applicable Section or By-Law.

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	Proposed Conditions
Use		
# Dwelling Units		
Lot Area *(square feet)*		
Front Setback *(feet)*		
Rear Setback *(feet)*		
Left Setback *(feet)*		
Right Setback *(feet)*		
Frontage *(feet)*		
Lot Coverage *(%)*		
FAR *(Floor area divided by the lot area)*		

Numbers must match those on the certified plot plan and supporting materials

ZBA Application For Hearing

Date Structure Constructed including additions:	Date Lot was created:

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions ***(Required)***	
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" ***(Required)***	
If applicant is tenant, letter of authorization from owner ***(Required)***	
Electronic submission of the complete application with attachments ***(Required)***	
Elevations of Proposed Conditions *(when necessary)*	
Floor Plans of Proposed Conditions *(when necessary)*	

Feel free to attach any additional information relative to the application. Additional information may be requested by the Board at any time during the application or hearing process.

❖❖❖❖

I hereby request a hearing before the Needham Zoning Board of Appeals. I have reviewed the Board Rules and instructions.

I certify that ~~I have~~ the Applicant has consulted with the Building Inspector____________________
date of consult

Date: October 25, 2024 Applicant Signature DEI Incorporated, George Giunta Jr by its attorney, George Giunta, Jr., Esq.

An application must be submitted to the Town Clerk's Office at townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA October 25, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
DEI INCORPORATED
695 Highland Avenue, Needham, MA

The applicant, DEI Incorporated (hereinafter, interchangeably, the "Applicant" and "DEI"), as representative of Dedham Savings Bank, has made application for plan substitution, alteration or removal of conditions, and further relief pursuant to Variance dated October 14, 1969, issued to Mary W. Mack and Needham National Bank, relative to the property known and numbered 695 Highland Avenue (hereinafter the "Premises"), Special Permit pursuant to Section 5.1.1.5 waiving strict adherence with the off-street parking requirements of Section 5.1.3 (Parking Plan and Design Requirements), as well as any and all other relief necessary and appropriate to permit the proposed alterations to the Premises and its continued use as a branch bank location.

PRESENT USE / HISTORY / EXISTING CONDITIONS

The Premises is shown as parcel 14 on sheet 77 of the Assessor's Map for the Town of Needham and is located in the Single Residence B Zoning District. It consists of approximately 15,688 square feet of land, with approximately 81.73 feet of total frontage on Highland Avenue, 166.52 feet of frontage on Webster Street and 92.06 feet of frontage on Putnam Street. It is currently accessed via Putnam Street and Webster Street and is occupied by a one-story bank building, constructed in 1970 pursuant to Building Permit No. 1544.[1] The existing building consists of approximately 2,208 square feet of space and includes a drive-up teller window.

The use of the Premises for a bank was authorized by Variance, dated October 14, 1969, issued to Mary W. Mack and Needham National Bank, as modified by Decision of the Board of Appeals, dated August 16, 2007, issued to Sovereign Bank for façade modifications.[2] Since construction of the building in 1970, it has been used continuously for banking purposes by a

[1] See Exhibit A attached hereto, building permit and plot plan.

series of different banks. Most recently, it was used and occupied as a Santander Bank branch bank, and before that as a Sovereign Bank branch bank. Santander closed the branch in 2023, leaving the Premises vacant.

PROPOSED USE / ACTIVITY

Dedham Savings Bank, which already has a branch location in Needham at 1077 Great Plain Avenue, desires and intends to use and occupy the Premises as an additional branch bank. In connection therewith, certain modifications and improvements are proposed, for the purpose of improving visual appeal, functionality and traffic flow. In particular, Dedham Savings Bank would like to demolish and rebuild the drive-up canopy, in the same location, but slightly larger[3]; add a new landscape island adjacent to the drive-up area; add a handicap space in front of the building; and reconfigure the driveway and parking on the side of the building (including the addition of new landscaping).

The proposed replacement canopy, which is set back 20 feet from Putnam Street, complies with dimensional and density requirements, as does the addition of the proposed new landscaping. As a bank, the applicable parking demand for the use of the Premises is one parking space for every 300 square feet of area. The building, at 2,208 square feet, therefore requires a total of 7.36, or 8 parking spaces, rounded up. Following the proposed modifications to the driveway and parking area on the side of the building, a total of 14 parking spaces, including a van accessible handicap space will exist on the property. As a result, there will be almost double the parking required. Moreover, while the parking lot is being reconfigured, all the changes are internal to the parking area, and do not affect the existing non-compliance with applicable off-street parking design requirements. Nevertheless, because the use of the Premises was authorized by variance, all these changes require additional review by the Board and the change to the parking will require the removal or modification of one of the original conditions to the variance.

In particular, the original variance included the following condition no. 4:

> Parking facilities for at least 17 cars, as shown on the plan, must be provided.

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[2] Copies of both Decisions are provided herewith.

[3] The proposed replacement canopy is substantially the same width, but approximately 1.8 feet further out from the building than the existing canopy.

It is not entirely clear why this condition was included but considering the history of the area, the fact that the variance was issued prior to the adoption of off-street parking regulations, and that the original proposal was for a two-story building[4], a best guess would be concerns about sufficient parking and overspill into the residential neighborhood.

However, following the initial grant of the variance, in the 1980s, the Town adopted off-street parking regulations, including parking standards applicable to various categories of uses. One such category is "Offices, office buildings, and banks" with an applicable standard of one parking space for every 300 square feet of floor area. As indicated above, based on the size of the building, the total parking demand based on this standard is 7.36, or 8 parking spaces, rounded up. This is less than half of the 17 spaces required pursuant to the aforesaid condition no. 4. Furthermore, the building, as constructed, is only one-story as opposed to the two-story building originally contemplated. As a result, the Applicant requests that such condition either be stricken in its entirety, or, at a minimum, modified to require only 14 parking spaces, consistent with the proposed alterations.

In addition, in preparation for this filing it was noted that the original variance decision included the following condition no. 5:

> This variance is granted to the present petitioners and proposed user on a nontransferable basis, and for use of the property solely as a bank.

Following grant of the variance, in 1975, the applicable statute was modified and amended by St. 1975, c. 808, Section 3 to, among other things, specifically prohibit the imposition of "any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner."[5] As a result, the portion of the above quoted condition no. 5 purporting to limit the variance to the then petitioner and proposed user is contrary to and in violation of current applicable law.[6] As a result, the Applicant

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[4] See the beginning of the third paragraph of the 1969 variance, which reads: "In showing the second page of the plans, Mr. Gordon stated that the bank intends to construct a 38' x 54' Colonial style *two-story* building . . ." (emphasis added).

[5] See current c40A, Section 10, which includes the following: "The permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures *but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner*" (emphasis added).

[6] See Huntington v. Zoning Bd. of Appeals of Hadley, 12 Mass. App. Ct. 710 (1981)

requests that such condition be modified and amended to remove the initial limiting clause so that it reads as follows: "This variance is granted for use of the property solely as a bank".

LAW

Massachusetts General Laws, Chapter 40A, Section 14 states, in pertinent part that "a board of appeals may, in conformity with the provisions of this chapter . . . modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit."

Section 5.1.17 of the Zoning By-Laws, Applicability for Parking Area, states, in pertinent part, that ". . . the construction, enlargement, or alteration of a parking area containing 5 or more spaces shall adhere to all of the requirements of Section 5.1.3 Parking Plan and Design Requirements, unless strict adherence to the requirements of Section 5.1.3 is waived by a special permit granted by the Board of Appeals under the provisions of Subsection 5.1.1.5."

Section 5.1.1.5 authorizes and allows the Board to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 where a particular use, structure or lot, owing to special circumstances, does not warrant the application of the parking requirements of Section 5.1.2 or the design requirements contained in Section 5.1.3. In addition, pursuant to Section 5.1.1.5 the Board is directed to consider whether the issuance of the special permit would be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and is further consistent with the intent of the Zoning By-Law.

ANALYSIS / ARGUMENT

The use of the Premises as a bank was authorized by use variance, which, by law, runs with the land in perpetuity. Notwithstanding such perpetual application, pursuant to the By-Law, the use authorized by the variance technically does not constitute a lawful, pre-existing, non-conforming use. As a result, the standard test for alterations to non-conforming uses and structures does not apply. However, on multiple prior occasions, the Board has been confronted with similar situations relating to prior use variances.[7] While the specific language has differed, over the course of those cases the Board has applied substantially the same three-part test.

[7] See, for example, decisions relating to the following properties: 460 Central Avenue (2021), 114 Hillside Avenue (2016), 70-72 Marshall Street (2008), 695 Highland Avenue (2007), and 31 Wellesley Avenue (2003).

The first part of that test is whether the proposed change, alteration, expansion and reconstruction, as applicable, is consistent with and within the scope of the prior variance, or whether it would overburden the variance. Included in that analysis is whether the original variance was explicitly limited to or conditioned upon a particular plan. The second part of the test is whether the proposed change, alteration, expansion and reconstruction, as applicable, would increase or create and new non-conformities. And the third part of the test is whether the proposed change, alteration, expansion and reconstruction, as applicable, will be detrimental to the neighborhood and will be in harmony with the general purposes and intent of the By-law.

The Applicant asserts that the proposed alterations meet such test. The bank building is not being expanded or increased in any meaningful way, and its use for banking purposes will remain intact. Furthermore, the initial variance from 1969 did not approve, nor was tied to a specific plan, except with respect to condition no. 4, discussed above relative to parking. And with respect to such condition, the Applicant has requested that such condition be stricken or modified on account of change in circumstances and the subsequent establishment of applicable parking standards.

Furthermore, while the proposed replacement drive-up canopy is just under two feet further from the building than the existing canopy, it still meets all applicable dimensional and density regulations and will not increase the nature of the use. While the existing parking area does not comply with current design requirements, the proposed changes will not create or intensify any existing non-conformities. Finally, whereas the size and function of the building and the use of the Premises as a branch bank will remain the same, the Applicant asserts that the proposed alterations will not detrimental to the neighborhood and will be in harmony with the general purposes and intent of the By-law.

Following issuance of the variance in 1969, both the Zoning By-Law and Chapter 40A were modified and amended in ways directly relevant. The By-Law was amended to establish parking rules and regulations and Chapter 40A was amended to prohibit limitations on transferability and ownership of variances. In addition, there was a material change in circumstance in that the variance was granted based on a proposal for a two-story building. But what was constructed was only a one-story building.

Therefore, based on all the above, DEI asserts that the proposed changes are lawful changes that do not adversely affect or expand the use allowed by the 1969 variance; that the proposed alteration or removal of conditions no. 4 and no. 5 as set forth in the 1969 variance are lawful, based on changes in circumstance and applicable law; and that the proposed alterations are both appropriate and proper, and may be approved without substantial detriment to the public good and without nullifying or substantially deviating from the intent or purpose of the By-Law.

.

Respectfully submitted,
DEI Incorporated
by its attorney,

George Giunta, Jr., Esq.
281 Chestnut Street
Needham, Massachusetts 02492
617-840-3570
george.giuntajr@needhamlaw.net

EXHIBIT A
Building Permit and Plot Plan
Page 1 of 2

BUILDING DEPARTMENT
RECEIVED
AUG 28 1970
A.M. 7,8,9,10,11,12,1,2,3,4,5,6 P.M.

TO BE FILED IN DUPLICATE

TOWN OF NEEDHAM

Application for Permit to Build

(SEPARATE APPLICATION REQUIRED FOR EVERY BUILDING)

Needham, Mass. August 26, 19 70
Permit No. 1544

TO THE INSPECTOR OF BUILDINGS:

695 - Highland Ave

The undersigned hereby applies for a permit to build according to the following specifications:

1. Location of Building Webster St & Highland Avenue Zoning District SF
2. OWNER Needham National Bank Address 965 Great Plain Ave., Needham
3. BUILDER Reznick Construction Co., Inc. Address 303 Freeport St., Boston 02122
4. ARCHITECT R.H. Vara & Associations Address 1420 Providence Tpke., Norwood
5. Purpose of Building Branch Bank Class of Construction Type I Fire Resistiv
6. Area of lot 16,128 No. of ft. front 171.58 Rear 165.4 Depth 92.03 &100.7
7. Will building be on natural or filled land? Natural Type of Soil Sandy Loam & Grave
8. Size of Building: Area 2,223 Front 48' 2" Right 46'2" Left 46'2" Rear 48'2"
9. Setback from street 22' Right Sideline 98' Left Sideline 37'
10. No. of Units 1 Storage Rooms 1 Other Areas 7 Toilet Rooms 2
11. Material of foundation walls Reinforced Concrete Thickness 12"
12. Width and thickness of wall and column footings 1' 8" wide 12" thick
13. Height of Building in feet 13' No. of Stories 1
14. Wall Construction: Material Brick Thickness 12"
15. Floor Construction: 1st floor Concrete slab 2nd 3rd
16. Roof Construction Steel Joists Steel Deck 22 ga.
17. Bridging Top and bottom of joists
18. Style of roof construction flat
19. Roof decking 1 1/2" steel deck 22 ga typ B Roofing material 20 year asphalt & gravel
20. How will the Building be heated? hot air Fired by gas
21. Plumbing? yes Electrical yes Gas? yes Air Conditioning yes
22. Is Town Sewer available? yes Town Water? yes
23. Will Building be equipped with Automatic Sprinkler System? NO
24. Will Emergency Lights be provided? yes
25. No. and Type of Fire Extinguishers Not specified
26. No. of Elevators 0 (Obtain Permit from Mass. Dept. of Public Safety)
27. Is any part of Lot in Flood Plain District NO (See Zoning By-Law)
28. Full estimated value, excluding land value only, $ 125,000.00
29. Additional information

NOTE: Building plans including floor framing and elevations must be submitted in *duplicate* (reversed plans or improper plans will not be accepted).
Plot Plans must be sumbitted in *triplicate*.

