

NEEDHAM
ZONING BOARD OF APPEALS
AGENDA

Wednesday, January 29, 2025 - 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
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Minutes Review and approve Minutes from December 19, 2024 meeting.

7:30 PM **250 Highland Avenue – Rainbow Angel, Inc.** *(Continued from December 19, 2024)* 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.

7:30 PM **51 Fremont Street - Rental City, Inc.** applied for a Special Permit to allow for equipment rental services with accessory retail use pursuant to 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 of an equipment rental services with accessory retail sales. The property is located in the Mixed Use-128 (MU-128) zoning district.

7:45 PM **378 Manning Street –Nick Koslov and Megan Waldvogel** applied for an Appeal of a Building Inspector Decision (ABID) of Building Permit BC24-11078 issued to Arthur Elzon dated November 19, 2024, for the reconstruction of a two-family at 378 Manning Street. The ABID asserts that the Building Permit plans on file do not comply with the terms of Section 1.4.7.4 of the By-Law that the building as reconstructed have a footprint no greater in area than that of the original non-conforming building. The property is located in the Single-Residence B (SRB) District.

8:00 PM **282 Warren Street** – Stephanie Cox and Joshua A. Shaller applied for a Variance to allow the divestment of a five-foot strip of land to the abutting property at 73 Pleasant Street. This divestment would make 282 Warren Street, currently a conforming lot, into a non-conforming lot with a build Factor of 26.69 where a build factor of 20 or less is required under Sections 4.2.5 of the By-Law. The property is located in the Single-Residence B

Next ZBA Meeting – February 27, 2025

(SRB) District. *The Applicant has requested a Continuance to February 27, 2025.*

8:15PM

0 Colgate Road -Patricia M. Connolly, appellant, has appealed a decision of a Building Inspector (ABID) dated December 2, 2024 who determined that the property “*appears to “front” on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law.*” The ABID asserts that the vacant lot has 95 feet of frontage on a private paved way which satisfies the minimum frontage of 80 feet for parcels in the Single-Residence B per Section 4.2.1 of the By-Law. The property is located at 0 Colgate Road, Needham, MA in the Single-Residence B (SRB) District.

**NEEDHAM
ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, December 19, 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
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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, December 19, 2024 at 7:30 p.m.

BOARD MEMBERS PRESENT: Jonathan Tamkin, Chair; Howard Goldman, Vice-Chair; Peter Friedenbergl, Associate Member.

BOARD MEMBER(S) ABSENT: Nikolaos Ligris, Member; Valentina Elzon, Associate Member.

STAFF PRESENT: Daphne M. Collins, Zoning Specialist

Jonathan Tamkin, Chair presided and opened the meeting at 7:30 p.m.

1. MINUTES OF NOVEMBER 20, 2024

Mr. Goldman moved to approve the minutes of November 20, 2024. Mr. Friedenbergl seconded the motion. The motion was unanimously approved.

2. 37 MOSELEY AVENUE

VARIANCE

WITHDRAWN WITHOUT PREJUDICE

The Applicant requested that the Application for a Variance be Withdrawn without Prejudice. The Applicant proposes to pursue a by-right project.

Mr. Goldman moved to accept the request to Withdraw Without Prejudice the Application for a Variance at 37 Moseley Avenue. Mr. Friedenbergl seconded the motion. The motion was unanimously approved.

3. 250 HIGHLAND AVENUE

SPECIAL PERMIT

CONTINUED TO JANUARY 29, 2025

The Applicant requested to continue the meeting to January 29, 2025 to allow for the Applicant to conduct a parking study. The Board asked that the Study be available to the Board prior to the meeting.

Mr. Goldman moved to continue the meeting to January 29, 2025. Mr. Friedenbergs seconded the motion. The motion was unanimously approved.

The meeting adjourned at 7:36 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. 72261.

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

MEMORANDUM

DATE: January 21, 2024

TO: Ms. Sylvia Makarios
250 Highland LLC
3 Berkshire Drive
Franklin, MA 02038

FROM: Robert J. Michaud, P.E. – Managing Principal
Andrew J. Arseneault – Project Manager



RE: Parking Evaluation
250 Highland Avenue, Needham, Massachusetts

MDM Transportation Consultants, Inc. (MDM) has conducted a parking evaluation in support of proposed re-tenancy of restaurant space located at 250 Highland Avenue in Needham, Massachusetts ("Site"); the location of the Site relative to adjacent roadways is shown in **Figure 1**. This parking evaluation documents existing surface lot parking activity for the Site and adjoining lot and estimates anticipated peak parking demand characteristics of the proposed restaurant use based on empirical data for nearby similar operational area restaurant uses. Recommendations for parking layout and management are also provided to ensure peak parking demand is reasonably accommodated for the use.

In summary, the Site has historically supported operation of a restaurant use ("Mighty Subs") with nominal seating capacity of 60+ seats plus take-out operations. The proposed restaurant use, which will also have a take-out operation, will have a reduced seating capacity of 20 that is supported by a total of six (6) surface parking spaces on the Site. The proposed tenant has secured agreement from an adjacent lot owner (Restaurant Depot) for employee parking, leaving all on-Site parking available for patron use. Empirical parking demand data for similar restaurant uses, including a nearby restaurant operated by the proposed tenant, indicates a projected peak patron parking demand ranging from three (3) to five (5) concurrently parked vehicles on weekdays and weekends. Dumpster units on the Site will be actively managed to ensure refuse operations occur outside of normal business hours, allowing unimpeded access to exterior dumpster units that currently exist of the Site.



Figure 1

Site Location

PROJECT DESCRIPTION AND CONTEXT

The Site consists of approximately 0.13± acres of land occupied by a vacant 1,870± square foot (sf) commercial building that formerly operated as a restaurant (“Mighty Subs”). The Site is bounded by Highland Avenue to the north, First Avenue to the west, and a the “RK Center” mixed-use commercial development that contains the Needham Montessori School and Mandarin Cuisine restaurant. On-Site parking is available for a total of six (6) spaces, consistent with historic use of the Site when Mighty Subs was in operation. Eleven (11) additional parking spaces are located on the adjacent property at 238 Highland Avenue which are access by way of a shared driveway and associated easement area that serves both properties¹. On-street parking is not permitted along Highland Avenue or First Avenue in the immediate vicinity of the Site. Site access/egress will continue to be provided by way of the shared driveway located along the south side of Highland Avenue, approximately 80 feet east of First Avenue.

Under the proposed Site programming, the existing building will be renovated to accommodate a restaurant tenant (“Jean and Lee Kitchen”) that operates for lunch and dinnertime between the hours of 11 AM and 9 PM Wednesday through Monday; the restaurant will be closed on Tuesdays. The sit-down dining capacity for the restaurant will be reduced from the historic use of approximately 60 seats to 20 seats; no alcohol will be served and the restaurant and a bar facility is not proposed. Online and phone orders for take-out service will also be available and is expected to account for more than half of restaurant activity, consistent with the proposed tenant’s existing restaurant operations located at 108 Oak Street in Newton. The proposed tenant has secured agreement from an adjacent lot owner (Restaurant Depot) for employee parking, leaving all on-Site parking available for patron use.

Parking Evaluation

Observed Parking Demand - Site and Adjacent Lot

Hourly parking activity for the Site and adjoining “RK Center” surface spaces that share access to Highland Avenue has been inventoried in January 2025 to ascertain the level of parking on a typical weekday, typical Friday and a typical Saturday. Hourly parking observations were conducted between 11:00 AM and 7:00 PM to establish peak parking demand levels during hours that coincide with peak operating periods of the proposed restaurant use. Detailed summaries of the Site, and RK Center, parking observations are provided in the **Attachments** which are summarized as follows:

- **Site parking, 250 Highland Ave:** The building that currently occupies the Site at 250 Highland Ave is currently vacant; however, weekday parking activity ranging from One (1) to two (2) vehicles was observed to occur throughout the 11 AM to 5 PM period. No Weekend (Saturday) parking activity occurred during the survey period.

¹ For context, the RK Center tenants are provided an additional 39 parking spaces in a separate off-street parking field located east of the Site, plus an additional four spaces along the east side of First Avenue.

- **238 Highland Ave/RK Center Spaces:** Peak parking activity at the adjacent 238 Highland Ave spaces ranged from four (4) vehicles on a Tuesday to three (3) vehicles on a Friday. No Weekend (Saturday).

In summary, peak concurrent parking demand for the combined surface lots serving 250 & 238 Highland Avenue (17 total spaces) was observed to be five (5) vehicles or less during weekday survey periods; no parking on these lots occurred on Saturdays.

Empirical Parking Demand: Jean and Lee Kitchen, 108 Oak Street, Newton, Massachusetts

Empirical parking demand observations were conducted at the existing restaurant operated by the proposed tenant - the Jean and Lee Kitchen restaurant located at 108 Oak Street in Newton, which is located approximately 0.6 miles north of the Site. Consistent with proposed operations at 250 Highland Avenue, this Newton restaurant accommodates both dine-in and take-out patrons, with delivery provided via third-party service providers. The Newton restaurant occupies an approximate 4,228± sf gross building area with a maximum total rated occupancy (seated and standing) of 83 persons. On-site parking capacity is available for up to approximately 15 vehicles with limited on-street parking immediately adjacent to the building.

The parking observations were conducted on a weekdays including a Tuesday and a Friday, and a Saturday in January 2025 from 11:00 AM to 7:00 PM. The results of the parking observations, broken into hourly intervals, are provided in **Table 1**.

TABLE 1
PARKING OBSERVATIONS – Jean and Lee Kitchen, Newton

Time Period	Parking Demand		
	Weekday ¹	Friday ²	Typical Saturday ³
11:00 AM	2	3	2
12:00 PM	4	4	7
12:15 PM	4	4	7
12:30 PM	6	3	7
12:45 PM	5	4	6
1:00 PM	4	4	5
1:15 PM	3	3	6
1:30 PM	3	3	7
1:45 PM	3	3	7
2:00 PM	5	3	7
3:00 PM	4	3	5
4:00 PM	3	3	5
5:00 PM	3	3	6
5:15 PM	5	4	6
5:30 PM	4	4	6
5:45 PM	4	4	4
6:00 PM	4	4	3
6:15 PM	4	3	3
6:30 PM	6	4	4
6:45 PM	5	3	5
7:00 PM	7	3	5

¹As observed January 9, 2025.

²As observed January 10, 2025.

³As observed January 11, 2025.

As summarized in **Table 1**, the peak parking demand for parking at the existing Jean and Lee Kitchen restaurant occurred during the dinner period on a weekday and the lunch period on a Saturday, with a maximum of seven (7) vehicles parked on-site inclusive of employee parking activity. Employee-related vehicles total up to three (3) vehicles that were parked for the duration of the observations in the rear portion of the parking lot. No curbside parking activity was observed to occur in connection with the restaurant operations; all restaurant parking activity including high-turnover/short-term parking occurred within the restaurant parking field.

Empirical Parking Demand - Sushi Man, 34 Jackson Street, Newton, Massachusetts

To provide an additional point of comparison, empirical parking demand observations were also conducted at another similar but unaffiliated restaurant in Newton – specifically the Sushi Man restaurant located at 34 Jackson Street in Newton located approximately 2.5 miles east of the Site. The Sushi Man restaurant operates with a similar business model, offering both dine-in and take-out service, with deliveries facilitated by third-party service providers; provides dishes at a generally comparable price point; and serves a different, but related style of cuisine. The restaurant provides a total rated occupancy of 18 persons. Off-street parking is provided

for four (4) vehicles in designated spaces located in a shared surface parking lot adjacent to the restaurant. Limited curbside parking along the restaurant frontage on Jackson Street is also available; however, as per inventory described below there is de minimus use of curbside parking for restaurant operations.

Parking observations were conducted for the Sushi Man parking lot and curbside area for a weekday (Friday) and a Saturday in January 2025 from 11:00 AM to 7:00 PM. The results of the parking observations, broken into hourly intervals, are provided in **Table 2**.

TABLE 2
PARKING OBSERVATIONS –Sushi Man Restaurant, Newton

Time Period	Parking Demand		
	Typical Weekday ¹	Friday ²	Saturday ³
11:00 AM	1	2	2
12:00 PM	2	4	3
12:15 PM	2	4	3
12:30 PM	3	3	3
12:45 PM	3	3	3
1:00 PM	3	3	2
1:15 PM	3	2	3
1:30 PM	3	2	3
1:45 PM	2	2	3
2:00 PM	3	3	2
3:00 PM	4	1	1
4:00 PM	1	1	1
5:00 PM	3	1	3
5:15 PM	2	3	3
5:30 PM	2	3	3
5:45 PM	3	3	3
6:00 PM	2	4	3
6:15 PM	3	2	3
6:30 PM	3	2	3
6:45 PM	3	4	3
7:00 PM	3	3	4

¹As observed January 14, 2025.

²As observed January 3, 2025.

³As observed January 4, 2025.

As summarized in **Table 2**, As summarized in **Table 1**, the peak parking demand for parking at the Sushi Man restaurant occurred during the lunchtime and dinner periods on a weekday and the dinner period on a Saturday, with a maximum of four (4) parked vehicles. Employee-related vehicles were not specifically accounted for in the total demand; it is likely but not confirmed that employee parking for The Sushi Man may be assigned to another off-site location. No curbside parking activity was observed to occur in connection with the restaurant operations; all restaurant parking activity including high-turnover/short-term parking occurred within the designated restaurant parking spaces.

Parking Demand Projections – ITE Basis

Finally, projected peak parking demands at the Site were estimated for the proposed 20-seat restaurant based on peak parking generation rates as published by the ITE in the *Parking Generation*² Manual. The parking demand rates utilized for this assessment are best aligned with Land Use Code (LUC) 932 – High-Turnover (Sit-Down) Restaurant, Does Not Serve Breakfast subcategory. Per the ITE, *“A high-turnover (sit-down) restaurant is full-service eating establishment with a typical duration of stay of 60 minutes or less. This type of restaurant is usually moderately priced, frequently belongs to a restaurant chain, and is commonly referred to as casual dining. Generally, these restaurants serve lunch and dinner; they may also be open for breakfast and are sometimes open 24 hours a day. These restaurants typically do not accept reservations. A patron commonly waits to be seated, is served by wait staff, orders from a menu, and pays after the meal. Some facilities offer carry-out for a small proportion of their customers. Some facilities within this land use may also contain a bar area for serving food and alcoholic drinks.”*

MDM notes that the proposed restaurant at 250 Highland Avenue will not serve alcohol and will not have a bar area; take-out orders are also expected to account for a substantial proportion of restaurant activity given the modest seating capacity. ITE rates also include parking activity associated with employee vehicles, which in this case will not be present at the Site. While ITE LUC 932 rates are best aligned with the proposed use, these rates may be somewhat conservative given these specific programming assumptions for the proposed restaurant use.

Table 3 provides a summary of peak parking demands for each of the restaurant land use category if applied to a 20 seat establishment; ITE parking data and calculations are provided in the **Attachments** for reference. As summarized in **Table 3**, the highest anticipated peak parking demands associated with the proposed restaurant over the three time periods range from an average peak of 6 to 8 vehicles – *demands that are inclusive of employee parking activity*. When factoring employee-related parking activity, which is estimated to be between 2 and 3 vehicles for typical restaurant operations, the resulting peak parking demands align well with observed peak demand activity at the proposed tenant’s existing restaurant in Newton and the comparable Sushi Man restaurant in Newton.

² *Parking Generation, 6th Edition*, Institute of Transportation Engineers, Washington D.C. 2023.

TABLE 3
PEAK PARKING DEMAND – ITE BASIS¹

	<i>ITE LUC 932 High-Turnover (Sit Down) Restaurant Does Not Serve Breakfast</i>	
	<i>Weekday</i>	<i>Saturday</i>
Average Peak ²	6	8

¹Based on ITE Parking Generation 6th Edition parking rates for LUC 932, High-Turnover (Sit Down) Restaurant, Does Not Serve Breakfast subcategory applied to 20 seats.

²Average peak parking demand, typically associated with dinnertime periods per ITE time-of-day demand characteristics; includes employee-related parking activity.

CONCLUSIONS AND RECOMMENDATIONS

The proposed restaurant use, which will also have a take-out operation, will have a reduced seating capacity of 20 that is supported by a total of six (6) surface parking spaces on the Site. The proposed tenant has secured agreement from an adjacent lot owner (Restaurant Depot) for employee parking, leaving all on-Site parking available for patron use. Empirical parking demand data for similar restaurant uses, including a nearby restaurant operated by the proposed tenant, indicates a projected peak patron parking demand ranging from three (3) to five (5) concurrently parked vehicles on weekdays and weekends. Likewise, application of industry standard parking rates for restaurant use, when excluding demands associated with employee use of spaces, is consistent with these empirical data.

MDM recommends that the following parking management protocols be employed to maximize efficiency of on-Site parking:

- The Site parking spaces have historically been marked as angled along the building, allowing up to six (6) spaces with additional area reserved for dumpster units. A more efficient parking layout may be achieved by marking 9' x 18' spaces in a perpendicular orientation to the building with wheel stops that facilitate vehicle movements to/from the Site while still providing area for dumpster units. A conceptual layout of parking under this orientation is provided in the **Attachments** for reference. AutoTurn® vehicle swept path modeling for standard passenger vehicles is also provided in the **Attachments** that indicates movements to/from these re-oriented parking spaces can occur within confines of the shared access easement area serving the 238 & 250 Highland Avenue properties.
- Marked spaces should be designated for patron use only with appropriate signs and/or pavement markings.

- Dumpster units on the Site should be actively managed to ensure refuse operations occur outside of normal business hours, allowing unimpeded access to exterior dumpster units that currently exist of the Site.

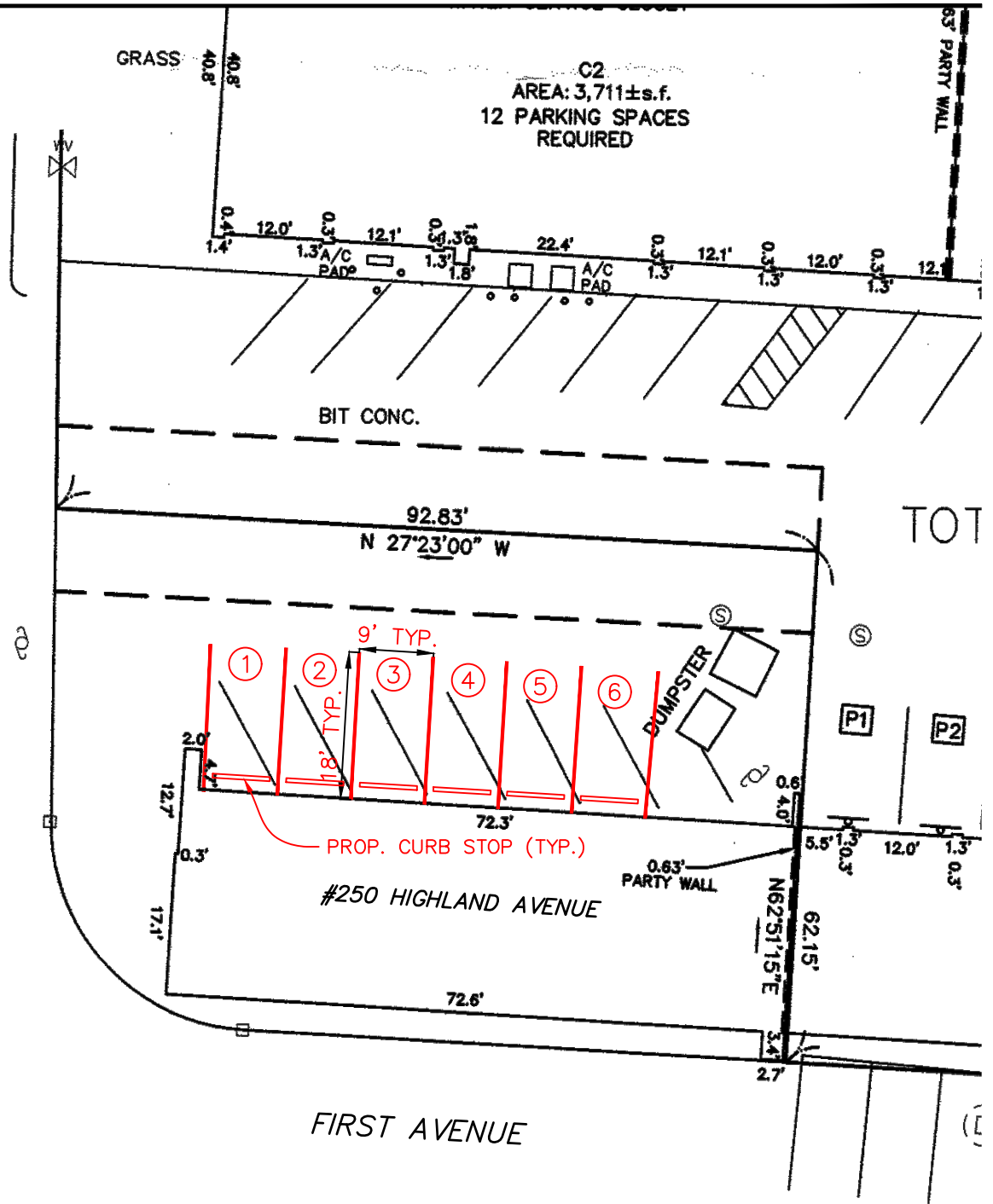
In conclusion, it is the opinion of MDM that the proposed on-Site parking supply of six (6) spaces will reasonably accommodate peak weekday and weekend parking demands of the proposed restaurant use and programming understanding that employee parking will be accommodated through agreements for an off-site location and that recommended parking management protocols are implemented.

ATTACHMENTS

- Recommended Parking Layout
- Vehicle Turning Templates
- Parking Observation Data

□ Recommended Parking Layout

HIGHLAND AVENUE

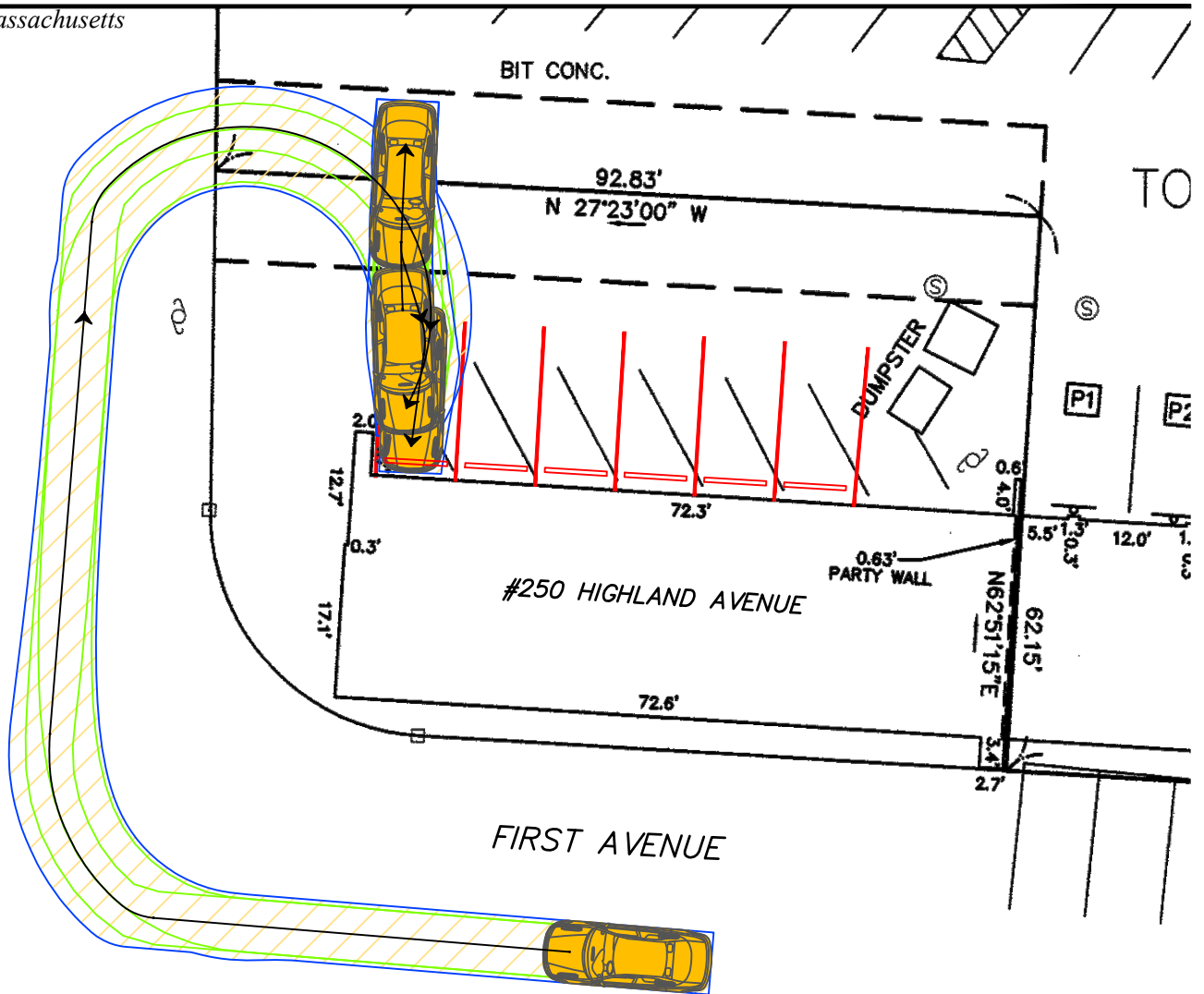


North

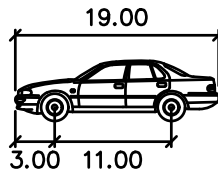


□ Vehicle Turning Templates

HIGHLAND AVENUE

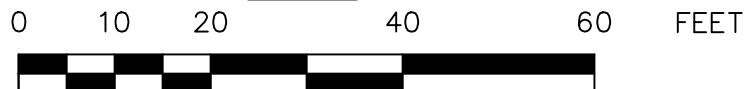


DESIGN VEHICLE



Width	: 7.00
Track	: 6.00
Lock to Lock Time	: 6.0
Steering Angle	: 31.6

SCALE



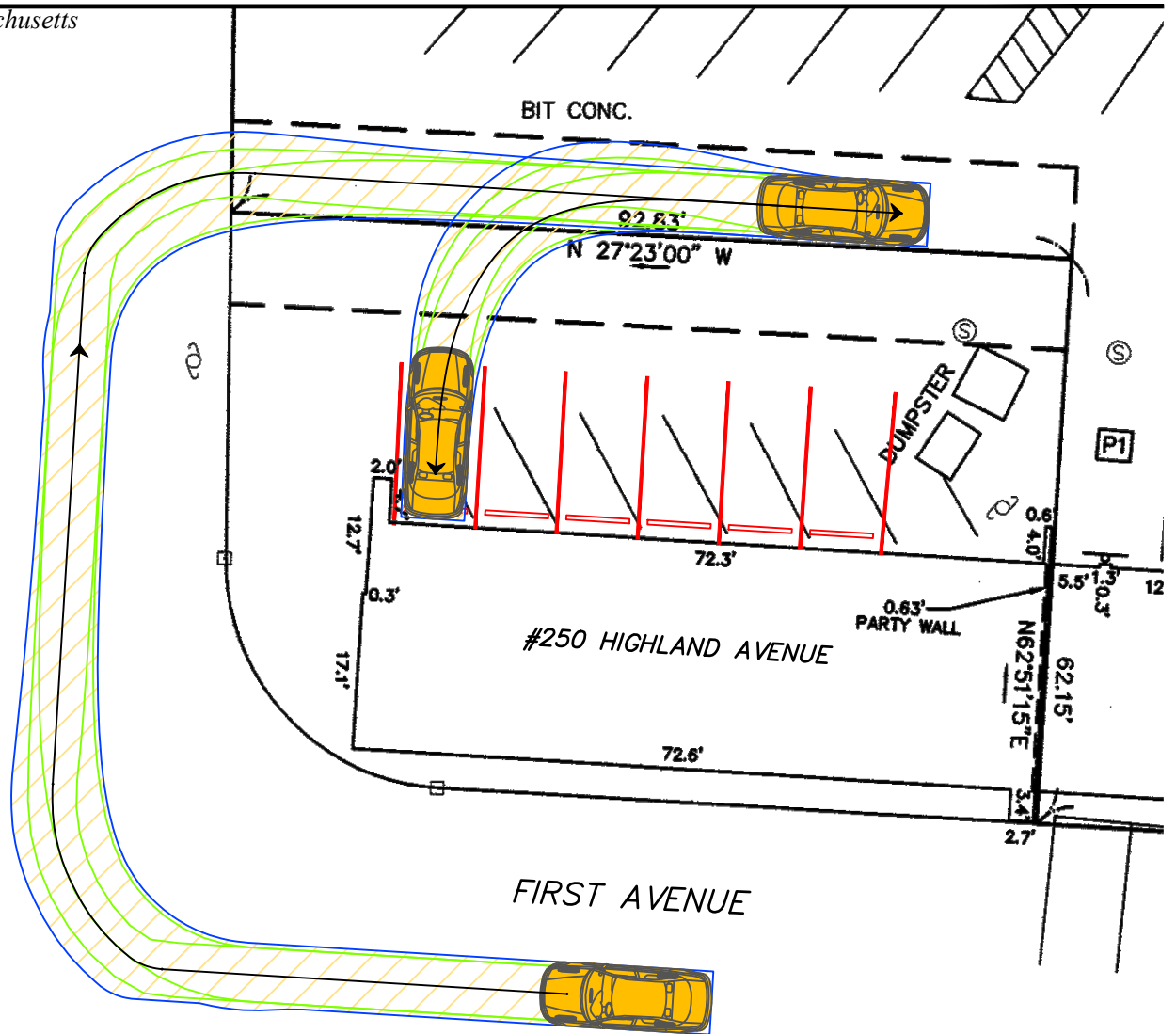
North

MDM TRANSPORTATION CONSULTANTS, INC.
Planners & Engineers

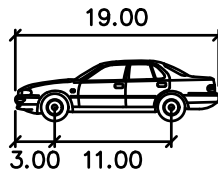
Attachment

Vehicle Turning Template
Entering Vehicle

HIGHLAND AVENUE



DESIGN VEHICLE



Width	: 7.00
Track	: 6.00
Lock to Lock Time	: 6.0
Steering Angle	: 31.6

SCALE

0 10 20 40 60 FEET



North

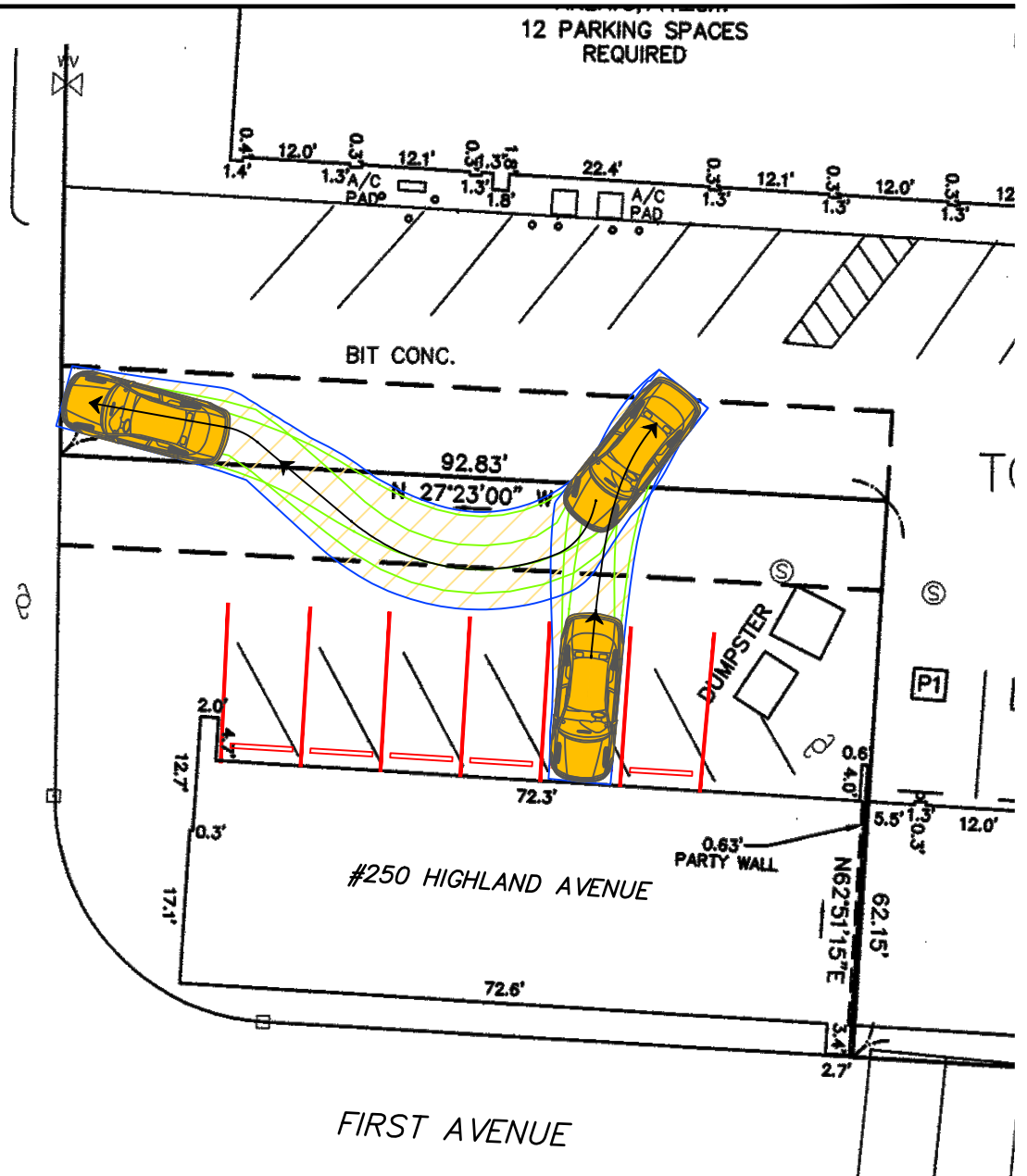
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MDM TRANSPORTATION CONSULTANTS, INC.
Planners & Engineers

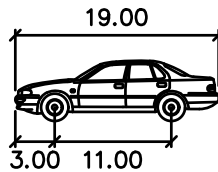
Attachment

Vehicle Turning Template
Backing Vehicle

HIGHLAND AVENUE



DESIGN VEHICLE



Width	: 7.00
Track	: 6.00
Lock to Lock Time	: 6.0
Steering Angle	: 31.6

SCALE

0 10 20 40 60 FEET



North

Scale: Not to Scale

MDM TRANSPORTATION CONSULTANTS, INC.
Planners & Engineers

Attachment

Vehicle Turning Template
Exiting Vehicle

□ Parking Observation Data

	250 Highland Ave	238 Highland Ave	
	(Site)	(RK Center)	
	Cars	Cars	Total Cars
Supply	5	11	16
11:00 AM	1	2	3
12:00 PM	1	2	3
1:00 PM	1	2	3
2:00 PM	2	2	4
3:00 PM	2	2	4
3:15 PM	2	2	4
3:30 PM	2	2	4
3:45 PM	2	3	5
4:00 PM	2	1	3
4:15 PM	1	1	2
4:30 PM	1	1	2
4:45 PM	1	1	2
5:00 PM	1	1	2
6:00 PM	0	1	1
7:00 PM	0	0	0

Parking Accumulation Counts
238 & 250 Highland Avenue
Friday, January 3, 2025

	250 Highland Ave	238 Highland Ave	
	(Site)	(RK Center)	
	Cars	Cars	Total Cars
Supply	5	11	16
11:00 AM	0	0	0
12:00 PM	0	0	0
1:00 PM	0	0	0
2:00 PM	0	0	0
3:00 PM	0	0	0
3:15 PM	0	0	0
3:30 PM	0	0	0
3:45 PM	0	0	0
4:00 PM	0	0	0
4:15 PM	0	0	0
4:30 PM	0	0	0
4:45 PM	0	0	0
5:00 PM	0	0	0
6:00 PM	0	0	0
7:00 PM	0	0	0

Parking Accumulation Counts
238 & 250 Highland Avenue
Saturday, January 4, 2025

	250 Highland Ave	238 Highland Ave	
	(Site)	(RK Center)	
	Cars	Cars	Total Cars
Supply	5	11	16
11:00 AM	1	2	3
12:00 PM	1	2	3
1:00 PM	1	3	4
2:00 PM	1	4	5
3:00 PM	2	2	4
3:15 PM	2	2	4
3:30 PM	2	0	2
3:45 PM	2	0	2
4:00 PM	2	0	2
4:15 PM	1	0	1
4:30 PM	1	0	1
4:45 PM	1	0	1
5:00 PM	1	1	2
6:00 PM	0	0	0
7:00 PM	0	0	0

Parking Accumulation Counts
238 & 250 Highland Avenue
Tuesday, January 7, 2025

	Sushi Man	Other Tenants	
	Cars	Cars	Total Cars
Supply	4	12	16
11:00 AM	2	5	7
11:15 AM	2	7	9
11:30 AM	4	7	11
11:45 AM	4	7	11
12:00 PM	4	7	11
12:15 PM	4	5	9
12:30 PM	3	7	10
12:45 PM	3	8	11
1:00 PM	3	8	11
1:15 PM	2	7	9
1:30 PM	2	7	9
1:45 PM	2	7	9
2:00 PM	3	7	10
3:00 PM	1	8	9
4:00 PM	1	4	5
4:15 PM	1	5	6
4:30 PM	1	5	6
4:45 PM	1	5	6
5:00 PM	1	5	6
5:15 PM	3	5	8
5:30 PM	3	5	8
5:45 PM	3	5	8
6:00 PM	4	6	10
6:15 PM	2	6	8
6:30 PM	2	7	9
6:45 PM	4	8	12
7:00 PM	3	10	13

Parking Accumulation Counts
30-34 Jackson Street Off-Site Parking Lot
Friday, January 3, 2025

	Sushi Man	Other Tenants	
	Cars	Cars	Total Cars
Supply	4	12	16
11:00 AM	2	6	8
11:15 AM	2	6	8
11:30 AM	2	6	8
11:45 AM	2	6	8
12:00 PM	3	6	9
12:15 PM	3	6	9
12:30 PM	3	6	9
12:45 PM	3	7	10
1:00 PM	2	6	8
1:15 PM	3	6	9
1:30 PM	3	6	9
1:45 PM	3	6	9
2:00 PM	2	6	8
3:00 PM	1	5	6
4:00 PM	1	3	4
4:15 PM	1	4	5
4:30 PM	1	4	5
4:45 PM	1	3	4
5:00 PM	3	3	6
5:15 PM	3	5	8
5:30 PM	3	5	8
5:45 PM	3	6	9
6:00 PM	3	6	9
6:15 PM	3	6	9
6:30 PM	3	6	9
6:45 PM	3	7	10
7:00 PM	4	7	11

Parking Accumulation Counts
30-34 Jackson Street Off-Site Parking Lot
Saturday, January 4, 2025

	Sushi Man	Other Tenants	
	Cars	Cars	Total Cars
Supply	4	12	16
11:00 AM	1	5	6
11:15 AM	1	7	8
11:30 AM	2	7	9
11:45 AM	2	8	10
12:00 PM	2	7	9
12:15 PM	2	7	9
12:30 PM	3	6	9
12:45 PM	3	6	9
1:00 PM	3	6	9
1:15 PM	3	6	9
1:30 PM	3	7	10
1:45 PM	2	10	12
2:00 PM	3	9	12
3:00 PM	4	9	13
4:00 PM	1	6	7
4:15 PM	1	9	10
4:30 PM	2	7	9
4:45 PM	2	6	8
5:00 PM	3	5	8
5:15 PM	2	4	6
5:30 PM	2	4	6
5:45 PM	3	5	8
6:00 PM	2	3	5
6:15 PM	3	3	6
6:30 PM	3	3	6
6:45 PM	3	3	6
7:00 PM	3	3	6

Parking Accumulation Counts
30-34 Jackson Street Off-Site Parking Lot
Tuesday, January 14, 2025

108 Oak Street
(Jean and Lee Kitchen)

Supply	Cars
	15±
11:00 AM	2
12:00 PM	4
12:15 PM	4
12:30 PM	6
12:45 PM	5
1:00 PM	4
1:15 PM	3
1:30 PM	3
1:45 PM	3
2:00 PM	5
3:00 PM	4
3:15 PM	4
3:30 PM	3
3:45 PM	3
4:00 PM	3
4:15 PM	3
4:30 PM	3
4:45 PM	3
5:00 PM	3
5:15 PM	5
5:30 PM	4
5:45 PM	4
6:00 PM	4
6:15 PM	4
6:30 PM	6
6:45 PM	5
7:00 PM	7

Parking Accumulation Counts
108 Oak Street Parking Lot
Thursday, January 9, 2025

****Note: Observations include 3 employee vehicles.***

108 Oak Street
(Jean and Lee Kitchen)

Supply	Cars
	15±
11:00 AM	3
12:00 PM	4
12:15 PM	4
12:30 PM	3
12:45 PM	4
1:00 PM	4
1:15 PM	3
1:30 PM	3
1:45 PM	3
2:00 PM	3
3:00 PM	3
3:15 PM	3
3:30 PM	4
3:45 PM	3
4:00 PM	3
4:15 PM	4
4:30 PM	3
4:45 PM	3
5:00 PM	3
5:15 PM	4
5:30 PM	4
5:45 PM	4
6:00 PM	4
6:15 PM	3
6:30 PM	4
6:45 PM	3
7:00 PM	3

Parking Accumulation Counts
108 Oak Street Parking Lot
Friday, January 10, 2025

****Note: Observations include 3 employee vehicles.***

108 Oak Street
(Jean and Lee Kitchen)

Supply	Cars
	15±
11:00 AM	2
12:00 PM	7
12:15 PM	7
12:30 PM	7
12:45 PM	6
1:00 PM	5
1:15 PM	6
1:30 PM	7
1:45 PM	7
2:00 PM	7
3:00 PM	5
3:15 PM	5
3:30 PM	5
3:45 PM	5
4:00 PM	5
4:15 PM	5
4:30 PM	5
4:45 PM	6
5:00 PM	6
5:15 PM	6
5:30 PM	6
5:45 PM	4
6:00 PM	3
6:15 PM	3
6:30 PM	4
6:45 PM	5
7:00 PM	5

Parking Accumulation Counts
108 Oak Street Parking Lot
Saturday, January 11, 2025

****Note: Observations include 3 employee vehicles.***

Daphne Collins

From: Joseph Prondak
Sent: Wednesday, January 22, 2025 8:11 AM
To: Daphne Collins
Subject: RE: 250 Highland Avenue - Traffic Study

Hi Daphne,

I have no additional comments on this matter.