In addition to the foregoing statements this building shall be constructed under the Building and Zoning By-Laws of the Town of Needham and the applicable laws of the Commonwealth of Massachusetts. It shall not be lawful to start construction before the foundation permit is issued by the Building Inspector. Superstructure shall not be started until the Building Permit Card has been issued and properly posted on the premises as required by law. *NOTE:* The Building Permit will become the Use and Occupancy Permit when the building is approved after completion.

THE ABOVE ANSWERS ARE TRUE AND CORRECT AND THIS APPLICATION IS SIGNED UNDER THE PENALTIES OF PERJURY.

REQUIRED		FURNISHED
Yes	$1000 BOND	
Yes	ST. OCC. PERMIT	
Yes	SURVEY RECORD	

yam

Signature of Owner (*or authorized agent*) Thomas A. Heydon
Thomas A. Heydon
Address REZNICK CONSTRUCTION CO., INC.
303 Freeport Street, Boston, Mass. 02122
Telephone No. 436-0093

EXHIBIT A
Building Permit and Plot Plan
Page 2 of 2

64-20A File

BUILDING DEPARTMENT
RECEIVED
AUG 28 1970
A.M. 7|8|9|10|11|12|1|2|3|4|5|6 P.M.

TOWN OF NEEDHAM, MASS.
Building Inspection Department

Sewer ☑
Water ☑
Drain ☑

Building Permit No. 1544 At No. 695 Highland Avenue, 02194

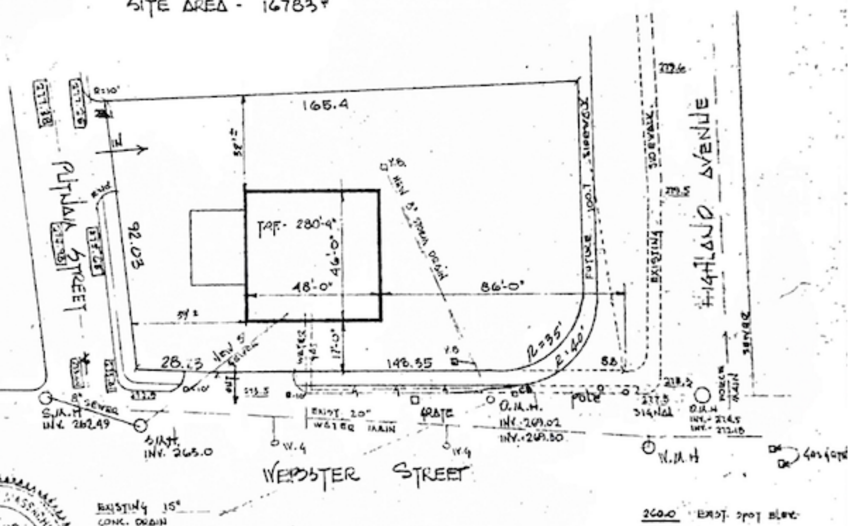
Lot Area 16,128 Zone Setback N.A.

Owner Needham National Bank Builder Reznick Construction Co., Inc.

PLOT PLAN
1" = 40' Scale

To be drawn according to specifications set forth in Section VII-B, Zoning By-Laws of the Town of Needham.

BUILDING AREA - 2208 ☐'
SITE AREA - 16783 ☐'



COMMONWEALTH OF MASSACHUSETTS
RICHARD H. VARA
REGISTERED PROFESSIONAL ENGINEER

REVISED 6-28-70

I hereby certify that the existing and approved street grades, existing sewers, drains, gas lines, water mains and other Public Utilities are accurately shown on this plan and that the dimensions, side line offsets and setback distances (allowing for overhangs), elevation of the top of the foundation and garage floor, and elevations at lot corners on street line for grading along lot line bordering the street are correct as indicated on this plan.

The above is subscribed to and executed by me this 27TH day of AUGUST 1970

Richard H. Vara Civil Engineer ~~or Surveyor~~

Approved Robert A. MacEwen by [illegible] Supt. of Public Works Date

Approved E S D[illegible] Building Inspector Date 8-31-70

Occupancy permit will not be issued until the conditions as to lines and grades and drainage facilities have been fully complied with.

693 HIGHLAND AVENUE

Duplicate when Permit issued

RECEIVED
TOWN CLERK
NEEDHAM

1969 NOV 3 PM 4 09

TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
OCTOBER 14, 1969

MARY W. MACK AND NEEDHAM NATIONAL BANK

Upon the application of Mary W. Mack, 693 Highland Avenue, Needham Heights, Mass., owner, and Needham National Bank, 965 Great Plain Avenue, Needham, prospective purchaser, to the Board of Appeals for a variance from Section VII D of the Zoning By-Laws, and/or any other applicable sections, to permit the construction of a building on the above-mentioned premises to be used as a bank, a public hearing was held at the Town Hall, Needham, Massachusetts, on Tuesday, October 14, 1969, in the evening, pursuant to notice thereof published in a local newspaper and mailed to all persons interested.

Atty. Meyer J. Gordon, 190 Great Plain Avenue, Needham, represented the petitioners and presented the Board with detailed plans of the proposed new structure for the Needham National Bank to be erected on the site, pointing out the number of neighboring businesses in operation, including The Pancake House, the data processing business in operation at 679 Highland Avenue in the Vincent J. Powers property, and the variance granted by the Board of Appeals to the abutting Snyder property at 687 Highland Avenue for the erection of an office building, and stating his feeling that it would be unrealistic to continue a single residence in this area, which would certainly create a hardship to the property owner.

In showing the second page of the plans, Mr. Gordon stated that the bank intends to construct a 38' x 54' Colonial style, two-story building, with an allowance for the parking of 14 cars, and that they have taken into consideration the 20' strip, together with some of the curve, which the State will take when that portion of Highland Avenue is reconstructed to contain a median strip.

TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Public notice is hereby given that Mary W. Mack, 693 Highland Avenue, Needham Heights, Massachusetts, owner, and Needham National Bank, 965 Great Plain Avenue, Needham, prospective purchaser, have made application to the Board of Appeals for a variance from Section VII D of the Zoning By Laws and/or any other applicable sections, to permit the construction of a building on the above-mentioned premises to be used as a bank.

Upon said application, a public hearing will be held at the Town Hall, Needham, Massachusetts, on Tuesday, October 14, 1969, in the evening at 7:50 P.M., at which time and place all persons interested may appear and be heard.

W. Bigelow Hall, Chairman
Edward P. O'Brien
Alexander Prohodski
Stanley R. Tippett
Paul Dunn
Board of Appeals
(C) S-2-2

Mr. Gordon then quoted from the Board of Appeals decision of November 12, 1968, to Snyder Realty Inc., granting their request to construct an office building at 687 Highland Avenue, as follows, "We are in agreement with the Planning Board that the use currently permitted on this lot, i.e. single residence, is not realistic, and, in view of the character of the neighborhood, we believe there is a definite hardship in not permitting use of the entire property for business purposes, bearing in mind that a portion of the property is presently used for non-residential purposes." Mr. Gordon added that the Planning Board had proposed that this entire area be business zoned.

Present and speaking in opposition was Harding M. Ounanian, 277 Webster Street, Needham Heights.

Chairman Hall read into the record a letter dated Oct. 8, 1969, from the Planning Board, "The Planning Board is interested in the petition of Mary W. Mack, 693 Highland Avenue, Needham Heights, for the variance to permit a bank at the corner of Highland Avenue and Webster Street, because of the effect it may have on traffic and access, but in the absence of a plan we are unable to evaluate the proposal. We would, therefore, appreciate it if the Board of Appeals would not make a decision on this petition until October 21, to give us time to obtain and analyze the pertinent information. Your continued cooperation is appreciated."

Present and speaking in favor was Vincent J. Powers, owner of property at 679 Highland Avenue, Needham Heights.

The hearing adjourned at 8:35 P.M.

Subject to the hearing, a letter dated October 21, 1969, was received from the Planning Board, as follows, "The Planning Board has reviewed the plans for the proposed Needham National Bank branch office at Highland Avenue and Webster Street and wishes to submit the following comments for consideration by the Board of Appeals.

"1. The Town Meeting of 1968 rejected a Planning Board proposal for the rezoning of this area which would have permitted no retail uses and been subject to very stringent controls as to yards, parking, lot coverage, etc. The current proposal is one of a series gradually changing the character of the area and permitting a lot-by-lot rezoning by the Board of Appeals and often with substantially less strict dimensional control and parking requirements and with no provision for the construction of the needed access streets. This "domino" zoning is apt to eventually result in just what the Planning Board was trying to prevent - a problem area in which substantial Town funds will have to be spent for the relief of traffic congestion, drainage and access problems.

"2. Should the Board of Appeals decide that a use variance is justified in this instance, we recommend that this be granted only to the present petitioner and proposed user on a nontransferable basis. The Planning Board also strongly recommends that the access from Highland Avenue be not permitted, as it would create both grade and traffic problems and conflict with state plans for making this section of Highland Avenue limited access with a divider in the middle. When more than 5 or 6 cars, entering directly from Highland Avenue, attempt to use the drive-up window they will be backed up into Highland Avenue. Thus, not only would this interfere with the flow of traffic on Highland Avenue but it would create a dangerous traffic situation at this major intersection. We would thus recommend that Putnam Street, improved to Town standards be the sole means of access to the facility with an exit on Webster Street. This exit could not be made one way in and out since cars waiting to enter the facility from Webster Street would interfere with the left turning movements of fire apparatus leaving the fire station across the street. However, if the site were redesigned with in-out driveways located closer to Putnam Street, this problem might be avoided. Also, assuming the site is redesigned, the proposed entrance on Highland Avenue could, if there are no objections from the State Highway Department, be converted to an exit with right turn only.

"The Planning Board appreciates your courtesy in giving us an opportunity to study the plans and make our recommendations."

The property in question is the last remaining plot on the northwesterly side of Highland Avenue from Webster Street for a considerable distance toward Gould Street which is not devoted to business purposes. Thus we have conditions affecting this property but not affecting the zoning area in general, creating a hardship if the property is continued as residential property.

We do not believe that the proposed use of the property for banking purposes will be detrimental to the area, but, in fact, may be an asset, if proper limitations are imposed thereon.

We appreciate that banking use of the property will generate some increased traffic, but, in view of the present heavy traffic at the Highland Avenue, Webster Street intersection, we doubt that the increased traffic due to the presence of a bank will be significant, if restrictions as proposed by the Planning Board in its letter of October 21, 1969, to this Board are imposed, which letter has been made part of the record.

Accordingly, subject to the following restrictions, which we realize will cause some changes in the plans presented to the Board, the requested variance is granted, by unanimous vote of the Board:

1. There shall be no vehicular access to the property from Highland Avenue.

2. Subject to approval by the Planning Board, there may be both in and out driveways from Webster Street, located sufficiently close to Putnam Street so that there will be no interference with left turning movements of fire apparatus leaving the fire station across the street. This shall require a redesign of the site.

3. There may be an access from Putnam Street, if the street is improved to Town standards.

4. Parking facilities for at least 17 cars, as shown on the plan, must be provided.

5. This variance is granted to the present petitioners and proposed user on a nontransferable basis, and for use of the property solely as a bank.

W. Bigelow Hall, Chairman

Edward F. O'Brien, Member

Alexander Prohodski, Member

6-9-20A File

TOWN OF NEEDHAM, MASS.
Building Inspection Department

Sewer ☑
Water ☑
Drain ☑

Building Permit No. 1544 At No. 695 Highland Avenue, 02194

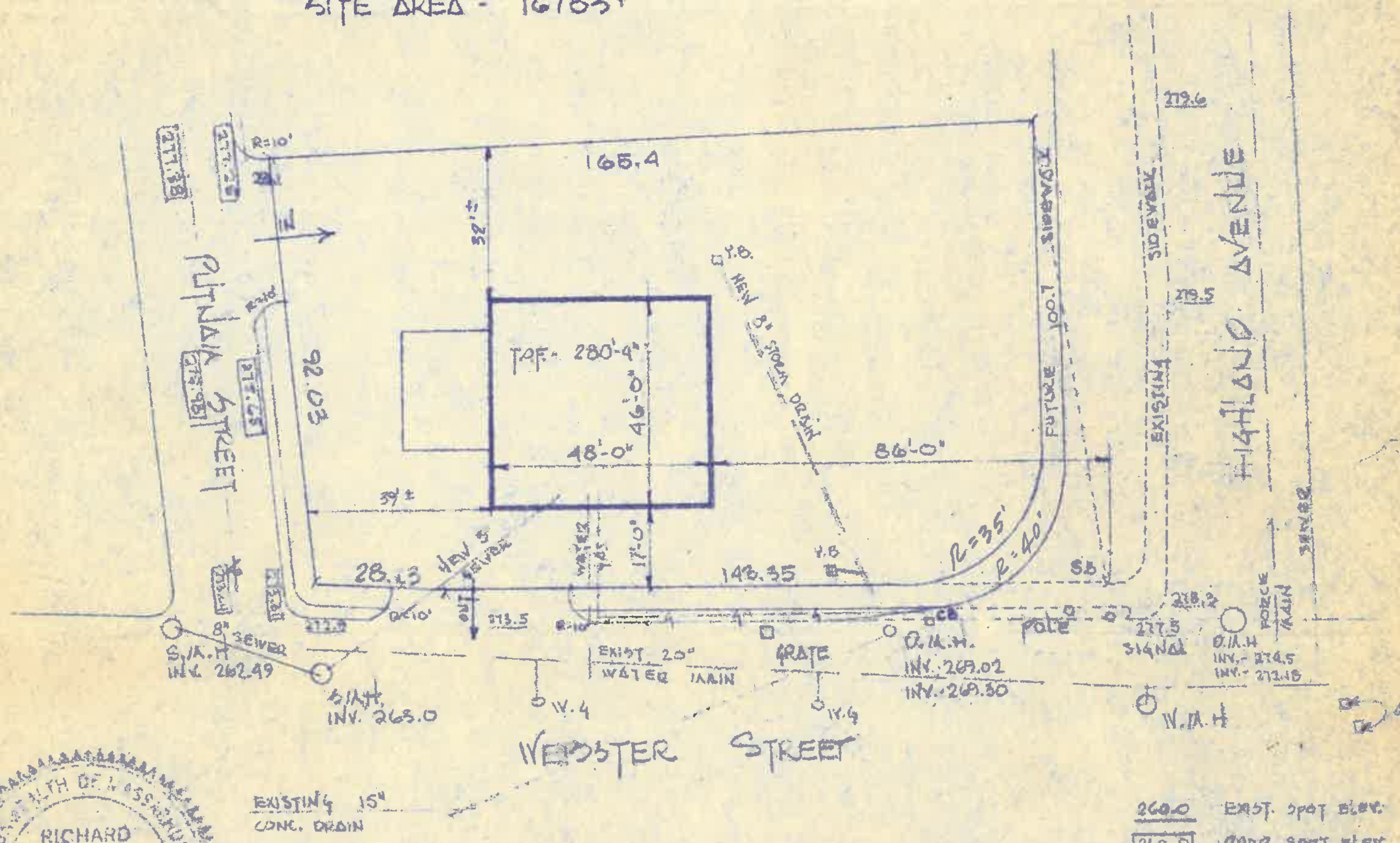
Lot Area 16,128 Zone Setback N.A.

Owner Needham National Bank Builder Reznick Construction Co., Inc.

PLOT PLAN
40′ Scale

To be drawn according to specifications set forth in Section VII-B, Zoning By-Laws of the Town of Needham.

BUILDING AREA - 2208 ☐
SITE AREA - 16783 ☐



REVISED 8-28-70

I hereby certify that the existing and approved street grades, existing sewers, drains, gas lines, water mains and other Public Utilities are accurately shown on this plan and that the dimensions, side line offsets and setback distances (allowing for overhangs), elevation of the top of the foundation and garage floor, and elevations at lot corners on street line for grading along lot line bordering the street are correct as indicated on this plan.

The above is subscribed to and executed by me this 27TH day of AUGUST 1970

Richard H. Vara Civil Engineer ~~or Surveyor~~

Approved Robert A. MacEwen by [illegible] Supt. of Public Works Date

Approved E S Drown [illegible] Building Inspector Date 8-31-70

Occupancy permit will not be issued until the conditions as to lines and grades and drainage facilities have been fully complied with.

2007 SEP 14 PM 2: 34

TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS
AUGUST 16, 2007

SOVEREIGN BANK

Upon the application of Soverign Bank, 695 Highland Avenue, Needham, MA, owner, to the Board of Appeals for a Special Permit to allow façade improvements under Section 1.4.6 of the By-law, in General Residence District at 695 Highland Avenue, a public hearing was held at the Needham Public Library, 1139 Highland Avenue, Needham, MA on Thursday, August 16, 2007, in the evening, pursuant to notice thereof published in a local newspaper and mailed to all parties in interest.

Filed with the application was a site plan prepared by Symmes Maini & Mckee Associates, 1000 Massachusetts Avenue, Cambridge, MA, dated August 13, 2007, a page of elevation drawings, existing building photos and proposed exterior renovations and signage

The Planning Board letter, dated August 15, 2007, page dated April 15, 2007, issued "No Comment" on the application. Appearing before the Board was Jennifer Roy of Symmes Maini & McKee, with John Daryl, facility manager. Ms Roy stated that the 695 Highland Avenue (the "Premises") is located in the general residence district, and was originally a house.

The Zoning Board of Appeals issued a variance on October 14, 1969 permitting construction of a building to be utilized as a bank. On November 21, 1972, the Board denied the request to modify or amend the previous decision.

Ms. Roy reviewed the proposed façade updates that the bank seeks to make, including a pyramid roof at the corner, metal panels, awnings and landscaping. The current guardrail at the driveway is proposed to be removed, and landscaping is proposed to be substituted. Ms. Roy stated that there will be no change made to the footprint. The height limit in the district is 35 feet, and the building is only approximately 26 feet tall.

Albert Rossi, 248 Webster Street, requested a trash receptacle at the ATM machine, to prevent paper slips from blowing onto his property. John Daryl agreed that this was a good idea.

The hearing closed at 9:05 p.m., and the Board proceeded to deliberate.

DECISION:

On the basis of the evidence presented at the hearing on the application by Sovereign Bank, 695 Highland Avenue, Needham, MA, owner (the "Applicant") for a Special Permit under sections 1.4.6 of the Zoning By-law to allow façade improvements in a General Residence District at 695 Highland Avenue, the Board makes the following findings:

1. The Premises consists of a bank with drive through ATM and associated parking and landscaping. The use as a bank and the building were approved by a variance granted by the Zoning board of Appeals by decision dated October 14, 1969.

2. The Applicant proposes changes to the façade of the structure including but not limited to replacing paneling with metal panels, adding metal pyramidal roof at corner, remove wood railings along Webster Street add awnings and rebuild the drive through structure in the rear. Landscaping and the addition of awnings are also proposed by Applicant.

3. None of the proposed changes will increase or create new non-conformities with applicable dimensional and set back requirements of the By-laws, and will not increase the use allowed by the variance, and are within the scope of the variance granted in 1969.

4. The Applicant will comply with all applicable sign by-laws and agrees to configure the drive through structure so that it will have appropriate trash receptacle(s) designed into the structure.

5. The proposed changes are not detrimental to the neighborhood and does not derogate from the intent and purpose of the Zoning By-law.

On the basis of the foregoing findings, in open session, and by unanimous vote after motion duly made and seconded, the Board finds that the changes, substantially, as shown on the site plan prepared by SMMA, dated 08/13/07 and the elevation plan entitled "PROPOSED EXTERIOR RENOVATIONS AND SIGNAGE" and the renderings, all submitted to the Board at the hearing are allowed as lawful changes to the structure and do not adversely affect or expand the use allowed by the 1969 Variance; subject to the condition that a trash receptacle is built into the ATM structure by the Applicant.

Michael A. Crowe, Chairman

Jon D. Schneider, Member

Jonathan D. Tamkin, Member

CATHARINE HUNTINGTON vs. ZONING BOARD OF APPEALS OF HADLEY & another. [Note 1]

12 Mass. App. Ct. 710

September 18, 1981 - December 4, 1981

Hampshire County

Present: GREANEY, PERRETTA, & SMITH, JJ.

In the circumstances, a zoning board of appeals did not exceed its authority in removing a condition imposed on a variance previously granted which purported to restrict the variance to the "lifetime" of the owner of the property and to prohibit the variance from being "transferred to anyone else." [715-721]

CIVIL ACTION commenced in the Superior Court on April 7, 1976.

The case was heard by Murphy, J.

Bradford R. Martin, Jr. (William E. Dwyer with him) for the plaintiff.

Leonard C. Jekanowski, Town Counsel, for Zoning Board of Appeals of Hadley.

GREANEY, J. The plaintiff, Catharine Huntington, brought this action in the Superior Court to review a decision of the Hadley zoning board of appeals (board). That decision granted the petition of Joseph F. Wanczyk (defendant) for the removal of a condition imposed on a variance previously granted to him which restricted the duration and transferability of the variance. The Superior Court affirmed the decision of the board. We affirm the judgment of the court.

The defendant owns twelve acres of land in Hadley. Since 1958, the defendant has used a portion of this land adjacent to Route 47 for the operation of a business which manufactures

Page 711

and sells precast concrete products. In 1961, the town adopted a zoning by-law which prohibited manufacturing in the district where the land is located. Following the adoption of the by-law, however, the defendant was allowed to continue his manufacturing operation as a nonconforming use. See G. L. c. 40A, Section 5, as in effect prior to St. 1975, c. 808, Section 3. See now G. L. c. 40A, Section 6.

Over the next twelve years, the defendant expanded his business substantially, constructing a new building and outfitting it with specialized heavy equipment at a total investment of approximately $170,000. In 1973, the defendant became concerned that the expansion of the business exceeded that permitted for a nonconforming use, and petitioned the board for a variance.

On May 18, 1973, the board granted the defendant a variance allowing the expanded use subject, however, to seven specific conditions enumerated in its decision. The condition in issue here (number 6) restricted the variance to Wanczyk's "lifetime" and it prohibited the variance from being "transferred to anyone else." The 1973 decision was not appealed, and all parties to this action concede the present validity of the variance and the validity of that condition at the time it was imposed. [Note 2]

In 1976, the defendant petitioned the board to remove condition number 6. Since Hadley had not then adopted G. L. c. 40A, as appearing in St. 1975, c. 808, Section 3 (hereinafter present c. 40A), as permitted by St. 1977, c. 829, Section 4, amending St. 1975, c. 808, Section 7, the decision on this petition was governed by the provisions of G. L. c. 40A, as in effect prior to St. 1975, c. 808, Section 3 (hereinafter former c. 40A). See Casasanta v. Zoning Bd. of Appeals of Milford, 377 Mass. 67, 71-73 & nn. 10, 11 (1979); Shalbey v. Board of Appeal of Norwood, 6 Mass. App. Ct. 521, 524-527 (1978).

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After notice, which the trial court held "proper," including notice to abutters, the board held a public hearing on the defendant's petition. See former G. L. c. 40A, Sections 17-18 (now Sections 10-11). The board also viewed the defendant's property and found that the defendant had erected fences, as required by one of the conditions imposed on the 1973 variance, to prevent the manufacturing operation from being visible to abutters or to the public. Based on its view, the board made a general finding that the defendant was, in the words of the trial court, "in substantial compliance with all the conditions imposed" by the 1973 decision.

On March 15, 1976, the board granted the defendant's petition to remove condition number 6. In support of its action, the board stated that the termination of the variance on the defendant's death would cause substantial hardship because it would render his specialized manufacturing equipment useless, or virtually so, thus causing his investment to be lost to his estate. The decision also stated that even if a subsequent board were willing to grant a new variance for this use, the suspension of operations at the defendant's death would inevitably cause a period of uncertainty and lost income for the defendant's family, and that such needless hardship should be foreseen and avoided. The board concluded that "the continuation of all [the] other restrictions provides assurance that there will be no substantial detriment to the public good and that the intent and purpose of the by-law will continue to be met."

The plaintiff, Huntington, is the owner of land abutting the south side of the defendant's property. Located on her land is a building known as the Huntington House, which is an historic structure visited by tourists. The plaintiff, who lives in Boston, opposed the 1973 petition for the variance by means of a letter to the board, which was read at the public hearing. The grounds of her opposition do not appear in the record, nor does it appear whether she stated any opposition to the 1976 petition. It does appear, however, that the board's primary ground of concern in both proceedings was the visibility of the defendant's operation

Page 713

to visitors to the Huntington House and to the public traveling on Route 47.

Following the board's decision on the 1976 petition, the plaintiff brought this action against the defendant and the board, alleging that the board exceeded its authority in removing the condition because the requirements for a new variance had not been met. See former G. L. c. 40A, Section 15 (see now Section 10). She did not testify at the hearing in the Superior Court. The trial court found for the defendants, holding that each of the three statutory prerequisites had been met. The court also noted, however, that "as a practical matter" the 1976 decision did not really amount to a grant of a new variance, but rather involved a "modification of an existing variance which had been in effect for . . . [nearly] three years."