Joe P.

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, January 21, 2025 2:15 PM
To: Joseph Prondak <jprondak@needhamma.gov>
Subject: 250 Highland Avenue - Traffic Study

Hi Joe-

Attached please find the just received Traffic Study requested by the ZBA for 250 Highland Avenue for your review and input.

I've attached your Comment filed in case you might want to update based the Traffic Study.

Daphne

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

TELEPHONE (781) 449-4520

FAX (781) 465-6059

December 26, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Rental City, Inc.
51 Fremont Street, Needham, MA

Dear Ms. Collins,

Please be advised this office represents Rental City, Inc. (hereinafter the Applicant and “Rental City”) in connection with the proposed operation of an equipment rental service with accessory retail sales in the Mixed Use-128 Zoning District at the property known and numbered 51 Fremont 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;
3. Seven copies of Memorandum in Support of Application of Rental City, Inc.;
4. Seven copies of authorization letter; and
6. Check in the amount of \$500 for the applicable filing fee.

The Applicant has operated an equipment rental service with accessory retail sales in Wellesley, MA for over 40 years. For several reasons, the Applicant currently desires to relocate their business to Needham. Due to its location near Route 128, the layout of the property and the existing building, and the nature of the surrounding area, the Premises is an ideal site.

The Premises, which is located at the corner of Fremont and Wexford Streets, is divided into two tenant areas. The first, which covers a bit less than one-half of the property is currently used and occupied by Steelco in connection with its fence business. The second, which covers a bit more than one-half of the property, includes an existing commercial building containing approximately 7,500 square feet of area, and is the portion of the Premises to be occupied by the Applicant.

Pursuant to the By-Law, a special permit pursuant to Section 3.2.6.2 for the equipment rental services is required. In addition, because of the size of the building and the history of uses, 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,

A handwritten signature in black ink, appearing to read "George Giunta, Jr.", with a stylized, cursive script.

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	Rental City, Inc.			Date:	12/26/24
Applicant Address	26 Washington Street, Wellesley, MA 02481				
Phone	978-500-0291	email	nono19320@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	51 Fremont Street, Needham, MA 02494		
Map/Parcel Number	Map 75 / Parcel 10	Zone of Property	Mixed Use-128 Zoning District (MU-128)
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 (<i>select one</i>): ☒ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

Commercial property containing 32,943 square feet of total area, an existing 7,500 square foot building, several accessory buildings, off-street parking and outdoor storage areas. The property is divided into two tenant spaces; one containing the existing building and the other containing the accessory structures.

Statement of Relief Sought:

1. Special permit pursuant to Section 3.2.6.2 for an equipment rental service;
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 an equipment rental service with accessory retail sales at the property known and numbered 51 Fremont Street

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

3.2.6.1, 3.2.6.2, 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 <i>(Required)</i>	
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" <i>(Required)</i>	
If applicant is tenant, letter of authorization from owner <i>(Required)</i>	
Electronic submission of the complete application with attachments <i>(Required)</i>	
Elevations of Proposed Conditions <i>(when necessary)</i>	
Floor Plans of Proposed Conditions <i>(when necessary)</i>	

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 on multiple occasions

Rental City, Inc.. *date of consult*
by its attorney,

Date: 12/26/24 Applicant Signature George Giunta Jr
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

December 26, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
RENTAL CITY, INC
51 Fremont Street, Needham, MA

The applicant, Rental City, Inc. (hereinafter, interchangeably, the “Applicant” and “Rental City”), seeks a Special Permit pursuant to Section 3.2.6.2 for an equipment rental service in the Mixed Use-128 Zoning District; 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 an equipment rental service with accessory retail sales in a bit more than one-half of the property known and numbered 51 Fremont Street (the “Premises”).

PRESENT USE / EXISTING CONDITIONS

The Premises is shown as parcel 10 on sheet 75 of the Assessor’s Map for the Town of Needham and is located within the Mixed Use -128 Zoning District. It contains approximately 32,943 square feet of land with 119.97 feet of frontage on Fremont Street and 294.09 feet of frontage on Wexford Street. It is occupied by an existing commercial building, various accessory buildings, off-street parking and storage areas.

The Premises is divided into two tenant areas, the first of which covers a bit less than one-half of the property and is accessed solely from Wexford Street. This portion is currently enclosed with a chain link fence and is used and occupied by Steelco in connection with their fence business. This portion includes three accessory buildings, as shown on the plan submitted herewith, and a large outdoor storage area. On information and belief, Steelco has used and occupied this portion of the Premises for many years.

The second portion, which covers a bit more than one-half of the property, contains the existing commercial building at the corner of Wexford and Fremont Streets. This portion is accessed from both streets and is the portion of the Premises proposed to be used and occupied by Rental City.¹

The aforementioned building contains approximately 7,500 square feet of area and appears to have been built in 1957 pursuant to Building Permit No. 2313.² According to the permit, the building was initially constructed and intended for office and manufacturing purposes. Based on the records of the Building Department, over the years it has been used by several different tenants including Professional Software, Inc., NPC Computer Corporation, and Williamson Electrical Co. Inc. The interior of the building is generally divided into a mix of office and storage areas, which is well suited to the proposed use by Rental City.

PROPOSED USE / ACTIVITY

Rental City, Inc. has operated an equipment rental service with accessory retail sales for more than 40 years in Wellesley, MA. For several reasons, the Applicant currently desires to relocate their business to Needham. Due to its proximity to Route 128, the layout and nature of the Premises and existing building, and the nature of the surrounding area, the Premises presents an ideal site for such relocation.

As a part of its existing operation, the Applicant offers a wide range of items for rent, as well as for sale.³ These items are mostly stored inside the building, but certain larger items, such as, but not limited to, a bobcat skid steer loader, a mini excavator, and a mini backhoe loader are currently stored outside the building in a fenced-in area. And while most items are carried out “by hand”, these larger items, as well as certain other bulky items, require delivery and retrieval by box truck and / or a trailer. In addition, the Applicant currently maintains an above ground 1,000 gallon propane tank inside the aforementioned fenced-in area, which is used for the sale of propane gas, dispensed through the filling of consumer tanks.⁴

¹ See Exhibit A attached hereto – a marked version of the plot plan showing the two different tenant areas.

² See Exhibit B attached hereto – Building Permit No. 2313.

³ Items for rent are set forth at Exhibit C. Items for sale include, without limitation and by way of example only, syrups for frozen drink, cotton candy and snow cone machines, sandpaper of varying sizes and shapes for different applications, staples and nails, drill bits, carpet cleaners, and popcorn supplies.

⁴ For example, standard 20 pound gas grill tanks, and the like.

The Applicant intends to relocate and operate its business at the Premises in substantially the same manner as at its current location in Wellesley. However, whereas the provisions of Section 3.2.6.2 only allow equipment rental without outside storage, all items for rent at the Premises, including the larger items described above, will be stored inside the building.⁵ When larger items are rented, (such as the bobcat, excavator and backhoe mentioned above), they will be moved from inside the building to a truck or the trailer, as applicable, and then transported to the rental location. Similarly, when such items are being retrieved, they will be brought back to the Premises using a truck or trailer, then moved inside the building for storage.⁶

The Applicant also intends to continue the sale of propane gas at the Premises. But unlike the current location, propane gas at the Premises will be stored in a smaller, 500-gallon, underground tank, in the location shown on the plan submitted herewith. This is inside the large fenced-in area.

Anticipated general hours of operation will be Monday through Saturday 7:00 AM through 6:00 PM. However, public hours are expected to run 7:30 AM through 4:00 PM, on those days. The business is anticipated to be closed on Sundays. On average, there will be six full time employees on site. But during the months of May through August, a few additional employees may be present as well, on an as-needed basis.

PARKING

Section 5.1.1.1 of the By-Law provides, in pertinent part, that “no change of a structure or use from a use or uses as described in the categories of Section 5.1.2 to another such category that requires additional off-street parking shall be made unless in accordance with Sections 5.1.2 and 5.1.3 for the entire use of structure”. The exact parking demand of the prior use is not clear due to the mixed nature of prior activities (i.e., office, warehouse and light manufacturing), therefore, it is not entirely clear whether full compliance is required. Nevertheless, whereas a special permit is required for the underlying use, and to protect against future issue, the conservative approach is to assume an increase in parking pursuant to the By-Law.

⁵ The building includes an existing loading dock which provides easy access to a large open storage area inside the building. See Exhibit D attached hereto – interior building sketch.

⁶ The trucks and trailer owned and used by Rental City, which are for transport only and not available for rent, will be kept outside the building in the large fenced in area designated on the plan. This arrangement and the process of delivery and retrieval has been explicitly discussed with and approved by the Building Commissioner.

Section 5.1.2 of the By-Law, Required Parking, sets forth various categories of uses and their associated parking demand. The proposed equipment rental use would appear to fall within the “retail or wholesale stores or services” category which requires one space for every 300 square feet. Whereas the building contains a total of 7,500 square feet of space, that results in a parking demand of 25 spaces.

There are a total of 19 existing parking spaces located within the portion of the Premises to be occupied by Rental City; 15 around the building on both streets and 4 along the fenced-in side. Whereas this is less than the total calculated parking demand, a parking waiver is required, in the amount of 6 spaces.⁷ Furthermore, the existing parking area, which has been in existence since prior to the adoption of off-street parking requirements in the mid 1980s, fails to comply with most 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; (d) relative to driveway openings; (f) relative to parking space size; (h) relative to parking space layout; (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 nevertheless 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-Law requires the issuance of a Special Permit for the operation of an “equipment rental service but not including any business that uses outside storage.” 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 Rental City, requires that prior to granting the requested special permit, the Board must make a finding and determination that the proposed use of the Premises for an equipment rental service:

⁷ Calculated as follows: 25 required spaces – 19 existing spaces = 6 space shortfall.

(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 1.1,⁸ 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 a portion of the Premises for an equipment rental service 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. Whereas all items offered for rent (specifically including larger items) will be kept and stored inside the building, the only operative condition in Section 3.2.6.2 is met. Furthermore, the proposed use is compatible with current uses in the area, the other use at the Premises, and further will not interfere with the character of the neighborhood, as the neighborhood surrounding the Premises is occupied by a variety of commercial, industrial and quasi-industrial uses. Finally, the proposed equipment rental service is consistent with the requirements of Section 1.1, as the availability of a wide range of tools and equipment will promote the convenience and welfare of the inhabitants of the Town of Needham.

⁸ 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]”

The proposed use of a portion of the Premises for an equipment rental service does not warrant the application of the parking requirements of Section 5.1.2. The issuance of the requested parking waivers 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 building will be used for the storage of items for rent and for sale. As a result, the calculation of parking demand pursuant to the By-law substantially overstates actual parking demand. Moreover, the Applicant's current location in Wellesley includes only 11 off-street parking spaces, substantially less than available at the Premises. Yet these spaces have been more than adequate to support the use for more than 40 years of operation. Whereas the portion of the Premises to be used and occupied by Rental City offers more spaces than the current location, the Applicant fully expects parking will be more than sufficient.

In addition, while the existing parking spaces do not comply with current parking design requirements, no change is proposed, and they have been in existence since before the current design standards were adopted. Compliance with current design standards would eliminate nearly all the existing parking spaces, which would in turn require a much greater waiver than requested and present more of a practical issue. Therefore, the requested design waivers are reasonable and justified.

CONCLUSION

Based on the facts and discussion set forth above, Rental City asserts that the proposed use of the Premises for an equipment rental service with accessory retail sales will not affect the neighborhood, surrounding area or the Town in any adverse material or significant way. The use is consistent with the general nature and existing uses in the neighborhood and will offer a tangible benefit to the occupants of the Town.

Moreover, while parking waivers are necessary, the calculated parking demand does not accurately reflect actual demand, and the amount of available parking is materially greater than available at the Applicant's current location. Furthermore, the existing parking has likely been in existence for more than 60 years and requiring compliance with current design standards would eliminate most, if not all the available parking.

The use of the Premises for an equipment rental service with accessory retail sales 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, Rental City asserts that the issuance of the requested special permits is both proper and appropriate and should be granted.

Respectfully submitted,
Rental City, Inc.
by its attorney,



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

FREMONT STREET

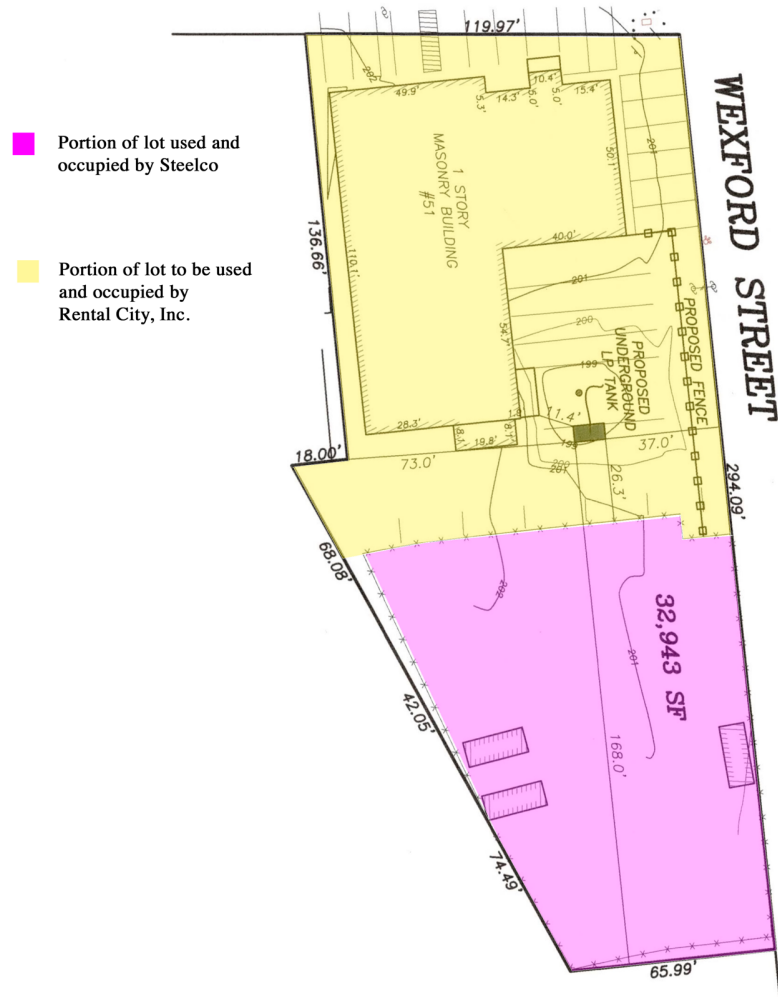


EXHIBIT B
Building Permit No. 2313

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., July 15, 1957

TO THE INSPECTOR OF BUILDINGS:

No. 2313

(field-weaving)

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

1. Purpose of Building office manufacturing building
2. First-class Second-class Third-class
3. Zoning District manufacturing
4. Location, St. and No. 57 Franklin St. Boston Nearest St.
5. Owner John F. Davis Address Kingston St. Boston Tel.
6. Builder John Davis Address 550 Pleasant St. Wat. Tel. Wp. 4-1791
7. Size of Building—Front 100' Rear 100' Depth 90'
8. No. of Feet Level of Ground to Highest Point of Roof
9. Set Back from Street 11' Right Side 6' Left Side 23' 6"
10. Area of Lot No. of Rooms Baths Lavs.
11. Material of Foundation concrete Material of Underpinning
12. Size of Girder 16" - 58# Kind steel
13. Size of Sills no Posts no
14. First Floor Timbers laminated Second Third
15. Size of Corner Braces Outside Window and Door Studs
16. Size of Bridging Rafters 2x10 - 12' o.c.
17. Roof Covering bar-joint tar paper Exterior Wall Covering board
18. Is the Roof to be Flat, Pitch, Mansard or Hip flat
19. Heated by Steam, Furnace, Hot Water, Air Conditioned Hot Water A.C.
20. Oil Burner ✓ Gas Fired Coal
21. Plumbing Wiring
22. Estimated Value \$50,000
23. Plans Submitted yes

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.

Fee, \$ 50.00

Sign Here

Address

John Davis
550 Pleasant St. Wat.
RBA

APR 8, 1957

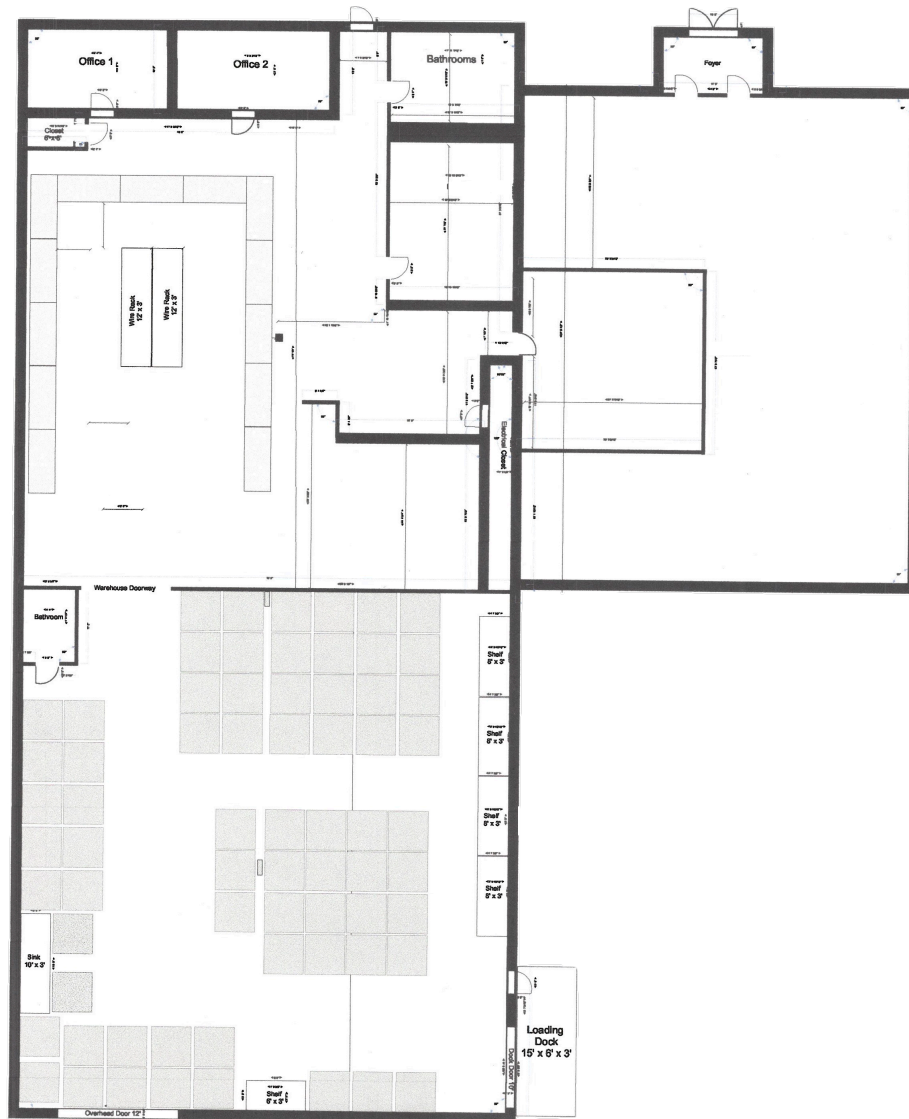
EXHIBIT C
Items Available for Rent

AUTOMOTIVE	Generator 2.3 K	Cutter Floor Tile
Chain Puller 11/2 Ton	3.2 k	Dryer Turbo/Floor
Chain hoist 2 Ton	6.0 k	Floor Edger
Come-a-long 3 Ton	Genie Lift 24'	Floor Sander
Engine Hoist	Genie Lift 5'	Floor Sander, Usand Orbital
Jacks, 20 ton Hydraulic	Heater Propane	Floor Scrubber
BABY & GUEST	30 BTU	Polisher 13"
Bed, Roll-a-way Single	50-85 BTU	Polisher 17"
Booster Seat	75-125BTU	Roller Tile
Car Seat	170 BTU	Seaming Iron
High Chairs	Lights, Portable	Stripper, Power
CARPENTER	Mixer Wheelbarrow	Vacuum Upright
Bolt Cutter	Mixer, Towable Gas	Vacuum, Wet & Dry
Rebar Cutter	Nailer, Manual Floor	Under Radiator Sander
Cutter, Ceramic 4" - 10"	Nailer Pneumatic	HOME & BUSINESS
Electricians Snake	Finishing	Animal Trap
Jacks, screw	Flooring	Small
Sledge Hammer	Framing	Medium
Stapler, electric	Siding	Large
Stapler, manual	Roofing	Easel
Tile Nipper	Pumps, 2' Cent.	Heaters, Elec. Portable
Laser Level	3' Mud	Lectern, Table Top
CONTRACTOR	3' Trash	Paper Shredder
Air Compressor 90 cfm	1" Submersible	Metal Detector
Air Chipping Gun 20 lb	2" Submersible	Projectors
Air Hammer (60 lb)	2" Sub. Trash	LCD/Multi Media
(90 lb)	Post, Shoring	Overhead
Bobcat Skid Steer Loader	Rebar Cutter 5/8 max	Screen, 70"
Bobcat Fork Attachment	Roller, 1 1/2 Ton Vib.	
Mini Excavator	Saws	
Mini Backhoe Loader	Brick Elec. w/Blade	
Boom Lift/Tow 42'	Cut Off Elec. 14"	
Breaker, Elec.	Cut Off Gas 14"	
Bull Float	Concrete Floor Gas 14"	
Chipper 6" towable	Miter Box Compound 10"	
Chipper 10" towable	Tile 10" w/Blade	
Chute Concrete 8FT./12 FT.	Trencher 24" depth	
Compactor Dirt	Vibrator Concrete	
Compactor Dirt Sm.	Washer, pressure 2000 psi	
Compressor Sm. Elec	2500 psi	
Compressor 5 h.p gas	Welder, gas 150 AMP	
Dingo Loader 420	FLOOR CARE	
Dingo Auger Attachment	Carpet Cleaners	
Dingo Trencher Attachment	Carpet Kneekicker	
	Carpet Stretcher Power	
	Carpet Wedge	

LAWN & GARDEN	PAINT & WALLPAPER	ARCHES, Wedding
Aerator, hand	Heatgun	White Vinyl
Aerator, Power 19"	Ladders	BAR
Aerator 26"	6' Step	Portable, Black
Brush Cutter, gas	12' Step	Bread Baskets
Brush Mower	24' extension	BOWLS, mixing or salad
Digging Bar	32' Extension	13qt. Stainless Steel
Edger, Gas Hand Held	Jacks Ladder	30qt. Stainless Steel
Landscape Rake	Ladder Stabilizers	BUCKET
Lawn Mower w/Bag	Roof Bracket	Champagne Free Standing
Leaf Blower 6 Hp.	Scaffolding/Pipe Staging	CARVING STATION
Leaf Blower 9 Hp.	Steamer, Wallpaper.	CHAIRS
Leaf Blower, hand held	Work Platform	Children's
Backpack Blower	Drywall Jack	White Fanback
Leaf Vac	PLUMBING	White Fanback Padded
Overseeder Lg.	Basin Wrench	<i>Brown/Black</i>
Overseeder Sm.	Cutters	<i>Off White</i>
Post Digger, hand	1/4-2"	<i>Wedding White</i>
power	2-4"	<i>White, Wooded, with</i>
Roller Lawn	Cast Iron	<i>Padded Seat</i>
Sod Cutter	Drain Snakes	CHAFERS
Splitter, Log	Flat 100 x 1/2"	Silver Round 3qt.
Spreader 2 Types	Hand Toilet 3'	Stainless 4qt.
Stump Grinder Hydraulic	Hand 25' 1/4"	Stainless 8qt.
Stump Grinder, Lg.	Handy Electric	Stainless Polished 8qt.
Stump Grinder, Sm.	Electric 50' x 1/2"	Extra Pans
Sweeper, Gas Hand Held	Electric 100' x 5/8"	Full pan
Tamper, hand	Wrench 24"	1/2 pan
Thatcher	POWER TOOLS	1/3 pan
Tiller 4 hp Front	Chain Saw, Gas 16"	Sterno
Tiller 5 hp Front	Chain Saw, Elec 14"	Lg.
Tiller 7 hp Rear	Circular Saw 7 1/4"	Sm.
Tiller 9 hp Rear	Core Drill, Concrete	CHINAWARE, Ivory with Gold Trim
Tree Pole Saw	Drills, 3/8" elec.	Bouillon Cup
Trimmer hedge, 16" Elec.	1/2 " elec	Bread and Butter Plate
24" Elec.	Right Angle 1/2"	Creamer
Trimmer, Hedge Pole Gas	Hammer 3/4"	Cup, coffee or Tea
Weed Eater, Gas	Drywall Gun	Dinner Plate 10"
Wheelbarrow	Grinders 4"	Fruit Bowl 6"
Weed Burner	7"	Gravy Boat
MOVING	Hammer, Lg. Rotary	Luncheon Plate 9"
Appliance Dolly	Jigsaw	Mug
Dolly Hand truck	Miter Box Saw Compound 10"	Platter 12"
Furniture Dolly	Planer Power	Salad/Desert Plate 7"
Moving Pads	Router	Saucer
Piano Dolly	Sander Belt	Tea and Toast
	Clapboard 6"	SoupDish7"
	Vibrating	Soup Dish 9"
	7" Disc	Sugar Bowl
	Orbital	Vegetable Dish 9"
	Sawzall	COFFEE MAKERS
	Stud Driver Power	36 Cup Farberware
		55 Cup Farberware
		90 Cup

COOLER AND CONTAINERS			GRILLS			TABLECLOTHS		
Cambro			Big John 2' x 5' Charcoal			Napkins (20" x 20")		
Coffee Air Pot			Big John Rotisserie w/Grill			Bridge (54" x 54")		
Coffee Pitcher Insulated			Propane 33" x 16"			Banquet (54" x 120")		
Cold Drink 5 gal.			Propane 50" x 16'			Round (90" dia.)		
Cold Drink 10 gal.			Karaoke Machine			Round (108" dia.)		
Ice Chest Igloo 80 qt.			LIGHTS, String, Globe			Round (120" dia.)		
Super Cooler			MACHINES, Carnival			Available in: Beige, Black, Light Blue, Royal Blue, Navy, Brown, Burgundy, Dusty Rose, Fuchsia, Gold, Teal, Hunter Green, Kelly Green, Ivory, Lilac, Red, Orange, Peach, Pink, Purple, White, Yellow, Red & White Checked		
Thermo vat			Cotton Candy			Table Skirting (14' white)		
Tub, Ice Plastic			Cotton Candy Cart			TABLES		
Tub, Ice Metal			Frozen Drink			Bridge, 30' x 30' (seats 4)		
COOKER			Sm. 24-8 oz. Servings			30" Round (cocktail)		
Base Propane			Popcorn, lg.			30: Round (seats 2)		
DIVIDERS			Popcorn, sm.			36" Round (seats 4)		
			Popcorn cart			48" Round (seats 6)		
			Hot Dog Steamer			60" Round (seats 8-10)		
			Sno-Cone			72" Round (seats 12)		
DRUM, Raffle			Sno-cone Cart			30' x 48" Banquet (seats 6)		
EASEL			Patio Heater			30" x 72" Banquet (seats 8)		
FLATWARE			POTS, Stock, 40 qt. with cover			30" x 96" Banquet (seats 10)		
Silver-plate			Steam Basket			Children's Table (seats 10)		
Silver-plate Serving Pcs.			RACKS, Coat			Conference, 18" x 72"		
Polished Stainless Steel			Holds 30			Half Round		
Stainless Serving Pcs.			with wheels			Serpentine		
FLOOR, Dance			Hangers			TENTS, Party, Homeowner		
3' x 3' Parquet			SILVER			10' x 10' Ez-Up, white		
FOUNTAIN, Champagne			Chafar 3 qt. Round			20' x 20' (seats 40)		YW-170.00
3 gal. deluxe			Creamer/Sugar			20' x 30' (seats 60)		YW-245.00
GAMES, Children's						20' x 40' (seats 80)		
Basketball, Inflatable			Cup. Punch			TENTS, professional (Prices include setup and take down.)		
Football, Inflatable			Gravy Boat			Freestanding Frame White Tents:		
T-Ball, Inflatable			Ice Bucket			9' x 10' Entrance Canopy, white		
Hookey Ball			Paul Revere Bowl 18"			16' x 16' (seats 25)		
Hoop It Up			Punch Bowl w/Ladle			16' x 24' (seats 36)		
Tic Tac Toe			Salad Bowl w/Tongs			20' x 20' (seats 40)		
Dunk Tank			Tray, 12' Round			20' x 30' (seats 60)		
Horseshoe Set			Tray, 14' Round			20' x 40' (seats 80)		
Moonwalk/Bounce House 13x13			Tray, 16' Round			20' x 50' (seats 100)		
Moonwalk Combo with Slide			Tray, Large, Footed			30' x 30' (seats 90)		
GLASS			Tray, Small, Rect.			30' x 40' (seats 120)		
Cups, Coffee or Tea			Vegetable Dish, double			30' x 50' (seats 150)		
Saucers			Wine Cooler			30' x 60' (seats 180)		
Salt & Pepper Set			STAGE, Platform			Yellow and White Striped		
Plate 6"			4' x 4' - 16' or 32' High			16' x 16' (seats 25)		
Plate 8"			Stairs - 16' or 32'			16' x 24' (seats 36)		
GLASSWARE			STANCHIONS			20' x 20' (seats 40)		
Punch Cup, Juice			Black 7 ft. Strap			20' x 30' (seats 60)		
Beer-stem/Multi-Purpose, Champagne, Highball, Rocks,						20' x 40' (seats 80)		
Water Goblet, Sherry, Red Wine, White Wine						20' x 50' (seats 100)		
Pilsner, Beer Mug, Martini, Tulip Champagne						Big Top Rope and Pole Style Tents		
GLASSWARE, Deluxe						30' x 30' (seats 80) white		
Bud Vase						30' x 45' (seats 125) white		
Carafe, Wine						30' x 60' (seats 170) white		
Pitcher, Water						Cathedral Sides		
Punch Bowl						Clear Sides		
						TRAYS		
						Waiter's		
						Waiter's Tray Stand		
						Silver (see silver)		
						Stainless 15 x 21		
						Stainless 12 x 16		
						TRASH BARRELS		

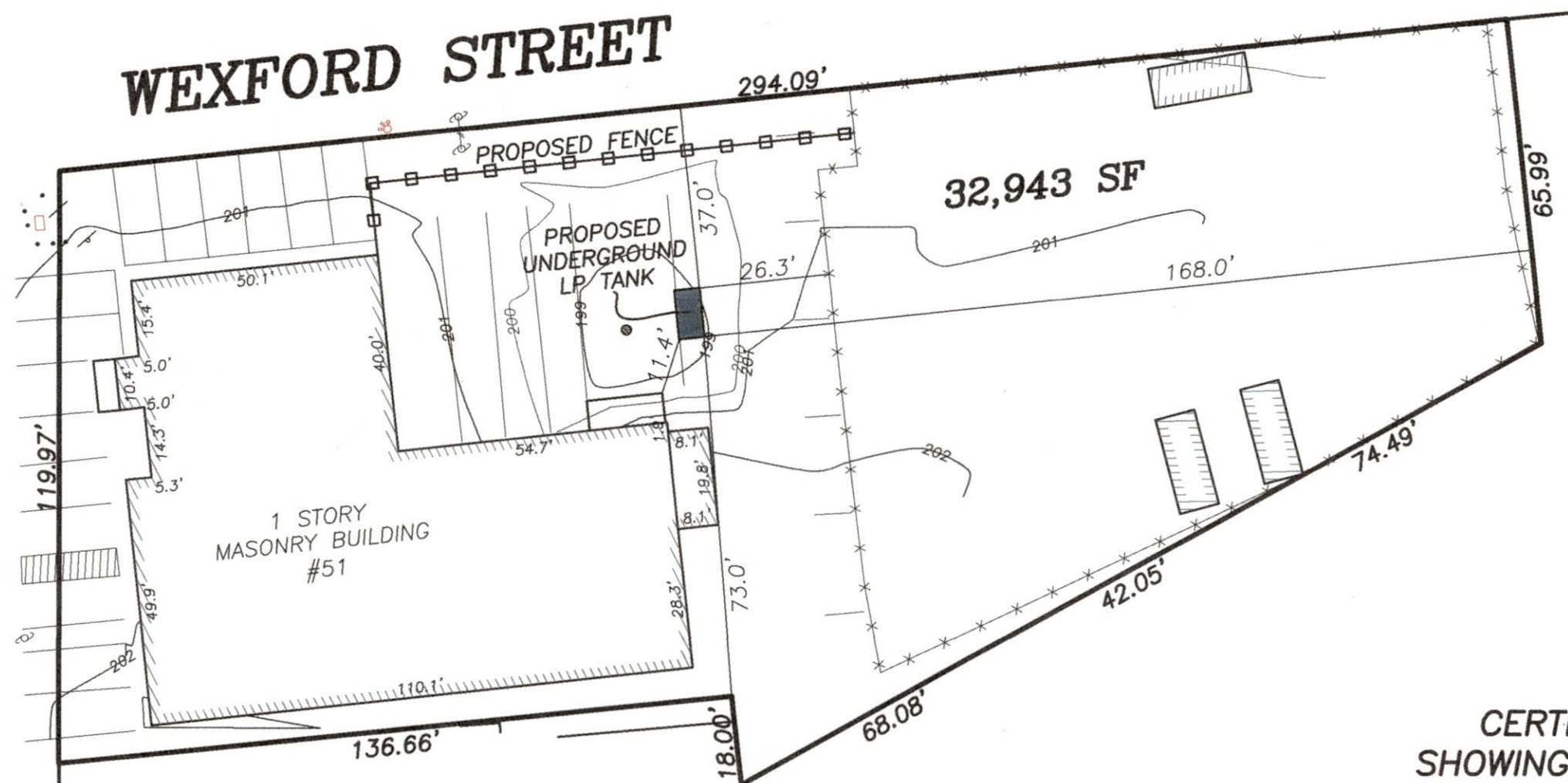
Fremont Street



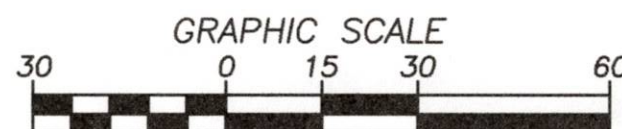
Wexford Street

FREMONT STREET

WEXFORD STREET



CERTIFIED PLOT PLAN
SHOWING PROPOSED LP TANK
51 FREMONT STREET
NEEDHAM, MASS.



Field Resources, Inc.
LAND SURVEYORS

DECEMBER 10, 2024

SCALE 1"=30'

P.O. BOX 324
AUBURN, MA
508 832 4332

281 CHESTNUT ST.
NEEDHAM, MA.
781 444 5936

fieldresources@hotmail.com

51 Fremont Street, LLC
43 Charles Street
Needham, MA 02494

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: 51 Fremont Street, Needham, MA
Application for Zoning Relief

Dear Mrs. Collins,

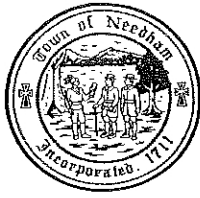
Please accept this letter as confirmation that 51 Fremont Street, LLC, owner of the commercial property known and numbered 51 Fremont Street, Needham, MA (the "Premises"), has authorized George A. and Annette LaRochelle and their corporation, Rental City, Inc., prospective tenant, acting on their own 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 a portion of the Premises, including the existing building, for an equipment rental business with sales of goods and propane gas. In connection therewith, the LaRochelles, Rental City, Inc. and Attorney Giunta are all specifically authorized to execute, sign, deliver and receive any and all necessary documentation related thereto, including, without limitation, Application for Hearing.

Sincerely,

51 Fremont Street, LLC,

Jay J Derenzo

By Jay J. DeRenzo, Manager



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

January 21th, 2025

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

RE: Case Review-Special Permit
51Fremont 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 3.2.562 for equipment rental service, and Special permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking)

- Application for Special Permit dated 12/26/24
- Cover letter by George Giunta Jr dated 12/26/24
- Applicants Memorandum in Support of Application of Rental City Inc dated 12/26/24 by George Giunta, Jr., Esq.
- Exhibit A – Marked Plot Plan Showing Tenant Areas
- Exhibit B – Building Permit Application 7/15/57
- Exhibit C – List Of Rental Items
- Exhibit D – Interior Building Sketch
- Existing Conditions Site Plan by Field Resources
- Authorization Letter from the Property Owner by Jay Derenzo

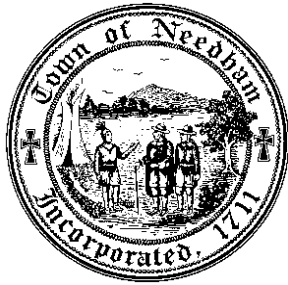
Our comments and recommendations are as follows:

- Site plan must show all existing and proposed underground utilities for the proposed underground LP tank before building permit is issued.