The plaintiff rejects the suggestion that the board's action constituted merely a "modification" of the original variance, arguing that the board could properly have removed the condition only upon satisfaction of the requirements for a new variance contained in former G. L. c. 40A, Section 15. The plaintiff argues further that it was the defendant's burden to make such a showing, Warren v. Board of Appeals of Amherst, 383 Mass. 1, 10 (1981), and cases cited, and that the board and the court both erred in ruling that the statutory requirements had been met here, see Raia v. Board of Appeals of No. Reading, 4 Mass. App. Ct. 318, 321 (1976).

In our view, it is unnecessary to consider whether the removal of the condition required the same showing necessary for the grant of a new variance. [Note 3] Nor is it necessary to

Page 714

hold that a local zoning board possesses a broad general power to modify substantive conditions attached to an existing variance. [Note 4] Rather, we think that the board's power to

Page 715

remove the condition here is most appropriately analyzed in terms of the nature and effect of the condition itself and in light of the statutory concerns relevant to the grant of a variance.

We look first to the statute. Under the former Section 15, the critical factual showing required for a variance was that of unique hardship, i.e., "substantial hardship" which was created by "conditions especially affecting *such parcel or such building* but not affecting generally the zoning district in which it is located" (emphasis supplied). The exception made available by this statute was a narrow one. At its root is a concern that the grant of a variance be based only upon circumstances which directly affect the real estate and not upon circumstances which cause personal hardship to the owner. "The criteria in the act . . . relate to the land, not . . . [to] the applicant." Dowd v. Board of Appeals of Dover, [5 Mass. App. Ct. 148](), 156 (1977) (special permit case). The decisions cited previously (see note 3, supra) have made this differentiation quite clear by consistently overturning grants of variances predicated only on a showing of personal hardship. The present Section 10 continues this emphasis on the land itself and makes the concept even more restrictive by specifying that the special circumstances justifying the grant of a variance must relate to "the soil conditions, shape, or topography" of such land or structures.

In contrast, the condition in issue here bears no relation to any circumstance which affects the underlying real estate. Nor is it aimed at the nature, character, or extent of the use

Page 716

permitted of the estate. [Note 5] Rather, it serves only to limit the duration of the variance itself by tying it to the lifetime and ownership of a particular individual. We view this as inconsistent with the explicit statutory emphasis on the real estate and its use as the basis of the board's inquiry. In effect, such a condition "injects criteria not found in the enabling act." Dowd v. Board of Appeals of Dover, 5 Mass. App. Ct. at 156. We further view it as inconsistent with the generally accepted principle that "a variance applies to the land rather than to its current owner, and . . . runs with the land when it is conveyed to [another] person." 3 Anderson, American Law of Zoning Section 18.64, at 311 & cases cited at n.24 (2d ed. 1977). See 3 Rathkopf, Zoning and Planning Section 38.06[1], at 38-61, and cases cited at nn. 2, 4 and Section 40.02, at 40-2 -- 40-3, and cases cited at n.2 (4th ed. 1981); 6 Rohan, Zoning and Land Use Controls Section 43.02[1], and cases cited at n.15 (1981); 5 Williams, American Land Planning Law: Land Use and the Police Power Section 133.02 (1975). See also Dowd v. Board of Appeals of Dover, supra. Cf. Colonial Acres, Inc. v. North Reading, 3 Mass. App. Ct. 384, 385 (1975).

Personal conditions of the sort presented here are held in disfavor in other jurisdictions. See Fox v. Shriver-Allison Co., 28 Ohio App. 2d 175, 181-182 (1971); 3 Anderson, American Law of Zoning Section 18.69, at 323-324; Strine, The Use of Conditions in Land Use Control, 67 Dick. L. Rev. 109, 133 (1963); Note, Zoning Amendments and Variances Subject to Conditions, 12 Syracuse L. Rev. 230, 237 (1960). See also Dexter v. Town Bd. of Gates, 36 N.Y. 2d 102, 105-106 (1975). As aptly expressed by Chief Justice Kenison in

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Vlahos Realty Co. v. Little Boar's Head Dist., 101 N.H. 460, 463-464 (1958), such restrictions are inappropriate because they "place the emphasis on the regulation of the person rather than the land, and tend to make [a variance] an ad hominem privilege rather than a decision regulating the use of property." In the only Massachusetts case which has addressed the question, the court was inclined to the view that such a condition may be invalid when imposed on a variance. See Todd v. Board of Appeals of Yarmouth, 337 Mass. 162, 169 (1958). [Note 6]

The Legislature has recently made a clear policy judgment rejecting the attachment of such a condition to the grant of a variance. The present Section 10, as appearing in St. 1975, c. 808, Section 3, contains new language which specifically prohibits the imposition of "any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner." While this section also includes general language retained from the former Section 15, which allowed the board to impose "limitations both of time and of use," it is not clear to us that this language was ever intended to sanction a condition of the sort presented

Page 718

here, and the available evidence tends to indicate that it was not. The legislative history of the present G. L. c. 40A, for example, states that the quoted prohibition was inserted in Section 10 for the purpose of eliminating "the practice of some local boards of appeals to condition the grant of a variance on the continued ownership of property by a particular person," which practice was deemed "improper, considering that hardship must be unique to the land or building and not merely to an individual." 1973 House Doc. No. 6200, at 20. See 1972 House Doc. No. 5009, at 66.

Despite the parties' assumption that condition no. 6 was valid under the former Section 15 when imposed, two conclusions now become apparent: (1) the validity of a condition tying the duration of a variance to ownership by a particular person was questionable even under the former statute, in light of the statute's emphatic focus on the land and its use, and in light of the general disfavor in which such conditions are held; and (2) this condition could not now be imposed under the present Section 10, because of that statute's express judgment that such conditions are to be prohibited.

To these conclusions we add the evidence at the hearing in the Superior Court which suggests that the board's decision to impose the condition rested on factors unrelated to the land's use or the operative criteria in Section 15. That evidence shows that the board's concerns in 1973 about the visibility of the business had been substantially satisfied in 1976 by the defendant's erection of fences in compliance with one of the conditions imposed, [Note 7] and that the defendant had substantially complied with the other conditions of the

Page 719

variance, all of which the board continued in effect. [Note 8] Moreover, there was testimony by the chairman of the board that condition no. 6 was originally imposed as an additional safeguard to ensure that the manufacturing use would not be continued unless the defendant brought a new petition to remove it, which would necessitate a new public hearing at which the defendant's compliance with the other restrictions would be scrutinized. This testimony suggests that the condition was not intended to be appurtenant to the land, and that the board, in fact, contemplated future relief from its effect if the other restrictions, which did bear directly on the land, were satisfied.

In view of the evidence and for the reasons stated, it makes little sense in this case to force the owner and the board on to the horns of a dilemma. On the one hand, the owner should not be compelled to undertake the virtually impossible burden of proving the Section 15 criteria for a new variance before he can obtain redress. On the other hand, the board should not be forced, if it is inclined to give relief, to bend the theory underlying a variance in the search for a proper solution. We hold that the condition was essentially a personal one which the board could subsequently delete in the exercise of its sound "administrative discretion" (see Pendergast v. Board of Appeals of Barnstable, 331 Mass. 555, 558-559 [1954]; cf. Ranney v. Board of Appeals of Nantucket, 11 Mass. App. Ct. 112, 115-116 [1981]), and we turn to the question whether the board's exercise of its discretion was justified.

In the exercise of its discretion, the board could properly take into account the change effected with respect to such

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conditions by the present Section 10, and the fact that the other conditions, which ran with the land to bind subsequent owners, would continue to regulate the scope of the use. The board could properly consider the defendant's testimony that if the condition were not removed, the business would be lost as a livelihood to his family and the specialized equipment would have to be sold at auction "for 10% of its value," and his further unrebutted testimony that, although the work building might be used for another purpose, the property is unsuitable for farming or for building lots and that the loss of income caused by the operation of the condition might require his family to sell the land following his death.

As to the plaintiff's interest, it may be that she chose not to appeal the original grant of the variance because she felt she could endure a use limited to the defendant's lifetime or his ownership of the property. Although the existence of such an expectation would not preclude the board from removing the condition, it would, if demonstrated, be entitled to consideration. See and contrast Day v.

Zoning Bd. of Review of Cranston, 92 R.I. 136, 139-140 (1961) (quashing decision of board which removed a condition, on ground that abutters had withdrawn objections to the original grant of the variance in reliance on such restriction). Cf. Shuman v. Aldermen of Newton, 361 Mass. 758, 764 (1972). See generally Note, Indiana Variance Proceedings and the Application of Res Judicata, 46 Ind. L.J. 286, 289-290 (1971). Here, however, it has not been shown that the board failed to consider any legitimate expectations which the plaintiff might have harbored, or that it accorded her interest little or no weight. Beyond that point, the record does not specify the grounds of the plaintiff's opposition to the 1973 petition, and the plaintiff did not appear before the board or the court in 1976 to express her reliance on the condition, or to articulate what harm she might incur from its removal.

Finally, the board found, on the evidence before it, that the use as restricted by the remaining conditions could continue

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beyond Wanczyk's ownership of the land without any "substantial detriment to the public good." See former Section 15 (now Section 10). That finding, added to the other considerations previously discussed, indicates that removal of the condition is in conformity with the goal that the zoning law be applied to further, not hinder, the stabilization of land use. See Kane v. Board of Appeals of Medford, 273 Mass. 97, 104 (1930); Yaro v. Board of Appeals of Newburyport, 10 Mass. App. Ct. 587, 589-590 (1980). We conclude that the board's decision to delete the condition was proper.

Judgment affirmed.

FOOTNOTES

[Note 1] Joseph F. Wanczyk, Jr.

[Note 2] Wanczyk does not argue that the board lacked power to impose the condition under former G. L. c. 40A, Section 15, as amended through St. 1958, c. 381.

[Note 3] The plaintiff is correct that if the board's action were deemed to require such a showing, it could not be sustained here. First, the board failed to make one of the "specific findings necessary" to justify the granting of a variance under former Section 15. Wolfson v. Sun Oil Co., 357 Mass. 87, 89 (1970). See McNeely v. Board of Appeal of Boston, 358 Mass. 94, 103 (1970). Cf. present G. L. c. 40A, Section 10. Although the board determined that the condition constituted a "hardship" to the defendant, it failed to find any facts which demonstrate that such hardship derived from circumstances "especially affecting" the land or buildings, as required by former Section 15, as amended through St. 1958, c. 381. The absence of such factual findings would leave the board's decision "invalid on its face." Warren v. Board of Appeals of Amherst, supra at 10. Likewise, the trial court's failure to find such facts would render its holding of special hardship "a bare recital of the statutory conditions" which is insufficient to support the granting of a variance. Id., quoting from McNeely v. Board of Appeal of Boston, supra.

Second, unique hardship could not properly be found on the facts presented here. See, e.g., Bicknell Realty Co. v. Board of Appeal of Boston, 330 Mass. 676, 680 (1953); Warren v. Board of Appeals of Amherst, supra at 11; Raia v. Board of Appeals of No. Reading, 4 Mass. App. Ct. at 321-322; Planning Bd. of Watertown v. Board of Appeals of Watertown, 5 Mass. App. Ct. 833 (1977). Contrast Dion v. Board of Appeals of Waltham, 344 Mass. 547, 551-552 (1962); Sherman v. Board of Appeals of Worcester, 354 Mass. 133, 135-136 (1968). The hardship in this case does not arise out of any circumstance "especially affecting" the land or buildings, as construed in the decisions above, but rather arises out of circumstances which are "personal" to the defendant. Barnhart v. Board of Appeals of Scituate, 343 Mass. 455, 458 (1962). Abbott v. Appleton Nursing Home, Inc., 355 Mass. 217, 221 (1969).

[Note 4] The former Section 15 is silent with respect to the modification of a variance. Although the former Section 19 contained a reference to the board's power to "modify any order or decision," this court has expressed the opinion that such language was "intended to apply to a case in which a board of appeals acts as an appellate tribunal in an appeal taken under [former] G. L. c. 40A, Sections 13 and 15(1)." Potter v. Board of Appeals of Mansfield, 1 Mass. App. Ct. 89, 95 n.8 (1973). Cf. Smith v. Building Commr. of Brookline, 367 Mass. 765, 772-774 (1975).