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

Truly yours,

Thomas A Ryder
Town Engineer
tryder



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

March 21, 2024

Mr. Nathaniel, Chair, and Members
Planning Board Appeals
Public Services Administration Building
100 Needham Avenue
Needham, MA 02462

Dear Mr. Nathaniel and Members of the Planning Board Appeals:

At its meeting on March 21, 2024, the Planning Board reviewed the applications to be heard by the Board Appeals on March 22, 2024, and made the following recommendations:

1. **20 Highland Avenue Rainbow Angel, Inc. (Continued)** applied for a Special Permit all the use for a direct restaurant with access to the sidewalk under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use restaurant the property is located in the Highland Commercial District.

The Planning Board respectfully concurred in this case by letter dated November 1, 2024. The conditions were as follows: the Planning Board does COMME.

2. **1 Tremont Street Dental City, Inc.** applied for a Special Permit all the use for a dental services with access to retail use under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use dental services with access to retail sales. The property is located in the Mixed Use District.

The Planning Board does COMME.

3. **378 Manning Street Nicolo and Megan Waldvogel** applied for a Appeal of a Building Inspection Decision AB000000 Building Permit BC24110 issued on April 11, 2024, by the recorder of the town of Needham. The AB000000 asserts that the Building Inspection Decision is in violation of the terms of Section 1.4.04 of the Bylaws that the building as recorded has a greater area than the critical structural building. The property is located in the Village Side B Historic District.

The Planning Board does COMME.

Mr. Anthony A. Chi, Chair, and Members
Board Appeals
Page 2

- 282 Warren Street - Stephanie C. and Joshua A. Challer applied for a variance in all of the dimensions of the existing building and the abutting property to allow for a lease agreement. This dimension would allow for a 20' increase in height, currently a 10' height, in a 10' height with a building height of 20' where a building height of 20' or less is required under Section 4.2. of the By-Law. The property is located in the Middlesex County B-1B District.

The Planning Board takes the following action:

- 0 Colgate Road - Patricia M. Connolly, applicant, has appealed a decision of a Building Department dated December 2, 2024 which determined that the property "appears to front" on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law. The ABW asserts that the applicant has the right to a variance and that which satisfies the minimum frontage of 10' for parcels in the Middlesex County B-1B District. The property is located at 0 Colgate Road, Needham, MA in the Middlesex County B-1B District.

EEAM Board

Lee Newman

See Appendix

Director of Planning and Community Development



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

Tel. 781-455-7550 x 308

January 21, 2025

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

Re: 51 Fremont St.

Dear Board Members,

I have reviewed the proposal for the operation of an equipment rental company at 51 Fremont St. as submitted by Attorney Guinta.

I agree with Attorney Guinta's analyses of the required zoning relief; A Special Permit pursuant to Section 3.2.6.2 for the equipment rental services use in addition to 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.

This office has no objection nor further concerns or comments relating to this proposal.

Sincerely,

Joe Prondak
Building Commissioner

Daphne Collins

From: Tom Conroy
Sent: Friday, January 3, 2025 3:12 PM
To: Daphne Collins
Subject: RE: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025

Hi Daphne,
Approved by the Fire Dept.
Thanks



Thomas M. Conroy

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

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:14 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: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon –

51 Fremont Street – Rental City Inc. submitted an application for a Special Permit for use in connection with the proposed operation of equipment rental services with accessory retail sales in the Mixed-Use-128 Zoning District. They are also seeking to waive the strict adherence to the parking number, parking plan and design requirements.

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

I appreciate your comments no later than **January 17, 2025** 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
Zoning Board of Appeals
Planning and Community Development Department

Daphne Collins

From: Tara Gurge
Sent: Tuesday, December 31, 2024 9:24 AM
To: Daphne Collins
Subject: FW: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025 - Public Health comments
Attachments: 51 Fremont St - Application.pdf

Daphne –

The Public Health Division conducted the Zoning Board review for the proposal for the property located **at #51 Fremont St. - Rental City, Inc.** 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

STATEMENT OF CONFIDENTIALITY

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From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:14 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: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon –

Daphne Collins

From: John Schlittler
Sent: Tuesday, December 31, 2024 10:40 AM
To: Daphne Collins
Subject: RE: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025

Police has no issues.

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:14 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: 51 Fremont Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon –

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

I appreciate your comments no later than **January 17, 2025** 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
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 72261
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*

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

TELEPHONE (781) 449-4520

FAX (781) 465-6059

December 18, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

Re: Nick Kuzalov and Megan Waldvogel
Appeal of Building Permit
378 Manning Street, Needham, MA

Dear Ms. Collins,

Please be advised this office represents Nick Kuzalov and Megan Waldvogel (hereinafter, jointly, and in the materials submitted herewith, the "Applicant") in connection with an appeal of Building Permit No. BR-24-11071 concerning the property known and numbered 378 Manning 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 Memorandum in Support of Application of Nick Kuzalov and Megan Waldvogel;
3. Check in the amount of \$200 for the applicable filing fee.

On November 19, 2024, Building Permit No. BR-24-11071 (the "Permit") was issued by the Town of Needham. Such Permit authorized construction at the Premises of a two-family dwelling with attached garages and appears to have been based on the second as of right provision of the first paragraph of Section 1.4.7.4 of the Zoning By-Law. That provision allows for the reconstruction of a lawful, pre-existing, non-conforming two-family dwelling, in a zoning district where such use is prohibited, in a different location on the lot in compliance with all front, side and rear setback, lot coverage, building height, and building story requirements of the By-Law including but not limited to the provisions of Section 4.2.3, and provided that the building as reconstructed has a footprint no greater in area than that of the original non-conforming building.

As set forth in the Memorandum submitted herewith, the proposed new two-family dwelling does not comply with terms of Section 1.4.7.4, as the building as reconstructed has a larger footprint than the original structure and sufficient evidence has not been provided to establish the status of the prior two-family use as lawful, pre-existing. As a result, the proposed new structure is in violation of the By-Law and the Permit should not have been issued. the Applicants, direct abutters to the Premises, are appealing the Permit and seeking to have same overturned.

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,

A handwritten signature in black ink, appearing to read "George Giunta, Jr.", with a stylized, cursive script.

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	Nicholas Kozlov and Megan Waldvogel			Date:	12/18/24
Applicant Address	26 Otis Street, Needham, MA 02492				
Phone		email			
Applicant is ☐ Owner; ☐ Tenant; ☐ Purchaser; ☒ Other <u>Direct Abutter</u>					
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	378 Manning Street, Needham, MA 02492		
Map/Parcel Number	Map 48 / Parcel 123	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			
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 (<i>select one</i>): ☐ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☒ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

Recently demolished residential dwelling and detached garage on lot containing approximately 10,414 square feet of land. Premises is subject of Building Permit No. BR-24-11071, issued November 19, 2024, permitting construction of a new two-family dwelling.

Statement of Relief Sought:

Appeal pursuant to Section 7.5.1 of the Zoning By-Law and applicable provisions of M.G.L. c40A, seeking to overturn issuance of Building Permit No. BR-24-11071, issued November 19, 2024 to Arthur Elzon, 164 Broad Meadow Rd Needham, MA 02492, permitting construction of a new two-family dwelling.

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

Sections 1.3, 1.4.7. et seq, 3.2.1, 4.2.3, 7.5.1 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 <i>(Required)</i>	
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" <i>(Required)</i>	
If applicant is tenant, letter of authorization from owner <i>(Required)</i>	
Electronic submission of the complete application with attachments <i>(Required)</i>	
Elevations of Proposed Conditions <i>(when necessary)</i>	
Floor Plans of Proposed Conditions <i>(when necessary)</i>	

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 Dec. 13, 2024

date of consult

Nicholas Kozlov and Megan Waldvogel,
by their attorney,

Date: Dec 18, 2024 Applicant Signature _____

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

December 18, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION OF
NICK KUZALOV and MEGAN WALDVOGEL

BUILDING PERMIT APPEAL

378 Manning Street, Needham, MA

The applicants, Nick Kuzalov and Megan Waldvogel (hereinafter, jointly, the “Applicants”) have filed an appeal, pursuant to Section 7.5.1 of the Zoning By-Law and the applicable provisions of M.G.L. c40A, seeking to overturn issuance of Building Permit No. BR-24-11071, issued November 19, 2024 to Arthur Elzon, permitting construction of a two-family dwelling at the property known and numbered 378 Manning Street (hereinafter the “Premises”), and all other relief necessary and appropriate relative thereto.

PRESENT USE / HISTORY / EXISTING CONDITIONS

The Premises is shown as parcel 123 on sheet 48 of the Assessor’s Map for the Town of Needham and is located in the Single Residence B Zoning District. It consists of approximately 10,414 square feet of land, with approximately 135.71 feet of total frontage on Otis Street and 70.71 feet of frontage on Manning Street. For many years, it was occupied by a detached garage and a two and one-half story residential dwelling, which, according to the records of the Assessor’s department, contained 2,402 square feet of living area, with 10 total rooms, 4 bedrooms and 2 full bathrooms.¹ Both structures were demolished on or about November 27, 2024.

On or about September 18, 2024, Driftwood Landing, LLC (hereinafter the “Developer”), owner of the Premises², made application to the Zoning Board of Appeals for a “Special permit pursuant to Section 1.4.7.4 of the Needham Zoning By-Law and a finding pursuant to Section 6

¹ See Exhibit A, Residential Card Summary attached hereto.

² See deed, dated September 5, 2024, recorded with Norfolk County Registry of Deeds in Book 42003, Page 210 conveying the Premises to Driftwood Landing, LLC.

of M.G.L. c.40A, to permit the demolition, extension, alteration, enlargement, and reconstruction of the lawful, pre-existing, non-conforming, two-family dwelling as shown on the plans submitted with this application, and all other relief as may be necessary and appropriate in connection therewith". The application appears to have been signed by Arthur Elzon, who, according to records on file with the Commonwealth of Massachusetts, Secretary of State, is one of two managers of Driftwood Landing, LLC. On November 20, 2024 the Board voted to allow the aforementioned application to be withdrawn without prejudice.

On November 19, 2024, Building Permit No. BR-24-11071 was issued to Arthur Elzon, permitting construction of a two-family dwelling at the Premises (hereinafter the "Building Permit").³ The permit was issued based on a demo plot plan (the "Demo Plan") and a proposed plot plan (the "Proposed Plan"), both dated October 28, 2024, and both prepared by A. Matthew Belski, Jr.⁴ As set forth on the Demo Plan, Mr. Belski calculated the lot coverage of the house and garage to be 1,837 square feet, with a lot coverage of 17.6%, and then added an "overhang 391 s.f." for a footprint "all together" of 2,228 square feet, resulting in lot coverage of 21.4%. Then, on the Proposed Plan, Mr. Belski states the footprint of the proposed house to be 2,227 square feet, with a lot coverage of 21.4%.

LAW

Section 1.3 of the By-Law, **Definitions**, provides the following applicable definitions:

Building (or part or parts thereof) – a combination of any materials, whether portable or fixed, having a roof to form a structure for the shelter of persons, animals or property. Roof shall include an awning or any similar covering whether or not permanent in nature.

Non-Conforming Building - a building or structure lawfully in existence or lawfully begun before the first publication of notice of the public hearing regarding a zoning by-law that would otherwise render said building or structure not in compliance with such a new or amended by-law, but not including a non-conforming building or structure resulting from a variance or other relief granted by the Board of Appeals."

Non-Conforming Use - a use of buildings, structures or land lawfully in existence or lawfully begun before the first publication of notice of the public hearing regarding a zoning by-law that would otherwise render said use not in compliance with such a new or amended by-law, but not including a non-conforming use resulting from a variance or other relief granted by the Board of Appeals"

³ See Exhibit B, copy of Building Permit, attached hereto.

⁴ See Exhibit C, copy of Demo Plan and Proposed Plan, attached hereto

Section 1.4.7.1 of the By-Law, **Reconstruction**, provides that “A lawful pre-existing non-conforming two-family detached dwelling located in a zoning district where two-family detached dwellings are prohibited constitutes a non-conforming use and may not be reconstructed except pursuant to Section 1.4.7.4. As used in Section 1.4.7 the term “reconstruction” shall be defined as the voluntary razing and rebuilding of a building or structure”.

Section 1.4.7.4 of the By-Law, **Reconstruction of Two-Family Dwellings Located in a Single Residence A, Single Residence B or Rural Residence-Conservation District Where the Use is Prohibited**, states:

A lawful pre-existing non-conforming two-family dwelling located in a Single Residence A, Single Residence B or Rural Residence-Conservation District may be reconstructed as a matter of right and without a special permit or finding by the Board as required in the preceding section provided i) the building is rebuilt in the same location and in the same footprint as that which existed prior to the demolition up to the height limit of the current By-Law provided further, however, that any footprint that is violative of the side setback requirement shall not be increased as to height or story beyond that of the existing building absent a Special Permit from the Board of Appeals, or ii) the building is rebuilt in a different location on the lot in compliance with all front, side and rear setback, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law, and provided that the building as reconstructed has a footprint no greater in area than that of the original non- conforming building.

As used in this Section 1.4.7.4, the term “footprint” shall be defined as the area of the lot which is within the perimeter created by the vertical extension to the ground of the exterior walls of all fully enclosed portions of a building, including attached garages, porches, solariums and similar fully enclosed extensions, attachments and accessory annexes, plus eaves and roof overhangs. Not included in the footprint are unenclosed portions or extensions of buildings, including, but not limited to, unenclosed carports, decks, and porches.

Upon application the Board of Appeals may issue a special permit allowing a lawful pre- existing non-conforming two-family dwelling located in a Single Residence A, Single Residence B or Rural Residence-Conservation District to be reconstructed with a footprint greater in area than that of the original non-conforming building provided the Board of Appeals finds that the reconstructed and enlarged building is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties, and that the proposed reconstruction and enlargement will not be substantially more detrimental than the existing non-conforming building to the neighborhood, provided further, however, that such reconstruction and enlargement shall not be allowed by special permit in the following circumstances:

- (a) Reconstruction of a non-conforming two-family dwelling on a non-conforming lot resulting in a building footprint of greater than 1,800 square feet except as set forth in subsection (c), below;
- (b) Reconstruction of a non-conforming two-family dwelling on a conforming lot resulting in a building footprint of greater than 2,500 square feet or lot coverage greater than 18%;
- (c) Reconstruction of a non-conforming two-family dwelling on a lot that conforms in all respects other than not meeting the minimum frontage requirement of the By-Law resulting in a building footprint of greater than 2,500 square feet or lot coverage greater than 18%;

(d) Reconstruction of a non-conforming two-family dwelling on a lot where the building as reconstructed would not comply with all front, side, and rear setbacks, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law; and

(e) Reconstruction of a non-conforming two-family dwelling on a lot resulting in the construction of enclosed garage space servicing more than one car per dwelling unit.

Notwithstanding the provisions of this section to the contrary, the Board of Appeals may allow reconstruction of a non-conforming two-family dwelling on a lot resulting in the construction of enclosed garage space servicing two cars per dwelling unit, provided the Board finds that:

a.i the additional enclosed garage space will be located in an accessory building where the accessory building is separate from and located to the rear of the back wall of the principal structure and where the enclosed garage space authorized under Section 1.4.7.4 (e) is located within the principal structure, or

a.ii. the additional enclosed garage space will be located in a tandem parking space located within the principal structure where such space is accessed through a single garage door and where such garage door shall be a standard single car garage door width; and

b. the additional enclosed garage space will not alter the character of the premises in which it is located, and

c. the additional enclosed garage space will not have a material adverse effect on the value of the land and buildings or structures in the neighborhood, or on the amenities thereof, and

d. the additional enclosed garage space will be appropriate in scale and mass for the neighborhood, taking into consideration the visual impact of the garage from the street.

Notwithstanding the provisions of this section, (1) the enclosed garage space for not more than one car per dwelling unit allowed pursuant to Section 1.4.7.4(e) and (2) the additional (second) enclosed garage space allowed by paragraph "a.i" immediately above and located in an accessory building of not more than 575 square feet per two vehicles, where the accessory building is separate from and not in front of the house, shall be excluded from the lot coverage calculation of Section 1.4.7.4 (a), 1.4.7.4 (b), 1.4.7.4 (c).

The applicable portion of the use table set forth at **Section 3.2.1** of the By-Law indicates that the use of property in the Single Residence B District for two-family detached dwellings is prohibited.

Section 4.2.3 of the By-Law set forth certain dimensional and density requirements applicable to the several residential zoning districts. As applicable to the Premises the requirements are as follows:

1) minimum lot area – 10,000 square feet

2) Minimum Frontage – 80 feet

3) Minimum Front Setback – 20 feet, except that “attached garages shall have a minimum front yard setback of 25 feet. For corner lots the increased front yard setback of 25 feet is required along both frontage streets”

- 4) Minimum Side Setback – 14 feet, and “a maximum of 32 linear feet of structure may be built at the minimum setback line, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. Notwithstanding the above, the minimum side yard setback requirement for all buildings and structures on any lot that contains less than 80 feet of frontage shall be 12 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback distance, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. In no case shall a side wall extension extend more than 32 linear feet without a 2 foot offset
- 5) Minimum Rear Setback – 20 feet
- 6) Maximum Floor Area Ratio - .38
- 7) Maximum Lot Coverage – 25%
- 8) Maximum Number of Stories – 2 ½
- 9) Maximum Height – 35 feet

Section 7.5.1 of the By-Law, Appeals, provides that the Board of Appeals has the power and authority:

To hear and decide an appeal taken by any person aggrieved by reason of his (her) inability to obtain a permit or enforcement action from the Building Inspector under the provisions of General Laws, Chapter 40A and/or this By-Law, by the Metropolitan Area Planning Council or by any person including an officer or board of the Town of Needham or of any abutting city or town aggrieved by an order or decision of the Building Inspector in violation of any provision of the General Laws, Chapter 40A or this By-Law.

ANALYSIS / ARGUMENT

The Developer initially made application for a special permit to demolish and reconstruct the alleged two-family dwelling at the Premises, but subsequently withdrew such request. Such withdrawal was made immediately after receipt of a building permit for the same type of work. Based on a review of the application, the Building Permit, the Demo Plan and the Proposed Plan, it appears that the Developer is attempting to proceed pursuant to the second as of right provision in the first paragraph of Section 1.4.7.4. That provision allows as of right reconstruction of a lawful, pre-existing, non-conforming two family in a district where the use is prohibited, “in a different location on the lot in compliance with all front, side and rear setback, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law, *and provided that the building as reconstructed has a footprint no greater in area than that of the original non- conforming building*” (emphasis added).

As indicated above, the Demo Plan and Proposed Plan (which were the basis for issuance of the Building Permit) provide calculations of the area of the pre-existing and proposed footprints. The calculation on the Demo Permit, which depicts pre-existing conditions, first adds the sum of the areas of the dwelling and the garage to obtain a footprint area of 1,837 square feet and then adds an “overhang” of 391 square feet, for a total footprint area of 2,228 square feet. Section 1.4.7.4, set forth above, defines the term footprint as “the area of the lot which is within the perimeter created by the vertical extension to the ground of the exterior walls of all fully enclosed portions of a building, including attached garages, porches, solariums and similar fully enclosed extensions, attachments and accessory annexes, plus eaves and roof overhangs. Not included in the footprint are unenclosed portions or extensions of buildings, including, but not limited to, unenclosed carports, decks, and porches”.

Contained within the definition of footprint are “eaves and roof overhangs” and the calculation on the Demo Plan appears to include 391 square feet for “overhang”. Based on the footprint area for the pre-existing structure of 1,383 square feet, this amount of “overhang” represents approximately 28% of the size of the structure and seems excessive. Assuming a typical overhang of one foot all around the pre-existing structure, the area of the overhang should be approximately 161 square feet; a bit more than one-third the size of the overhang included in the calculation.⁵ Furthermore, based on the marks on the Demo Plan, it appears that the calculation of overhang likely included the unenclosed front porch.⁶ This does not comply with Section 1.4.7.4, as the terms of that Section explicitly exclude “unenclosed portions or extension of buildings” in the definition of footprint. As a result, the calculation does not comply with the By-Law.

In addition, the initial calculation on the Demo Plan describes the area of the dwelling footprint as 1,383 square feet. This deviates somewhat from the calculated area based on the sketch at the Assessor Property Record. Using that sketch, the area of the dwelling appears to be 1,338 square feet; 45 square feet less than set forth on the Demo Plan. Because no dimensions are included on the Demo Plan, it is not possible to double check the calculation of area, and therefore it is not clear that same complies with the By-Law.

⁵ See Exhibit D, Assessor sketch from the Assessor Property Record, and calculation of estimate area of one foot overhang.

⁶ See Exhibit E, photo images of front and side of the pre-existing dwelling.

Furthermore, the initial calculation on the Demo Plan adds the alleged area of the pre-existing detached garage, of 484 square feet, to that of the dwelling. The stated area for the garage is larger than the 400 square feet set forth on the Assessor Property Record Card.⁷ As with the dwelling, because no dimensions are included, it is not possible to double check the calculation, and therefore it is not clear that same complies with the By-Law. But even if the calculation of the area of the garage is compliant, inclusion of such area in the calculation of footprint is not.

As quoted above, the definition of footprint in Section 1.4.7.4 specifically includes the area of “*attached* garages, porches, solariums and similar fully enclosed extensions, attachments and accessory annexes”. It does not mention detached garages, although detached garages are explicitly referenced later in the Section 1.4.7.4. The explicit use of the modifier “attached” with respect to garages in this sentence is a clear expression of intent that only attached garages are to be included. If both attached and detached garages were intended to be included, such result could easily have been obtained by omitting any modifier and simply using the term “garages”. Or, in the alternative, the text could have specifically referenced both attached and detached garages. The specific use of only the term “attached”, especially since detached garages are explicitly mentioned later in the section, thereby excludes detached garages from the definition of footprint. As a result, the inclusion of the area of the garage in the calculation does not comply with the By-Law.

Based on the foregoing, and assuming that the stated area of the pre-existing dwelling (prior to inclusion of the overhang) is correct, at best, the area of the pre-existing dwelling footprint would be approximately 1,544 square feet, or thereabouts. This is substantially less than the area of the footprint of the new dwelling, of 2,227 square feet. As a result, the new dwelling does not meet and is in violation with the applicable dimensional and density requirements of Section 1.4.7.4 of the By-Law.

Finally, because the Developer chose to withdraw its application to the Board of Appeals, no evidence was presented to establish the pre-existing dwelling and its use for two-family purposes as lawful, pre-existing, non-conforming. I do note that in connection with said application, the Developer submitted an old Assessor Field Card, which was submitted to

⁷ See Exhibit D.

establish the use of the Premises for two-family purposes in 1929. However, as the Board is well aware, a single taxation document is insufficient, and 1929 is not the operative year in any event.

In order to establish lawful, pre-existing, non-conforming status for two family use in this area of Town, one must demonstrate that the property was used and occupied for two-family purposes from at least 1925 or earlier, through and including the current day. While taxation records are certainly useful and often used as one form of evidence, they are far from conclusive. And, if taxation records are to be used, they need to go back at least to 1925.

Therefore, the Applicants challenge whether the use of the Premises for two-family purposes qualifies as a lawful, pre-existing, non-conforming use and request the Board to require the Developer to establish same. Section 1.4.7.4 only applies to lawful pre-existing non-conforming two-family dwellings. As a result, such status needs to be established as a condition precedent to proceeding under that section. And to establish such status requires sufficient evidence of the use. At the current time, it appears that such evidence has not been provided. Therefore, the Premises and the Building Permit do not comply and are in violation of the By-Law.

As a result of the issues with the area calculations set forth above and the lack of sufficient evidence with respect to the status of the Premises as lawful, pre-existing, non-conforming, the Building Permit should not have been issued and is in violation of the By-Law. As a result, the Applicants request that the Board overturn issuance of the Building Permit and direct the Building Commissioner to issue a cease and desist of all construction activities related thereto.

Respectfully submitted,
Nick Kuzalov and Megan Waldvogel
by their attorney,



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

EXHIBIT A
Assessor Residential Card Summary
Page 1 of 2

Page datalets/datalet.aspx?mode=agriculture not registered

PARID: 1990480012300000
KOHLBACK, CLINTON J. & SUSAN TRS

MUNICIPALITY: NEEDHAM
378 MANNING ST

LUC: 104
PARCEL YE

Property Information

Property Location: 378 MANNING ST

Class: R-RESIDENTIAL
Use Code (LUC): 104-TWO-FAMILY
District: MA199 - NEEDHAM
Deeded Acres: .2400
Square Feet: 10,454

Owner

Owner	Co-Owner	City	Address	State	Zip Code	Deed
KOHLBACK, CLINTON J. & SUSAN TRS	KOHLBACK FAMILY REVOCABLE TRUST	NEEDHAM	378 MANNING ST	MA	02492	3335

Sales

Sale Date (D/M/Y)	Book/Page	Sale Price	Grantee:	Grantor:	Cert
30-07-2015	33355-400	\$100	KOHLBACK, CLINTON J. & SUSAN TRS.	KOHLBACK	
25-07-1973	4963-80	\$47,900	KOHLBACK, CLINTON J	PLACE	

Owner History

Tax Year: 2024
Owner: KOHLBACK, CLINTON J. & SUSAN TRS
Co-Owner: KOHLBACK FAMILY REVOCABLE TRUST
Sale Care Of:
State: MA
City: NEEDHAM
Address: 378 MANNING ST
Zip Code: 02492
Deed Book/Page: 33355/400

Land

Land Line #	Land Type	Land Code	Class	Square Feet	Acres	Suppressed	CH61B %	Infl %	Infl Reason	Infl 2 %	Infl 2 Reason	Base Rate	Cha Mark Valu
1	S-SQUARE FOOT	P-PRIMARY	104-TWO-FAMILY	10,000	.23	N						58	
2	A-ACREAGE	R-RESIDUAL	104-TWO-FAMILY	436	.01	N						790	
Total:													

EXHIBIT A
Assessor Residential Card Summary
Page 2 of 2

PARID: 1990480012300000
KOHLBACK, CLINTON J. & SUSAN
TRS

MUNICIPALITY: NEEDHAM
378 MANNING ST

LUC: 104
PARCEL YEAR: 2024

Residential Card Summary

Card/Building:	1
Stories:	2
Condition:	5 - AVERAGE
Grade:	B- - AVERAGE/GOOD
CDU:	AV - AVERAGE
Exterior Wall:	AV - ALUMNM-VINYL
Style:	2F - 2 FAMILY
Year Built:	1909
Effective Year:	1997
Square Feet of Living Area:	2402
Total Rooms:	10
Bedrooms:	4
Full Baths:	2
Half Baths:	0
Additional Fixtures:	2
Roofing Material:	AS - ASPHALT-SHNG
Heating:	D - HOT WATER
Fuel Type:	O - OIL
Dwelling Value:	\$209,800

Sections

Card #	Addition #	Lower	First	Second	Third	Area	RCNLD
1	0					1,064	0
1	1		FM	FU		77	7200
1	2	B	FMY	FUY		30	3200
1	3	B	FMY	FUY		24	2500
1	4		FMY			12	700
1	5		P	P		176	9200
1	6		P			21	900

EXHIBIT B
Building Permit No. BR-24-11071



**TOWN OF NEEDHAM
PERMIT TO BUILD**

**Permit #:
BR-24-11071**

Issued: November 19, 2024

Expires: May 18, 2025

This permit is granted to:

Arthur Elzon
164 Broad Meadow Rd
Needham, MA 02492

Property Location: **378 MANNING ST**

Type of Structure: **Two Family**

Phone: 617-869-7777

Description of permitted work:

Construct a two-family dwelling, SRB District, 10414 SF lot, 2.5 stories, 8 bedrooms, 8 full and 2 partial baths, 2 car garage, unfinished attic, finished basement, no porch, no deck, 2 gas fireplace(s). FAR allowed= 3957 sf. FAR actual= 3938 sf, First Floor= 1698 sf, Second Floor= 2240 sf, Attic= 0 sf, Basement= 1700 sf, Garage = 440 sf, Porch= 0 sf, Deck= 0 sf. TOTAL Living Space (Basement, 1st, 2nd and Attic)= 5638 sf. CONSTRUCTION COST=\$ 1,100,000.

This permit is subject to all existing Building and Zoning Laws of Needham now in force, or that may hereafter be enacted, and in conformance with the details of application.

Joseph Prondak, Building Commissioner

Date: November 19, 2024

This card shall be left on the premises for the inspectors to sign throughout completion of the project. No work shall be covered up until the required inspections are complete. If inspections are missed the Inspector having jurisdiction may require areas to be exposed or what they deem necessary for code compliance. No Rough inspections will be conducted until the building is watertight with an approved material by the Building Inspector.

Please Note: All inspections listed below are not applicable to all projects. Please refer to the guided process on the Building Department's website for applicable inspections.

ROUGH INSPECTIONS	
EXCAVATION	FOUNDATION/FOOTING
GAS	ELECTRICAL
FIRE DEPT	PLUMBING
FRAMING/FIRE STOPPING	INSULATION

FINAL INSPECTIONS	
GAS	ELECTRICAL
FIRE DEPT	PLUMBING
BUILDING	

EXHIBIT C
Plans

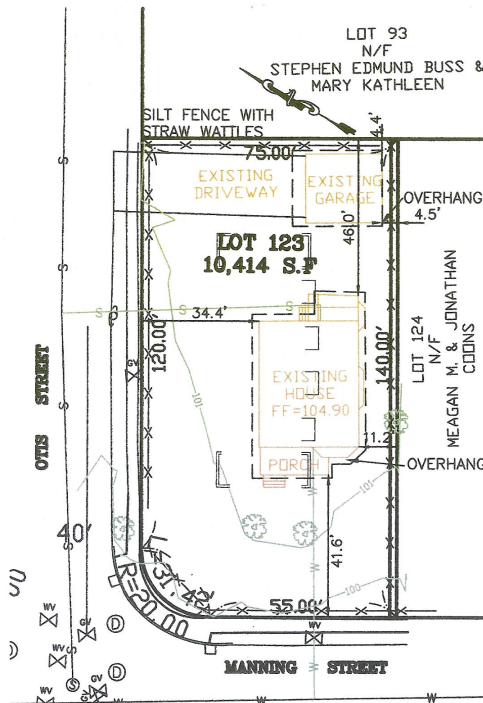
1. Demo Plan

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

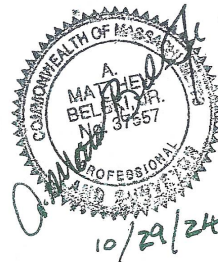
Building Permit No. _____ Assessor's Map & Parcel Number: 48 LOT 123
Zoning District: SRB 2 FAMILY
Lot Area 10,414 S.F. Address: 378 MANNING STREET
Owner _____ Builder: _____

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



40' Scale

378 MANNING STREET
HOUSE+GARAGE=1,383 S.F.+484 S.F.=1,837 S.F.
LOT COVERAGE 17.6%)
OVERHANG 391 S.F.
ALL TOGETHER 2,228 S.F.
LOT COVERAGE 21.4%



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 28 day of OCTOBER 2024.
Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip _____ Tel. No. (857) 498-0951
Approved _____ Director of Public Works Date _____
Approved _____ Building Inspector Date _____

EXHIBIT C
Plans

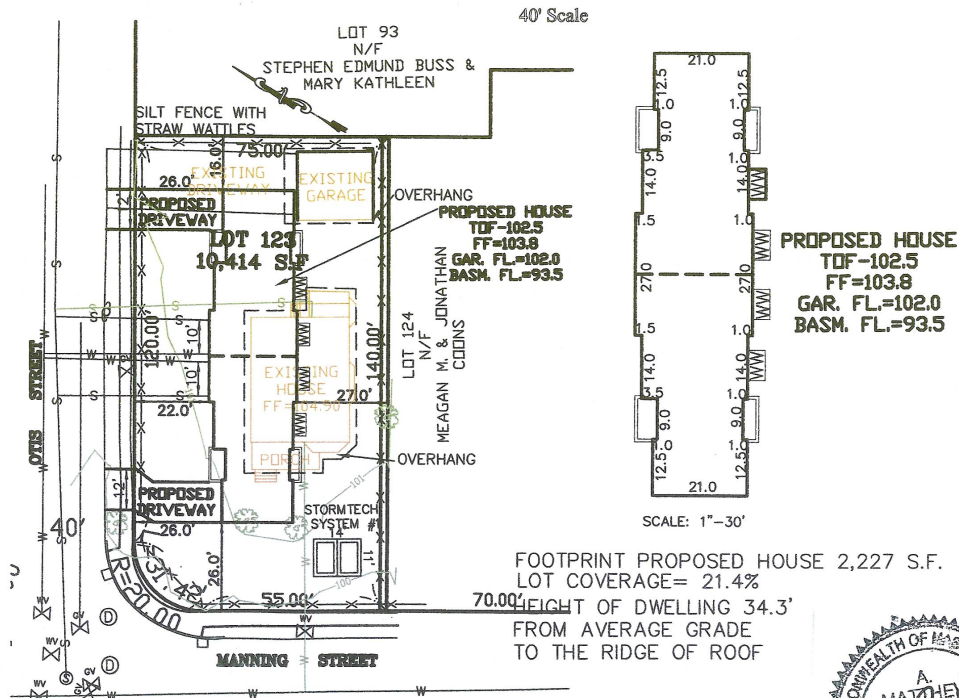
2. Proposed Plan

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

Assessor's Map & Parcel Number: 66 LOT 32
Zoning District: SRB 2 FAMILY
Building Permit No. _____ Address: 378 MANNING STREET
Lot Area 10,414 S.F. Builder: _____
Owner _____

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



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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Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip _____ Tel. No. (857) 498-0951
Approved _____ Director of Public Works Date _____
Approved _____ Building Inspector Date _____

EXIHIBIT D Assessor Sketch and Overhang Calculation

PARID: 1990480012300000

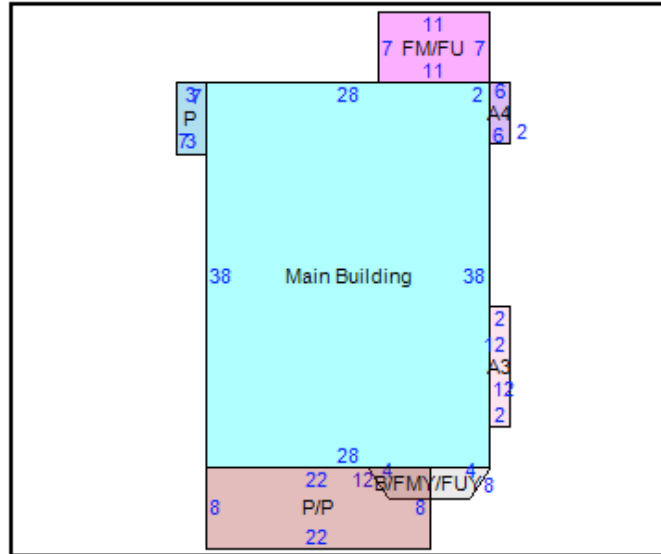
MUNICIPALITY: NEEDHAM

LUC: 104

KOHLBACK, CLINTON J. & SUSAN TRS

378 MANNING ST

PARCEL YEAR: 2024



Options

Type	Line #	Item	Area
Dwelling	0	Main Building	1,064
Dwelling	1	FM/FU:FM Finished Main/FU Finished Upper	77
Dwelling	2	B/FMY/FUY:B Basement/FMY Main Finished Bay/FUY UPPER FINISHED BAY	30
Dwelling	3	B/FMY/FUY:B Basement/FMY Main Finished Bay/FUY UPPER FINISHED BAY	24
Dwelling	4	FMY:FMY Main Finished Bay	12
Dwelling	5	P/P:P Open Porch/P Open Porch	176
Dwelling	6	P:P Open Porch	21
Outbuilding	1	GARAGE-1S - RG1:DET GARAGE - 1 STORY	400

Click on an item to display it independently.

Overhang Calculation:

Assume one foot overhang around entirety of structure, and excluding covered porch and entry:

Starting at front: 30 + left side 40 + rear (18 + 8 + 12 +3) + right side (8 +3 +3 +14 +3 +19) = 161 x 1' = 161 square feet.



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

Tel. 781-455-7550 x 72308

January 21, 2025

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

Re: 378 Manning St.

Dear Board Members,

With respect to the Appeal of my decision to not revoke Building Permit #BR-24-11071 issued to Artur Elzon allowing the reconstruction of a new 2-family structure, as of right, in accordance with Section 1.4.7.4 of the Zoning Bylaw, I offer the following:

Upon a phone conversation with Nick Kuzlov, questioning the issuance of this permit, I reviewed the actions taken by then Assistant Building Commissioner, Erik Tardif and found that further review was required. I determined that more information was needed to justify the issuance of this permit, specifically related to the allowable square footage of the footprint of the existing building. I contacted the builder, Artur Elzon and asked him to hold off on starting the construction he immediately agreed.

The allowable footprint of the new structure is based on the footprint of the existing structure. This existing footprint includes overhangs and annexes per section 1.4.7.4, the 2nd paragraph. Inspector Tardif included an unenclosed porch in the calculation of the existing footprint,

considering its roof part of the “overhang”. He also included the footprint of the detached garage and its overhangs as he considered this building an “annex”.

On my review I determined that the unenclosed porch could not be counted. I initially thought that the detached garage could not be counted but later reversed my thought on this since the term “annex” is not defined. When a word is not defined within the bylaw, we rely on standard definitions. One such definition states “a subsidiary building or an addition to a building”. Given this broad definition, I determined that the detached garage and its overhangs could be counted.

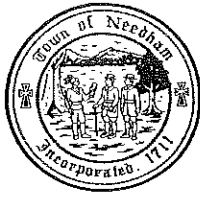
I then asked for detailed calculations on the dimensions of the home, the detached garage and their respective overhangs. I did discover a mathematical error and dimensional error in the first sets of calculations. After these were corrected, we have agreed upon an allowable footprint of 2,067.9 square feet. The builder then submitted a new architectural plan with the reduced footprint. However, this reduced footprint created a new violation relative to a sidewall being more than 32 feet long without a 2’ offset. This has now been corrected and we are now waiting on a revised stamped plot plan. All of this has taken time, but we are still working toward a resolution.

With respect to the pre-existing / non-conforming status of this property, it is my opinion that the permit history provides sufficient evidence to arrive at a conclusion that this property does enjoy pre-existing/ non-conforming status.

Given the above, I respectfully request that this matter be continued to the next available Zoning Board hearing.

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**

January 21st, 2024

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

RE: Case Review-Special Permit Appeal
378 Manning Street- Special Permit Appeal

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced Special Permit for the proposed demolition of the existing two-family residential home and new construction of a two-family townhouse.

The documents submitted for review are as follows:

- Application for Special Permit dated 12/18/24.
- Cover Letter by George Giunta dated 12/18/24
- Memorandum in Support of Application by George Giunta dated 12/18/24
- Existing and Proposed Plot Plans by Mathew Belski Dated 10/29/24

Our comments and recommendations are as follows:

- In accordance with the Town of Needham Stormwater Bylaw, the proposed new structure requires a minimum combined volumetric capacity of 1 inch over the entire impervious area of the addition to be recharged. The plans should be revised, prior to receiving a building permit, showing the calculations that the infiltration system is sized to contain a minimum of 1-inch of the total impervious area of the addition for infiltration.
- The final location of storm drainage field should be reviewed for approval prior to field installation.

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, January 17, 2025 12:01 PM
To: Daphne Collins
Subject: FW: 378 Manning Street - ZBA Administrative Review - Due January 17, 2025 - Public Health comments
Attachments: 378 Manning St - Application.pdf

Daphne –

The Public Health Division conducted the Zoning Board review for the property located **at #378 Manning St.** The Public Health Division has no comments to share at this time and feel that the Town of Needham Zoning By-Laws need to be adhered to.

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

STATEMENT OF CONFIDENTIALITY

This e-mail, including any attached files, may contain confidential and privileged information for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive information for the recipient), please contact the sender by reply e-mail and delete all copies of this message. Thank you.