Most of the cases relevant to the question of the board's power of modification involve special permits rather than variances. Two propositions are established. First, it is clear that a board has "inherent power . . . to correct an inadvertent or clerical error in its decision so that the record reflects its true intention." Selectmen of Stockbridge v. Monument Inn, Inc., 8 Mass. App. Ct. 158, 164 (1979). Dion v. Board of Appeals of Waltham, 344 Mass. at 553. Burwick v. Zoning Bd. of Appeals of Worcester, 1 Mass. App. Ct. 739, 742 (1974). See also Goldman v. Planning Bd. of

Burlington, 347 Mass. 320, 324-325 (1964). Second, the board may not make a substantive amendment which changes the result of an original deliberate decision, or which grants relief different from that originally granted, without compliance with the relevant notice and hearing requirements. That is not the case here. See Fish v. Building Inspector of Falmouth, 357 Mass. 774, 775 (1970); Potter v. Board of Appeals of Mansfield, 1 Mass. App. Ct. at 95-97. See also Cassani v. Planning Bd. of Hull, 1 Mass. App. Ct. 451, 456 (1973); Vitale v. Planning Bd. of Newburyport, 10 Mass. App. Ct. 483, 487 (1980).

For other authorities dealing with the question whether a board possesses an inherent power to make substantive modifications of prior decisions, see 6 Rohan, Zoning and Land Use Controls Section 43.03(3), at 43-44 (1981); 3 Anderson, American Law of Zoning Section 18.65, at 313 (2d ed. 1977). See also Cohen v. Fair Lawn, 85 N.J. Super. 234, 237 (1964); Springsteel v. West Orange, 149 N.J. Super. 107, 112-113 (1977); Note, Indiana Variance Proceedings and the Application of Res Judicata, 46 Ind. L.J. 286, 291 (1971).

[Note 5] Since the original grant of the variance was never appealed, we are bound to presume that the board properly found each of the specific criteria required by the former Section 15, including the element of hardship arising from "conditions especially affecting [the] parcel . . . but not affecting generally the zoning district in which it is located," and that the use allowed by the variance itself is valid. See LaCharite v. Board of Appeals of Lawrence, 327 Mass. 417, 421 (1951); Ploski v. Zoning Bd. of Appeals of Somerset, 7 Mass. App. Ct. 874, 875 (1979).

[Note 6] In the Todd case, which dealt with the validity of a special permit, the court upheld a condition which provided that the permit "runs only to the applicant." However, in addressing the argument that this condition was "invalid because primarily related to ownership of property, rather than its use," the court suggested in dictum that this "contention may have more force in respect of a variance under [former] Section 15, cl. 3, than of a permit under [former] Section 15, cl. 2. See Olevson v. Zoning Bd. of Review of Narragansett, 71 R.I. 303 [,307-308 (1945)]; Soho Park & Land Co. v. Board of Adjustment of Belleville, 6 Misc. (N.J.) 686 [(1928)]." Id.

We note that such conditions have continued to be upheld with respect to special permits. See Maki v. Yarmouth, 340 Mass. 207, 212-213 (1960); Shuman v. Board of Aldermen of Newton, 361 Mass. 758, 766-767 & n.11 (1972). It has also been noted, however, that the Shuman case, supra, "holds merely that the grant of a special permit may be limited to a particular `applicant.' But the considerations on which the grant is based still relate to the land rather than the applicant. An analogous distinction is found in the criteria for the grant of a variance." Dowd v. Board of Appeals of Dover, 5 Mass. App. Ct. at 156.

[Note 7] That condition required that such fences be six feet high, "of solid construction such that one cannot see through them," and that they be placed along the south side of the defendant's work area (facing the Huntington House) as well as the north side (facing another abutter). It appears that the view from Route 47 on the east was already substantially blocked by the defendant's work building. We therefore infer that the erection of these fences left the operation visible only from the river on the west side of the property, as to which the defendant was required to construct a fence "of any material."

[Note 8] These restrictions limited the nature of the manufacturing processes allowed, limited the operation to a prescribed work area, and provided that an existing barn may be used only for storage. They also prohibited the defendant from constructing any new buildings or subdividing the land. The defendant's 1976 petition sought to remove the latter restriction as well as the durational condition, but the board denied that request. These restrictions are plainly proper since they were limitations which directly affected the use and therefore ran with the land.

August 26, 2024

All Massachusetts Reviewing Jurisdictions & Municipalities
Including but not limited to the Town of Needham
(required to receive approvals, authorizations to proceed and building permits)

To Whom it May Concern:

This letter serves as authorization for Jennifer King of DEI Incorporated and/or Richard Ladrick of RSL Commercial Architecture, on behalf of the Barchester Corporation, to act as our representative/agent in all building, planning and zoning requirements as it relates to our property located at 695 Highland Avenue, Needham, MA 02492.

Sincerely,

Joseph Seravalli

Joseph Seravalli
The Barchester Corporation
3234 Riverview Lane
Daytona Beach, FL 32118

STATE OF Florida
Volusia COUNTY

BEFORE ME, the undersigned authority, on this day personally appeared Joseph Seravalli, known to me to be the person who signed the above letter.

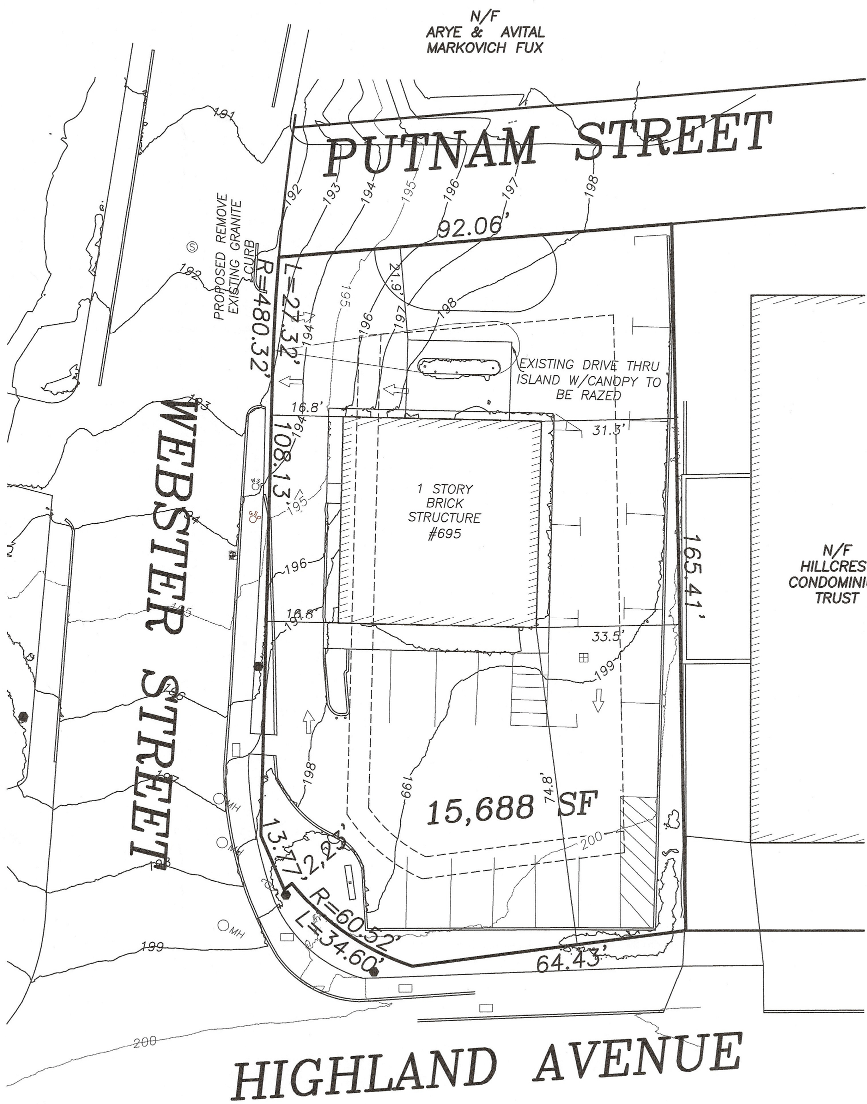
Given under my hand and seal of office

On this 20th date of August, 2024

Jayme Harvey

Notary Public

JAYME HARVEY
MY COMMISSION EXPIRES 08-22-2025
NOTARY PUBLIC
COMM. # HH 103191
STATE OF FLORIDA



1) ELEVATIONS REFER TO PROJECT DATUM

2) CONTOUR INTERVAL EQUALS ONE (1) FOOT.

3) SITE PLAN INFORMATION PROVIDED BY RSL COMMERCIAL ARCHITECTURE.

PARKING SPACE SUMMARY:

19 SPACES

ZONING INFORMATION: GENERAL RESIDENCE

	REQUIRED	EXISTING
MINIMUM LOT AREA	10,000 SF.	15,688 SF.
MINIMUM LOT FRONTAGE	80 FEET	342.54 FEET
MINIMUM FRONT SETBACK	20 FEET	74.8 FEET (HIGHLAND) 16.8 FEET (WEBSTER) 21.9 FEET (PUTNAM)
MINIMUM SIDE SETBACK	14.0 FEET	31.3' FEET
MAXIMUM FLOOR AREA RATIO	0.36	0.14
MAXIMUM BUILDING HEIGHT	35 FEET	14± FEET
MAXIMUM BUILDING HEIGHT	2 1/2 STORIES	1 STORY

I CERTIFY THAT THE PARCEL SHOWN HEREON LIES WITHIN A ZONE "X", AREAS OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN. AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THE TOWN OF NEEDHAM, MASSACHUSETTS, COMMUNITY PANEL NO. 255215 0036 E, MAP NUMBER 25021C 0036 E EFFECTIVE DATE: JULY 17, 2012.

COMMONWEALTH OF MASSACHUSETTS
BRADLEY SIMONELLI
#47581
PROFESSIONAL LAND SURVEYOR

BRADLEY J. SIMONELLI ~ P.L.S.

DATE: OCTOBER 15, 2024

PROPERTY REFERENCE

BOOK 14320 PAGE 211
PLAN IN BOOK 729 PAGE 640B

ZONING REFERENCE

ASSESSORS MAP 77, PARCEL 14
ZONING DISTRICT: GENERAL RESIDENCE

GRAPHIC SCALE
20 0 10 20 40

ZONING BOARD OF APPEALS
SITE PLAN SHOWING EXISTING CONDITIONS
695 HIGHLAND AVENUE
NEEDHAM, MASS.

JOB NO. 094-24

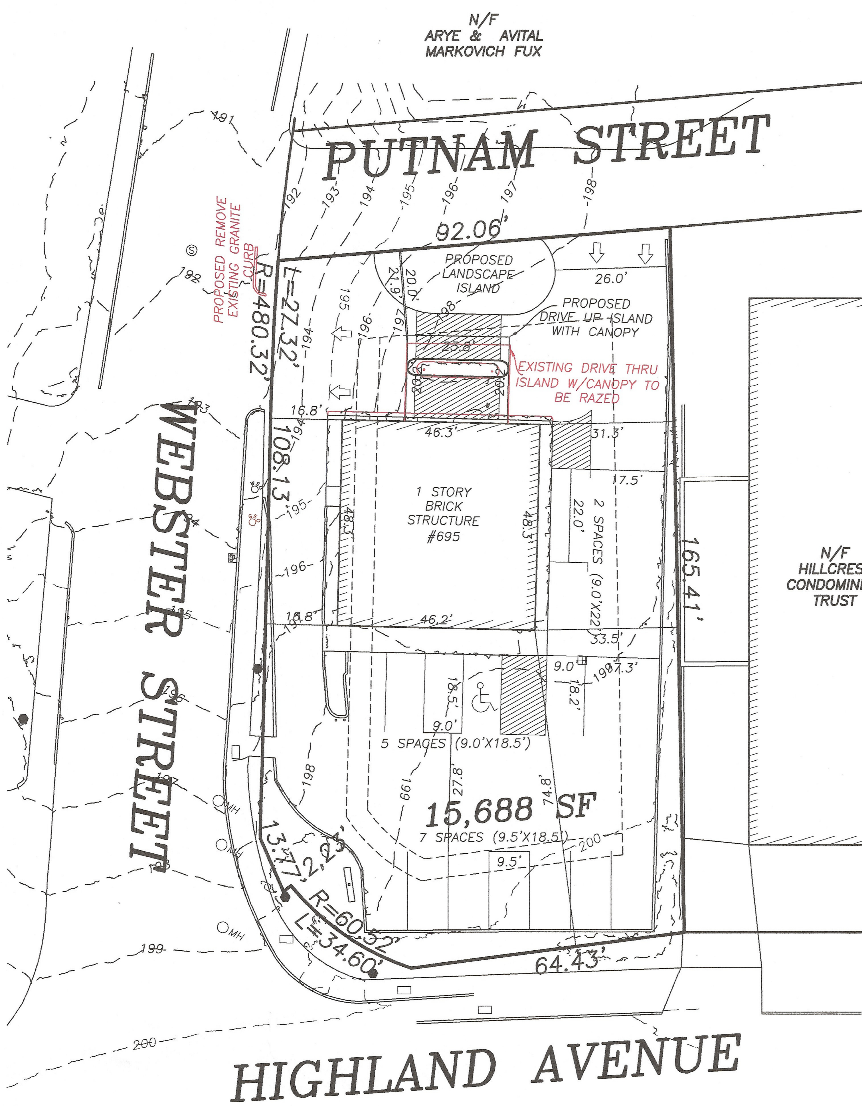
Field Resources, Inc.
LAND SURVEYORS

OCTOBER 15, 2024 SCALE 1"=20'

P.O. BOX 324, AUBURN, MA, 508 832 4332
281 CHESTNUT ST., NEEDHAM, MA., 781 444 5936
office@fieldresources.net

REVISED:

094-24



1) ELEVATIONS REFER TO PROJECT DATUM

2) CONTOUR INTERVAL EQUALS ONE (1) FOOT.