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:07 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: 372 Manning Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon-



Mr. [redacted] aha [redacted] a [redacted] i [redacted], Chair, a [redacted] d Me [redacted] bers
[redacted] i [redacted] B [redacted] ard [redacted] A [redacted] eals
[redacted] blic [redacted] er [redacted] ices Ad [redacted] i [redacted] s [redacted] ra [redacted] i [redacted] B [redacted] ildi [redacted]
[redacted] 00 [redacted] edha [redacted] A [redacted] e [redacted] e
[redacted] eedha [redacted], MA 024 [redacted] 2

The laureate Bard awards the CMME.

Mr. Anthony A. Chi, Chair, and Members
Board Appeals
Page 2

- 282 Warren Street - Stephanie C. and Joshua A. Challer applied for a variance in all of the dimensions of the existing building and the abutting frontage of 33 leased feet. This dimension would be 22 feet wide, currently a corner lot, in a corner lot with a build back of 20 feet where a build back of 20 or less is required under Section 4.2. of the By-Law. The structure is located in the Littletonsidece B Block District.

The Planning Board takes the following action:

- 0 Colgate Road - Patricia M. Connolly, appellant, has appealed a decision of a Building Inspector dated December 2, 2024 which determined that the structure "appears to front" on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law. The ABW asserts that the applicant has been granted a variance and a building which satisfies the minimum frontage of 10 feet for parcels in the Littletonsidece B Block District 4.2.1 of the By-Law. The structure is located at 0 Colgate Road, Needham, MA in the Littletonsidece B Block District.

EEAM A B A

Lee Newman

See below

Director of Planning and Community Development

Daphne Collins

From: John Schlittler
Sent: Tuesday, December 31, 2024 10:44 AM
To: Daphne Collins
Subject: RE: 372 Manning Street - ZBA Administrative Review - Due January 17, 2025

The only issue would be appropriate on-site parking for the two family as no overnight parking is allowed. Thanks

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:07 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: 372 Manning Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon-

378 Manning Street – Nick Kuzlov and Megan Valdvogel submitted an application for an Appeal of a Building Inspectors Decision – BR-24-11071 issued to Arthur Elzon on November 18, 2024 which authorizes the reconstruction of a two-family in the SRB District. The appellants assert that the proposed new two-family does not comply to the terms of Section 1.4.7.4 of the By-Law as the proposed building exceeds the area of the original non-conforming building.

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

I appreciate your comments no later than **January 17, 2025** 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
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 72261
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*

Daphne Collins

From: Tom Conroy
Sent: Friday, January 3, 2025 3:12 PM
To: Daphne Collins
Subject: RE: 372 Manning Street - ZBA Administrative Review - Due January 17, 2025

Hi Daphne,
Approved by the Fire Dept.
Thanks,



Thomas M. Conroy

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

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Monday, December 30, 2024 3:07 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: 372 Manning Street - ZBA Administrative Review - Due January 17, 2025

Good Afternoon-

378 Manning Street – Nick Kuzlov and Megan Valdvogel submitted an application for an Appeal of a Building Inspectors Decision – BR-24-11071 issued to Arthur Elzon on November 18, 2024 which authorizes the reconstruction of a two-family in the SRB District. The appellants assert that the proposed new two-family does not comply to the terms of Section 1.4.7.4 of the By-Law as the proposed building exceeds the area of the original non-conforming building.

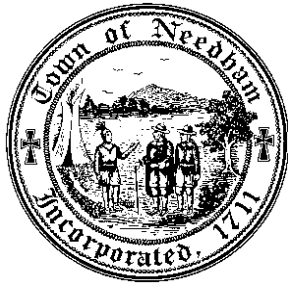
Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **January 17, 2025** 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
Zoning Board of Appeals
Planning and Community Development Department
Town of Needham – Public Services Administration Building



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

March 21, 2024

Mr. Nathaniel, Chair, and Members
Planning Board Appeals
Public Services Administration Building
100 Needham Avenue
Needham, MA 02462

Dear Mr. Nathaniel and Members of the Planning Board Appeals:

At its meeting on March 21, 2024, the Planning Board reviewed the applications to be heard by the Board Appeals on March 22, 2024, and made the following recommendations:

1. **20 Highland Avenue Rainbow Angel, Inc. (Continued)** applied for a Special Permit all the use for a direct restaurant with access to the sidewalk under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use restaurant the property is located in the Highland Commercial District.

The Planning Board respectfully closed on this case by letter dated November 1, 2024. The comments were as follows: the Planning Board does not COMME.

2. **1 Tremont Street Dental City, Inc.** applied for a Special Permit all the use for a dental services with access to retail use under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use dental services with access to retail sales. The property is located in the Mixed Use District.

The Planning Board does not COMME.

3. **378 Manning Street Nicole Oslo and Megan Waldvogel** applied for a Appeal of a Building Inspection Decision AB000000 Building Permit BC24110 issued by Arthur Elwood on November 1, 2024, for the reconstruction of a small building at 378 Manning Street. The AB000000 asserts that the Building Inspector's file does not comply with the terms of Section 1.4.04 of the Bylaws that the building as reconstructed has a greater area than the original building. The property is located in the Village Side B District.

The Planning Board does not COMME.

Mr. Anthony A. Fiore, Chair, and Members
Board of Appeals
Page 2

- 282 Warren Street - Stephanie C. and Joshua A. Challer applied for a variance in all of the dimensions of the existing building on the abutting lot for a 3' lease-free. This dimension would be 2' 2" above the ground, currently a corner lot, in a corner lot with a building setback of 2' where a building setback of 20' or less is required under Section 4.2. of the By-Law. The structure is located in the Littletonsidece B Block District.

The Planning Board takes the following action:

- 0 Colgate Road - Patricia M. Connolly, appellant, has appealed a decision of a Building Department dated December 2, 2024 which determined that the structure "appears to front" on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law. The ABW asserts that the applicant has been granted a variance and a condition which satisfies the minimum frontage of 10' for parcels in the Littletonsidece B Block District 4.2.1 of the By-Law. The structure is located at 0 Colgate Road, Needham, MA in the Littletonsidece B Block District.

EEAM Board of Appeals

Lee Newman

See below

Director of Planning and Community Development

GELERMAN AND CABRAL, LLC

ATTORNEYS AT LAW
30 WALPOLE STREET
NORWOOD, MA 02062

TELEPHONE (781) 769-6900
FACSIMILE (781) 769-6989

RICHARD A. GELERMAN
MICHAEL B. CABRAL
JEFFERY D. UGINO
TESSA L. MANION
SUSAN M. BENHAM
STEPHEN T. ALLEN
RORY BYRNE
DAVID HERN, JR. (OF COUNSEL)

ADDITIONAL OFFICES

611 MAIN ST., #303, WINCHESTER, MA 01890
BOSTON (BY APPOINTMENT)
MEDFORD (BY APPOINTMENT)

JEFFERY D. UGINO
JUGINO@GELERMANCABRAL.COM

January 27, 2025

VIA EMAIL dcollins@needhamma.gov

Town of Needham
Zoning Board of Appeals
500 Dedham Avenue
Needham, MA 02492

Re: Opposition to Appeal
378 Manning Street, Needham, MA
Building Permit No. BR-24-11071

Dear Members of the Zoning Board of Appeals:

This firm serves as counsel to Driftwood Landing, LLC, owner of the property located at 378 Manning Street, Needham, MA (the “Property”). We are in receipt of a copy of Nick Kuzalov and Megam Waldvogel’s appeal of our client’s Building Permit No. BR-24-11071. This letter will serve as an opposition to the appeal.

On November 19, 2024, the Building Commissioner issued to our client Building Permit No. BR-24-11071, which authorized the construction of a two-family dwelling on the property (the “Building Permit”). On or about December 18, 2024, Mr. Kuzalov and Ms. Waldvogel, through counsel (“Petitioners”), filed an Appeal of the Building Permit’s issuance with the Zoning Board of Appeals (“Board”). In their Appeal, Petitioners request that the Board overturn the issuance of the Building Permit. My client wishes to set forth grounds to deny the appeal, which follow below.

1. Overhang and Garage Included in Total Footprint Area

Petitioners allege that the area of the previous structure's overhang used to calculate the permissible footprint of the new structure "seems excessive." Petitioners' argument is fully unsupported, amounting to only conjecture. My client has worked with the Building Department through several iterations of building plans to ensure that they are in compliance with the footprint requirements of Section 1.4.7.4 of the Zoning Bylaw (the "Bylaw"). It is now clear that any errors in calculating the overhang dimensions have been corrected through the updated plans. In compliance with Section 1.7.4, the footprint has been reduced to 2,068 square feet such that it is no greater than that of the original non-conforming building. Copies of the updated plans are enclosed hereto as **Exhibit A**. Updated plans demonstrating the footprint calculations of the previously-existing two-family dwelling are enclosed herewith as **Exhibit B**. These updated plans have been submitted to the Commissioner and supersede previous versions on which Petitioners based their objections. Together, they demonstrate that Petitioners' concerns relative to the area of the overhang and allowable footprint of the new structure have been addressed and fully resolved.

Petitioners further allege that the enclosed detached garage which previously existed on the Property should not be included in the calculation of the pre-existing footprint. To this, Section 1.4.7.4 of the Bylaw includes the following definition of "footprint:"

As used in this Section 1.4.7.4, the term "footprint" shall be defined as the area of the lot which is within the perimeter created by the vertical extension to the ground of the exterior walls of all fully enclosed portions of a building, including ***attached garages, porches, solariums and similar fully enclosed extensions, attachments and accessory annexes, plus eaves and roof overhangs.*** Not included in the footprint are unenclosed portions or extensions of buildings, including, but not limited to, unenclosed carports, decks, and porches.

(Emphasis supplied.)

Petitioners' argument that Section 1.4.7.4 excludes detached enclosed garages is wholly misplaced, as that section also allows "accessory annexes" to be included in the footprint calculation. This Bylaw section does *not* prohibit the inclusion of detached enclosed garages in calculating the footprint. My client's pre-existing enclosed garage should be considered an "accessory annex" under the Bylaw. While there is no definition for "annex" in the Bylaw, Section 1.3 defines "accessory building" as "a building devoted exclusively to a use subordinate to and customarily incidental to the principal use." Pursuant to this definition, along with the determination of the Commissioner Prondak made with his knowledge as to what is customarily incidental to such a principal use in

Needham, the area of the pre-existing enclosed garage may be included in the footprint calculation allowance for the new structure. **See Ex. B.** Accordingly, my client properly included the area of the pre-existing enclosed garage in the calculation of the “footprint” under Section 1.4.7.4 of the Bylaw in drafting the updated plan. **See Ex. A.**

Based on the foregoing, contrary to Petitioners’ assertions, and in consideration of the updated plans, the overhang and enclosed garage of the previous structure are properly included in the allowable footprint per the Bylaw and are reflected in the updated plans for the proposed dwelling.

2. Lawful Pre-Existing Non-Conforming Status

Finally, Petitioners state that my client has failed to demonstrate the property’s status as the site of a lawful, pre-existing, non-conforming two-family dwelling dating to at least 1925 or earlier. As the appellants, it is the Petitioners’ burden to demonstrate the Building Commission’s conclusion to the contrary is mistaken. In any event, the Board should consider Commissioner Prondak’s review of the permit history which provides sufficient evidence to conclude that the two-family dwelling enjoys pre-existing non-conforming status.

I also encloses herewith the property’s Real Property Record as **Exhibit C.** The Real Property Record shows that the property was used as a two-family dwelling since its construction in 1909, and that since that time, there are no entries or notations which demonstrate a deviation from that use. Petitioners’ argument that the property does not enjoy pre-existing non-conforming status is made without any evidence or factual support. Given that it is the Petitioners’ burden to bring forward such evidence, for this additional reason, their appeal should be denied, as my client has properly complied with the Building Permit and Bylaws.

As demonstrated in his letter, Commissioner Prondak extensively reviewed this matter, and, after taking all evidence into account, he declined to revoke the Building Permit. As Building Commissioner, he is entitled to deference in his interpretation of the permit and applicable Bylaws. Pinecrest Vill., Inc. v. MacMillan, 425 Mass. 70, 75 (1997); Stevens v. Zoning Bd. of Appeals of Bourne, 97 Mass. App. Ct. 713, 717 (2020) (court extends deference to the reasonable interpretation of local zoning regulations by the officials charged with their administration and enforcement).

For the reasons set forth above, I respectfully request that the Board deny the Petitioners' appeal. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at your convenience.

Very truly yours,

/s/ Jeffery D. Ugino
Jeffery D. Ugino

Encl.

cc: Building Commissioner
George Giunta, Jr., Esq.
Client

EXHIBIT A

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

Assessor's Map & Parcel Number: 66 LOT 32

Building Permit No. _____

Zoning District: SRB 2 FAMILY

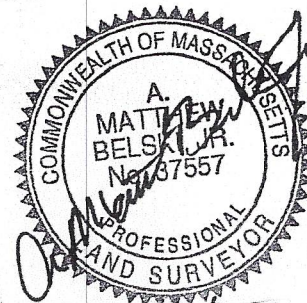
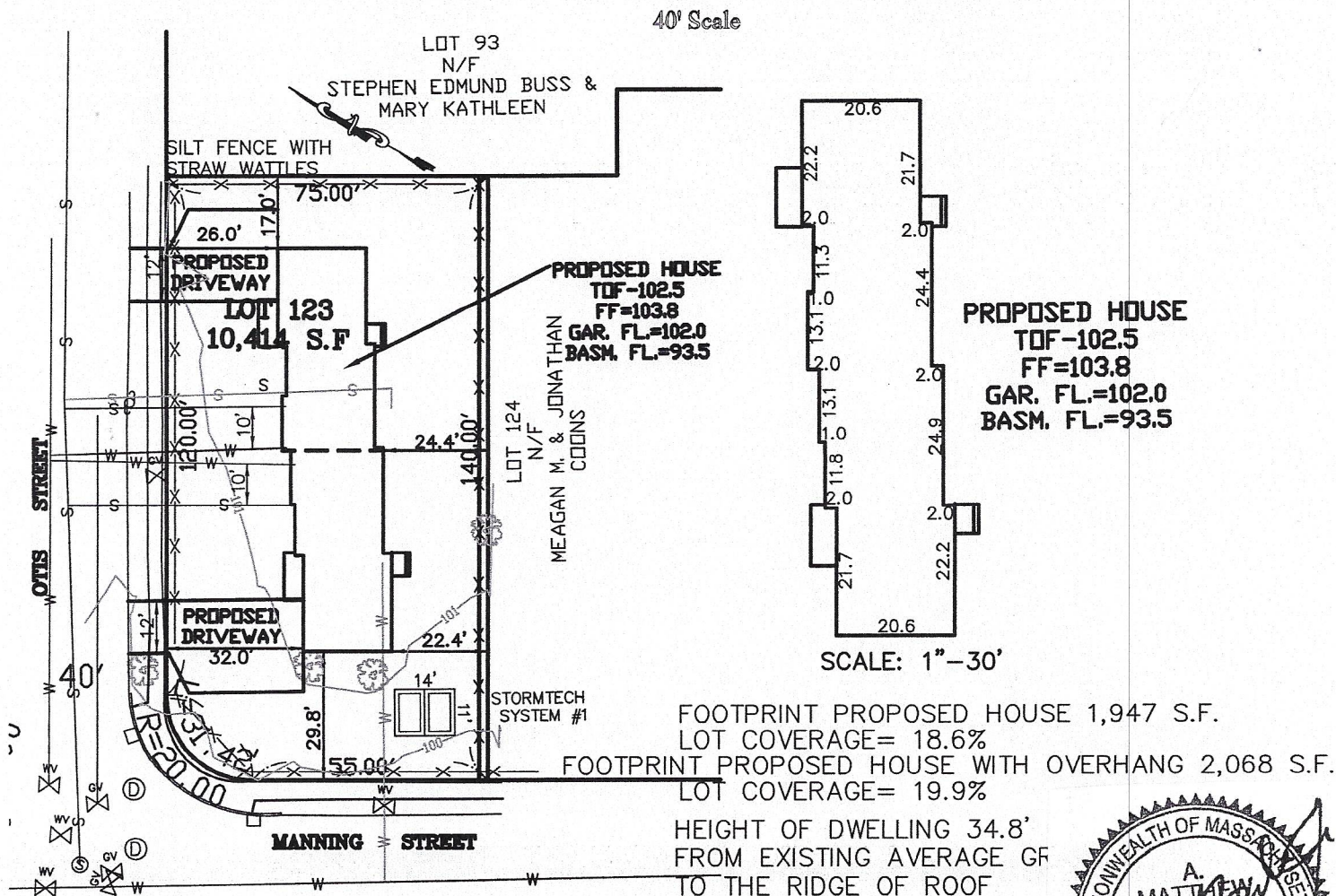
Lot Area 10,414 S.F.

Address: 378 MANNING STREET

Owner _____

Builder: _____

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



1/23/25

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 15 day of JANUARY 2025.

Name A. MATTHEW BELSKI, JR.

Registered Land Surveyor No. 37557

Address 35 MAPLE ST.

City W. NEWBURY State MA Zip _____

Tel. No. (857) 498-0951

Approved _____

Director of Public Works

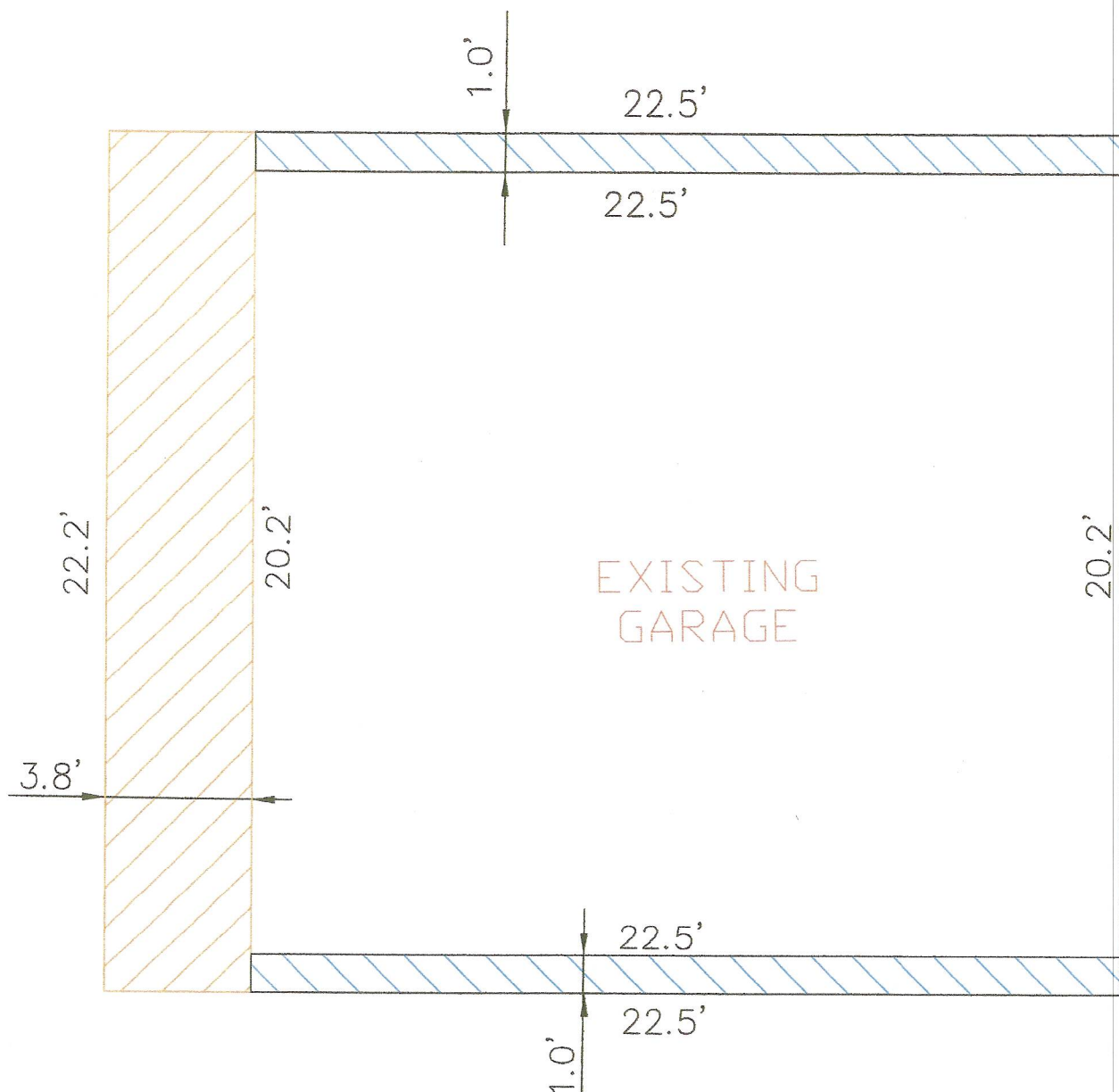
Date _____

Approved _____

Building Inspector

Date _____

EXHIBIT B



EXISTING GARAGE 454.5 S.F.

OVERHANG AROUND GARAGE

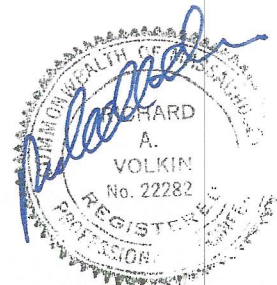
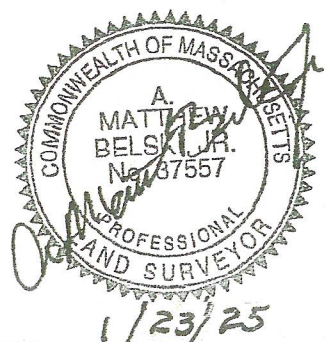
OVERHANG GARAGE=1x22.5=22.5 S.F.

OVERHANG GARAGE=3.8x22.2=84.4 S.F.

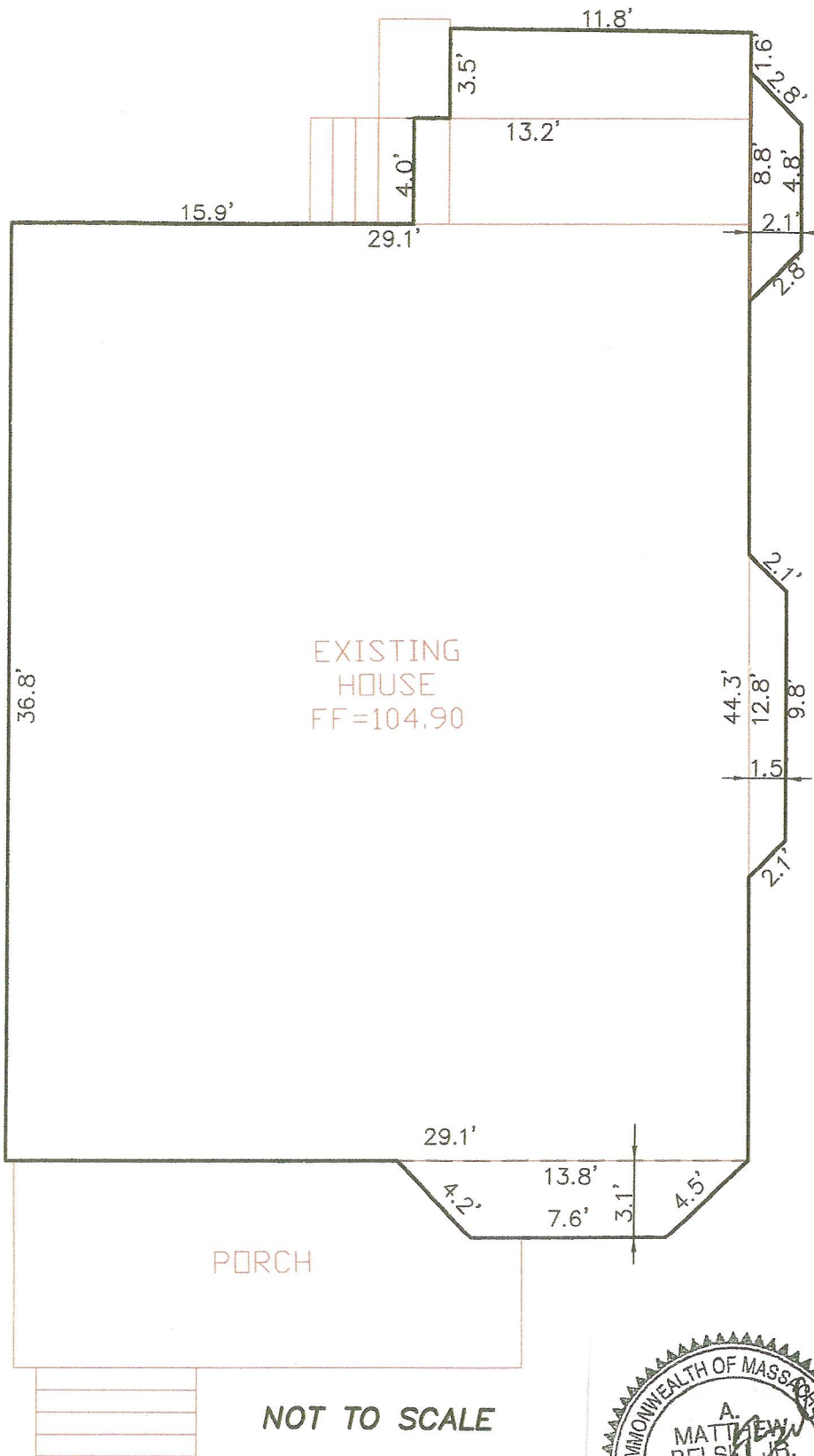
OVERHANG GARAGE=1x22.5=22.5 S.F.

GARAGE TOTAL OVERHANG=129.4 S.F.

NOT TO SCALE



378 MANNING STREET



EXISTING HOUSE

$$36.8 \times 29.1 = 1,070.9 \text{ S.F.}$$

$$13.2 \times 4.0 = 52.8 \text{ S.F.}$$

$$11.8 \times 3.5 = 41.3 \text{ S.F.}$$

$$(8.8 + 4.8) / 2 \times 2.1 = 14.3 \text{ S.F.}$$

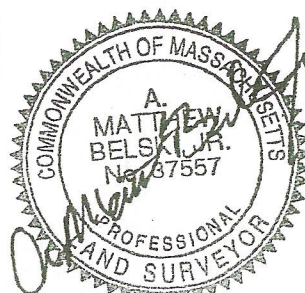
$$(12.8 + 9.8) / 2 \times 1.5 = 17.0 \text{ S.F.}$$

$$(13.8 + 7.6) / 2 \times 3.1 = 33.2 \text{ S.F.}$$

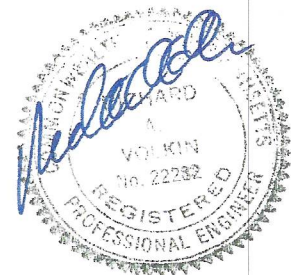
$$\text{TOTAL HOUSE} = 1,230 \text{ S.F.}$$

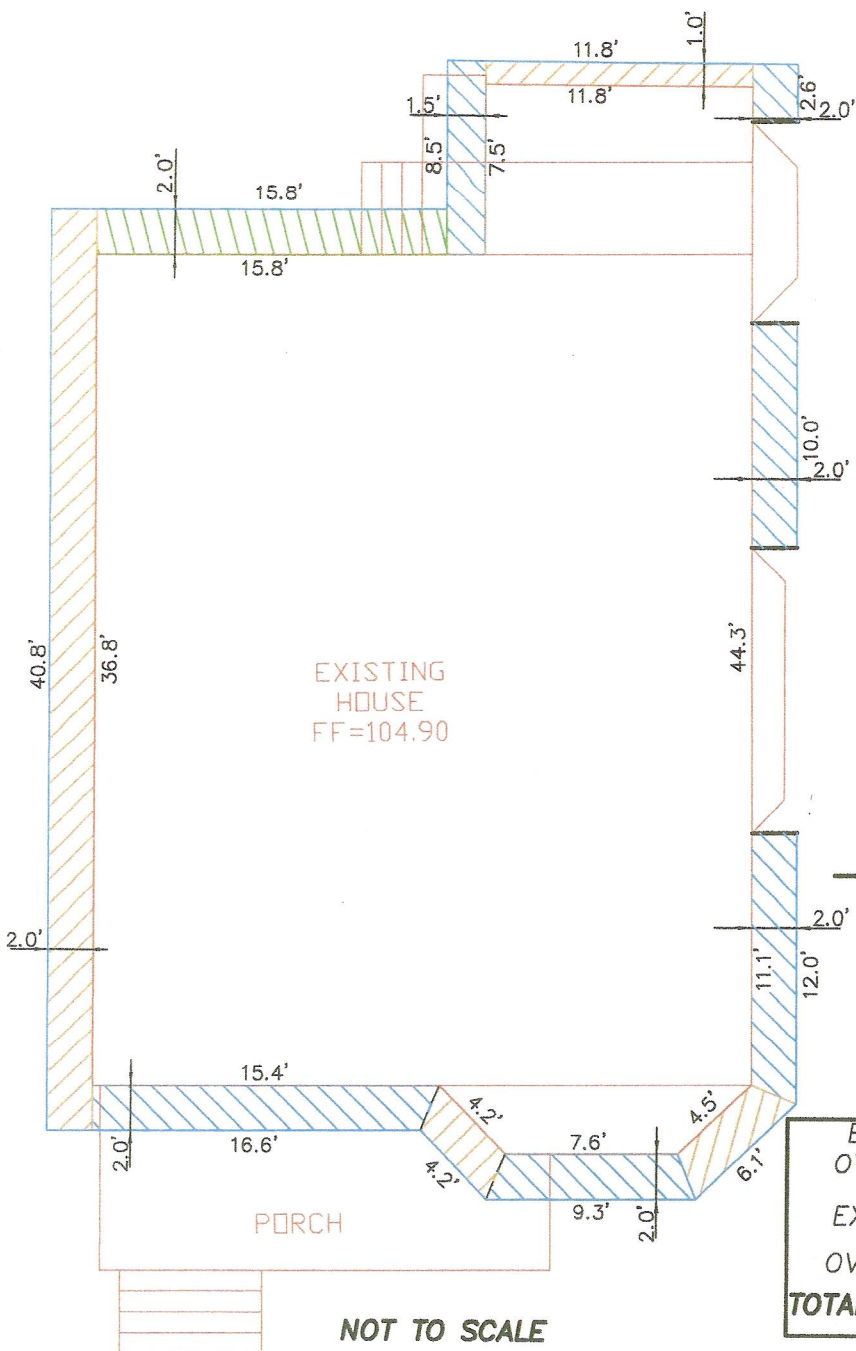
NOT TO SCALE

378 MANNING STREET



1/23/25





OVERHANG EXISTING HOUSE

OVERHANG HOUSE=2x40.8=81.6 S.F.

OVERHANG HOUSE=15.8x2.0=31.6 S.F.

OVERHANG HOUSE=8.5x1.5=12.8 S.F.

OVERHANG HOUSE=11.8x1=11.8 S.F.

OVERHANG HOUSE=2.6x2=5.2 S.F.

OVERHANG HOUSE=10x2=20.0 S.F.

OVERHANG HOUSE=(11.1+12.0)/2x2=23.1 S.F.

OVERHANG HOUSE=(4.5+6.1)/2x2=10.6 S.F.

OVERHANG HOUSE=(7.6+9.3)/2x2=16.9 S.F.

OVERHANG HOUSE=4.2x2=8.4 S.F.

OVERHANG HOUSE=(15.4+16.6)/2x2=32.0 S.F.

EXISTING HOUSE TOTAL OVERHANG=254.0 S.F.

EXISTING GARAGE 454.5 S.F.

OVERHANG AROUND GARAGE=129.4 S.F.

EXISTING HOUSE=1,230 S.F.

OVERHANG AROUND EXISTING HOUSE=254.0 S.F.

TOTAL HOUSE, GARAGE AND OVERHANGS=2067.9 S.F.

378 MANNING STREET

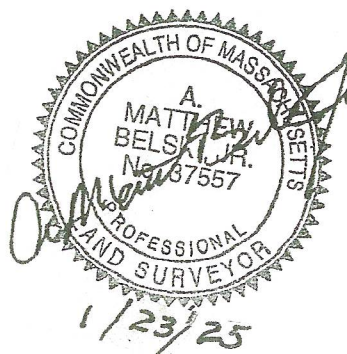
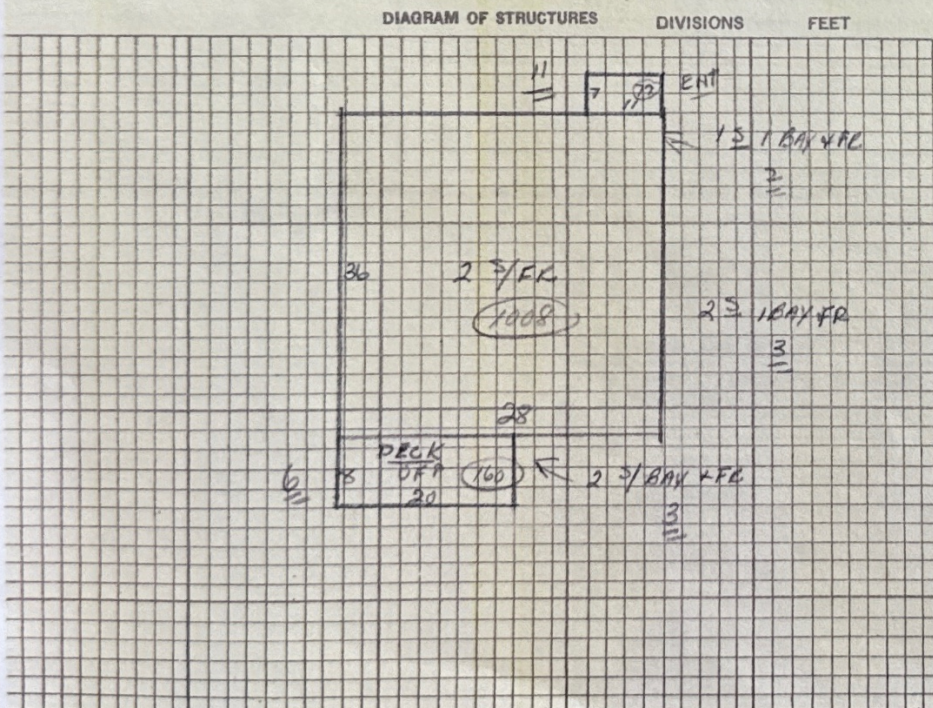


EXHIBIT C

Card No.

A black and white photograph of a large, multi-story house, likely a Victorian-style residence. The house features a prominent corner bay window on the second floor, with multiple panes. The roof is dark and appears to have a gabled or mansard design. The house is surrounded by mature trees and a well-maintained lawn. The photograph is framed by a dark border, suggesting it might be a scan of a physical print.

Date _____



STREET

Rooms

[illegible]

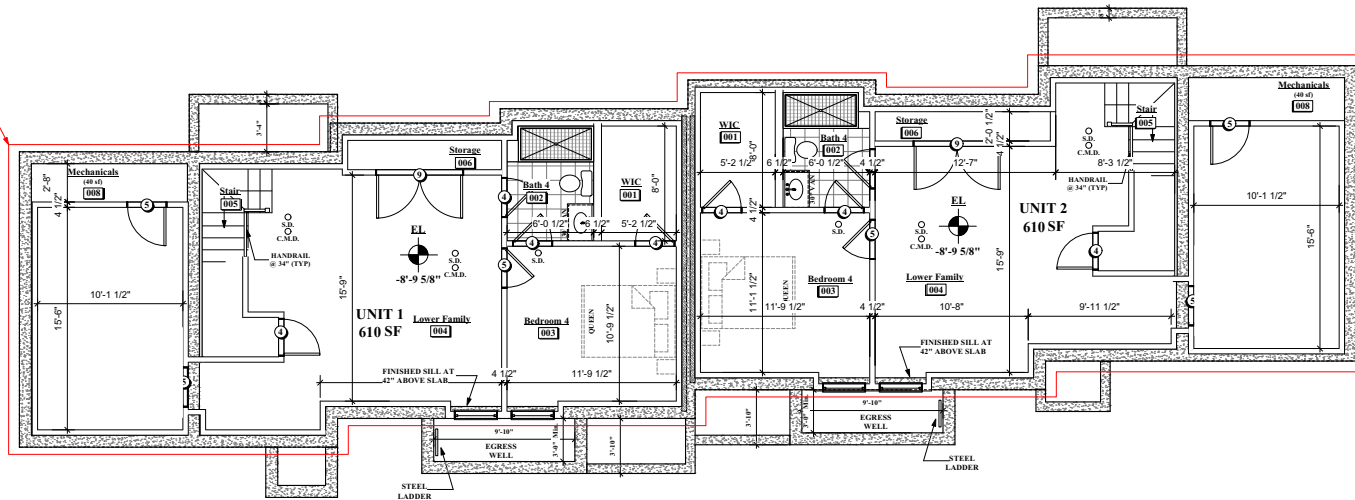
REMARKS: PERMIT # 5291 Replace 2-car garage

PROPERTY DATA ON THIS CARD
NOT UPDATED SINCE 1993.

COMPUTER LISTING IS CORRECT.

Manning Street

Otis Street



Basement Plan
1/4" = 1'-0"

New Residences

378
Manning Street
Needham, Ma

OWNER

mckay architects

33 Bryant Street
Dorchester, MA 02122
PH: 781.325.0880
WWW.MCKAYARCHITECTS.NET



REV # DATE ISSUANCE

1 1.10.25 Footprint Reduction

OWNERSHIP & USE OF DOCUMENTS

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Contractor to verify all information and dimensions in the field prior to start of construction and to notify McKay Architects of any discrepancies.

Basement
Floor Plan

JOB NO.

DATE

12.18.2024

DWG BY SH

CKD BY MLM

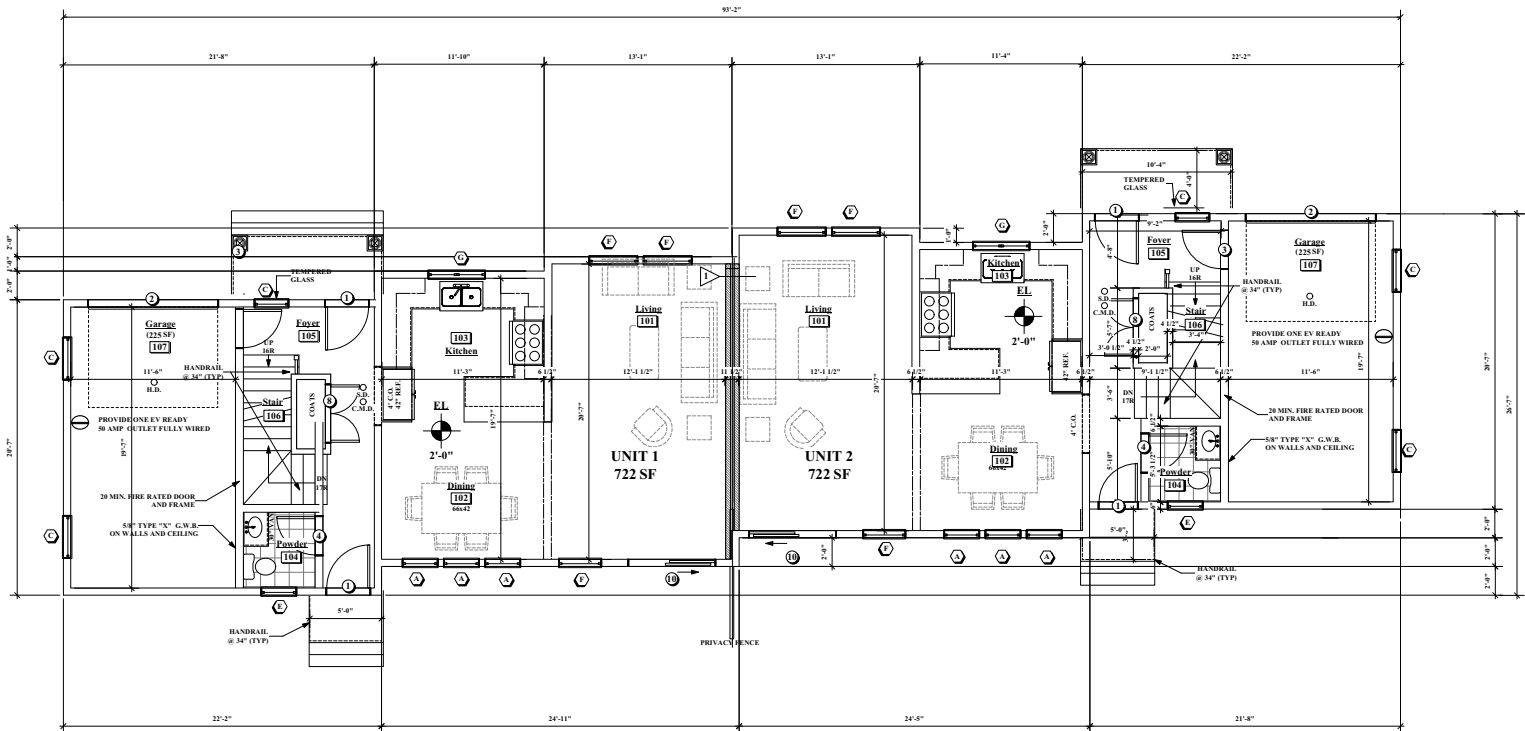
SCALE

AS NOTED

A-1.1

Manning Street

Otis Street



1 First Floor Plan
A-1.2 1/4" = 1'-0"

New Residences

378
Manning Street
Needham, Ma

OWNER

mckay architects

33 Bryant Street
Dorchester, MA 02122
PH: 781.325.0880
www.mckayarchitects.net



REV # DATE ISSUANCE
1 1.10.25 Footprint Reduction

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First Floor Plan

JOB NO.

DATE

12.18.2024

DWG BY SH

CKD BY MLM

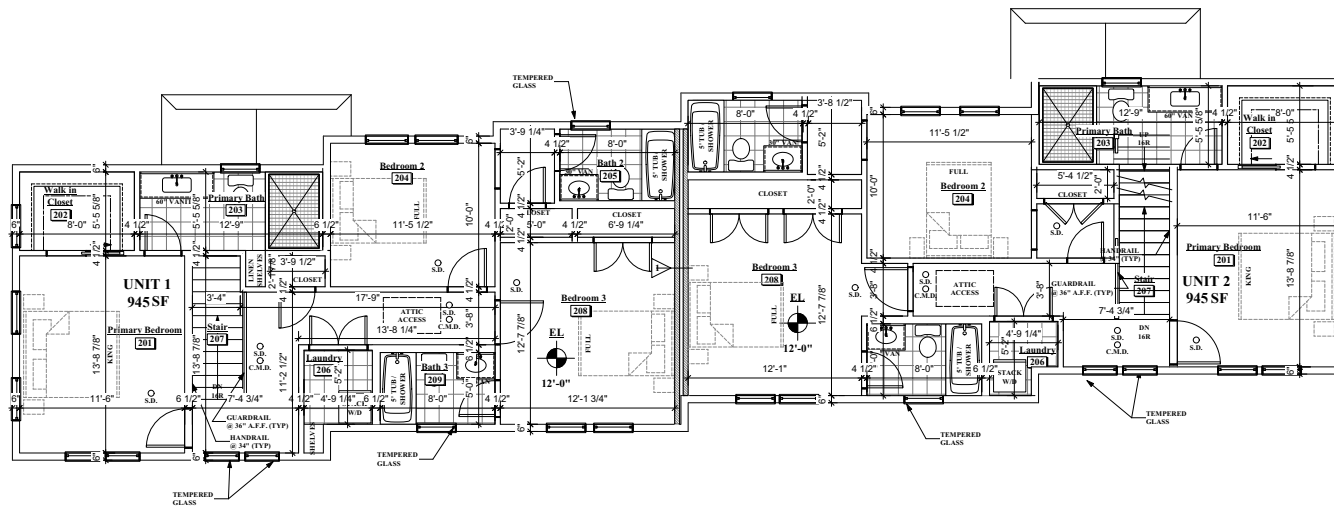
SCALE

AS NOTED

A-1.2

Manning Street

Otis Street



1 Second Floor Plan
A-1.3 1/4" = 1'-0"

New Residences

378
Manning Street
Needham, Ma

OWNER

mckay architects

33 Bryant Street
Dorchester, MA 02122
617.761.2244
www.mckayarchitects.net



REV # DATE ISSUANCE

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Second Floor Plan

JOB NO

DATE

12.18.2024

DWG BY

SH

CKD BY

MLM

SCALE

AS NOTED

A-1.3

New Residences

378
Manning Street
Needham, Ma

OWNER

mckay architects

33 Bryant Street
Dorchester, MA 02122
617.324.1988
www.mckayarchitects.net



REV #	DATE	ISSUANCE
1	1.10.25	Footprint Reduction

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Contractor to verify all information and dimensions in the field prior to start of construction and to notify McKay Architects of any discrepancies.

Manning Street & Rear Elevations

JOB NO

DATE

DWG BY

CKD BY

SCALE

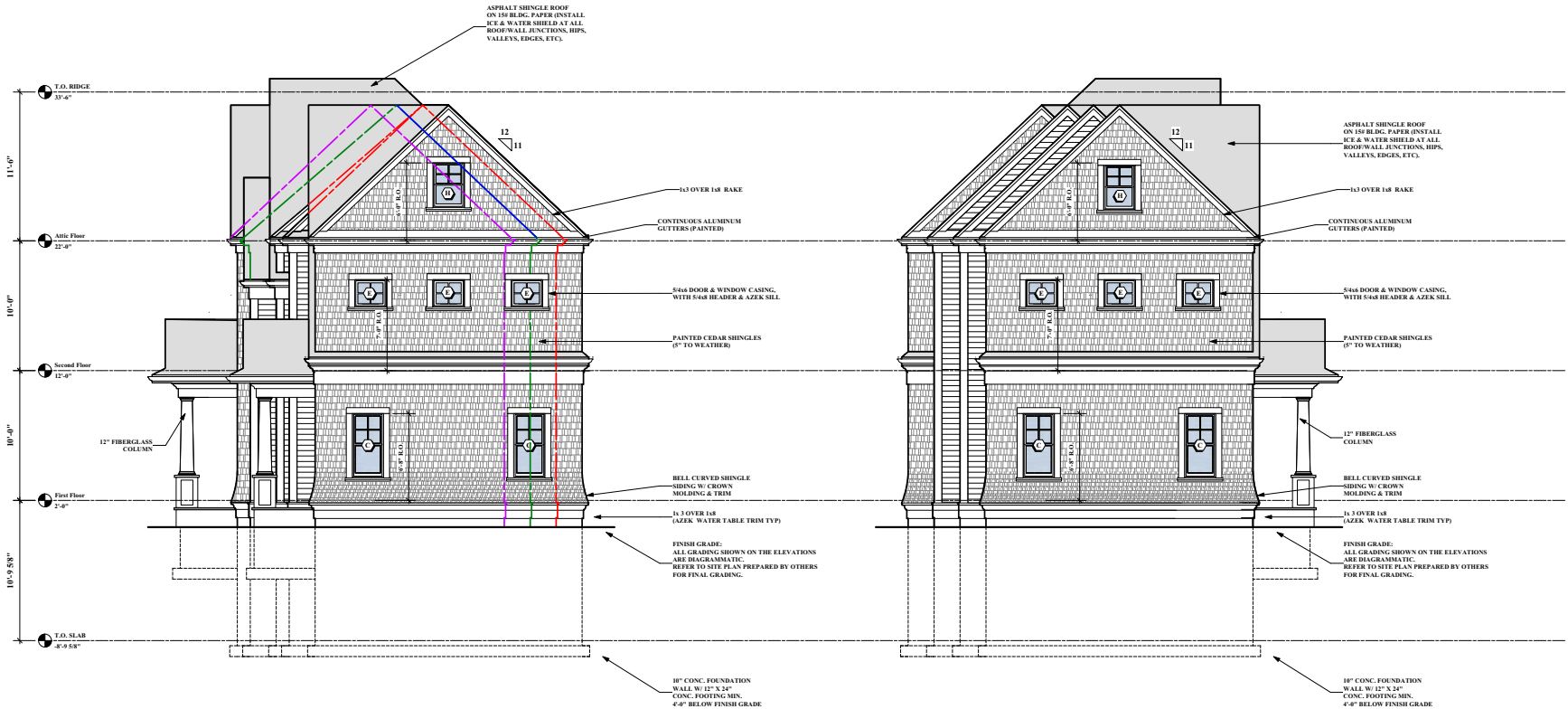
12.18.2024

SH

MLM

AS NOTED

A-2.1



1 Manning Street Elevation
A-2.1 1/4" = 1'-0"

2 Rear Elevation
A-2.1 1/4" = 1'-0"

New Residences

378
Manning Street
Needham, Ma

OWNER

mckay architects

33 Bryant Street
Dorchester, MA 02122
PH: 617.253.0980
WWW.MCKAYARCHITECTS.NET



REV	DATE	ISSUANCE
1	1.10.25	Footprint Reduction

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Contractor to verify all information and dimensions in the field prior to start of construction and to notify McKay Architects of any discrepancies.

Otis Street
Elevation

JOB NO.

DATE

12.18.2024

DWG BY SH

CKD BY MLM

SCALE

AS NOTED

A-2.2



1 Otis Street Elevation
A-2.2 1/4" = 1'-0"

New Residences

378
Manning Street
Needham, Ma

OWNER

architects
mckay

33 Bryant Street
Dorchester, MA 02122
PH: 781.325.9980
WWW.MCKAYARCHITECTS.NET



REV #	DATE	ISSUANCE
1	1.10.25	Footprint Reduction

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Contractor to verify all information and dimensions in the field prior to start of construction and to notify McKay Architects of any discrepancies.

Right Elevation

JOB NO.
DATE
12.18.2024
DWG BY SH
CKD BY MLM
SCALE
AS NOTED

A-2.3



1 Right Elevation
A-2.3 1/4" = 1'-0"

Daphne Collins

From: Greg Giokas <greggiokas@gmail.com>
Sent: Monday, January 27, 2025 4:15 PM
To: Daphne Collins
Subject: 378 Manning Street

Hi Daphne,

I hope this email finds you well. I am a Needham resident who lives on Lindbergh Avenue. I recently heard that this builder was looking to build a 2 family home on this site. I wanted to reach out and say that I am in support of this idea. I think this is a much more affordable option for a young family looking to move to our wonderful neighborhood.

Thank you

All The Best,

Greg Giokas

Daphne Collins

From: Chris Kostopoulos <chris@isellmass.com>
Sent: Monday, January 27, 2025 4:01 PM
To: Daphne Collins; Kelly Kostopoulos
Subject: Support for a a two-family at 378 Manning

Hi Daphne,

I appreciate your time and consideration in reading our email.

My wife, Kelly, and I live at 11 Bradford St in Needham, six houses away from 378 Manning. We have been made aware of the owners having some pushback on being able to build two units on the property. I wanted to let you know that we support such a project in our community.

I am a local real estate agent, and there is so much inventory for new construction single-family houses, and there are not enough multi-unit developments that are affordable. There are currently 26 houses on the market in Needham; 23 of those are listed for over \$2M. Having more affordable homes will allow for new families to come into our town or allow for older residents to remain local to their grandchildren. We were fortunate to build when we did when things were more affordable, and now we have young children and not enough other children in the neighborhood. All we hear is how expensive it is. The town needs more affordable housing and this project would do that in a sensible way.

I will be attending the meeting this week, but my wife Kelly can not attend, so we wanted to send an email showing our support.

I again thank you for your time and consideration.

Regards,

Chris Kostopoulos



ZBA Application For Hearing

RECEIVED TOWN CLERK
NORWOOD, MA 02432

2024 DEC 30 PM 12:47

2024 DEC 30 PM 12:47

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	Patricia M. Connolly			Date:	12/30/24
Applicant Address	44 Colgate Road Norwood, MA 02432				
Phone	781-699-2100	email	slr@cdmail.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	Michael B. Cabral, Esq Gelerman and Cabral LLC				
Address	30 Walpole Street, Norwood, MA 02062				
Phone	781-769-6900	email	mcabral@gelermancabral.com		
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other _____					
Contact ☐ Me ☒ Representative in connection with this application.					

Subject Property Information

Property Address	0 Colgate Road		
Map/Parcel Number	1990570002200000	Zone of Property	Single Family Residence B
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			



Please see added attached.

Please see added attached.

Table 4.2.3

	Existing Conditions	Proposed Conditions
Use	□aca□	□i□□le□a□il□ □eside□ial
# Dwelling Units	N/A	1
Lot Area (square feet)	10,0□3 sq.□□	10,0□3 sq.□□
Front Setback (feet)	N/A	□B□
Rear Setback (feet)	N/A	□B□
Left Setback (feet)	N/A	□B□
Right Setback (feet)	N/A	□B□
Frontage (feet)	□□□ee□	□□□ee□
Lot Coverage (%)	N/A	□B□
FAR (Floor area divided by the lot area)	N/A	□B□
Numbers must match those on the certified plot plan and supporting materials		



ZBA Application For Hearing

Date Structure Constructed including additions:

□aca□□□a□d

Date Lot was created:

□ri□r □□1□□4

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions <i>(Required)</i>	
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" <i>(Required)</i>	
If applicant is tenant, letter of authorization from owner <i>(Required)</i>	
Electronic submission of the complete application with attachments <i>(Required)</i>	
Elevations of Proposed Conditions <i>(when necessary)</i>	
Floor Plans of Proposed Conditions <i>(when necessary)</i>	

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 December 2, 2024
date of consult

Date: 12/30/24 Applicant Signature /s/ Michael B. Cabral, Esq.

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

Addendum to Application 0 Colgate Road

Existing Conditions:

0 Colgate Road is shown as Lot 14 (“Lot 14”) on Plan 1271 of 1954 (Plan Book 190), recorded with the Norfolk County Registry of Deeds (the “Registry”) as an approved subdivision of the Town of Needham (“1954 Subdivision Plan”). A current topographic plan showing Lot 14 is attached as **Exhibit A**. The 1954 Subdivision Plan is attached as **Exhibit B**. Lot 14 is a vacant lot located in the Single Residence B District. It has 95 feet of frontage on a private paved way which satisfies the minimum frontage of 80 feet for parcels in Single Residence B per Section 4.2.1 of the Needham Zoning Bylaws. See **Exhibit A**. Lot 14 contains 10,063 square feet and thus also satisfies the minimum lot size requirement of 10,000 square feet for the District. As a result, Lot 14 satisfies all the minimum thresholds for construction of a single-family detached dwelling.

Statement of Relief Sought and Pertinent Bylaw Definitions:

By request dated December 2, 2024, the Applicant requested a formal determination from the Building Commissioner relative to the buildability of Lot 14. In response to the Applicant’s request, the Building Inspector refused to issue a building permit because “Lot 14 appears to ‘front’ on private property and therefore does not have adequate frontage along a public or private way as defined in the Needham Zoning Bylaw.” See copy of the Building Inspector’s determination attached as **Exhibit B**.

Pursuant to the Needham Zoning By-Law, the terms “frontage” and “street or way” are defined as follows:

Frontage - a continuous portion of a sideline of a way, public or private, between the sidelines of a lot in common ownership and in the case of a corner lot, between a sideline of such lot and the intersection of sidelines of ways or the midpoint of the curve connecting such sidelines. No lot shall be required to have frontage on more than one way. No lot shall be deemed to have frontage unless there exists safe and convenient vehicular access from said lot to a street or way.”

Street or Way – any public way or any private way shown on a plan approved under the provisions of the Subdivision Control Law or in existence when the provisions of said Subdivision Control Law became effective in the Town of Needham, having in the opinion of the Planning Board suitable width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation

to the proposed use of land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

1954 Subdivision Plan:

The Applicant, in preparation for her request and inquiry to the Building Inspector, ordered a title examination of Lot 14, the surrounding ways, and 66 Colgate Road. The title examination was prepared by Quirk Associates LLC, and a copy is attached as **Exhibit C**.

Lot 14 is shown on Plan 1271 of 1954 (Pl. Bk. 190) recorded at the Registry as a 10,000 sq.ft. ± lot fronting on a way known at that time as Old Cart Road (n/k/a Colgate Road), i.e., the 1954 Subdivision Plan. See **Exhibit A** and **Exhibit C, at p. 46**. The Plan demonstrates that, as far back as 1954, Lot 14 was recognized as a separate buildable lot with adequate frontage along a way. Paper streets, such as Old Cart Road, are ways “shown on a recorded plan but never built on the ground.” *Shapiro v. Burton*, 23 Mass.App.Ct. 327, 328 (1987). Elimination of a paper street may only be accomplished by recordable releases from all property owners having rights in the way, *Anderson v. Devries*, 326 Mass. 127, 132 (1950), or by a court judgment. Here, Old Cart Road was a paper street pursuant to the 1954 Subdivision Plan.

It is important to note that today, Colgate Road is no longer a paper street, including the private way portion abutting Lot 14, it having been improved no later than construction of a dwelling at 66 Colgate Road in 1984. Today, the entire length of the way from Oak Hill Road past 0 Colgate Road and to 66 Colgate Road is paved. Even if the way (being Old Cart Road n/k/a as Lot A2) was never constructed, the Applicant has a continued right to use Old Cart Road (n/k/a Lot A2) as a way because Lot 14’s access has not been extinguished, on record or otherwise.

Based on the 1954 Subdivision Plan alone, it is clear that the Applicant has proper frontage on a way within the meaning of the Bylaw, and therefore meets all the requirement for buildability.

1974 Subdivision Plan and Covenant:

The rights of Lot 14 in the way were reaffirmed in years subsequent to the 1954 Subdivision Plan. Further research finds that, in connection with a certain recorded Covenant, described further below, a subdivision plan of land entitled “Definite Plan of the Subdivision of Land in the Town of Needham, situated off Oak Hill Road,” dated July 11, 1974, was submitted by Dawson Development Corporation, approved by the Planning Board, and subsequently recorded at the Registry as No. 144 in 1975 in Pl. Bk. 248 (the “1974 Subdivision Plan”). A copy of the 1974 Subdivision Plan is attached as **Exhibit C, at p. 20**. The 1974 Subdivision Plan was submitted and approve in connection with the subdivision of Lot 15 into three separate

lots, and shows Lot 14 and what was previously known as Old Cart Road as Colgate Road¹ and Lot A2. At the time this plan was prepared, Lot A2 was owned by Robert C. Dawson and Beatrice J. Dawson (the “Dawsons”).

On March 7, 1975, the Dawsons, still owners of Lot A2, Dawson Development Corporation, and the Town, in connection with a subdivision application and approval by the Town, executed a certain Covenant, recorded in Book 5116, Page 174 on March 27, 1975 at the Registry (the “Covenant”). The Covenant, along with the signed 1974 Subdivision Plan, serves as the Planning Board’s approval of the subdivision application. A copy of the Covenant is attached as **Exhibit C, at p. 14**. In pertinent part, the Covenant states as follows:

II. This Covenant shall run with the land and shall be binding upon the executor, administrators, heirs, assigns to the respective owners and developer, and their successors in title to the premises shown on said plan.

III (B). Lot A2, 18,427 square feet, bounded and described as shown on the aforementioned Definitive Plan, shall not constitute a separate building lot and ***shall remain free of any other improvements which would be inconsistent with said lot serving as an access to Greendale Avenue primarily for the benefit of the portion of lot A1 abutting lot A2 and any other properties abutting lot A2 as their respective interest may appear in providing for the public convenience and necessity when the need arises.*** In consideration of the developer agreeing to the condition stated herein, the Planning Board will waive the requirements for the construction of a permanent turnaround as described in Section 3.3.5 of the “Subdivision Regulations and Procedural Rules of the Planning Board” and will allow the developer to construct a temporary back-up strip as outlined in condition III,C. of this covenant

(Emphasis supplied.)

Pursuant to the Covenant, which binding upon Dawson, and their successors, and the Town, there is a clear and definite agreement between the parties that Lot A2 shall serve as a way primarily for the benefit of any properties abutting lot A2, a condition required to waive Planning Board rules regarding subdivision road construction, i.e., the requirement for a permanent turnaround. The Applicant, as owner of Lot 14 – which abuts Lot A2 – is an express

¹ By Order of Taking for Town Way dated June 8, 1976 (“Order of Taking”) a portion of Oak Hill Road was accepted as a town way. See **Exhibit C, at p. 29**.

intended beneficiary of the Covenant.² The Applicant, or her predecessors, did not release or otherwise waive the benefits expressly promised by the Covenant, and there are no releases of record of the Covenant by any other party. Therefore, pursuant to the Covenant, the Applicant presently has frontage along a way, Lot A2, within the meaning of the Bylaw.

1975 Grant of Easement and Public Taking:

By Grant of Easement dated January 23, 1975 and recorded at the Registry on September 22, 1975 in Book 5163, Page 530, Robert C. Dawson, as owner of Lot A2, granted a 30 foot temporary backup easement extending from Colgate Road to the Inhabitants of the Town of Needham. See **Exhibit C, at p. 27**. This temporary grant of easement was permitted by the Town because, pursuant to the Covenant, the abutters of Lot A2 were given access over Lot A2. Colgate Road was soon thereafter taken as public way by the Town. Pursuant to the Order of Taking in 1976 – because this easement onto Lot A2 was included in the Acceptance Plan referenced therein, see **Exhibit C, at p. 33** – the easement was including in the taking and thereby made permanent. See **Exhibit C, at p. 29**. This public easement extending from Colgate Road onto Lot A2 directly abuts Lot 14 by a width of 30 feet. See **Exhibit C, at p. 33**.

Further Title History:

By deed dated December 5, 1984, Lot A2 was granted to Jerome Derenzo. See **Exhibit C, at p. 35**. Thereafter, Lot A2 was granted to Ellen Lynn Hurvitz by deed dated November 6, 1984. See **Exhibit C, at p. 38**. By deed dated February 4, 1988, Lot A2 was granted to Ellen Lynn Hurvitz and Barry David Stasnick. See **Exhibit C, at p. 41**. None of the aforementioned deeds contain reference to the Covenant. The Covenant therefore remains in effect.

Notably, a driveway from the Applicant's property (Lot 14) to Lot A2 could likely be constructed so that the only portion of Lot A2 used by the occupants of Lot 14 would be the 30-foot public easement portion leading directly to Colgate Road, a public way.

Given the above title and subdivision approval history, Lot 14 clearly has rights along a private way, over a public way/easement, and along Colgate Road, which meet the Zoning Bylaw's definition of "frontage." Such rights first arose prior to the existence of Colgate Road via Old Cart Way by way of the 1954 Subdivision Plan, and were later reaffirmed by way of the 1974 Subdivision Plan, recorded in 1975, which continues to show Lot 14 fronting on a way. Lot 14's rights in a way are also further confirmed under the Covenant.

² Pursuant to § 302 of the Restatement (Second) of Contracts (1981): "(1) Unless otherwise agreed between promisor and promisee, a beneficiary of a promise is an intended beneficiary if recognition of a right to performance in the beneficiary is appropriate to effectuate the intention of the parties and either (a) the performance of the promise will satisfy an obligation of the promisee to pay money to the beneficiary; or (b) the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance. (2) An incidental beneficiary is a beneficiary who is not an intended beneficiary."

Without this access, Lot 14 would be unfairly landlocked in contravention of Massachusetts law involving subdivision ways, paper streets, Planning Board Covenants, and use of public easements; and further in contravention of public safety which undergirds the reason for the conditions placed on the Town's subdivision approvals. Any alternative finding would leave Lot 14 as landlocked and unbuildable. While it appears from the recorded documents that the initial intent was to extend Colgate Road all the way to Greendale Avenue, the Applicant here is willing to only seek access to Colgate Road from Lot A2 by way of the existing public easement, which is already paved and abutting Lot 14, and not Greendale Avenue.

Applicant's Ownership in a Portion of Lot A2 Pursuant to Derelict Fee Statute:

Though the Applicant does not require ownership in the pertinent way to establish frontage within the meaning of the Zoning Bylaw, to the extent that ownership of Lot A2 arises as an issue in the ZBA's consideration of the application, the Applicant owns to the centerline of the way per Massachusetts General Laws Chapter 183, Section 58 (the "Derelict Fee Statute"). "The statute establishes an authoritative rule of construction that 'every deed of real estate abutting a way includes the fee interest of the grantor in the way.'" *Conway v. Caragliano*. 102 Mass. App. Ct. 773 (2023), citing *Tattav*.

Moreover, in *Carmel v. Baillargeon*, 21 Mass. App. Ct. 426 (1986), the court recognized that abutters of a private way are entitled to use it for all purposes for which a public way may be used, reinforcing the rights of abutting landowners to utilize the private way. Here, Lot 14 was conveyed by deed from William H. Carter to Jennie Little in 1954. See **Exhibit C, at p. 48**. The deed references the 1954 Subdivision Plan. In fact, it was William H. Carter who was responsible for the creation of the 1954 Subdivision Plan which was approved by the Planning Board, which shows Lot 14 abutting Old Cart Road. The deed also describes the frontage of Lot 14 as 95 feet of land still owned by Carter. Notably, in the deed conveying Lot 14, Carter makes no explicit reservation of rights in the way nor does he prohibit or exclude rights in the way. Thus, in accordance with G.L. c.183, §58 and decades of supporting case law, Lot 14 not only fronts along the way, but also was conveyed with ownership rights in a portion of the way.

Conclusion:

Based on the foregoing, the Applicant requests that the Board reverse the determination of the Building Inspector and confirm the buildability of Lot 14 as a single-family detached dwelling as it satisfies the Town requirements for both frontage along a way and lot area.

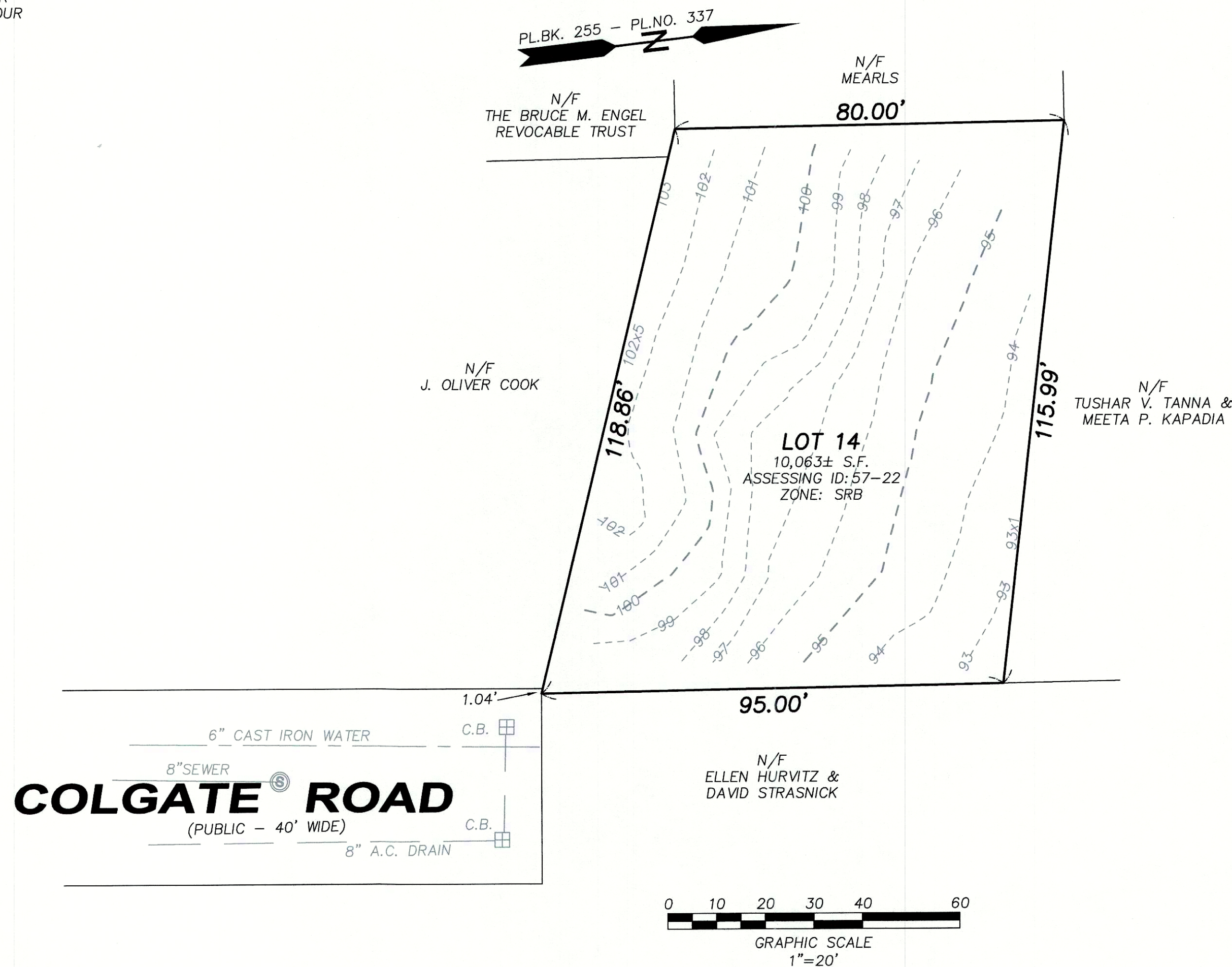
EXHIBIT A

LEGEND

BIT.	BITUMINOUS
ETW	EDGE OF TRAVELED WAY
F.F.	FINISHED FLOOR
GG	GAS GATE
INV.	INVERT
PP	POWER POLE
SMH	SEWER MANHOLE
GAR.	GARAGE
TH	THRESHOLD
T.O.C.	TOP OF CONCRETE
-100-	EXISTING CONTOUR
-100-	PROPOSED CONTOUR

NOTES:

1. SUBJECT TO ANY STATEMENT OF FACT AN UP-TO -DATE ABSTRACT OF TITLE WOULD DISCLOSE.
2. SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD.
3. UNDERGROUND UTILITIES, STRUCTURES AND FACILITIES, IF ANY, HAVE BEEN SHOWN FROM SURFACE LOCATIONS AND MEASUREMENTS OBTAINED FROM A FIELD SURVEY AND RECORD LOCATIONS, THEREFORE THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE ONLY. THERE MAY BE OTHER UTILITIES WHICH THE EXISTENCE OF ARE NOT KNOWN, SIZE, TYPE AND LOCATION OF ALL UTILITIES AND STRUCTURES MUST BE VERIFIED BY PROPER AUTHORITIES PRIOR TO ANY AND ALL CONSTRUCTION. CALL TOLL FREE, DIG SAFE CALL CENTER AT 1-888-3444-7233 SEVENTY-TWO HOURS PRIOR TO ANY EXCAVATION.

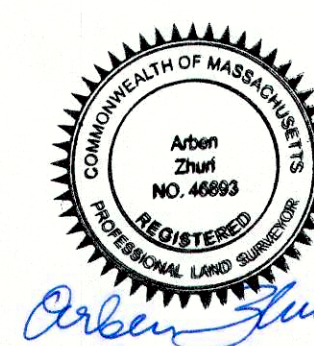


OWNER INFORMATION:
PATRICIA M. CONNOLLY
BOOK 5305, PAGE 675

I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL
KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN IS
BASED ON FIELD SURVEYS, DEEDS AND PLANS OF RECORD.

TOPOGRAPHIC PLAN
#0 COLGATE ROAD
NEEDHAM, MASSACHUSETTS
NORFOLK COUNTY
AS PREPARED FOR
SPLIT ROCK CONSTRUCTION LLC

 **CHENEY
ENGINEERING, LLC**
53 MELLE STREET
NEEDHAM, MA 02494
TEL. 508-785-2100
office@cheney-eng.com



DATE: 9/06/2024

PROJECT # 5338

REV.

EXHIBIT B

OF ENOCEPTAL

PAUL

REVERE

R.D.

5

FALCON

OAK HILL

RD.

FREDERICK
P.K.

GREENDALE

AVE.

Norfolk Registry of Deeds
Dedham, Mass.
Received Sept 27 1954 with Deed
William H. Carter to
Amelia Ciminio
Filed as No. 1271 1954 Pl. Bk. 190
Attest James J. [Signature] Register

Filed as No. 1271-1954 Pl. Bk. 190

Compiled Plan of Land owned now
or formerly by William H. Carter,
Block W. Carleeta Park,

LAND IN NEEDHAM, MASS.

Scale: 1 in. = 40. ft. Frank L. Cheney,
April 1952. Civil Engineer
Revised May 7, 1952.

Note: This plan compiled from all known available data and subject to an accurate survey.

Edward L. Bower
George H. Felt
James H. Crocker
Robert L. Woodbury

EXHIBIT C

----- Forwarded Message -----

From: Joseph Prondak <jprondak@needhamma.gov>

To: sallen . <sallen@gelermancabral.com>

Sent: Tuesday, December 3, 2024 at 08:15:15 AM EST

Subject: RE: 0 Colgate Road - Request for Determination of Buildability

Hello Attorney Allen,

This email confirms your clients' right to appeal my decision on Lot 14/0 Colgate Rd., as provided for in MGL Ch. 40A, Sections 8 & 15.

Sincerely,

Joe Prondak

Needham Building Commissioner

781-455-7550 x308

From: sallen . <sallen@gelermancabral.com>

Sent: Monday, December 2, 2024 5:12 PM

To: Joseph Prondak <jprondak@needhamma.gov>

Cc: Lee Newman <LNewman@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>; Daphne Collins <dcollins@needhamma.gov>; Jeffery D. Ugino <jugino@gelermancabral.com>; Michael Cabral <mcabral@gelermancabral.com>

Subject: Re: 0 Colgate Road - Request for Determination of Buildability

Thank you, Joe,

Can you please confirm our client has the right appeal this denial to the Needham Zoning Board of Appeals per G.L. c. 40A, ss. 8 & 15?

Thank you

Steve Allen

Stephen T. Allen, Esq.

Gelerman and Cabral, LLC

30 Walpole Street

Norwood, MA 02062

P: (781) 769-6900

F: (781) 769-6989

sallen@gelermancabral.com

www.GelermanCabral.com

On Monday, December 2, 2024 at 01:36:54 PM EST, Joseph Prondak <jprondak@needhamma.gov> wrote:

Dear Attorney Allen,

This email will serve to confirm my refusal to issue a building permit for lot 14 as requested, based on the information submitted by you and for the following corresponding reasons.

1. The 1975 sub-division dealt only with the dividing of then lot #15 into 3 separate lots, to be numbered 15A, 15B and 15C.
2. The proposed extension of Colgate Rd. ends at the dividing sideline between lots 14 and 15C.
3. Lots 12, 13 and 14 were existing lots, bordering on then lot A2.
4. The inset utility plan only addresses lots 15A, B and C.
5. The 1954 plan shows the existing lot 15 prior to the 1975 sub-division.
6. The current plan by Cheney Engineering now shows the parcel formerly shown as Lot A2 on the 1975 plan, as being contiguous to lot 12.
7. This (Cheney) plan references a plan of 1984 which combined lot A2 with lot 12.
8. A copy of the 1984 plan has not been provided.

Based on the above, Lot 14 appears to “front” on private property and therefore does not have adequate frontage along a public or private way as defined in the Needham Zoning Bylaw.

Further, this office will not make any determinations of the appropriateness or legality of prior land transactions or decisions of Planning or Zoning Boards.

I will be happy to review and consider any additional documentation you provide that may further your clients' intentions.

Sincerely,

Joe Prondak

Needham Building Commissioner

781-455-7550 x308

From: sallen . <sallen@gelermancabral.com>
Sent: Monday, December 2, 2024 9:08 AM
To: Joseph Prondak <jprondak@needhamma.gov>
Cc: Michael Cabral <mcabral@gelermancabral.com>; Jeffery D. Ugino <jugino@gelermancabral.com>
Subject: 0 Colgate Road - Request for Determination of Buildability

Dear Building Commissioner Prondak,

On behalf of our clients Patricia Connolly, Brian Connolly and Joe Morrell, we are hereby requesting a formal determination from you, as Building Commissioner for the Town of Needham, on the buildability of 0 Colgate Road.

0 Colgate Road is shown as Lot 14 on Plan 1271 of 1954 (Plan Book 190), recorded with the Norfolk County Registry of Deeds. It is also shown on Subdivision Plan 144 of 1975. Lot 14 has 95 feet of frontage on a private way (Lot A2, shown on Plan 144 of 1975), which satisfies the minimum frontage of 80 feet for parcels in Single Residence B per Section 4.2.1 of the Needham Zoning Bylaws. 0 Colgate Road also satisfies the minimum lot size of 10,000 sf per the Needham Zoning Bylaws. As a result, 0 Colgate Road satisfies all the minimum thresholds required to apply for and be granted a permit to construct a residential dwelling.

Should you disagree with this, we hereby request a formal denial letter, including the necessary language for our client to validly appeal your decision to the Needham Zoning Board of Appeals (“you may appeal this denial to the Needham Zoning Board of Appeals per G.L. c. 40A, ss. 8 & 15”), as well as the specific reason or reasons for denial.

Please let us know if you have any questions. Thank you for your time and consideration.

Sincerely,

Steve Allen

Stephen T. Allen, Esq.

Gelman and Cabral, LLC

30 Walpole Street

Norwood, MA 02062

P: (781) 769-6900

F: (781) 769-6989

sallen@gelermancabral.com

www.GelmanCabral.com

EXHIBIT D

Quirk Associates LLC
4 Dorothy Lane
Dedham, MA 02026
781-326-1202 * Fax: 781-326-0916
Email Address: Quirkassociates@gmail.com

Date: June 25, 2024
To: Stephen T. Allen, Esquire
From: Tim Quirk
Re: 0 & 66 Colgate Road, Needham

Steve,

We have researched the above properties with a focus on any easement or right of way that may exist for the benefit of 0 Colgate Road.

66 Colgate Road:

We ran title on this property from June 14, 1960 to date.

Matters affecting this property:

1. Covenant, 5116-174 (Sheet 14)
2. Rights reserved in deed, 5116-181 (Sheet 22)
3. Rights reserved in deed, 5116-182 (Sheet 23)
4. Grant of Temporary Easement, 5163-530 (Sheet 27)
5. Taking for the layout of Colgate Road, 5231-159 (Sheet 29)
6. Notice of Intention to Prevent Easement, 6661-179 (Sheet 40)
7. Any existing rights over Cart Road shown on plans, 3798-635 & PB 190 #1271 (Sheets 7-8)

0 Colgate Road:

We have run title on this property from September 10, 1954 to date.

Matters affecting this property:

1. Any existing rights over Cart Road, PB 190 #1271 (Sheet 46)

Please review Covenant 5116-174. Section III (B) would appear to allow access to Greendale Road for abutters of Lot A2, which would include 0 Colgate.

Please review the enclosed and let me know if you have any questions or need additional research.