3) SITE PLAN INFORMATION PROVIDED BY RSL COMMERCIAL ARCHITECTURE.

PARKING SPACE SUMMARY:

13 SPACES
1 HANDICAP SPACE

ZONING INFORMATION: GENERAL RESIDENCE

	REQUIRED	PROPOSED
MINIMUM LOT AREA	10,000 SF.	15,688 SF.
MINIMUM LOT FRONTAGE	80 FEET	342.54 FEET
MINIMUM FRONT SETBACK	20 FEET	74.8 FEET (HIGHLAND) 16.8 FEET (WEBSTER) 20.0 FEET (PUTNAM)
MINIMUM SIDE SETBACK	14.0 FEET	31.3' FEET
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COMMONWEALTH OF MASSACHUSETTS
BRADLEY SIMONELLI #47581 PROFESSIONAL LAND SURVEYOR

BRADLEY J. SIMONELLI ~ P.L.S.

DATE: OCTOBER 15, 2024

ZONING BOARD OF APPEALS
SITE PLAN SHOWING PROPOSED
695 HIGHLAND AVENUE
NEEDHAM, MASS.

PROPERTY REFERENCE

BOOK 14320 PAGE 211
PLAN IN BOOK 729 PAGE 640B

ZONING REFERENCE

ASSESSORS MAP 77, PARCEL 14
ZONING DISTRICT: GENERAL RESIDENCE

GRAPHIC SCALE
20 0 10 20 40

094–24

JOB NO. 094–24

REVISED:

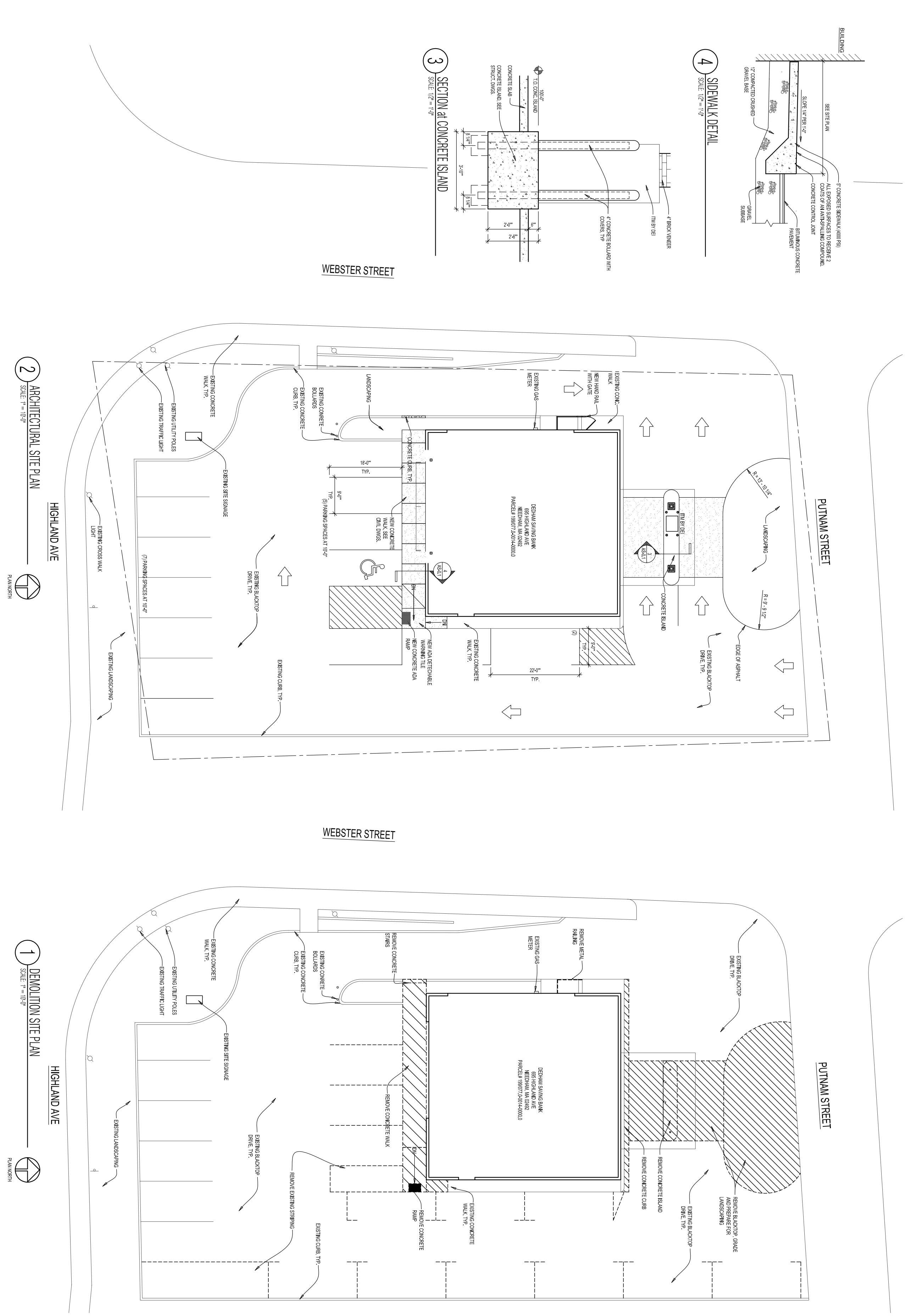
Field Resources, Inc.
LAND SURVEYORS

OCTOBER 15, 2024 — SCALE 1"=20'

P.O. BOX 324
AUBURN, MA
508 832 4332

281 CHESTNUT ST.
NEEDHAM, MA.
781 444 5936

office@fieldresources.net



REVISIONS

THIS DRAWING, ITS DESIGNS, PRINTS, AND ALL PARTS THEREOF ARE, AND SHALL REMAIN THE PROPERTY OF DEI AND MAY NOT BE REPRODUCED WITHOUT WRITTEN CONSENT.

BRANCH RENOVATION FOR:

Dedham Savings

695 Highland Ave
Needham, MA 02492

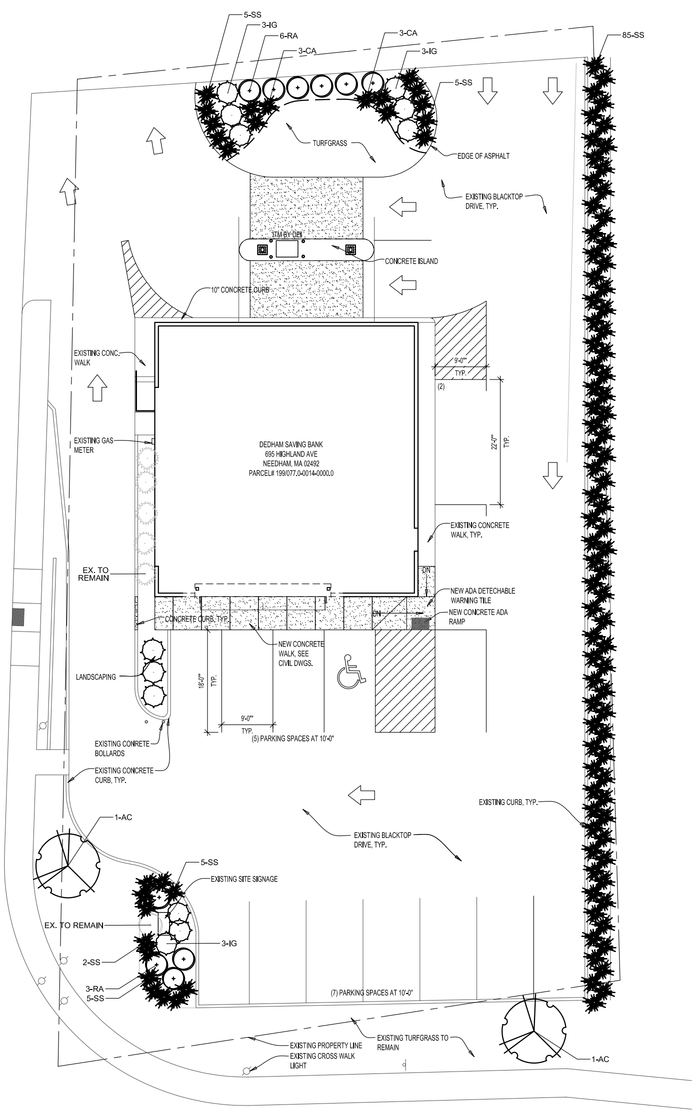
1550 Kemper Meadow Dr.
Cincinnati, Ohio 45240
(513) 825-5800 [p]
513.825.1947 [f]
www.dei-corp.com

ARCHITECTURAL SITE PLAN

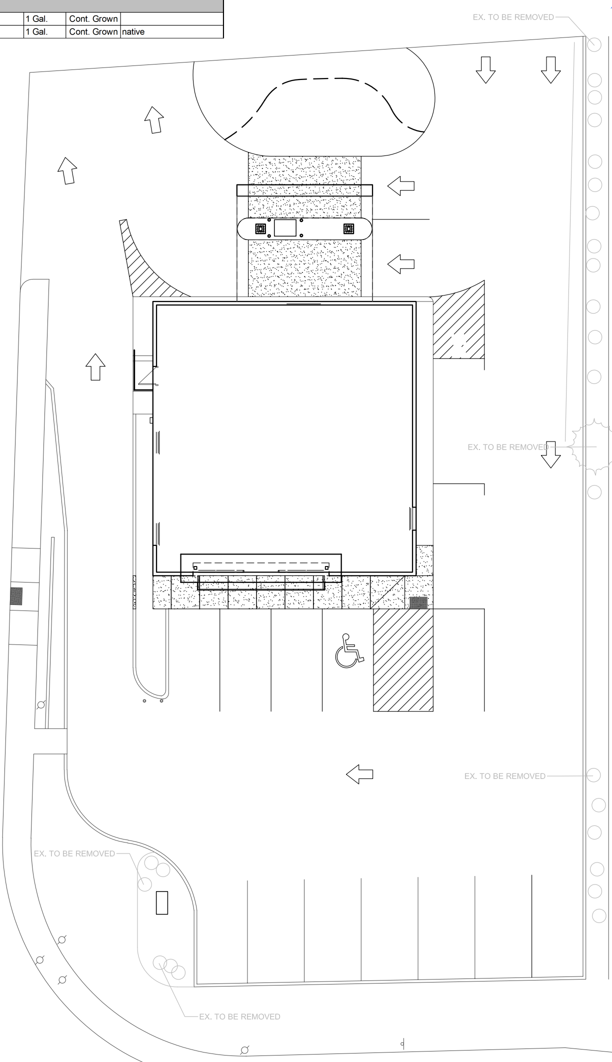
R S L COMMERCIAL ARCHITECTURE
8927 Rossash Road
Cincinnati, OH 45236
513-891-9950 PHONE
513-891-9951 FAX
www.rslarch.com

BY	TAS
ISSUE DATE	08-20-24
JOB NO.	224059
SHEET NO.	AS-1.0

PLANT SCHEDULE (THIS SHEET ONLY)						
KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	REMARKS
UNDERSTORY TREES						
AC	2	*Amelanchier canadensis*	Serviceberry	5-6' Ht.	B&B	native
SHRUBS						
RA	9	*Rhus aromatica* 'Gro-Low'	Fragrant Sumac	3 Gal.	Cont. Grown	native
IG	9	*Ilex glabra* 'Shamrock'	Inkberry Holly 'Shamrock'	3 Gal.	Cont. Grown	native
HERBACEOUS PLANTINGS						
CA	6	*Calamagrostis acutiflora* 'Karl Foerster'	Feather Reed Grass	1 Gal.	Cont. Grown	
SS	107	*Schizachyrium scoparium* 'The Blues'	Little Bluestem-The Blues	1 Gal.	Cont. Grown	native



1 LANDSCAPE PLAN
SCALE: 1" = 10'-0"
PLAN NORTH



2 DEMOLITION PLAN
SCALE: 1" = 10'-0"
PLAN NORTH

DuBois & King inc.

1550 Kemper Meadow Dr.
Cincinnati, Ohio 45240
(513) 825-5800 [p]
513.825.1947 [f]
www.dei-corp.com

LANDSCAPE PLAN

BRANCH RENOVATION FOR:
Dedham Savings
695 Highland Ave
Needham, MA 02492

REVISIONS

BY: EDL
ISSUE DATE: 08-20-24
JOB NO.: 224059
SHEET NO.: LS-1.0

COMMONWEALTH OF MASSACHUSETTS
JOHN KENNEY
CIVIL
No. 53095
08/26/2024
PROFESSIONAL ENGINEER

GENERAL PLANTING NOTES:

1. ALL PLANT MATERIAL SHALL CONFORM TO THE SIZES GIVEN IN THE PLANT SCHEDULE AND SHALL BE NURSERY GROWN IN ACCORDANCE WITH THE "AMERICAN STANDARDS FOR NURSERY STOCK, ANSI260.1-2004" LATEST EDITION PREPARED BY THE AMERICAN ASSOCIATION OF NURSERYMEN.