Regards,


Tim Quirk

66 Colgate Road

Property Information

Property Location:66 COLGATE RD

Class:R-RESIDENTIAL

Use Code (LUC):101-SINGLE FAMILY RESIDENCE

District:MA199 - NEEDHAM

Deeded Acres:.6700

Square Feet:29,185

Owner

Owner	Co-Owner	City	Address	State	Zip Code	Deed Book/Page
HURVITZ, ELLEN LYNN &	STRASNICK, BARRY DAVID	NEEDHAM	66 COLGATE RD	MA	02492	7876/204

Sales

Sale Date (D/M/Y)	Book/Page	Sale Price	Grantee:	Grantor:	Cert Doc #
10-12-1984	7876-204	\$279,000	HURVITZ, ELLEN LYNN &	DERENZO	

Owner History

1 of 23

Tax Year2024

Owner:HURVITZ, ELLEN LYNN &

Co-Owner:STRASNICK, BARRY DAVID

Sale Care Of

State:MA

City:NEEDHAM

Address:66 COLGATE RD

Zip Code:02492

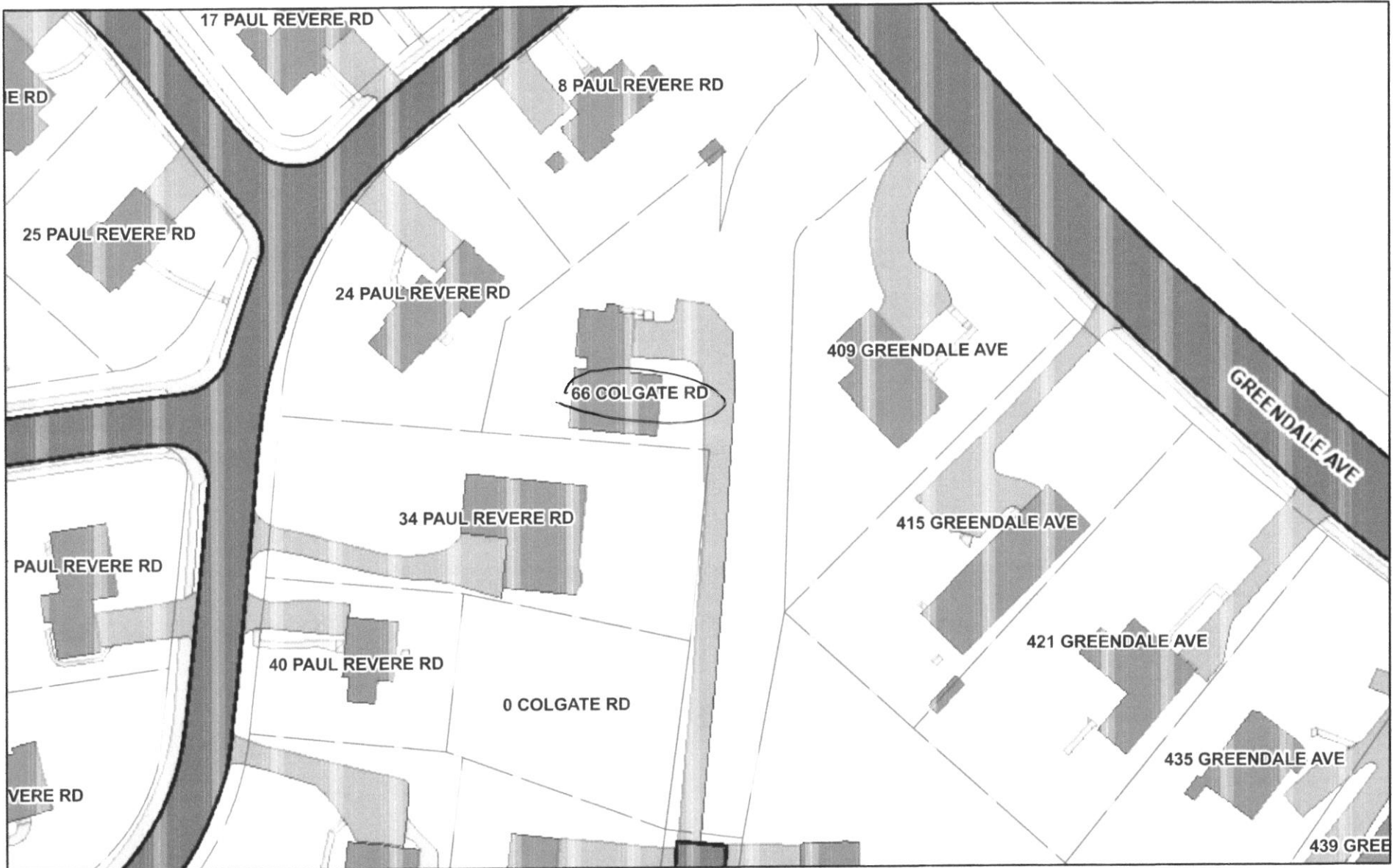
Deed Book/Page7876/204

Land

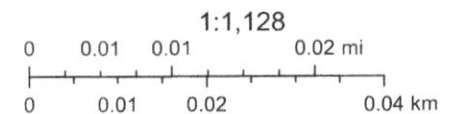
Land Line #	Land Type	Land Code	Class	Square Feet	Acres	Suppressed	CH61B %	Infl %	Infl Reason	Infl 2 %	Infl 2 Reason	Base Rate	Chap Market Value	Assessed Value
1	S-SQUARE FOOT	P-PRIMARY	101-SINGLE FAMILY RESIDENCE	10,000	.23	N						55		551,800
2	A-ACREAGE	R-RESIDUAL	101-SINGLE FAMILY RESIDENCE	19,036	.44	N						18,675		18,675
Total:														0 570,475

Printed on Thursday, June 20, 2024, at 1:13:30 PM EST

Town of Needham



6/20/2024, 2:07:14 PM



Filed as No. 1498 1984
Book 6561 Page 352
Attest: *[Signature]*
Register

I CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

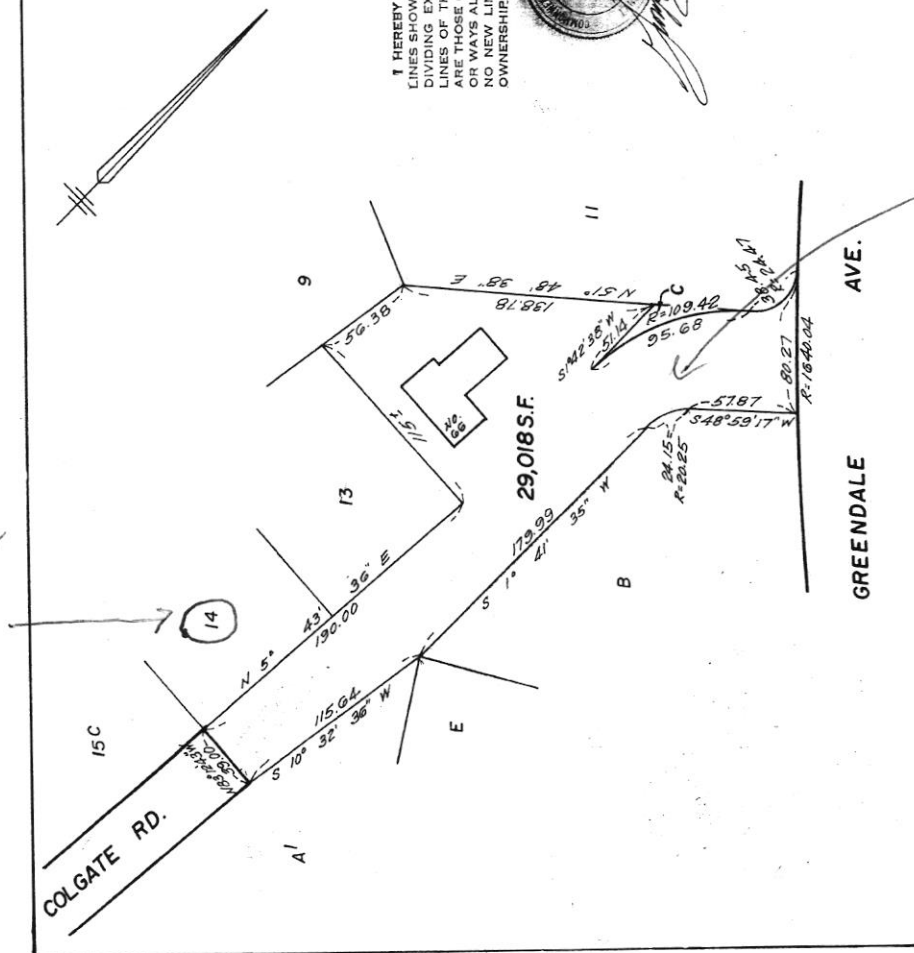
I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

PLAN OF LAND
IN
NEEDHAM—MASS

NOV. 4, 1984 SCALE 1" = 50'

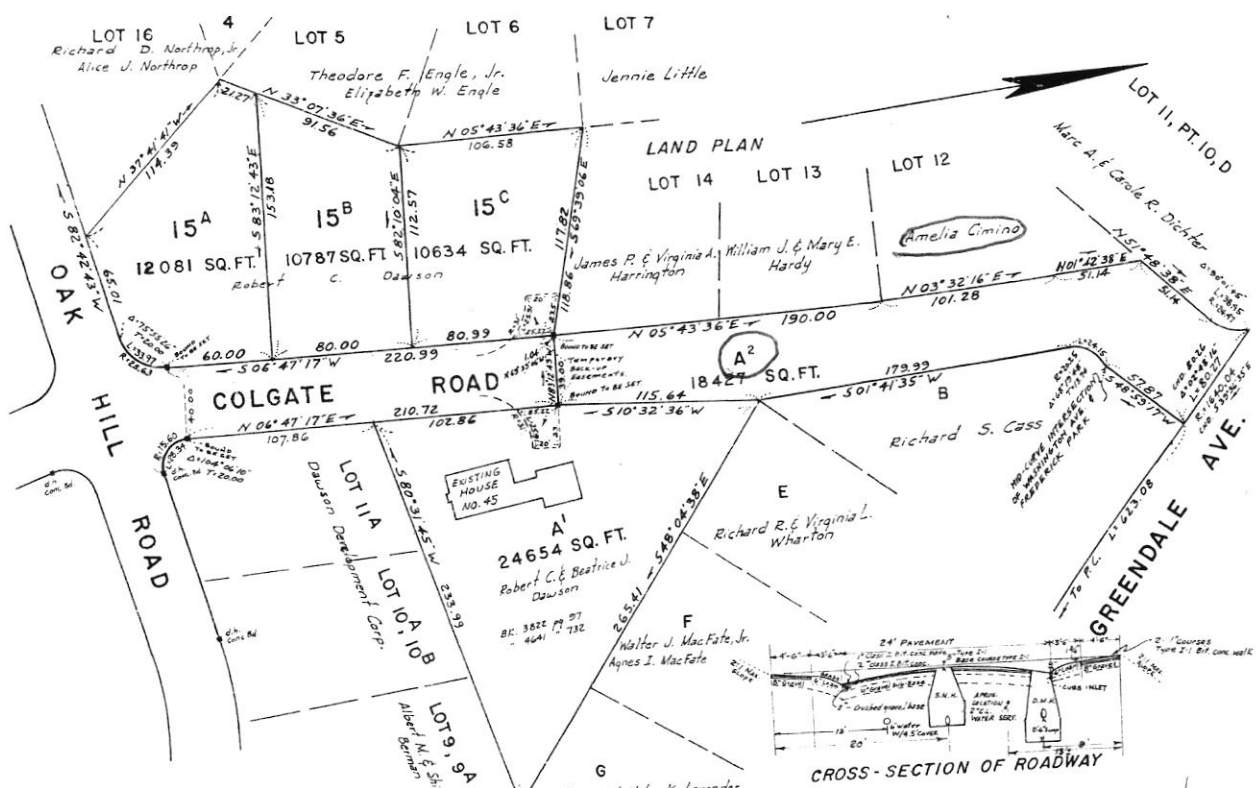
GEORGE N. GIUNTA R.L.S.
76 NEHOIDEN ST.
NEEDHAM, MASS.

Note: See Plan by Frank L. Cheney dated April 1952 in Plan Book 170 Plan 1271 and plan by Roland W. Lin dated Nov 22, 1946 Book 2658 Page 60



66
College

PB 248
H 144

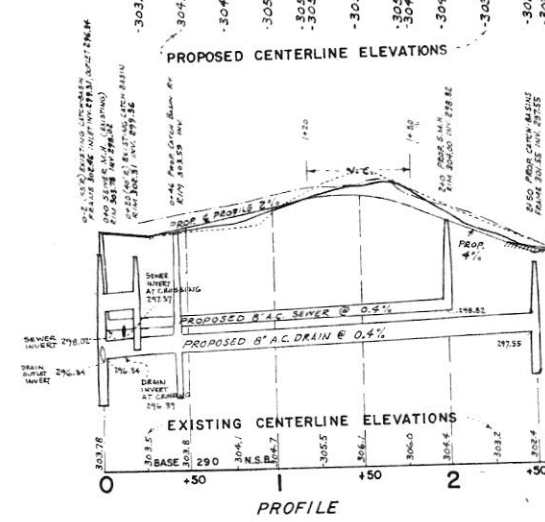
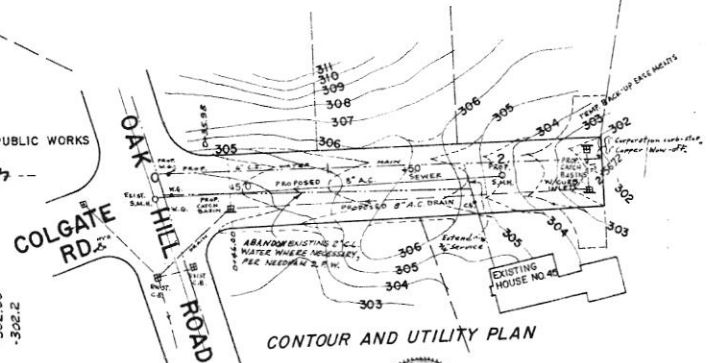


APPROVED IN ACCORDANCE WITH SECTION 81-U OF CHAPTER 41A OF THE GENERAL LAWS, AS AMENDED, 11/12/74 AND ENDORSED.

APPROVED 11/12/74 NEEDHAM PLANNING BOARD
 [Signature]
 [Signature]
 [Signature]

APPROVED JAN 30 1975 SUPT. OF PUBLIC WORKS
 [Signature]

APPROVED Jan 30 1975 TOWN ENGINEER
 [Signature]



Noted: [Signature]
 Received Mar 27 1975 with Cert.
 Dawson Development Corp. to
 Town of Needham
 Filed No. 148 1975 P. 248
 [Signature]

TOWN CLERK'S CERTIFICATE OF NO APPEAL
 I, TOWN CLERK of the Town of Needham, hereby certify that the notice of approval of this plan by the Needham Planning Board has been received and recorded at this office and no appeal was received during the twenty days next after such receipt and recording of said notice.

I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAN IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE SUBDIVISION REGULATIONS AND PROCEDURAL RULES OF THE PLANNING BOARD OF THE TOWN OF NEEDHAM. [Signature]

DEFINITIVE PLAN OF THE SUBDIVISION OF LAND IN THE TOWN OF NEEDHAM SITUATED OFF OAK HILL RD.	
DATE JULY 11, 1974	
OWNER	ROBERT C. AND BEATRICE J. DAWSON
DEVELOPER	DAWSON DEVELOPMENT CORPORATION
SURVEYOR	CHENEY ENGINEERING CO., INC. 317 CHESTNUT ST., NEEDHAM, MASS.
SHEET 1 OF 1 SHEETS	PRELIMINARY PLAN 3/26/74
HORIZONTAL SCALE 1" = 40'	DEFINITIVE PLAN
VERTICAL SCALE 1" = 4'	REVISIONS DATED

3798-635

NOT AN OFFICIAL COPY
Compiled Plan of Land in
NEEDHAM, MASS.
OFFICIAL COPY

Scale: 1 in. = 40 ft. Cheney Engineering Co.
Needham, Mass.

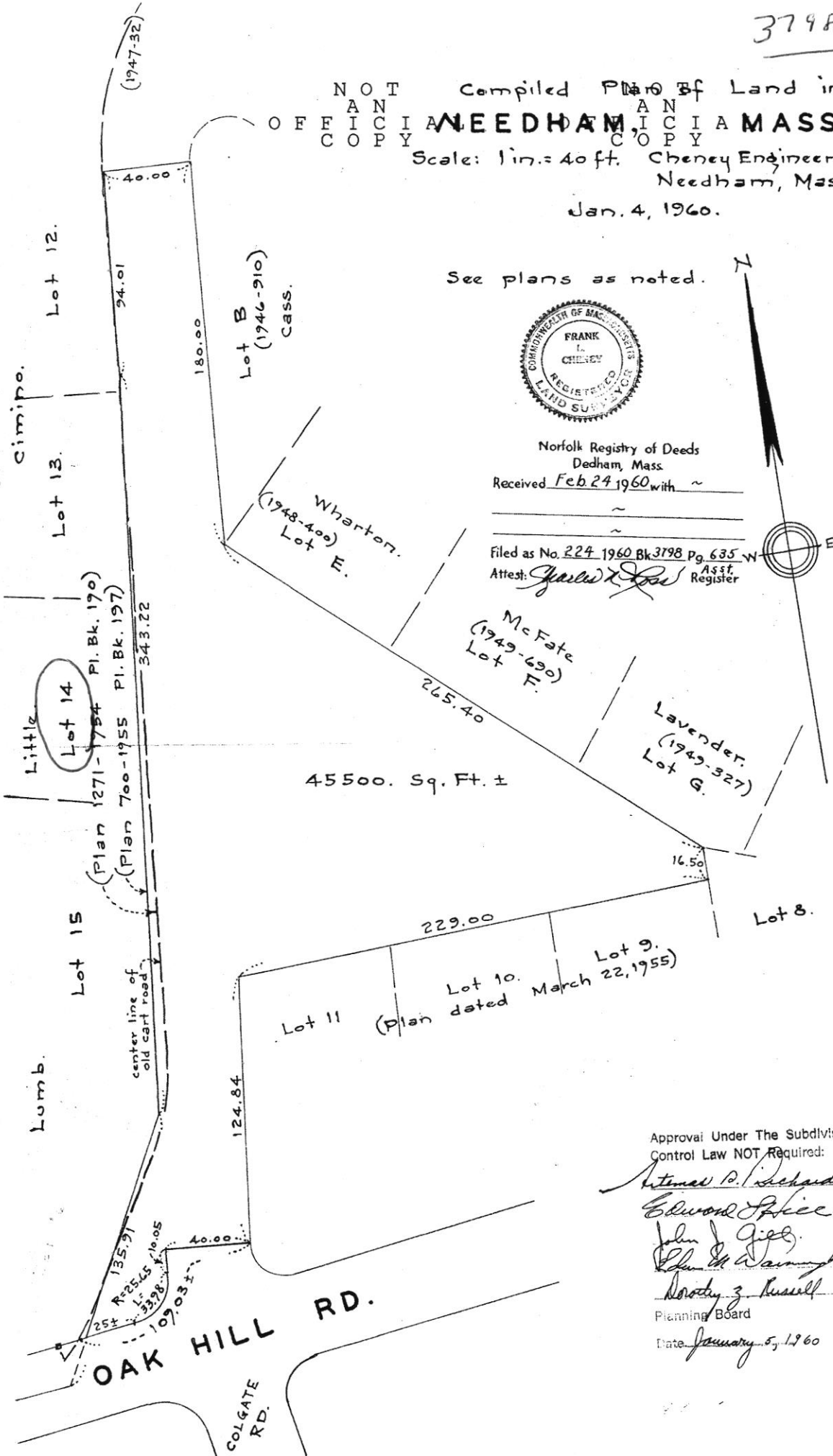
Jan. 4, 1960.

See plans as noted.



Norfolk Registry of Deeds
Dedham, Mass.
Received Feb. 24, 1960 with ~

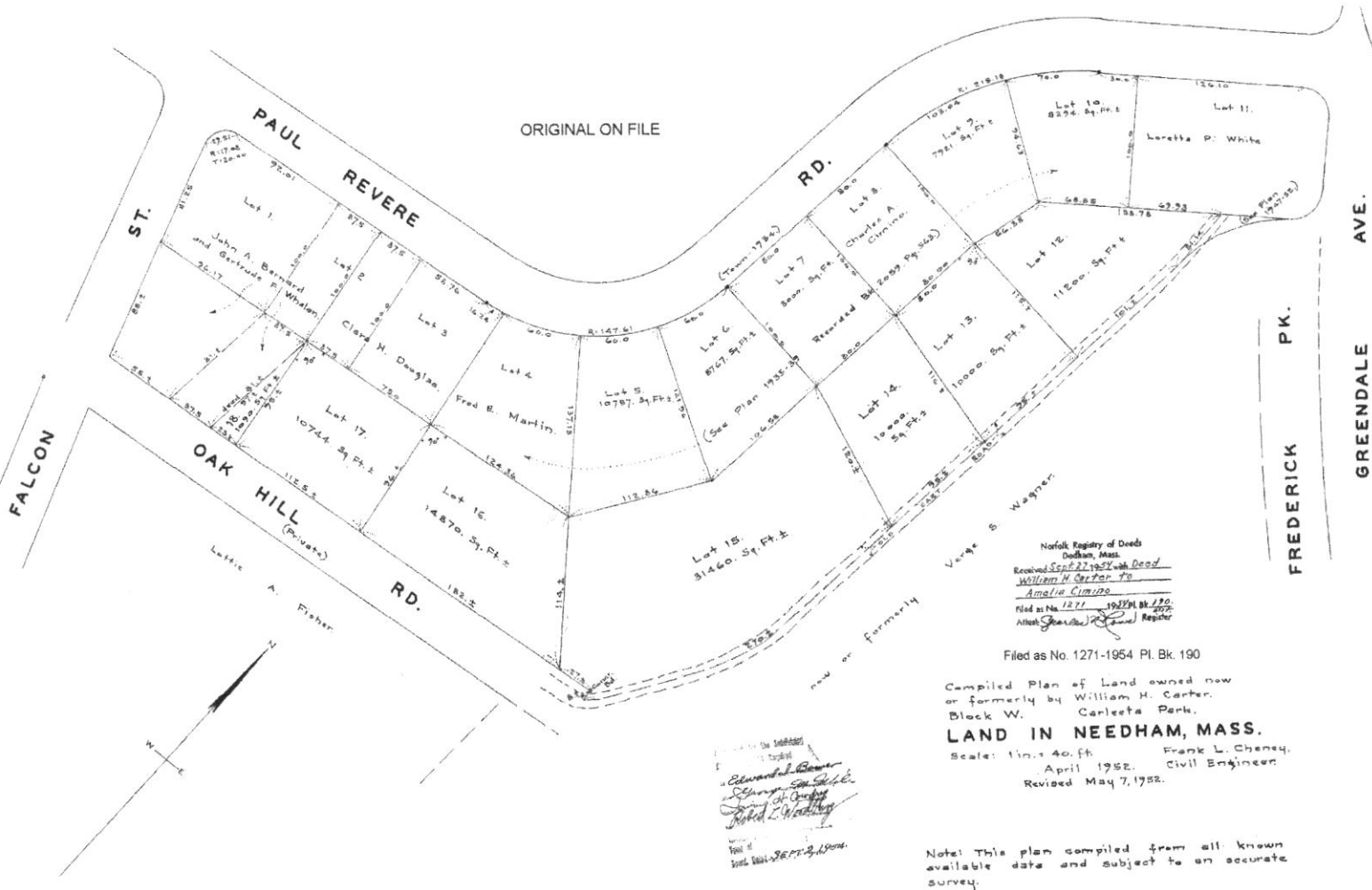
Filed as No. 224 1960 Bk 3798 Pg. 635
Attest: *Frank L. Cheney* Ass't. Register



Approval Under The Subdivision
Control Law NOT Required:

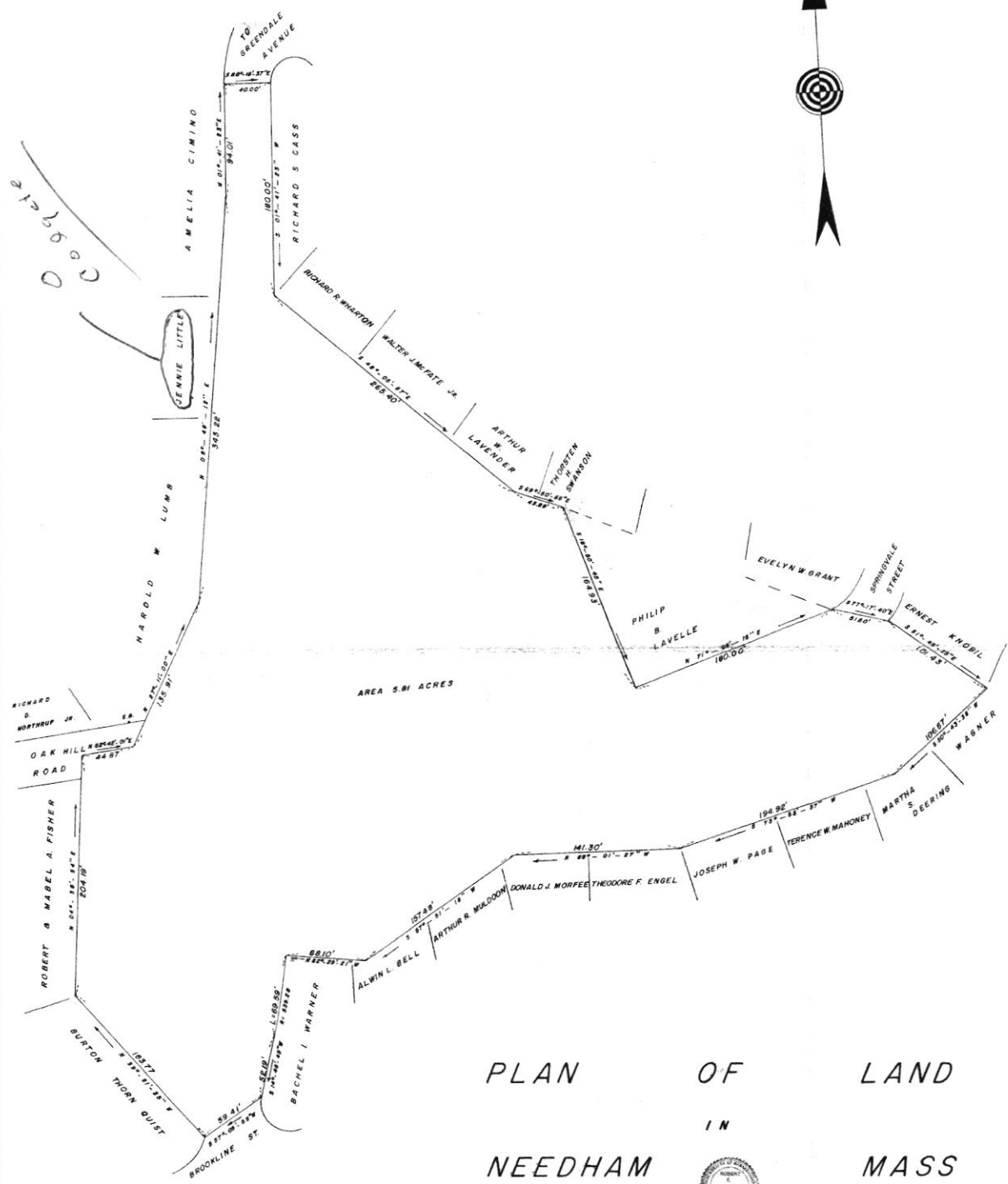
Antonia P. Richardson
Edward Price
John J. Giff
Edmund W. Wainwright
Norman J. Russell
Planning Board
Date: January 5, 1960

PB 190
1271



PB 197
#700

30,552



PLAN OF LAND
IN
NEEDHAM MASS



SCALE: 1" = 40'

FEBRUARY 28, 1955

SURVEY BY: MAC CARTHY ENGINEERING SERVICE INC.

NATICK, MASS.

APPROVAL UNDER THE SUB-DIVISION
CONTROL LAW NOT REQUIRED
NEEDHAM PLANNING BOARD

James M. Little
James M. Little
James M. Little

DATE: 1/15/55

Natick Registry of Deeds
Dorham, Mass.
Received June 3, 1955
Filed as Map 700 1955 Pl. Bk. 197
Attest: *James M. Little* Register

OFFICIAL

OFFICIAL



0.89 sec

SUB-DIVISION OF LAND

IN

NEEDHAM,



MASS.

SCALE: 1" = 40'

MARCH 22, 1933

SURVEY BY: MAC CARTHY ENGINEERING SERVICE INC.
NATICK, MASS.

APPROVED BY
TOWN ENGINEER

Frederick
DATE

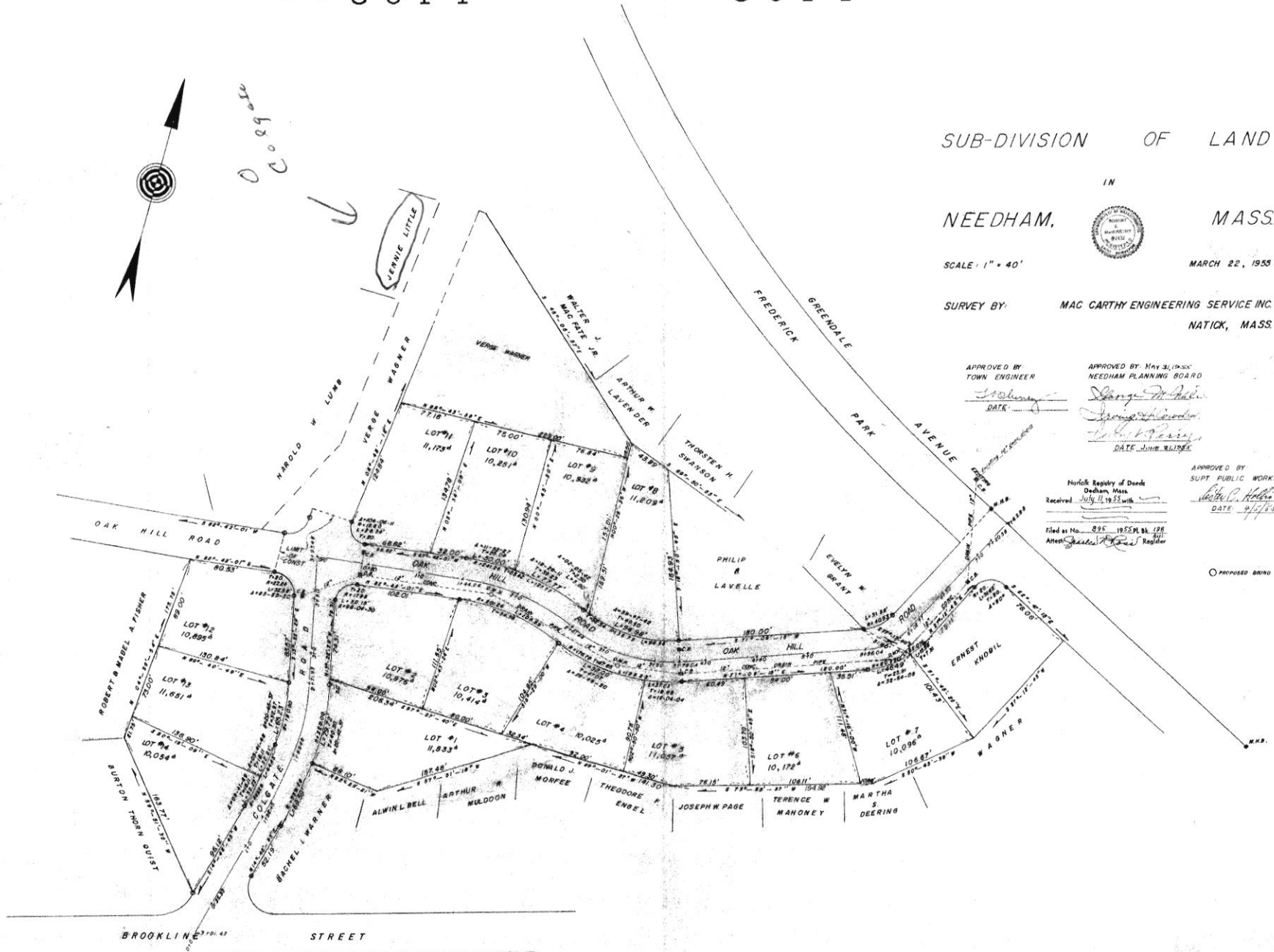
APPROVED BY: MAY 31, 1933
NEEDHAM PLANNING BOARD

George M. Hill
George M. Hill
DATE: JUNE 21, 1933

APPROVED BY
SUPT. PUBLIC WORKS

Norfolk Registry of Deeds
Dedham, Mass.
Received July 11, 1933 with
Filed as No. 895 1933 PL BK 128
Attest: *Sheldon R. Rice* Registrar

PROPOSED BRIND



We, VERGE S. WAGNER and HELEN C. WAGNER, husband and wife, the holders of a mortgage by ROBERT C. DAWSON and BEATRICE J. DAWSON, husband and wife, to VERGE S. WAGNER and HELEN C. WAGNER, husband and wife, dated June 3, 1955

recorded with

Norfolk County

Registry of Deeds,

Book 3372

Page 596

for consideration paid, release to ~~Robert C. Dawson and Beatrice J. Dawson~~ and all claiming by through or under them,

all interest acquired under said mortgage in the following described portions of the mortgaged premises

The lot marked "45500. Sq. Ft. +" on a plan entitled "Compiled Plan of Land in Needham, Mass., Scale: 1 in. = 40 ft., Cheney Engineering Co., Needham, Mass., Jan. 4, 1960," recorded with Norfolk County Registry of Deeds as Plan No. 224 of 1960, Book 3798, Page 635.

Witness our hand and seal this tenth day of June 1960

x *Verge S. Wagner*
x *Helen C. Wagner*

The Commonwealth of Massachusetts

Norfolk,

ss.

June 13, 1960

Then personally appeared the above named Verge S. Wagner and Helen C. Wagner and acknowledged the foregoing instrument to be their free act and deed, before me

Ernest R. Neigh
Notary Public

My commission expires

19

ERNEST R. NEIGH
NOTARY PUBLIC

My Commission Expires March 22, 1962

Recorded June 14, 1960 at 3h.06m.P.M.

DAWSON DEVELOPMENT CORPORATION, a corporation duly organized under the laws of the Commonwealth of Massachusetts, and having an usual place

of business at Needham,

Norfolk County, Massachusetts,

~~has heretofore~~ for consideration paid, grant to ROBERT C. DAWSON and BEATRICE J. DAWSON, husband and wife, as tenants by the entirety, both

of Needham, said Norfolk County

with quitclaim covenants

the land with buildings thereon situated in said Needham, bounded and described as follows:

(Description and encumbrances, if any)

SOUTHERLY, EASTERLY, and SOUTHERLY again, by Oak Hill Road, 109.03 feet, more or less;

EASTERLY by Lot 11 on a plan hereinafter mentioned, 124.84 feet;

SOUTHERLY by Lots 11, 10, and 9 on said plan, 229.00 feet;

EASTERLY by Lot 8 on said plan, 16.50 feet;

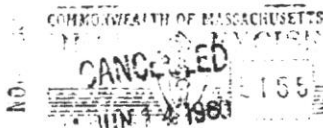
3822

98

NORTHEASTERLY by Lots E, F, and G on said plan, 265.40 feet;
 EASTERLY again, by Lot B on said plan, 180.00 feet;
 NORTHERLY by unmarked land on said plan, 40.00 feet; and
 WESTERLY by Lots 12, 13, 14, and 15 on said plan, by three lines measuring 94.01 feet, 343.22 feet, and 135.91 feet, respectively.

CONTAINING 45,500 square feet of land, more or less, according to said plan.

Said premises are shown as a lot marked "45500. Sq. Ft. ±" on a plan entitled "Compiled Plan of Land in Needham, Mass., Scale: 1 in. = 40 ft., Cheney Engineering Co., Needham, Mass., Jan. 4, 1960," recorded with Norfolk County Registry of Deeds, as Plan No. 224 of 1960, Book 3798, Page 635.
 For title see deed from Robert C. Dawson et ux, dated June 15, 1959, and recorded with Norfolk County Registry of Deeds, Book 3740, Page 461.



The undersigned _____ husband, wife of said grantor

releases to the grantee all rights of tenancy by the entirety, dower and homestead and other interests in the granted premises.

Executed as a sealed instrument this _____ tenth _____ day of June 19 60

See NO. 45 recorded:
 Norfolk Deeds,
 book 3686, Page 154

LAWSON DEVELOPMENT CORPORATION
 By: *Robert C. Dawson*
 President-Treasurer



The Commonwealth of Massachusetts

Norfolk, ss. June 13, 19 60

Then personally appeared the above named Robert C. Dawson, President-
 Treasurer,

and acknowledged the foregoing instrument to be the free act and deed, ~~224 of 1960~~ of
 Dawson Development Corporation, before me,

Ernest R. Keith
 Notary Public

My Commission expires 19 61

ERNEST R. KEITH
 NOTARY PUBLIC
 My Commission Expires March 18, 1961

Recorded June 14, 1960 at 3h.06m. P.M.

12

Quirk Associates, LLC

4 Dorothy Lane

Dedham, MA 02026

(781) 326-1202 • FAX (781) 326-0916

pl 224 & 1960, 3798.635

A 2

	Robert C. Dawson		
	Bernice J. Dawson (Moynihan)		
	(6/13/60 - 10/10/84)		
1960	3822-97 (deed w)	(C)	
1968	4478-423 (Aq.+) pl 3.22.85	NL	
	App. 11-15-86		
	OAK HILL & Colgate		
1968	plan 4478-426, 9A, 10B	NL	
1975	5116-174 (Covenant) pl 248 & 144	(C)	
1975	5116 - 180 (deed) Dawson	(C)	
"	- 181 (deed)	"	(C)
	A1		
"	- 182 (deed) Needham Bldg	(C)	
"	5163-530 (Grant) Town	(C)	
	A-2, 5163-528		
1976	5231-159 (TRG) Colgate Rd.	(C)	
	255 # 337		
1983	6241-496 (deed) DeRenzo	(C)	
	A 2		
1984	6559-486 (deed) DeRenzo	(C)	

COVENANT

UNDER PROVISIONS OF GENERAL LAWS, Chapter 41, Section 81-U:

WHEREAS, DAWSON DEVELOPMENT CORPORATION, A Massachusetts corporation duly organized and existing and having a usual place of business at 42 Falcon Street, Needham, Massachusetts, hereinafter referred to as the "Developer", has filed with the Planning Board of the Town of Needham, hereinafter referred to as the "Town", a certain subdivision plan of land in said Needham, the plan being entitled, "Definitive Plan of the Subdivision of Land in the Town of Needham, situated off Oak Hill Road," by Cheney Engineering Co., Inc. Needham, Mass., dated July 11, 1974, and

WHEREAS, said Robert C. Dawson, individually, is the owner of record of a certain portion of the premises shown on said plan, and Robert C. Dawson and Beatrice J. Dawson, husband and wife, as tenants by the entirety, are the owners of the premises shown on said plan, hereinafter referred to as the "owners".

NOW THEREFORE, said Robert C. Dawson and Beatrice J. Dawson, in their respective capacity as owners, for themselves and their successors and assigns likewise join the Developer and hereby covenant and agree with the said Town as follows:

I. The said Robert C. Dawson and Beatrice J. Dawson are the owners of record of the premises shown on said Definitive Plan.

II. This Covenant shall run with the land and shall be binding upon the executor, administrators, heirs, assigns to the respective owners and developer, and their successors in title to the premises shown on said plan.

III. In addition to the regular requirements relative to the grading and construction of streets and the installation of municipal services, said subdivision shall be subject to, and have the benefit of the following conditions:

A. All lots shall be graded so that there will be no standing water.

B. Lot A2, 18,427 square feet, bounded and described as shown on the aforementioned Definitive Plan, shall not constitute a separate building lot and shall remain free of any other improvements which would be inconsistent with said lot serving as an access to Greendale Avenue primarily for the

RED
309

benefit of that portion of lot A1 abutting lot A2 and any other properties abutting lot A2 as their respective interests may appear in providing for the public convenience and necessity when the need arises. In consideration of the developer agreeing to the condition stated herein, the Planning Board will waive the requirements for the construction of a permanent turnaround as described in Section 3.3.5 of the "Subdivision Regulations and Procedural Rules of the Planning Board" and will allow the developer to construct a temporary back-up strip as outlined in condition III.C. of this covenant.

C. The temporary back-up strip on Colgate Road as located on the Definitive Plan shall be constructed in accordance with the "Subdivision Regulations and Procedural Rules of the Planning Board" of the Town of Needham, as indicated in Appendix G, and shall also be constructed in accordance with the requirements of the Department of Public Works, Town of Needham.