2. PLANTING LOCATIONS FOR TREES SHALL BE STAKED OUT PRIOR TO PLANTING. CONTRACT ADMINISTRATOR MAY ADJUST THE STAKES AS NEEDED, PRIOR TO PLANT INSTALLATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING THE STAKES DURING CONSTRUCTION.

3. CONTRACTOR MUST VERIFY THE CORRECT LOCATION OF ANY EXISTING UTILITIES WHICH ARE UNDERGROUND, PRIOR TO PLANT INSTALLATION.

4. ALL LANDSCAPE CONSTRUCTION ACTIVITIES SHALL BE CONFINED TO WITHIN THE LIMITS OF DISTURBANCE AS IDENTIFIED ON THE PLANS OR OTHERWISE DIRECTED BY THE CONTRACT ADMINISTRATOR. THE CONTRACTOR SHALL MINIMIZE COMPACTION TO AREAS THAT WILL BE PLANTED.

5. ALL DISTURBED AREAS SHALL BE LOOSENED TO A DEPTH OF 2 INCHES PRIOR TO BEING SEEDED AND MULCHED AS SPECIFIED, WITHIN 7 DAYS OF FINAL GRADING UNLESS OTHERWISE DIRECTED BY CONTRACT ADMINISTRATOR.

6. ALL PLANT MATERIALS USED SHALL BE NURSERY STOCK AND SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF INSTALLATION. ANY MATERIAL WHICH DIES OR DOES NOT SHOW HEALTHY APPEARANCE WITHIN THIS TIME SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE; WITH SAME WARRANTY REQUIREMENTS AS THE ORIGINAL. WARRANTIES TYPICALLY DO NOT COVER LOSS DUE TO INSECT INFESTATION OR MECHANICAL DAMAGE (I.E. SNOW STORAGE).

7. PAVEMENT OR ROAD BASE MATERIAL ENCOUNTERED IN ANY LAWN OR PLANTING BED SHALL BE REMOVED AND DISPOSED OF BY THE CONTRACTOR AND SUITABLE AMENDED SOIL INSTALLED AS SPECIFIED IN THE TURF ESTABLISHMENT SCHEDULE.

8. PLANT INSPECTION: ALL PLANT MATERIAL SHALL BE INSPECTED FOR DAMAGE OR DEFECT UPON ARRIVAL TO PROJECT SITE BY CONTRACT ADMINISTRATOR.

9. PLANT MATERIAL AVAILABILITY MAY VARY AT THE TIME OF CONSTRUCTION. ANY SUBSITUTIONS ARE TO BE OF EQUIVALENT TYPE AND SIZE (OR LARGER), AND MUST BE APPROVED BY THE LANDSCAPE ARCHITECT BEFORE INSTALLATION.

10. SETTING PLANTS: PLACE ROOTBALL ON TOP OF STABLE SOIL SO THAT THE TRUNK FLARE/ ROOTBALL IS 1" TO 2" HIGHER THAN FINISHED GRADE, AVOID PLANTING TOO DEEP, REMOVE TWINE AND BURLAP FROM TOP HALF OF ROOTBALL AND PULL BACK. REMOVE SYNTHETIC BURLAP AND STRING ENTIRELY. LOOSEN AND/OR SLASH ANY COMPACTED ROOTS.

11. EXISTING SOIL IN PLANTING BED AREAS SHALL BE AMENDED TO A MINIMUM OF 12: AND SOIL MIX IN ALL PLANTING BEDS SHALL BE ONE THIRD EXISTING SOIL, ONE THIRD FURNISHED SOIL AND ONE THIRD ORGANIC MATERIAL SUCH AS LEAFGRO.

12. PLANTING SOIL MIXTURE: IMPORTED TOPSOIL SHALL BE FERTILE, FRIABLE, SANDY LOAM CONTAINING A MINIMUM OF 1.5% BY DRY WEIGHT OF ORGANIC MATTER; FREE FROM SUBSOIL, REFUSE, DEBRIS, ROOTS, HEAVY CLAY, STONES LARGER THAN 20MM AND NOXIOUS WEED SEEDS. PH SHALL BE BETWEEN 5.5 TO 6.5. ORGANIC MATERIAL IN TOPSOIL SHALL BE FULLY COMPOSTED AND ODOR FREE; SCREENED TO A ½ INCH; NO SEWAGE SLUDGE OR CHEMICALS; APPROVED FOR USE ON ORGANIC FARMS.

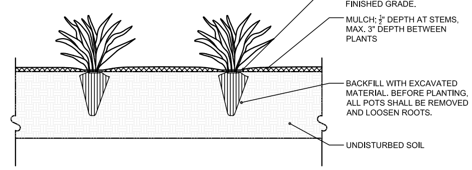
13. ALL PLANT BEDS SHAL BE MULCHED WITH A MINIMUM OF 2" AND A MZIMUM OF 3" LAYER OF MULCH WITHIN TWO DAYS AFTER PLANTING. THIS SHALL BE SHREDDED BARK, AND SHALL COVER ENTIRELY THE PLANTING BED.

14. STAKE AND GUY: STAKE AND GUY TREES WHEN NECESSARY TO STABILIZE ROOT BALL IN LOOSE SOIL OR HIGH WINDS AS DIRECTED BY CONTRACT ADMINISTRATOR. REMOVE ALL STAKES AND GUY MATERIALS ONE YEAR AFTER PLANTING.

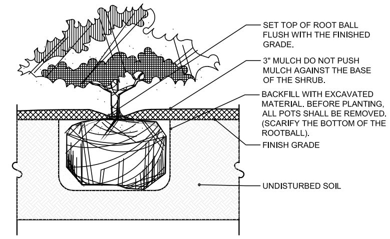
15. WATERING: ALL PLANTS SHALL BE CAREFULLY AND THOROUGHLY WATERED DURING PLANTING TO PROVIDE BEST GROWING CONDITIONS UNTIL ACCEPTANCE OF THE WORK.

16. PLANT MAINTENANCE: BEGIN MAINTENANCE IMMEDIATELY AFTER PLANTING. MAINTAIN TREES, SHRUBS, AND OTHER PLANTS BY PRUNING, CULTIVATING, AND WEEDING AS REQUIRED FOR HEALTHY GROWTH. RESTORE PLANTING SAUCERS. TIGHTEN AND REPAIR STAKE AND GUY SUPPORTS AND RESTORE TREES AND SHRUBS TO PROPER GRADES OR VERTICAL POSITIONS AS REQUIRED. AT THE EXPENSE OF CONTRACTOR.

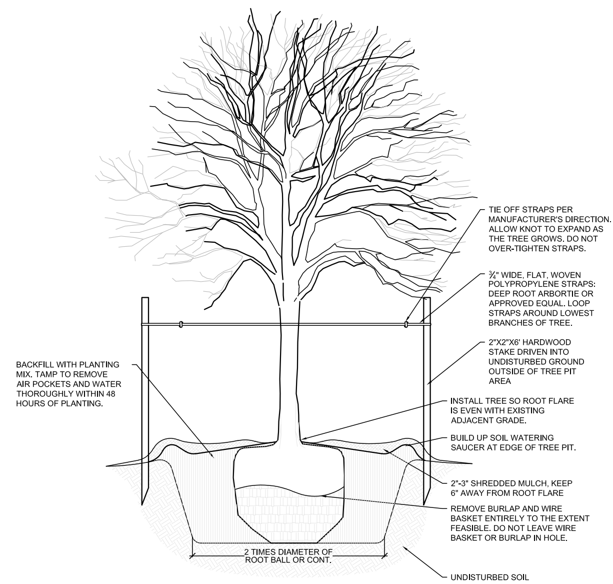
17. ANY DAMAGE TO THE EXISTING UTILITIES, BUILDINGS, PAVING, CURBS, WALLS, VEGETATION AND ANY OTHER EXISTING FEATURES NOT DESIGNATED FOR REMOVAL ON THESE PLANS SHALL BE REPAIRED TO PREVIOUS CONDITION OR REPLACED AT THE CONTRACTOR'S EXPENSE. ALL AREAS DISTURBED DURING CONSTRUCTION ARE TO BE SEEDED PER THE PLANS AND SPECIFICATIONS UNLESS OTHERWISE NOTED.



HERBACEOUS PLANTING DETAIL
SCALE: NTS



SHRUB PLANTING DETAIL
SCALE: NTS



DECIDUOUS TREE PLANTING DETAIL
SCALE: NTS

COMMONWEALTH OF MASSACHUSETTS
JOHN KENNEY
CIVIL
No. 53095
08/26/24
PROFESSIONAL ENGINEER

DuBois & King inc.

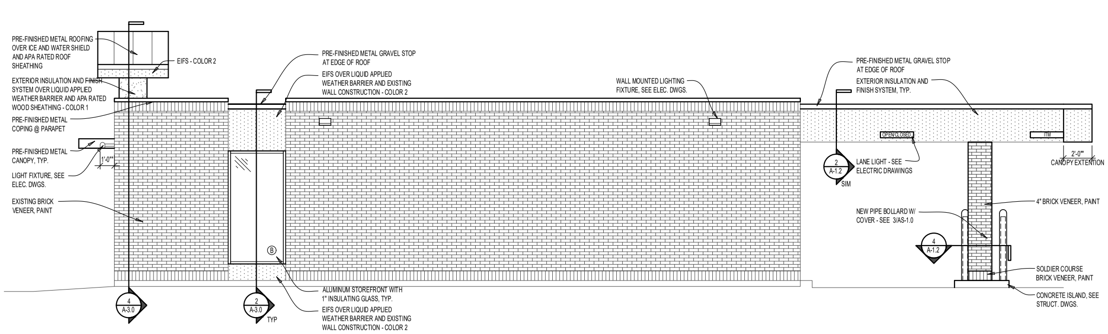
1550 Kemper Meadow Dr.
Cincinnati, Ohio 45240
(513) 825-5800 [p]
513.825.1947 [f]
www.dei-corp.com

LANDSCAPE NOTES AND DETAILS

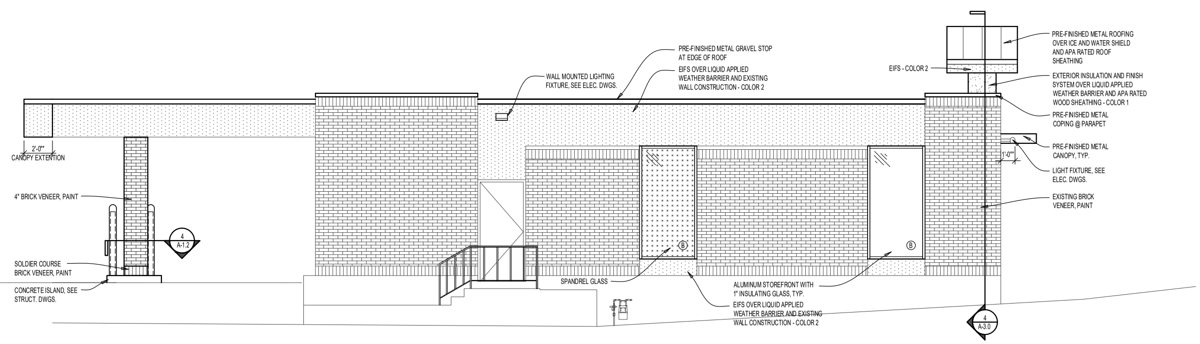
BRANCH RENOVATION FOR:
Dedham Savings
695 Highland Ave
Needham, MA 02492

REVISIONS

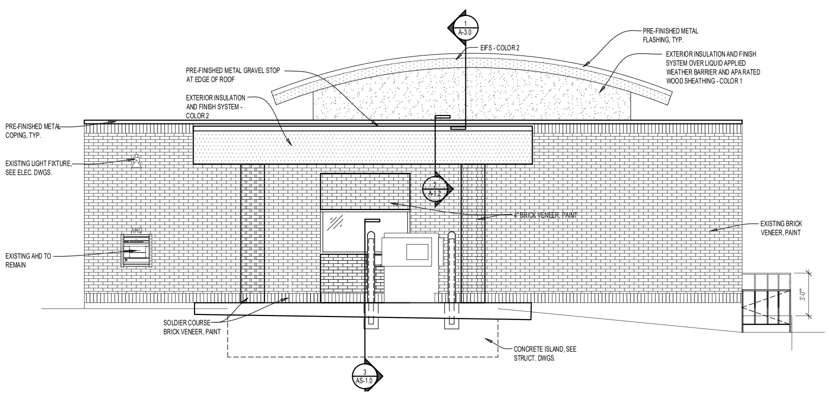
BY
EDL
ISSUE DATE
08-20-24
JOB NO.
224059
SHEET NO.
LS-2.0