IV. Except as hereinafter provided, until the following improvements and conditions have been completed or fulfilled in accordance with the specifications and requirements referred to or enumerated below, with respect to any lots in the subdivision which in the opinion of the Town are affected by such conditions and improvements, no such lot or lots shall be built upon or conveyed, except by a mortgage deed, nor shall building permits for such lot or lots be applied for or issued:

A. All streets, including walks, berms, curbing, street name signs, bounds, retaining walls, slopes and fences, and all utilities, including but not limited to storm drains, sanitary sewers, water mains and their appurtenances such as manholes, catch basins, curb inlets, gates, valves, hydrants, and headwalls, shall be constructed or installed at the expense of the Developer to the entire limits of the subdivision in strict compliance with the "Subdivision Regulations and Procedural Rules of the Planning Board of the Town of Needham, Massachusetts" as amended to October 21, 1969, including the "Standard Specifications for Highways" and the "Standard Cross-Section for Street Construction" referred to therein, as most recently revised, which Subdivision Regulations and Procedural Rules and Standard Specifications are specifically incorporated herein by reference, and to the satisfaction of

CRB
BAG

the Director of Public Works of the Town of Needham, including all maintenance and repairs necessary to maintain said streets and utilities in a condition satisfactory to the Town until all lots and all sureties, as provided in Section IV, above, have been released by the Town upon the completion of all terms and conditions of this covenant except as otherwise presented in said Definitive Plan.

B. Street construction work shall consist of:

Excavation and fill to the surface of the sub-grade fifteen (15) inches below the finished surface grade for the roadway and the necessary excavation and fill for sidewalks and berms within the total width of the street; application of ten (10) inch depth of gravel sub-base and a two (2) inch depth of crushed bank gravel base, the surface of which shall be treated with one (1) application of bitumen; application of bituminous concrete pavement Type I-1 to be constructed in two (2) courses to a total depth of three (3) inches after rolling, application of eight (8) inch depth of gravel sidewalks with bituminous concrete surface applied in two (2) one inch courses four and one-half (4½) feet wide as indicated in paragraph "K" below and including all driveway entrances; application of six (6) inch depth of loam and seeding for grass plots between the edge of the roadway and the walk or the sidelines of the street; granite or reinforced concrete curbing to be installed on all curves having a radius of sixty (60) feet or less, except for temporary turnarounds.

C. A contractor approved by the Superintendent of the Water Division shall be engaged by the Developer at their expense for the installation of the water mains in accordance with the requirements of and to the satisfaction of the Superintendent of said Water Division..

(1) A certified check covering the estimated cost of all materials to be furnished by the town, including all pipes, hydrants, gate valves, boxes, and fittings as required, shall be deposited with the Town of Needham.

(2) Upon the completion of such installation a

final estimate, including the cost of supervision, inspection, and labor furnished by the Town shall be given.

(3) This estimate shall also include the cost of all materials plus a 5% overhead charge on all materials furnished by the Town.

(4) The Developer shall pay the total cost less any amounts deposited before the water shall be turned into the new main.

D. Sanitary sewers shall be constructed by an approved contractor at the expense of the Developer as shown on approved plans and profiles, in accordance with the standard specifications of the Town of Needham; and to the satisfaction of the Superintendent of the Sewer Division.

(1) The Town shall have the right to extend said sewer, without cost to the Developer, beyond the limits of the sewer as shown on the development plans and profiles.

(2) The Developer shall pay to the Town a fee equal to seventy cents (70¢) per linear foot of sewer to be constructed, to pay for the cost of the engineering service, supervision, and inspection furnished by the Town.

E. Storm water drains shall be installed in accordance with the approved plan and profile to the satisfaction of the Public Works Department and all lots shall be graded in accordance with the proposed contours of land as shown on said definitive plan.

F. Granite or concrete bounds, at least four feet long, shall be set at all points in every street or other permanent marks acceptable to and approved by the Town Engineer shall be set within the subdivision. After installation of such bounds, the Developer shall submit, to the Town Engineer, a written certification by a registered land surveyor stating that the said bounds are located as shown on the subdivision plans recorded in the Norfolk Registry of Deeds or in the Land Court.

G. The Developer shall grant to the Town of Needham a perpetual right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on definitive plans. The above shall not be construed to relieve the Developer and their successors in title to a portion of the land or a street in the subdivision, of responsibility to complete all construction, as required by the Developer's Agreements with the Town of Needham and to thereafter maintain all streets and municipal services and utilities in satisfactory condition until they are accepted by the Town. Such grant shall be executed and delivered to the Planning Board within a reasonable time, but, in any event, prior to the transfer or conveyance of any lot or interest therein. Notwithstanding the aforesaid grants to the Town, the Developer agrees for himself that as long as he remains the Developer of said premises he will keep all catch basin inlets and access thereto clear and free of all debris and/or other materials which might interfere with the proper operation of said drains, and thereafter the owners of said premises will keep catch basin inlets and access thereto clear and free of all debris and/or other materials which might interfere with the proper operation of said drains.

H. The estimated costs of construction and

RG

installations are as follows:

(1) Streets	\$ 4,845.00
(2) Sewer	3,415.00
(3) Drain	4,597.00
(4) Water	1,050.00
SUB-TOTAL \$13,907.00	
15% price escalation	2,386.00
TOTAL \$18,293.00	

I. Street name signs will be erected at all entrances, the name to be in conformity as to size and quality with signs now generally in use in the Town of Needham.

(1) Co-incident with the start of any street within a subdivision, temporary street signs shall be installed at all points where permanent signs will be required. These signs may be painted using black block lettering not less than four inches high on a light ground.

(2) Complete visibility of these signs must be maintained at all times until they are replaced with the permanent signs specified in Section I.

J. Install bounds to define the street line at the direction of the Town Engineer and submit to said Town Engineer a certificate by a Registered Land Surveyor that said bounds have been so installed.

K. That the name of the proposed street shall be Colgate Road.

L. Prior to the commencement of construction on all major phases of the subdivision including installation of sewer, water drains, and street construction, the developer will notify the Director of Public Works.

V. That prior to the completion of all the work required herein, the Planning Board may, at its discretion, in accordance with the provisions of Subsection (1) of Section 81-U, Chapter 41, release any or all of said lots for purposes of sale or for the issuance of permits for building thereon, upon the furnishing to the Town by the Developer an agreement and a surety acceptable to the Town, to secure the completion of such part or all of the work specified above, as, at the discretion of the Planning Board should be completed for the proper use of said lots in accordance with the purposes of this Covenant, said surety to be in a penal sum or amount equal to the cost, as estimated by said Director of Public Works, of completing said works. Said release by the Planning Board shall be evidence by a certificate enumerating the lots released and signed by a majority of said Planning Board, in proper form for recording in the Registry of Deeds or registration in the Registry District of the Land Court.

VI. The enforcement of the terms herein shall be made as provided for by General Law, Chapter 41, Section 81-X and 81-Y, in the name of the Town, and upon any breach thereof the Town shall be entitled to an injunction restraining any further sale of any lots included in said plans until the said breach has been cured or security given therefore satisfaction to the then Planning Board of the said Town.

VII. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said Subdivision plan or of all lots not previously released by the Planning Board, nor a conveyance of any lot or lots, subject to this Covenant, by any of the parties named herein to any other person.

VFCB
BJS

EXECUTED AS A SEALED INSTRUMENT, this 7th day of MARCH 1975.

DAWSON DEVELOPMENT CORP.

BY:

Robert C. Dawson
Robert C. Dawson, Its' President
and Treasurer

Robert C. Dawson
Robert C. Dawson

Beatrice J. Dawson
Beatrice J. Dawson

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS.

March 7, 1975

Then personally appeared the above-named Robert C, Dawson and Beatrice J. Dawson and acknowledged the foregoing instrument to be their free act and deed, and the free act and deed of DAWSON DEVELOPMENT CORPORATION, before me,

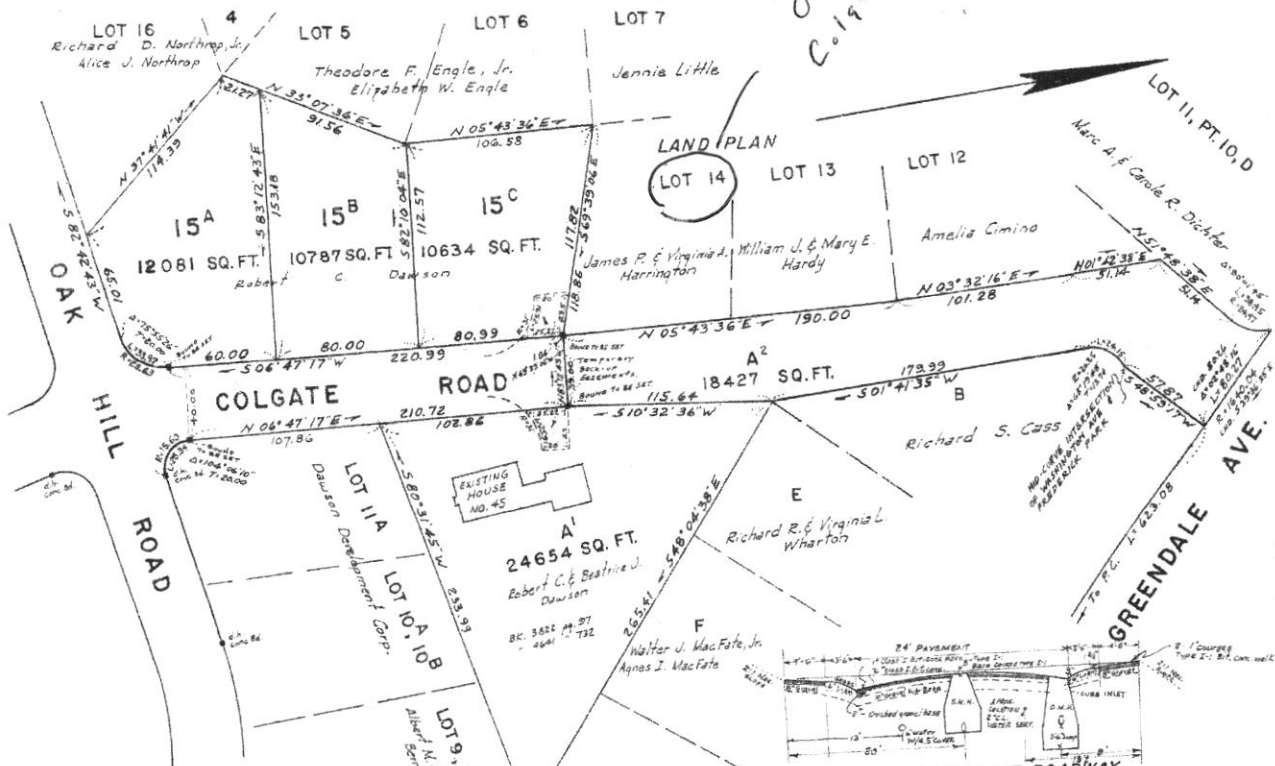
Richard H. Jensen
Notary Public My Comm Exp
Richard H. Jensen MAY 27, 1977

Approved as to form:

William A. Cross
Town Counsel

-6-

Recorded Mar. 27, 1975 at 2h. 47m. P. M.



APPROVED IN ACCORDANCE WITH SECTION 81-U
OF CHAPTER 41A OF THE GENERAL LAWS,
AS AMENDED. 11/11/75 HUB ENDORSE 1

APPROVED 3-11-75 NEEDHAM PLANNING BOARD

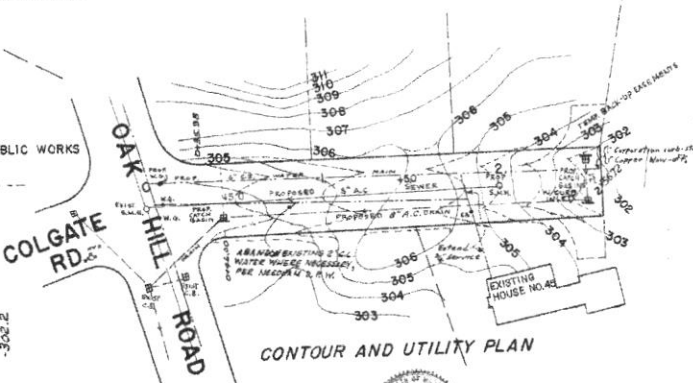
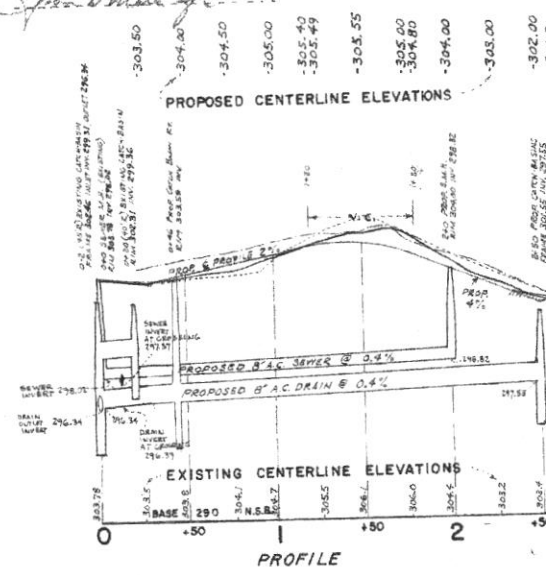
[Signatures]

APPROVED JAN 30 1975 Supt. of Public Works

[Signature]

APPROVED 3-31-75 TOWN ENGINEER

[Signature]



Noted by Clerk of Board
March 27, 1975 with Cmnt.
Dawson Development Corp. to
Town of Needham
Filed as 148 1975 H 248
Attest *[Signature]* Register

TOWN CLERK'S CERTIFICATE OF NO APPEAL

I, TOWN CLERK of the Town of Needham, hereby certify that the notice of approval of this plan by the Needham Planning Board has been received and recorded at this office and no appeal was received during the twenty days next after such receipt and recording of said notice.

I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAN IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE SUBDIVISION REGULATIONS AND PROCEDURAL RULES OF THE PLANNING BOARD OF THE TOWN OF NEEDHAM. *Sidney R. Vaughan*

DEFINITIVE PLAN OF THE SUBDIVISION OF LAND IN THE TOWN OF NEEDHAM SITUATED OFF OAK HILL RD.	
DATE JULY 11, 1974	
OWNER	ROBERT C. AND BEATRICE J. DAWSON
DEVELOPER	DAWSON DEVELOPMENT CORPORATION
SURVEYOR	CHENEY ENGINEERING CO., INC. 317 CHESTNUT ST., NEEDHAM, MASS.
SHEET 1 OF 1 SHEETS	PRELIMINARY PLAN 3/26/74
HORIZONTAL SCALE 1" = 40'	DEFINITIVE PLAN
VERTICAL SCALE 1" = 4'	REVISIONS DATED

180

WE, ROBERT C. DAWSON and BEATRICE J. DAWSON, husband and wife as tenants by the entirety, both of Needham, Norfolk County, Massachusetts,

~~have purchased~~ for consideration paid, and in full consideration of less than One Hundred (\$100.00) dollars

grants to ROBERT C. DAWSON

of 42 Falcon St., Needham, Norfolk County, Mass. with quitclaim returns

the land in said Needham, together with the buildings thereon, bounded and described as follows:

[Description and encumbrances, if any]

SOUTHERLY EASTERLY and SOUTHERLY again by Oak Hill Road, 109.03 feet more or less;

EASTERLY by lot 11 on a plan hereinafter mentioned, 124.84 feet;

SOUTHERLY by Lots, 11, 10 and 9 on said plan, 229.00 feet;

EASTERLY by Lot 8 on said plan 16.50 feet;

NORTHEASTERLY by Lots E, F, and G on said plan, 265.40 feet;

EASTERLY again, by Lot B on said plan, 180.00 feet;

NORTHERLY by unmarked land on said plan, 40.00 feet; and

WESTERLY by Lots 12, 13, 14 and 15 on said plan, by three lines measuring 94.01 feet; 343.22 feet, and 135.91 feet, respectively.

CONTAINING 45, 500 square feet of land more or less, according to said plan.

Said premises are shown as a lot marked "45500. Sq. Ft. ±" on a plan entitled "Compiled Plan of Land in Needham, Mass., scale: 1 in. = 40 Ft., Cheney Engineering Co., Needham, Mass., January 4, 1960" recorded with Norfolk County Registry of Deeds as Plan No. 224 of 1960 in Book 3798, Page 635.

This conveyance is subject existing mortgage with the Needham Cooperative Bank in the original principal amount of \$28,000.00, dated June 18, 1968 and recorded with Norfolk County Registry of Deeds, book 4519, Page 659.

For our title see deed of Dawson Development Corporation dated June 10, 1960 and recorded with Norfolk County Registry of Deeds in Book 3822, Page 97.

Witness OUR hands and seals this 25th day of February 1975

Beatrice J. Dawson

The Commonwealth of Massachusetts

Norfolk ss.

February 25 1975

Then personally appeared the above named Beatrice J. Dawson

and acknowledged the foregoing instrument to be her free act and deed before me

My commission expires Jan. 22, 1976

Recorded Mar. 27, 1975 at 2h. 47m. P. M.

I, ROBERT C. DAWSON,

181

of Needham, Norfolk

County, Massachusetts

~~Amended~~, for consideration paid, and in full consideration of less than one hundred
(\$100.00) dollars
grants to Beatrice J. Dawson

of 45 Colgate Road, Needham, Norfolk County, Mass. with quitclaim covenants

~~description~~ A certain parcel of land, together with the buildings thereon, situated in said Needham, and shown as Lot A1 on a plan of land entitled "Definitive Plan of the ^(Description and encumbrances, if any) Subdivision of Land in the Town of Needham, situated off Oak Hill Road", by Cheney Engineering Co., Inc. Needham, Massachusetts, dated July 11, 1974, which plan is to be herewith recorded, which lot is bounded and described according to said plan as follows:

WESTERLY by Colgate Road and Lot A2 as shown on said plan, by two (2) lines measuring 102.86 feet and 115.64 feet, respectively;

NORTHEASTERLY by lot E, F, and G as shown on said plan, 265.41 feet;
SOUTHEASTERLY by lot 9, 9A, Lot 10A, 10B and 11A as shown on said plan, 233.99 feet, or however otherwise lot A1 may be bounded measured, or described.

Said Lot A1 contains according to said plan 24.654 square feet of land.

Together with the right to use the streets and ways as shown on said plan for all purposes for which streets and ways are commonly used in the Town of Needham; subject to the rights of others entitled thereto.

This conveyance is subject to easement as shown on said plan and to a taking by the Town of Needham for right to maintain drains in Oak Hill Road and Falcon Street, filed with Norfolk Deeds in Book 4496, Page 608.

Grantor reserves for himself, his heirs, or transferees from Colgate Road and Lot A2 as shown in said plan, a twenty (20) foot wide temporary construction easement to enter said lot A1 for the purpose of construction of said Colgate Road, the temporary turnaround therein, and any extension of Colgate Road over lot A2 as provided in Covenant granted the Town of Needham, to be herewith recorded. Grantor covenants for himself, his successors and assigns to restore said Lot A1 to its proper or existing condition upon completion of any work to be performed under this temporary easement.

This conveyance is subject to mortgage given to the Needham Cooperative Bank in the original principal amount of \$28,000.00, dated June 18, 1968, and recorded with Norfolk Deeds, Book 4519, Page 659, which mortgage the grantee agrees to assume and pay.

Being a portion of the premises conveyed to this grantor by deed of Robert C. Dawson and Beatrice J. Dawson, husband and wife, as tenants by the entirety, to be herewith recorded.

Witness my hand and seal this

25th day of Feb. 19 75

Robert C. Dawson
Robert C. Dawson

The Commonwealth of Massachusetts

Norfolk ss.

February 25, 19 75

Then personally appeared the above named Robert C. Dawson

and acknowledged the foregoing instrument to be his free act and deed, before me

Richard H. Jensen-

Notary Public - ~~Massachusetts~~

My Commission Expires May 27,

19 77

Recorded Mar. 27, 1975 at 2h. 47m. P.M.

MASSACHUSETTS QUITCLAIM DEED INDIVIDUAL (LONG FORM) 682

I, Robert C. Dawson,

of Needham, Norfolk

County, Massachusetts

~~being considered~~, for consideration paid, and in full consideration of Twenty-four Thousand (\$24,000.00) dollars grants to Needham Builders, Inc., a Massachusetts corporation duly organized and existing of P.O. Box #6, Needham, Norfolk County, Mass. with quitclaim covenants

the land in Needham, Norfolk County, Massachusetts bounded and described as follows:

(Description and encumbrances, if any)

PARCEL 1: Three (3) certain parcels of land shown as lots 15A, 15B and 15C on a plan of land entitled "Definitive Plan of the Subdivision of land in the Town of Needham, situated off Oak Hill Road", by Cheney Engineering Co., Inc., Needham, Massachusetts, dated July 11, 1974, which plan is to be herewith recorded and to which plan reference is made for a more particular description.

Said lots contain 12,081 square feet of land, 10,787 square feet of land and 10,634 square feet of land, respectively according to said plan.

PARCEL 2: The land shown as "Colgate Road" on the aforementioned plan and to which plan references is made for a more particular description, together with a Twenty (20) foot wide temporary construction easement over lot A1, shown on said plan, as set forth in deed from Robert C. Dawson to Beatrice J. Dawson, dated February 25, 1975, to be herewith recorded.

Said Grantor reserves for himself and for those claiming by, through and under him the following rights and easements:

1. The right to use said Colgate Road as shown on said plan for all purposes for which streets and ways are commonly used in the Town of Needham, subject to the rights of others entitled thereto.

2. Any and all necessary rights and easements over and under the aforementioned Colgate Road for the purpose of extending said Colgate Road and the public utilities to be installed therein (sewer, water, drain, telephone, electricity, etc.) over and under lot A2 to Greendale Avenue, as shown on said plan. The Grantor or those claiming by, through or under him upon completion of any work in said Colgate Road under this reservation, shall restore said Colgate Road to good order and condition.

For Grantor's Title see deed of Robert C. Dawson and Beatrice J. Dawson to Robert C. Dawson, dated February 25, 1975 and recorded herewith.



Witness my hand and seal this 27th day of March, 1975.

Robert C. Dawson
Robert C. Dawson

The Commonwealth of Massachusetts

Norfolk ss.

March 27, 1975

Then personally appeared the above named Robert C. Dawson

and acknowledged the foregoing instrument to be his free act and deed, before me

Richard H. Jensen-

Richard H. Jensen
Notary Public

My Commission Expires

May 27, 1977

Recorded Mar. 27, 1975 at 2h. 47m. P. M.

A/

I, BEATRICE J. DAWSON,

of Needham,

Norfolk County, Massachusetts

do hereby convey for consideration paid, ~~sum~~ and in full consideration of \$73,000, grant to Charles F. Yardley and Isabelle A. Yardley, husband and wife, as tenants by the entirety, of 45 Colgate Road, Needham, Norfolk County, ~~Massachusetts~~ Massachusetts, with quitclaim covenants a certain parcel of land, together with the buildings thereon, situated in said Needham, and shown as Lot A1 on a plan of land entitled "Definitive Plan of the Subdivision of Land in the Town of Needham, situated off Oak Hill Road", by Cheney Engineering Co., Inc., Needham, Massachusetts, dated July 11, 1974, which plan has been recorded with Norfolk Deeds on March 27, 1975 as Plan No. 144 of 1975, which lot is bounded and described as ~~subdivided~~ follows:-

WESTERLY: by Colgate Road and Lot A2 as shown on said plan, by two (2) lines measuring 102.86 feet and 115.64 feet, respectively;

NORTHEASTERLY: by lot E, F, and G as shown on said plan, 265.41 feet;

SOUTHEASTERLY: by lot 9, 9A, Lot 10A, 10B and 11A as shown on said plan, 233.99 feet, or however otherwise Lot A1 may be bounded, measured, or described.

Said Lot A1 contains according to said plan 24,654 square feet of land.

Together with the right to use the streets and ways as shown on said plan for all purposes for which streets and ways are commonly used in the Town of Needham, subject to the rights of others entitled thereto.

This conveyance is subject to easement as shown on said plan and to a taking by the Town of Needham for right to maintain drains in Oak Hill Road and Falcon Street, filed with Norfolk Deeds in Book 4496, Page 608.

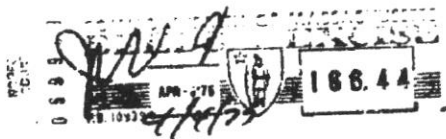
This conveyance is subject to a reservation to Robert C. Dawson, his heirs or transferees, from Colgate Road and Lot A2 as shown on said plan, a twenty (20) foot wide temporary construction easement to enter said Lot A1 for the purpose of construction of said Colgate Road, the temporary turn-around therein, and any extension of Colgate Road over Lot A2, as provided in covenant granted the Town of Needham, as provided in a deed of Robert C. Dawson to said Beatrice J. Dawson hereinafter referred to.

25

36 Being the same premises conveyed to this Grantor by deed of Robert C. Dawson, dated February 25, 1975, recorded with said Norfolk Deeds on March 27, 1975 as Document No. 7463.

Witness my hand and seal this 4th day of April, 1975.

Beatrice J. Dawson
Beatrice J. Dawson



The Commonwealth of Massachusetts

Norfolk, April 4, 1975

Then personally appeared the above named

Beatrice J. Dawson

and acknowledged the foregoing instrument to be her free act and deed.

before me,

John O. Rhone
JOHN O. RHONE Notary Public
State of the Mass.

My commission expires Jan 22, 1976

Recorded Apr. 4, 1975 at 10h. 47m. A. M.

GRANT OF TEMPORARY EASEMENT

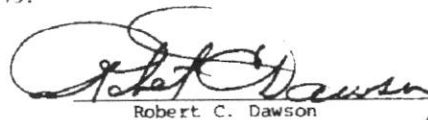
530

I, ROBERT C. DAWSON, of Needham, County of Norfolk, Massachusetts, owner, for consideration paid, grant to the Inhabitants of the Town of Needham, a municipal corporation, located in Norfolk County, Massachusetts and their successors and assigns, a temporary backup easement in a certain parcel of land in Needham, Norfolk County, Massachusetts situated on Lot A² at Colgate Road, as shown on a plan entitled "Temporary Easements, to be acquired at Colgate Road in Needham, Mass.", John D. Marr, Jr., Town Engineer, dated June, 1975, to be recorded herewith and being bounded and described as follows:

Beginning at a point on the easterly sideline of Colgate Road, a private way, said point being the northerly limit of said Colgate Road, thence running along the northerly limit of said Colgate Road N-83°-12'-43"-W a distance of 39.00 feet, thence turning and running along the westerly lot-line of lot A²-N-05°-43'-36"-E a distance of 30.01 feet, thence turning and running S-83°-12'-43"-E a distance of 41.67 feet, thence turning and running along the easterly lot line of lot A² S-10°-32'-36"-W a distance of 30.06 feet to the point of beginning.

The grant of easement referred to above includes the right to maintain a guard rail acceptable to the Planning Board and the Department of Public Works. The terms of this easement shall not be deemed, nor shall it be construed, to establish a road, street or way to satisfy the minimum requirement of the Subdivision Control Law applicable to any abutting lot not otherwise qualified.

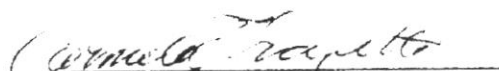
IN WITNESS WHEREOF, I, the said ROBERT C. DAWSON hereunto set my hand and seal this 23rd day of July, 1975.


Robert C. Dawson

COMMONWEALTH OF MASSACHUSETTS

Norfolk ss

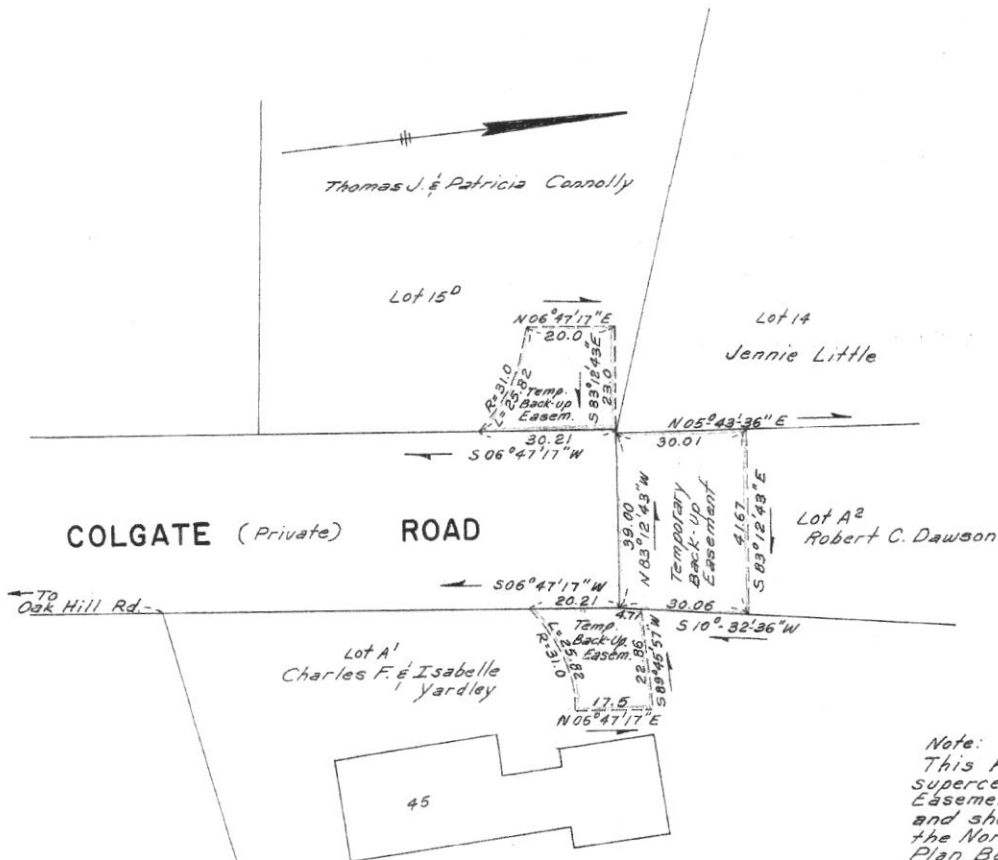
Then personally appeared the above-named ROBERT C. DAWSON and acknowledged the foregoing to be his free act and deed before me.


Carmelo Frazetti, Notary Public
My Commission expires March 26, 1976

APPROVED AS TO FORM:


Town Counsel

Recorded Sept. 22, 1975 at 1h. 50m. P. M.



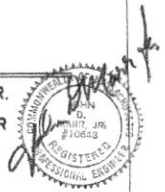
Note:
This Plan is to relocate and
supercede the Temporary Turnaround
Easement previously established
and shown on Plan recorded in
the Norfolk County Registry of Deeds
Plan Book #248 and filed as Plan
Number 144 of 1975, March 27, 1975.

TOWN OF NEEDHAM, MASS.
DEPT. OF PUBLIC WORKS

Temporary Easements to be Acquired at
COLGATE ROAD
in **NEEDHAM, MASS.**

SCALE: 1 in = 20 ft.
JUNE, 1975

JOHN D. MARR, JR.
TOWN ENGINEER



DIR. OF PUBLIC WORKS

a det a mac luen

PLANNING BOARD:

[Signatures of Planning Board members]

APPROVED *[Signature]* 9, 1975

North Registry of Deeds
NEEDHAM, MASS.
Received Sept. 27, 1975 with Grnt.
Charles F. Yardley & alio
Town of Needham
Filed as No. 650 1975 5163 528
Attest *[Signature]* Register

Order of Taking for Town Way
and Betterment Assessments
(to be filed at Registry)

Form 3



Town of Needham

IN BOARD OF SELECTMEN

WHEREAS, in the opinion of the Board of Selectmen of the Town of Needham the public necessity and convenience require that a town way be laid out, ~~and the same be~~ ~~as and in the location hereinafter described, which is substantially the present~~ location of a way known as COLGATE ROAD

from Oak Hill Road

to Northerly 211'

WHEREAS said Board, having first complied with all preliminary requirements described by law, held a hearing at 7:40 o'clock P.M. of the 23rd day of March 19 76

WHEREAS said Board did on the 13th day of April, 1976 approve said layout, verified by our signatures, as shown on the plan and profile dated March 31, 1976, attached hereto and by reference made a part thereof. It is thereby

ORDERED that said COLGATE ROAD

from Oak Hill Road

to Northerly 211'

be and the same is hereby laid out, ~~and the same be~~ ~~as and in the location hereinafter described, which is substantially the present~~ location of a town way of the Town of Needham as shown on said plan and profile, and it is further

ORDERED that an easement in and over the following described parcel of land be and the same is hereby taken for all purposes of a town way.

Beginning at a point in the westerly sideline of Colgate Rd., said point being 10.05 feet northerly of a bound in the sideline of Colgate Rd., as accepted in 1973; thence running S-06°-47'-17"-W a distance of 210.95 feet to a bound; thence turning and running S-65°-39'-06"-E a distance of 1.04 feet; thence running S-83°-12'-43"-E a distance of 39.00 feet to a bound; thence turning and running S-06°-47'-17"-W a distance of 210.72 feet to a bound; thence turning and running N-83°-13'-40"-W a distance of 40.02 feet to the point of beginning.

For further reference see plan to be recorded herewith entitled "Acceptance Plan of Valley Road, 1968 Acceptance to End 345 feet; Colgate Road, Oak Hill Road Northerly 211 feet, in Needham, Mass." Scale 1 in. = 40 ft., John D. Marr, Jr., Town Engineer, dated March 31, 1976.

Also included in this taking or acceptance are easements as shown on the Acceptance Plan referred to above.

The following named persons and mortgagees are believed to be the owners of the fee thereof and said Board of Selectmen do hereby assess and award as the damages sustained by said owners of land, rights and interests caused by the laying out, grading and construction of said way, whether for land taken or for damages to the remaining lands:

LOT	NAMES	AMOUNTS
15 ^A	Richard W. & Dianne Y. Crook, Husband & Wife Needham Co-Operative Bank, Mortgagee	None None
12 ^A	Foster F. & Vivian W. Comstock, Husband & Wife Needham Co-Operative Bank, Mortgagee	None None
15B	Carmella A., Ann M. & Theresa C. DeLucia Shawmut Bank of Boston N.A.	None None
15D	Thomas J. & Patricia Connolly, Husband & Wife Needham Co-Operative Bank, Mortgagee	None None
A-1	Charles F. & Isabelle A. Yardley, Husband & Wife Mutual Bank for Savings, Mortgagee	None None
A ² (No Lot No. in dead)	Robert C. Dawson No Mortgagee Known	None

And the Board of Selectmen hereby adjudge that all abutting lots on said ~~lot~~ **161**
 from Oak Hill Road
 to Northerly 211'

as shown on said plan which is attached hereto and made a part hereof, will receive benefit or advantage other than the general advantage to the community from said improvement.

And it is hereby estimated that the several abutting lots shown on said plan will be assessed the following amounts:—

LOT NUMBER	OWNER	AMOUNT
15 ^A	Richard W. & Dianne Y. Crook, Husband & Wife	None
11 ^A	Poster F. & Vivian W. Comstock, Husband & Wife	None
15B	Carmella A., Ann M. & Theresa C. DeLuca	None
15D	Thomas J. & Patricia Connolly, Husband & Wife	None
A-1	Charles F. & Isabella A. Yardley, Husband & Wife	None
A ² (No Lot No. in Deed)	Robert C. Dawson	None

And it is further

ORDERED: That the trees located within the proposed berm upon the land taken for purposes of a town way are hereby taken and are not to be removed by abutting owners. But, other trees, structures and fences appurtenant thereto which may obstruct the construction of said way are not taken and the owners are allowed sixty (60) days from the adoption of this order to remove the same.

Selectmen of Needham

C. Loretta Reynolds
Richard M. LaCruz
Francis C. Foxworth

June 8, 1976

The following is an extract from the records of the 1976 Annual
 Town Meeting held May 3, 1976 said meeting being finally dissolved 11:05 P.M.
 May 12, 1976

Under Article 18 it was

VOTED: That the Town accept the following streets or portions thereof, constructed by developers under the requirements of the Subdivision Control Law and as laid out by the Board of Selectmen according to plans on file with the Town Clerk:

Colgate Road	- Oak Hill Road Northerly 211 feet
Gatewood Drive	- White Pine Road Northerly 885 feet
Springdale Road	- Gatewood Drive Easterly 160 feet
Valley Road	- 1968 Acceptance to End 345 feet
White Pine Road	- Country Way to Gatewood Drive 650 feet.

including the taking or acceptance of easements as shown on said plans.

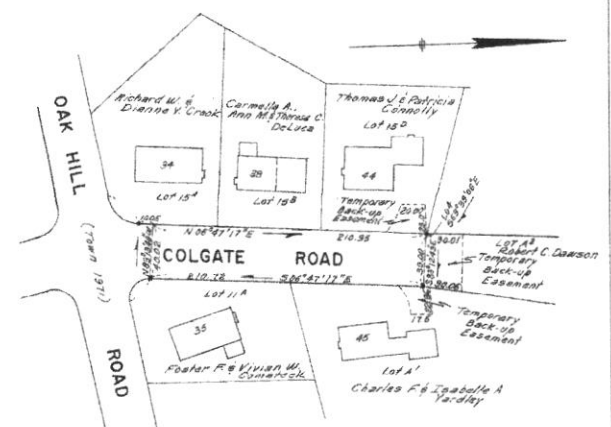
UNANIMOUS VOTE

A true copy. Attest:



Rose O. Mendez
 Town Clerk of Needham.

Recorded June 11, 1976 at 9h. 34m. A.M.



Acceptance Plan of
VALLEY ROAD
 1968 Acceptance to End 345 Feet
COLGATE ROAD
 Oak Hill Road - Northerly 211 Feet
 in **NEEDHAM, MASS.**

Scale: 1 in. = 40 ft. John D. Marr, Jr.
 March 31, 1976 Town Engineer

Received and Filed: 4/13/76
 Town Clerk: Rose O. Wadsworth



Dir. Public Works:
 Robert A. Marr, Jr.

Approved: 4/13/76

Selectmen:	Planning Board:
<i>Robert A. Marr, Jr.</i>	<i>Robert A. Marr, Jr.</i>
<i>Henry D. Henry</i>	<i>Robert A. Marr, Jr.</i>
<i>Robert A. Marr, Jr.</i>	<i>Robert A. Marr, Jr.</i>
<i>Robert A. Marr, Jr.</i>	<i>Robert A. Marr, Jr.</i>
<i>Robert A. Marr, Jr.</i>	<i>Robert A. Marr, Jr.</i>

Notary Public
 Needham, Mass.
 Received: March 31, 1976, before me
 John D. Marr, Jr.
 Notary Public
 State of Massachusetts

ROBERT C. DAWSON, of Center Tuftsbere, New Hampshire, formerly of

Needham, Norfolk

County, Massachusetts.

being married, for consideration paid, and in full consideration of Five Thousand (\$5,000.00)

grants to JEROME DEWENZO

of 14 Dartmouth Avenue, Needham, Norfolk County, Mass with quitclaim covenants

the land in said Needham, Norfolk County, Massachusetts being shown as Lot A² on a Plan of Land entitled DEFINITIVE PLAN OF THE SUBDIVISION OF LAND IN THE TOWN OF NEEDHAM, OWNER, Robert C and Beatrice J Dawson, Developer-Dawson Development Corporation, Surveyor, Cheney Engineering Co., Inc., 317 Chestnut Street, Needham, Mass said Plan being recorded with Norfolk Registry of Deeds as Plan No. 144 of 1975, Pl n Book 248.

Said Lot 2A is more particularly bounded and described according to said plan as follows:

NORTHEASTERLY	by Groendale Avenue, 80.27 feet;
SOUTHEASTERLY	by land of Richard S. Cass, indicated as Lot B on said plan, 57.87 feet;
EASTERLY	by land of said Richard S. Cass and Lot A' in three lines respectively measuring 24.15 feet, 179.99 feet and 15.64 feet;
SOUTHERLY	by Colgate Road, 40.4 feet;
WESTERLY	by lots 14, 13 and 12, in 3 lines respectively measuring 190.00 feet, 101.28 feet, 51.14 feet
NORTHWESTERLY	by land of Marc A. and Carol R. Dickter in two lines respectively measuring 51.14 feet and 38.45 feet.

Containing, according to said plan, 18427 square feet.

For title reference is made to deed of Verna S. Wagner and Helen C. Wagner to Robert C. Dawson and Beatrice J. Dawson dated June 3, 1955, Book 3372 Page 396, deed of Robert C. Dawson and Beatrice J. Dawson to Dawson Development Corporation dated June 15, 1959, recorded Norfolk Deeds, Book 3740, Page 401, Deed from Dawson Development Corporation to Robert C. Dawson and Beatrice J. Dawson, dated June 10, 1960, recorded Norfolk Deeds Book 3822, Page 97, and deed of Robert C. Dawson and Beatrice J. Dawson to Robert C. Dawson dated Book 5116, Page 180.

Witness my hand and seal this 10th day of August 1983.
 Robert C. Dawson
 Robert C. Dawson

STATE OF NEW HAMPSHIRE

ss.

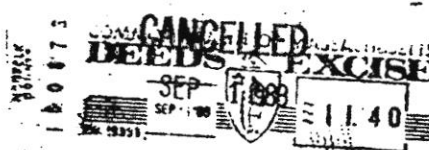
August 10 1983

Then personally appeared the above named ROBERT C. DAWSON

and acknowledged the foregoing instrument to be his free act and deed, before me

Notary Public - *Robert C. Dawson*

My commission expires 12/9/86



486

MASSACHUSETTS QUITCLAIM DEED SHORT FORM (INDIVIDUAL) 681

I, Beatrice J. Moynihan, formerly Beatrice J. Dawson, now of Manchester, New Hampshire, formerly of Needham, Massachusetts

being unmarried, for consideration paid, and in full consideration of ONE (\$1.00) Dollar

grants to Jerome Derenzo of 14 Dartmouth Avenue, Needham, Norfolk County, Mass. and those claiming by, through or under said Jerome Derenzo as their interests may appear of record with QUITCLAIM COVENANTS

all my right, title and interest in the land in Needham, Norfolk County, Massachusetts being shown as Lot A2 on a Plan of Land entitled "DEFINITIVE PLAN OF THE SUBDIVISION OF LAND IN (Description and encumbrances, if any)"

THE TOWN OF NEEDHAM, OWNER, Robert C. and Beatrice J. Dawson, Developer-Dawson Development Corporation, Surveyor-Cheney Engineering Co., Inc., 317 Chestnut Street, Needham, Mass., said Plan being recorded with Norfolk Registry of Deeds as Plan No. 144 of 1975, Plan Book 248.

Said Lot A2 is more particularly bounded, and described according to said plan as follows:

NORTHEASTERLY by Greendale Avenue, 80.27 feet;
SOUTHEASTERLY by land of Richard S. Cass, indicated as Lot B on said plan, 57.87 feet;
EASTERLY by land of said Richard S. Cass and Lot A1 in three lines respectively measuring 24.15 feet, 179.99 feet and 115.64 feet;
SOUTHERLY by Colgate Road, 40.4 feet;
WESTERLY by Lots 14, 13 and 12 in three lines respectively measuring 190.00 feet, 101.28 feet and 51.14 feet; and
NORTHWESTERLY by land of Marc A. and Carol R. Dichter in two lines respectively measuring 51.14 feet and 38.45 feet.
Containing, according to said plan, 18,427 square feet.

For title reference is made to deed of Verge S. Wagner and Helen C. Wagner to Robert C. Dawson and Beatrice J. Dawson, dated June 3, 1955, Book 3372, Page 396, deed of Robert C. Dawson and Beatrice J. Dawson to Dawson Development Corporation dated June 15, 1959, recorded Norfolk Deeds Book 3740, Page 401, deed from Dawson Development Corporation to Robert C. Dawson and Beatrice J. Dawson, dated June 10, 1960, recorded Norfolk Deeds Book 3822, Page 97 and deed of Robert C. Dawson and Beatrice J. Dawson to Robert C. Dawson recorded said deeds Book 5116, Page 180.

Witness my hand and seal this 5th day of December 1984.

Beatrice J. Moynihan
Beatrice J. Moynihan

STATE OF NEW HAMPSHIRE

HILLSBOROUGH

Then personally appeared the above named Beatrice J. Moynihan

and acknowledged the foregoing instrument to be her free act and deed, before me

Elaine D. Bernier
Notary Public

My commission expires December 23, 1986



RECEIVED RECORDED
1984 DEC 10 PM 3-20

35

Quirk Associates, LLC

4 Dorothy Lane

Dedham, MA 02026

(781) 326-1202 • FAX (781) 326-0916

A Z

Jerome DeRozzo

(8/10/83 - 12/10/87)

1983

6241-496 (dood w)

A Z

(C)

1984

6559-486 (dood w)

A Z

(C)

"

- 487 (dood)

Hovvitz

(C)

12 + A Z

QUITCLAIM DEED

I, JEROME DERENZO, of Needham, Norfolk County, Massachusetts for consideration paid and in full consideration of TWO HUNDRED SEVENTY NINE THOUSAND (\$279,000) DOLLARS

GRANT to ELLEN LYNN HURVITZ
of 66 Colgate Road, Needham, Norfolk County, Massachusetts
with QUITCLAIM COVENANTS

TWO (2) certain parcels of land together with the buildings thereon situated in Needham, Norfolk County, Massachusetts and being bounded and described as follows:

FIRST PARCEL

Lot 12 as shown on a plan of land in said Needham entitled "Compiled Plan of Land in Needham, owned now or formerly by William H. Carter, Block W, Carleeta Park, Land in Needham, Frank L. Cheney, Civil Engineer, April 1952, Revised May 7, 1952" said plan being recorded in Norfolk Registry of Deeds as Plan No. 1271 of 1954, Plan Book 190.

Said Lot 12 is more particularly bounded and described according to said Plan as follows:

WESTERLY	by Lot 9, as shown on said Plan, fifty six and 38.100 (56, 38) feet;
NORTHEASTERLY	by Lots 10 and 11, as shown on said plan, one hundred thirty eight and 78/100 (138, 78) feet;
EASTERLY	by land marked "Now or formerly of Verge S. Wagner" fifty one and 14.100 (51.14) feet and ONE HUNDRED ONE (101) feet, as shown on said Plan;
SOUTHERLY	by Lot 13, as shown on said plan, one hundred fifteen (115) feet.

Containing, according to said plan, 11,271 square feet.

Meaning and intending to describe and convey all and the same premises conveyed to this Grantor by deed of Amelia Cimino dated August 23, 1983 and recorded with Norfolk Registry of Deeds in Book 6235 Page 460.

SECOND PARCEL

Lot A² on a Plan of Land entitled "DEFINITIVE PLAN OF THE SUBDIVISION OF LAND IN THE TOWN OF NEEDHAM, Owner, Robert C. Dawson and Beatrice J. Dawson, Developer, Dawson Development Corporation, Surveyor, Cheney Engineering Co., Inc. Needham, Mass." said Plan being recorded with the Norfolk Registry of Deeds as Plan No. 144 of 1975, Plan Book 248.

Said Lot A² is more particularly bounded and described according to said plan as follows:

NORTHEASTERLY	by Greendale Avenue, 80.27 feet;
SOUTHEASTERLY	by land of Richard S. Cass indicated as Lot B, 57.87 feet;
EASTERLY	by land of said Richard S. Cass and Lot A ¹ in three (3)

address of property - 66 Colgate Road, Needham, Mass

RECEIVED RECORDED
1984 DEC 10 PM 3:20

See RD # 1498 of 1984 Record Book 6561 Page 352

Declaration of Homestead Vol 6661 P177

488

lines respectively measuring 24.15, 179.99 and 115.64 feet;
 SOUTHERLY by Colgate Road, 40.4 feet;
 WESTERLY by Lots 14, 13 and 12 in three lines respectively measuring
 190 feet, 101.28 feet and 38.45 feet.
 NORTHWESTERLY by land of Marc A and Carol R. Dichter in two lines respectively
 measuring 51.14 and 38.45 feet and containing, according to said plan
 18427 square feet.
 Meaning and intending to describe and convey all and the same premises conveyed
 to this Grantor by deed of Robert C. Dawson dated August 10, 1983 recorded with
 Norfolk Deeds Book 6241, Page 496.

Said FIRST PARCEL and SECOND PARCEL are together shown on a Plan of Land
 entitled "Plan of Land in Needham, Mass. George N. Giunta, Surveyor," dated
 November 4, 1984 herewith recorded, *as shown on the plan*

Witness my hand and seal this sixth day of November, 1984

Jerome Derenzo
 Jerome Derenzo

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

November 6, 1984

Then personally appeared the aforesaid Jerome Derenzo and acknowledged
 the foregoing instrument to be his free act and deed, before me.

Peter D. Scull
 Hector D Scull - Notary Public

My Commission expires
 January 21, 1988



Quirk Associates, LLC

4 Dorothy Lane

Dedham, MA 02026

(781) 326-1202 • FAX (781) 326-0916

16, pc 1498 + 1984

AZ, pc 141 + 1975 PB 218

Ellen L. Hurvitz

Barry D. Strassnick

(11/6/84 - date)

1984

6559-787 (deed in)

(C)

1985

6661-179 (NOTE)

(C)

1988

7876-204 (deed) STRASSNICK

(C)

→

6-21-21

39

Berlin, Clarey & Green

ATTORNEYS AT LAW

73 TREMONT STREET BOSTON, MASSACHUSETTS 02108

(617) 227-0720

OF COUNSEL
LINDA G. LEFFERTGERALD A. BERLIN
JACK GREEN, P.C.
RICHARD D. CLAREY
GEORGE C. DEPTULA
ALAN S. GEISHER, JR.
NEWTON H. LEEVE
ALVIN LEVIN
RENEE RASTORFER
KAREN D. HURVITZ

April 5, 1985

Mr. and Mrs. Charles F. Yardley
45 Colgate Road
Needham, MA 02192Re: NOTICE OF INTENTION TO PREVENT
ACQUISITION BY CUSTOM PURSUANT
TO MASS. GENERAL LAWS CHAPTER 187,
SECTION 3

Dear Mr. and Mrs. Yardley:

This letter shall constitute notice, pursuant to the provisions of Mass. General Laws Chapter 187, Section 3, of the intent of Ellen Hurvitz to prevent the acquisition by you of an easement in or on her property at 66 Colgate Road. Specifically, you are put on notice that your paved driveway encroaches upon the Hurvitz property for an area of approximately forty square feet.

Very truly yours,


 Karen D. Hurvitz, Attorney
 for Ellen Hurvitz
RETURN OF SERVICE

I hereby certify and return that on April 11, 1985, I served a copy of this Notice of Intention to Prevent Acquisition by Custom Pursuant to Mass. General Laws Chapter 187, Section 3 upon the above-named individuals in the following manner: by delivering in hand to Mr. Charles F. Yardley and by leaving at the last and usual place of abode of Mrs. Charles F. Yardley, (known to me as Isabel Yardley), 45 Colgate Road, Needham.
Fees \$26.00

April 12, 1985
 DATE
DATE OF SERVICE: 4/11/85

 DEPUTY SHERIFF

25 ru
9169

QUITCLAIM DEED

#66

I, Ellen Lynn Hurvitz, of Needham, Norfolk County, Massachusetts for nominal consideration paid

GRANT TO ELLEN LYNN HURVITZ and BARRY DAVID STRASNICK, husband and wife, as tenants by the entirety, all of my right, title and interest in

A certain parcel of land containing 29,018 square feet together with the building labeled #16 as shown on a plan of land in Needham, entitled "Plan of Land in Needham, Massachusetts, November 4, 1984," said plan being recorded in the Norfolk Registry of Deeds as Plan No. 1498 of 1984, which building and land are situated in Needham, Norfolk County, Massachusetts known and numbered as 66 Colgate Road and are more particularly bounded and described as follows:

SOUTHERLY: by Colgate Road, measuring Forty and 40/100 (40.4) feet (but shown on the Plan as measuring thirty-nine (39.00) feet); then

EASTERLY: by Lots A¹, E and B in a line measuring One Hundred Fifteen and 64/100 (115.64) feet for Lot A¹, a corner point of Lot E, and lines measuring respectively One Hundred Seventy Nine and 99/100 (179.99) feet, Twenty Four and 15/100 (24.15) feet and Fifty Seven and 87/100 (57.87); then

NORTHEASTERLY: by Greendale Avenue, Eighty and 27/100 (80.27) feet; then

NORTHWESTERLY: by Lot 11 in a line measuring Thirty-Eight and 45/100 (38.45) feet and Ninety-Five and 68/100 (95.68) feet; then

WESTERLY: by Lot 11 measuring Fifty-One and 14/100 (51.14) feet; then

NORTHWESTERLY: by Lot 11 measuring One Hundred Thirty-Eight and 78/100 (138.78) feet; then

WESTERLY: by Lot 9 measuring Fifty-Six and 38/100 (56.38) feet; then

SOUTHERLY: by Lot 13 measuring One Hundred Fifteen (115) feet; then

WESTERLY: by Lots 13 and 14 measuring One Hundred Ninety (190) feet.

RECORDED
FEB - 5 1985
11:00 AM
32

Grantee's Property Address: 66 Colgate Road, Needham, MA

Meaning and intending to describe and convey all and the same premises conveyed by deed of Amelia Cimino dated August 23, 1983 and recorded with Norfolk Registry of Deeds in Book 6235 Page 460, and all and the same premises conveyed by deed of Robert C. Dawson dated August 10, 1983 recorded with Norfolk Registry of Deeds in Book 6241, Page 496.

For my title see Deed of Jerome Derenzo to grantor, dated November 4, 1984 and recorded with Norfolk Registry of Deeds in Book 6559 at Page 487.

The property herewith conveyed is designed to and will be held as an estate of homestead in accordance with M.G.L. c. 188 as amended.

Witness my hand and seal this 4th day of February, 1988.

Ellen Lynn Hurvitz
Ellen Lynn Hurvitz

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

February 4, 1988

Karen D. Hurvitz
Karen D. Hurvitz, Notary Public

My Commission expires
September 22, 1989



0 Colgate Road

Page datalets/datalet.aspx?mode=agriculture not registered

PARID: 1990570002200000

CONNOLLY, PATRICIA M

MUNICIPALITY: NEEDHAM

0 COLGATE RD

LUC: 131

PARCEL YEAR: 2024

Property Information

Property Location: 0 COLGATE RD

Class: R-RESIDENTIAL

Use Code (LUC): 131-VACANT LAND - POTENTIALLY DEVELOPABLE

District: MA199 - NEEDHAM

Deeded Acres: .2300

Square Feet: 10,019

Owner

Owner	Co-Owner	City	Address	State	Zip Code	Deed Book/Page
CONNOLLY, PATRICIA M		NEEDHAM	44 COLGATE RD	MA	02492	5305/675

Sales

Sale Date (D/M/Y)	Book/Page	Sale Price	Grantee:	Grantor:	Cert Doc #
07-02-1977	5305-675	\$5,000	CONNOLLY, PATRICIA M	LITTLE	

Owner History

1 of 23

Tax Year: 2024

Owner: CONNOLLY, PATRICIA M

Co-Owner:

Sale Care Of:

State: MA

City: NEEDHAM

Address: 44 COLGATE RD

Zip Code: 02492

Deed Book/Page: 5305/675

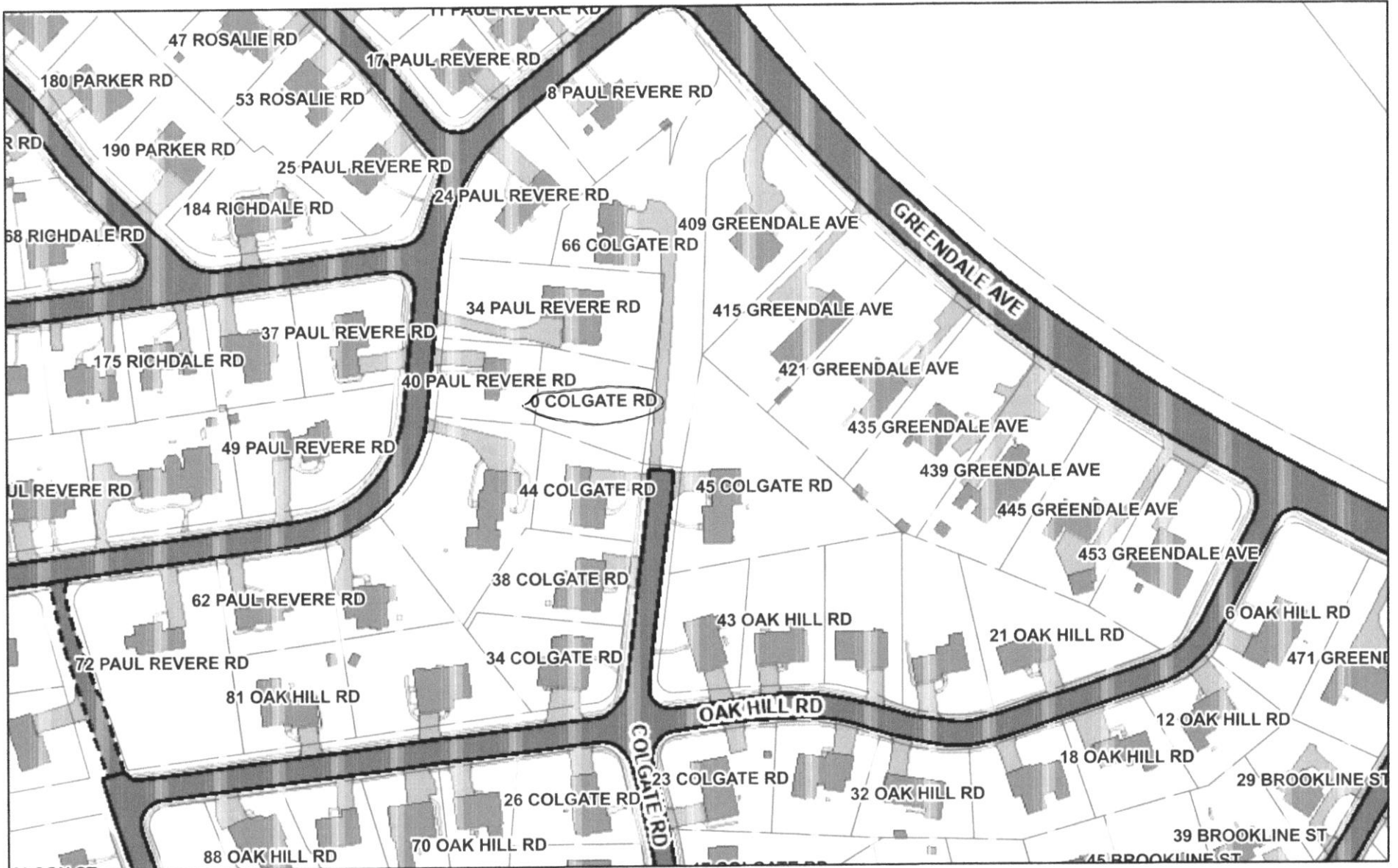
Land

Land Line #	Land Type	Land Code	Class	Square Feet	Acres	Suppressed	CH61B %	Infl %	Infl Reason	Infl 2 %	Infl 2 Reason	Base Rate	Chap Market Value	Assessed Value
1	S-SQUARE FOOT P-PRIMARY		131-VACANT LAND - POTENTIALLY DEVELOPABLE	10,000	.23	N						55	551,800	
Total:													0 551,800	

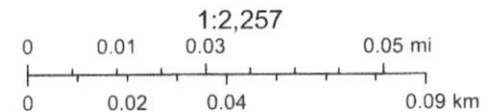
Printed on Thursday, June 20, 2024, at 1:11:47 PM EST

44

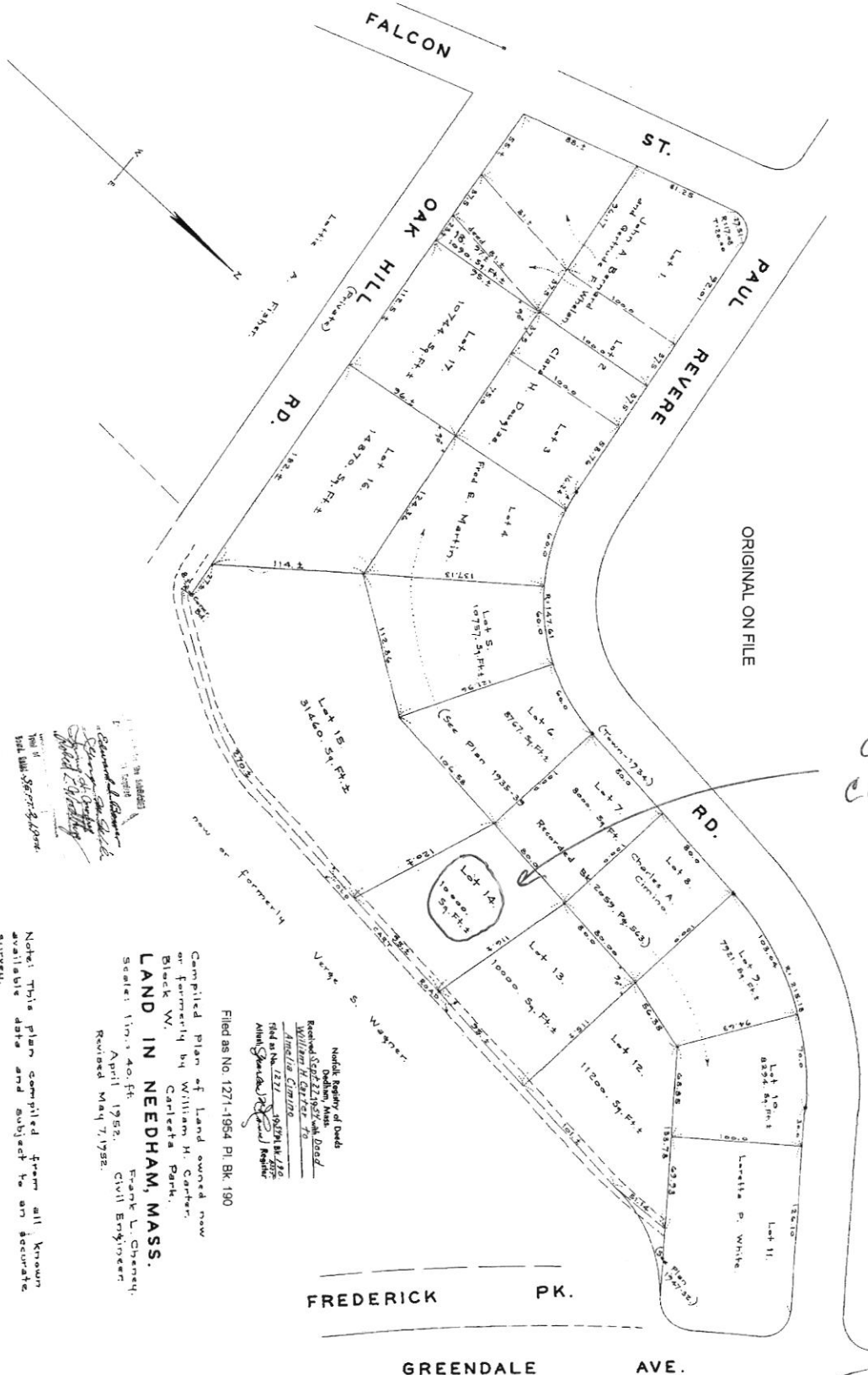
Town of Needham



6/20/2024, 2:08:15 PM



PB 190
#1271

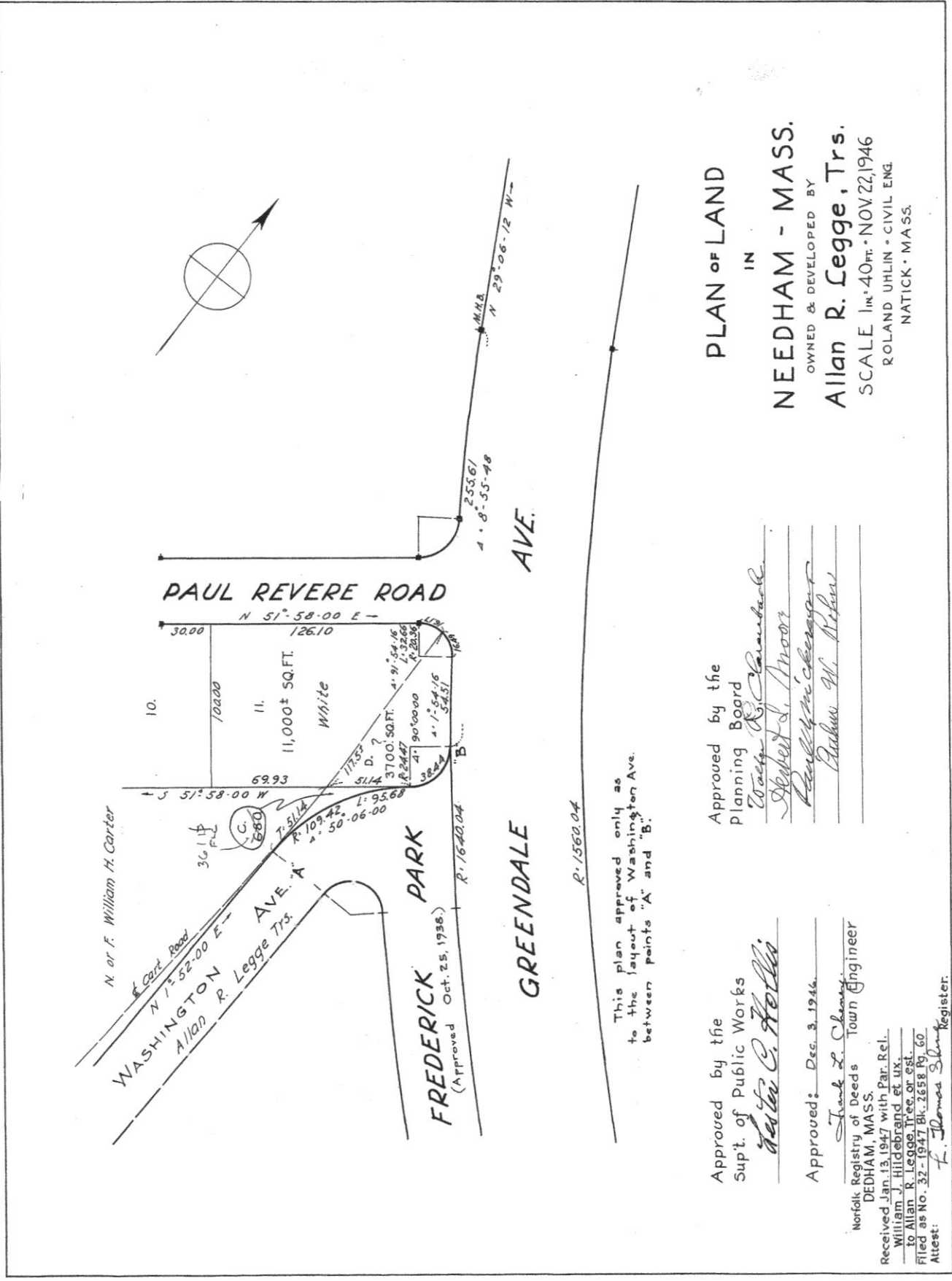


Notes: This plan compiled from all known available data and subject to an accurate survey.

Compiled Plan of Land owned now or formerly by William H. Carter, Black W.
LAND IN NEEDHAM, MASS.
Scale: 1 in. = 40 ft.
April 1952. Frank L. Cheney, Civil Engineer.
Revised May 7, 1952.

Filed as No 1271-1954 Pl. Bk. 190

Notable Registry of Deeds
Dorchester, Mass.
Returned Sept. 12, 1954, as Filed
William H. Carter, Jr.
Attorney at Law
1271-1954 Bk. 190
Filed as No 1271-1954 Pl. Bk. 190
Attorney General, Civil Registry



PLAN OF LAND
IN
NEEDHAM - MASS.
OWNED & DEVELOPED BY
Allan R. Legge, Trs.
SCALE 1 in. = 40 FT. NOV 22, 1946
ROLAND UHLIN - CIVIL ENG.
NATICK - MASS.

Approved by the
Planning Board

William B. Charnock
 Herbert L. Moor
 Emily McCreary
 Arthur W. Jones

Approved by the
Supt. of Public Works

Lester C. Hollis

Approved: Dec. 3, 1946.

Frank L. Cheney.
Norfolk Registry of Deeds Town Engineer

Received Jan. 13, 1947 with Par. Rel.
William J. Hildebrand et ux.
to Allan R. Legge, Trustee, or est.
 Filed as No. 32-1947 Bk. 2658 Pg. 60

L. Thomas Skunk Register.

3303

246

I, William H. Carter,

of Needham,

Norfolk County, Massachusetts

~~being~~ for consideration paid, grant to Jennie Little, being unmarried,

of Needham, Norfolk County, Massachusetts

with quitclaim covenants

the land in Needham, Norfolk County, Massachusetts, and being designated and shown as Lot 14 on a plan entitled "Compiled Plan of Land owned now or formerly by William H. Carter, Block W, Carleeta Park, Land in Needham, Mass., Frank L. Cheney, Civil Engineer, April 1952, Revised May 7, 1952", said plan to be recorded herewith.

The aforesaid Lot 14 is more particularly bounded and described, according to said plan, as follows:

WESTERLY by Lot 7, as shown on said plan, eighty (80) feet;
 NORTHERLY by Lot 13, as shown on said plan, one hundred sixteen (116) feet, more or less;
 EASTERLY by land marked on said plan "Now or formerly Verge S. Wagner", ninety-five (95) feet, more or less; and
 SOUTHERLY by Lot 15, as shown on said plan, one hundred twenty (120) feet, more or less; and

Containing 10,000 square feet of land, more or less, according to said plan.

For my title see deed from Vernon Dawson to William H. Carter dated January 10, 1922 and recorded with Norfolk County Registry of Deeds, Book 1506, Page 374.

This conveyance is made subject to all assessments, betterments and other municipal liens, if any.

U. S. Federal Revenue Stamps

In sum of \$ 5.50

affixed and cancelled on back of this instrument.

Massachusetts Deed Excise Stamps
 in sum of \$ 1.00
 affixed and cancelled on back of this instrument.

I, Hazel M. Carter,

~~husband~~ wife of said grantor

release to said grantee all rights of ~~tenancy by the entirety~~ dower and homestead and other interests therein

Executed as a sealed instrument this 10th day of September 1954

William H. Carter
Hazel M. Carter

Commonwealth of Massachusetts

Norfolk

ss.

September 12, 1954.

Then personally appeared the above named William H. Carter

and acknowledged the foregoing instrument

to be his free act and deed, before me



Herbert W. Firth
 Notary Public

My commission expires Jan. 31, 1958
 HERBERT W. FIRTH, Notary Public
 My commission expires Jan. 31, 1958

Recorded Sept. 27, 1954 at 2h.P.M.

48

Quirk Associates, LLC

4 Dorothy Lane

Dedham, MA 02026

(781) 326-1202 • FAX (781) 326-0916

Jennie Little
Arthur Little

(9/10/51 - 2/7/77)

1951 3303 - 246 (deed in)

©

1977 5305-675 (deed)

Connery

©

Quirk Associates, LLC

4 Dorothy Lane

Dedham, MA 02026

(781) 326-1202 • FAX (781) 326-0916

14

Patricia M. Connolly

(1/24/77 - date)

1977

5305-675 (deed in)

©

78-27

x

6-23-27

50

MASSACHUSETTS QUITCLAIM DEED SHORT FORM (INDIVIDUAL) 19

ARTHUR E. LITTLE

of 16 James Street, Malden, Middlesex

County, Massachusetts

for consideration of five thousand (\$5,000) Dollars
 paid, grant to PATRICIA M. CONNOLLY of Colgate Road, Town of Needham,
 County of Norfolk, Commonwealth of Massachusetts,

with QUITCLAIM COVENANTS

the land in Needham, Norfolk County, Massachusetts, and being designated
 and shown as Lot 14 on a plan entitled "Complied Plan of Land owned now
 or formerly by William H. Carter, Block W, Carleeta Park, Land in
 Needham, Mass., Frank L. Cheney, Civil Engineer, April 1952, Revised
 May 7, 1952", said plan being recorded in the Norfolk Registry of Deeds,
 Plan Book 190, Page 1271 of 1954

The aforesaid Lot 14 is more particularly bounded and described according
 to said plan, as follows:

WESTERLY by Lot 7, as shown on said plan, eighty (80) feet;
 NORTHERLY by Lot 13, as shown on said plan, one hundred sixteen (116)
 feet, more or less;
 EASTERLY by land marked on said plan "Now or formerly Verge S. Wagner",
 ninety-five (95) feet, more or less; and
 SOUTHERLY by Lot 15, as shown on said plan, one hundred twenty (120)
 feet, more or less; and

Containing 10,000 square feet of land, more or less, according to said
 plan.

For title see deed from William H. Carter to Jennie Little dated
 September 10, 1954 and recorded with Norfolk County Registry of Deeds,
 Book 3303, Page 246, and further the Estate of said Jennie Little,
 Norfolk Probate, Docket No. 191848.

This conveyance is made subject to the restrictions of record which are
 now in force and apply.

Witness my hand and seal this 24 day of January 1977



Arthur E. Little

The Commonwealth of Massachusetts

Norfolk, ss

January 26 1977

Then personally appeared the above named Arthur E. Little

and acknowledged the foregoing instrument to be his free act and deed, before me

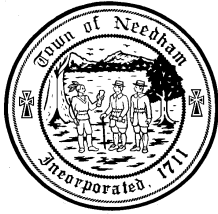
Richard M. Niel
 Notary Public

My commission expires

April 8, 1977

Recorded Feb. 7, 1977 at 2h. 22m. P. M.

Grantee's address: 44 Colgate Road, Needham, Mass. 02192



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

Tel. 781-455-7550 x 72308

January 21, 2025

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

Re: 0 Colgate Rd.

Dear Board Members,

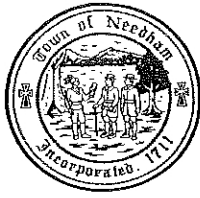
I have reviewed the appeal of my decision submitted by Attorney Cabral relative to 0 Colgate Rd.

The only addition to the comments in my initial denial via email, dated 12/2/24 are that an applicant for a Building Permit is required to provide a current plot plan, stamped and signed by a Massachusetts Registered Land Surveyor. This plan must show the parcel has frontage along a public or private way. No such plan has been submitted.

Further, determining the appropriateness/ legality of the 1984 plan which now shows the former path/way as belonging to the property at 66 Colgate Rd. or whether a private way still exists over that parcel is not within the jurisdiction of the Building Department.

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**

January 21st, 2024

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

RE: Case Review-Determination of Buildability
0 Colgate Road- Determination of Buildability

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced project for the determination of buildability of the empty lot at 0 Colgate.

The documents submitted for review are as follows:

- Application for Special Permit dated 12/30/24.
- Addendum of Application
- Exhibit A: Topo Plot Plan of 0 Colgate Road by Cheney Engineering dated 9/06/24
- Exhibit B: Subdivision Plan dated 5/7/1952
- Exhibit C: Email Chain Denying the Buildability of 0 Colgate Rd.

Our comments and recommendations are as follows:

- There is a cloud on the title for 0 Colgate that might need to be resolved by the Land Court

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, January 17, 2025 11:54 AM
To: Daphne Collins
Subject: FW: 0 Colgate Road - ZBA Review Due January 17, 2025 - Public Health comments
Attachments: 0 Colgate Rd - Application.pdf; 0 Colgate Rd - Notice Legal Ad.doc

Daphne –

The Public Health Division conducted the Zoning Board review for the proposal for the property located **at #0 Colgate Rd.** 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

STATEMENT OF CONFIDENTIALITY

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From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, December 31, 2024 1:24 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: 0 Colgate Road - ZBA Review Due January 17, 2025

Good Afternoon-

Daphne Collins

From: Tom Conroy
Sent: Friday, January 3, 2025 3:14 PM
To: Daphne Collins
Subject: RE: 0 Colgate Road - ZBA Review Due January 17, 2025

Hi Daphne,
Approved by Fire Dept.
Thanks,



Thomas M. Conroy

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

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, December 31, 2024 1:24 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: 0 Colgate Road - ZBA Review Due January 17, 2025

Good Afternoon-

0 Colgate Road – Patricia M. Connolly, appellant, has appealed a decision of a Building Inspector (ABID), dated December 2, 2024, who determined that the property *“appears to “front” on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law.”* The ABID asserts that the vacant lot has 95 feet of frontage on a private paved way which satisfies the minimum frontage of 80 feet for parcels in the Single-Residence B per Section 4.2.1 of the By-Law. The property is located at 0 Colgate Road, Needham, MA in the Single-Residence B (SRB) District.

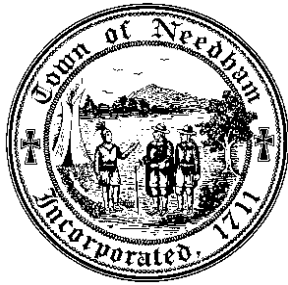
Attached please find the application with its associated back-up documents for your information and review.

I appreciate your comments no later than **January 17, 2025** 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



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

March 21, 2024

Mr. Nathaniel, Chair, and Members
Planning Board Appeals
Public Services Administration Building
100 Needham Avenue
Needham, MA 02462

Dear Mr. Nathaniel and Members of the Planning Board Appeals:

At its meeting on March 21, 2024, the Planning Board reviewed the applications to be heard by the Board Appeals on March 22, 2024, and made the following recommendations:

1. **200 Highland Avenue Rainbow Angel, Inc. (Continued)** applied for a Special Permit all the use for a direct restaurant with access to the sidewalk under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use restaurant the property is located in the Highland Commercial District.

The Planning Board respectfully closed on this case by letter dated November 1, 2024. The comments were as follows: the Planning Board does not COMME.

2. **1 Tremont Street Dental City, Inc.** applied for a Special Permit all the use for a dental services with access to retail use under Section 3.2.02 and to make strict adherence to the number required parking and the parking lot and design requirements under Sections 1.1.1, 1.1.2, 1.1.3 and all other applicable sections of the Bylaws. All the criteria of a fair-use dental services with access to retail sales. The property is located in the Mixed Use District.

The Planning Board does not COMME.

3. **378 Manning Street Nicole Oslo and Megan Waldvogel** applied for a Appeal of a Building Inspection Decision AB000000 Building Permit BC24110 issued by Arthur Elwood on November 1, 2024, for the reconstruction of a small building at 378 Manning Street. The AB000000 asserts that the Building Inspector's file does not comply with the terms of Section 1.4.04 of the Bylaws that the building as reconstructed has a greater area than the original building. The property is located in the Village Side B Historic District.

The Planning Board does not COMME.

Mr. Anthony A. Chi, Chair, and Members
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- 282 Warren Street - Stephanie C. and Joshua A. Challer applied for a variance in all of the dimensions of the existing building on the abutting lot for a 3' lease-free. This dimension would be 2'2" after the current building is demolished, with a building setback of 2' where a building setback of 20' or less is required under Section 4.2. of the By-Law. The structure is located in the Littletonsidece B Block District.

The Planning Board takes the following action:

- 0 Colgate Road - Patricia M. Connolly, appellant, has appealed a decision of the Board of Appeals dated December 2, 2024 which determined that the structure "appears to front" on private property and therefore does not have adequate frontage along a public or private way as defined in the Zoning By-Law. The Board asserts that the applicant has not demonstrated a right to be heard which satisfies the minimum requirements of the Littletonsidece B Block District 4.2.1 of the By-Law. The structure is located at 0 Colgate Road, Needham, MA in the Littletonsidece B Block District.

EEAM Appeals Board

Lee Newman

See Appendix

Director of Planning and Community Development