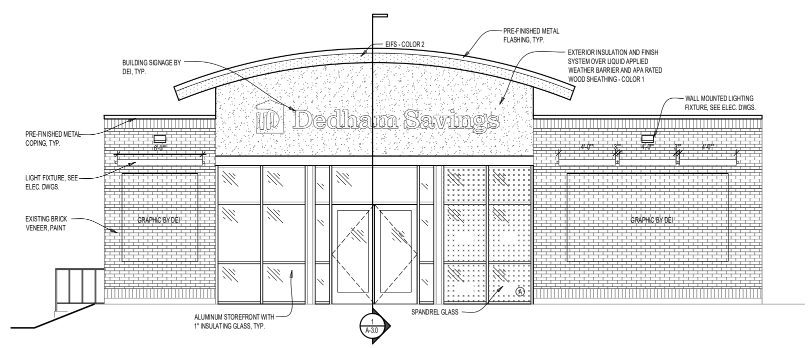
4 EAST ELEVATION
SCALE: 1/4" = 1'-0"



3 WEST ELEVATION
SCALE: 1/4" = 1'-0"



2 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



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

EXTERIOR SELECTION SCHEDULE

MATERIAL TYPE	MANUFACTURER	COLOR	NOTES
BRICK VENEER	GLEN GERY (OR EQUAL)	MATCH EXISTING	
BRICK- FIELD (PAINT)	SHERWIN-WILLIAMS	SW 7016-MINDFUL GRAY	
BRICK - SOLDIER COURSES (PAINT)	SHERWIN-WILLIAMS	SW 7018 DOVETAIL	
EIFS - COLOR 1	DRYVIT	SW 7757ST-HIGH REFLECTIVE WHITE	SANDPEBBLE FINISH
EIFS - COLOR 2	DRYVIT	SW #104ST DOVER SKY	
STOREFRONT FRAMING	OLDCASTLE	LIGHT BRONZE 700 LT	
EXTERIOR GLAZING	VITRO	CLEAR (LOW-E)	SOLAR BAN 60
EXTERIOR GLAZING	VITRO	SPANDREL (GREY)	
PRE-FAB ALUMINUM CANOPY	PAC-CLAD	CARDINAL RED	
GRAPHIC LIGHTS	ELLIPTIPAR	TYPE SP6/STYLE S171	
METAL ROOF	PAC-CLAD	SANDSTONE STEEL	
METAL COPING (UPPER PARAPETS)	PAC-CLAD	SANDSTONE STEEL	
METAL GRAVEL STOP (DRIVE THRU & ROOF EDGE)	PAC-CLAD	GRANITE	
PAINT AT H.M. DOOR AND FRAME	SHERWIN-WILLIAMS	SW 7018 DOVETAIL	
RAILING			

NOTES:
1. SEE SPECIFICATIONS FOR ALL ITEMS RELATING TO THIS SHEET.
2. ALL STOREFRONT DIMENSIONS THIS SHEET ARE TO OPENING. CONTRACTOR TO PROVIDE DETAILED SHOP DRAWINGS TO REFLECT ALL MANUFACTURER RECOMMENDED CLEARANCES / SHIM SPACING.
3. CONTRACTOR TO FIELD VERIFY ALL OPENINGS PRIOR TO MANUFACTURING OF STOREFRONT SYSTEMS.
4. VERIFY ALL COLORS AND FINISHES WITH DEI.
5. SEE SPECIFICATIONS FOR SUBSTITUTION PROCEDURES OF "EQUAL" MATERIALS.

REGISTERED ARCHITECT
RICHARD STANLEY LASWICK
No. AR-11136
CINCINNATI
COMMONWEALTH OF MASSACHUSETTS

R S L
COMMERCIAL ARCHITECTURE
8927 Rossash Road
Cincinnati, OH 45236
513-891-9950 PHONE
513-891-9951 FAX
www.rslarch.com

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www.dei-corp.com

EXTERIOR ELEVATIONS

BRANCH RENOVATION FOR:
Dedham Savings
695 Highland Ave
Needham, MA 02492

REVISIONS

BY
XX
ISSUE DATE
08-20-24
JOB NO.
224059
SHEET NO.
A-2.1

Town of Needham
Building Department
500 Dedham Ave.
Needham, MA 02492

Tel.781-455-7550 x 308

November 7, 2024

Town of Needham / Zoning Board of Appeals
500 Dedham Ave.
Needham, MA. 02492

Re: 695 Highland Ave..

Dear Board Members,

I have reviewed the application for amendments to an original variance and parking waivers for the proposed bank and have the following comments:

1. The property is located in the General Residence Zoning District.
2. The property was granted a use variance, with several conditions in 1969 allowing a bank use and it has been continuously used as such since that time.
3. Only the Zoning Board of Appeals can amend the existing conditions, as requested.
4. The applicant is seeking a waiver of the parking requirements in section and 5.1.3 (design requirements).

I have no further comments nor objections to this proposal.

Sincerely,

Joe Prondak
Building Commissioner

TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023

November 12th, 2024

Needham Zoning Board of Appeals
Needham Public Safety Administration Building
Needham, MA 02492

RE: Case Review-Special Permit
695 Highland Ave - Special Permit

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit pursuant to seeking a Plan Substitution, alteration or removal of conditions to provide relief to a Variance dated October 14, 1969 as well as waiving of strict adherence to parking number and parking plan and design requirements associated with the operation of Dedham Savings Bank

- Application for Special Permit dated 10/25/24
- Cover letter by George Giunta Jr dated 10/25/24
- Applicants Memorandum in Support of Application of DEI INCORPORATED dated 10/25/24 by George Giunta, Jr., Esq.
- Exhibit A – Building Permit & Plot Plan Dated 8/28/1970
- Board of Appeals ruling dated 8/16/07
- Existing Conditions and Proposed Site Plan by Field Resources dated 10/15/24
- Plan set by Dubois & King & RSL Architects dated 8/2/24 consisting of 4 sheets

Our comments and recommendations are as follows:

- The engineering department has no comment or objection to the request.

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas A Ryder

Daphne Collins

From: Tom Conroy
Sent: Wednesday, November 6, 2024 10:34 AM
To: Daphne Collins
Subject: RE: 695 Highland Ave - ZBA Administrative Review - Due November 11, 2024

Hi Daphne,
No issues with Fire.
Thanks,
Tom

Thomas M. Conroy
Fire Chief - Needham Fire Department
tconroy@needhamma.gov
Ph (781) 455-7580

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, November 4, 2024 1:12 PM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 695 Highland Ave - ZBA Administrative Review - Due November 11, 2024

Good Afternoon -

695 Highland Avenue – DEI Incorporated is seeking a Plan Substitution, alteration or removal of conditions to provide relief to a Variance dated October 14, 1969 as well as waiving of strict adherence to parking number and parking plan and design requirements associated with the operation of Dedham Savings Bank.

Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **November 12, 2024** to allow time for the applicant to respond prior to the hearing.

If you have any questions, feel free to contact me.

Thank you,

Daphne M. Collins
Zoning Specialist
Phone 781-455-7550, x 261
Web https://www.needhamma.gov/
https://needhamma.gov/1101/Board-of-Appeals
www.needhamma.gov/NeedhamYouTube

TOWN OF NEEDHAM
TOWN HALL
1471 Highland Avenue
Needham, MA 02492-2669

Design Review Board

September 9, 2024
Memo: Site Plan Review, 695 Highland Avenue

Dedham Savings is renovating the existing bank building. The DRB reviewed the changes proposed to the building, site layout, and landscaping.

They propose to add a canopy at the building entrance. It would have a synthetic stucco finish (EIFS) which would have an integral color and not need painting. They also propose to enlarge the drive thru canopy and change the support posts from small steel posts to brick posts to be more in character with the building, which is brick. The enlarged canopy will also be finished with the synthetic stucco. They will paint the new and existing brick a light grey, with a darker grey accent band.

The existing storefront entrance will be replaced. The new bronze finished storefront will have a mix of fritted glass (obscure) and clear panels. In addition, they plan to add a large red vinyl graphic over several of the glass panels.

The DRB approved of the proposed changes to the building.

The applicant wants to add 2 graphic elements, likely photos, but not known at this time, to the front. The Board approved of the concept, however, these will qualify as signage so will be reviewed by the DRB when the applicant returns with their signage applications.

The lighting was discussed, and the Board approved the proposed light fixtures, which will be building mounted. No pole lighting was proposed.

Changes to the site layout were reviewed. The front of the site along Highland Ave remains mostly unchanged, with some changes to the parking striping. Some parking along the east side will be eliminated. The Board noted the exit from this front parking area is using the existing narrow drive parallel to Webster Street. There were some concerns about the difficulty of this current exit. The applicant is expecting the changes to the rear, defining Putnam more clearly, will help the traffic flow from this exit and the drive through. The Board did not see a better way to resolve this existing issue.

The rear of the current building is a large undefined street and parking/driving area. It is difficult to tell Putnam Street from the parking lot. They propose adding a landscape island to create more definition and to create a second drive thru lane. The Board agrees with this approach and thinks it will improve the look and traffic flow on both Putnam and for the drive thru.

The Board approves of the plant selections for the new island, they were cautioned that one of the plant types proposed could grow over one of the others and the plants should be carefully organized. They had a lawn area in the island, the Board suggested a hearty ground cover or more of the proposed bushes would be better than grass. They propose a new tree along the Highland Avenue landscaped area, and one on Webster. They Board suggested planting 2 shade trees on Highland to start to create a better streetscape. The plants planned for the east property line should work well if the landscape bed is large enough. They should verify the width, if it is not 3-4 feet wide they could consider a decorative stone/gravel bed instead. Snow removal/storage is often a problem in these types of locations. Other than the comments above the Board approved the landscaping plan.

The Board stated that the proposal would be an improvement to the building and site and forwards these comments to the ZBA.

End of Notes

Daphne Collins

From: Tara Gurge
Sent: Tuesday, November 12, 2024 9:14 AM
To: Daphne Collins
Subject: RE: 695 Highland Ave - ZBA Administrative Review - Due November 11, 2024 / Public Health comments

Daphne –

The Public Health Division conducted the Zoning Board review for the proposal for the property located **at #695 Highland Ave**. The Public Health Division has no comments to share at this time.

Thanks,

TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health

please consider the environment before printing this email

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, November 12, 2024 9:08 AM
To: John Schlittler <JSchlittler@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>
Subject: FW: 695 Highland Ave - ZBA Administrative Review - Due November 11, 2024

Reminder!
ZBA Administrative Review due today.
Thank you,
Daphne

Daphne M. Collins

Daphne Collins

From: David Hojlo <dhojlo@corbco.com>
Sent: Wednesday, November 13, 2024 1:34 PM
To: Daphne Collins; Dr. Kevin Domingos
Cc: Dennis McNamara; Matt Lane
Subject: RE: Request for the application materials - 695 Highland Avenue

Importance: High

Daphne:

My name is Dave Hojlo. I am also a building Trustee of 687 Highland Ave. along with Kevin Domingos and Dennis McNamara.

Questions when reviewing Consulting Engineers [Dubois & King, Inc.] drawing(s). Please advise following:

-The drawing indicates a lot of new plantings along "687 Highland Ave. and 695 Highland Ave Boundary" [687/695] and also notes "demolition" on p. 36/38. Please explain intentions
-Is the Dedham Bank/ Dubois and King proposal to demo existing wall along this [687/695] boundary line?
-I see the listed plants, but what height/size are these plants proposed along the boundary- 695 Highland Ave. and 687 Highland Ave.
-the Consulting Engineers, Dubois & King notes on p. 37/38 "Decidious Tree Planting"- please explain proportions of these tree(s) and # of proposed plantings
-I do not see any explanation of the "demo" work. Please advise
-the proposed "ATM drive through window canopy" appears to be (2) ATM stations and subsequent Island Landscaping contiguous to Putnam Ave.
-the Island Landscaping appears to extend considerably into the Existing Putnam Ave. restricting access to the "neighborhood" [Putnam Ave. residence(s) and Commercial building(s) 687 Highland Ave. along with 679 Highland Ave.]
-what are the Dedham Bank plans to provide safe access from Webster Ave. to Putnam Ave and other related neighborhood?

Appreciate your help,

Dave

David L. Hojlo, AIF,PPC
CORBCO Retirement Group ("CORBCO")
687 Highland Avenue
Suite 11-12
Needham, MA 02494
(617) 437-6707 ext. 103

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SAGA PARTNERS
your journey to a custom home

Arthur Elzon
Managing Partner
Driftwood Landing, LLC
127 Hanson Rd
Newton, MA 02459
617-209-9297

11/14/2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Administrative Specialist

Re: Driftwood Landing, LLC
378 Manning St, Needham, MA
Special Permit Request

Dear Ms. Collins,
We are requesting to officially withdraw our special permit application without prejudice for this project.

Sincerely,

Arthur Elzon