

# Planning Board Meeting

February 21, 2023

6:00 p.m.



Planning Department  
856 Main Road  
Westport, MA 02790



## Planning Board

James Whitin  
Robert Daylor  
John K. Bullard  
Mark L. Schmid  
Manuel Soares

# AGENDA

## Tuesday, February 21, 2023

### **Call to order 6:00 p.m.**

#### **1. Administrative Items**

- a. **Route 88 Solar 1, LLC (18-011SP)** Endorse Form G
- b. **0 Brookwood Drive (19-005SP)** Endorse Form G
- c. **533 Horseneck Road (23-001A)** KSP Law - Notice of Appeal
- d. **Approval Not Required (ANR) 484 Sanford Road (23-007A)** Request by the applicant for endorsement of a Plan of Land showing 3 Lots for land located at 484 Sanford Road, Map 23A Lot 397-398.

#### **2. Assistant/Planners report**

#### **3. Invoices**

- a. East Bay Media Group Legal Ad – Zoning By-Law amendments \$246.00
- b. WB Mason – computer supplies - \$76.94

#### **4. Minutes**

#### **5. Short/Long-term Planning Discussions**

#### **6. Matters not reasonably anticipated**

### **ADJOURNMENT**

*NOTE: Agenda is subject to change*

#### **NEXT MEETINGS:**

*Planning Board: March 7, 2023 at 6:00 p.m.*

*Work Session: ?*



23-001A

Michael A. Kelly, Esq.  
[mkelly@ksplawpc.com](mailto:mkelly@ksplawpc.com)

Date of This Notice: February 10, 2023

**VIA EMAIL, CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED AND HAND DELIVERY**

Bernadette Oliver  
Westport Town Clerk  
816 Main Road  
Westport, MA 02790



***RE: NOTICE OF APPEAL OF DECISION OF THE WESTPORT PLANNING  
BOARD PURSUANT TO M.G.L. c. 41, § 81BB***

**Case Caption:**

BRISTOL, ss

DOCKET NO. 2373CV00084

ELIZABETH MEYER. :  
Appellant, :  
 :  
v. :  
 :  
JAMES T. WHITIN, ROBERT DAYLOR, :  
JOHN BULLARD, MARK L. SCHMID, and :  
MANUEL SOARE, as they are Members :  
of the WESTPORT PLANNING BOARD, :  
DANIEL G. RICHARD, in his capacity as :  
Trustee for The RICHARD FAMILY TRUST; :  
DAVID L. TAYLOR, as Trustee for the Richard :  
Family Trust; and THE RICHARD FAMILY :  
TRUST. :  
Appellee(s). :  
:

Dear Madam Clerk,

Please be advised that this office represents Elizabeth Meyer (“Appellant”) in relation to their filing of an appeal (“Appeal”) to the **Bristol County** Massachusetts Superior Court on **February 10, 2023**. Please note, that as a result of the Westport Planning Board’s approval (“Decision”) of an Approval Not Required plan (“ANR”) of the Richard Family Trust, endorsed by the Westport Planning Commission on January 24, 2023, for the division of the property located

Bernadette Oliver  
Westport Town Clerk  
February 10, 2023  
Page 2 of 2


at 533 Horseneck Road, Westport, MA ("Property"), into four (4) separate lots. **Plaintiffs have filed an Appeal (via Complaint) of the Planning Board's Decision in the Bristol County Superior Court on February 10, 2023, pursuant to M.G.L. c. 41, § 81BB.** The basis of this Appeal is that the lots lack adequate access as contemplated under the Massachusetts Subdivision Control Laws, and thus are a subdivision rather than an ANR, and should not have been endorsed by the Planning Commission as an ANR.

Transmittal of this Notice to you is a requirement per M.G.L. c. 41, § 81BB, as the Clerk of the Town is entitled Notice of this Appeal pursuant to M.G.L. c. 41, §81BB. Please be advised that Appellant will serve the Appellee(s) named in this Appeal within the requisite amount of time provided for service of such Appeal. Finally, we advise you that an appeal of a decision of a Planning Board to the Superior Court of **Rhode Island** is governed by M.G.L. c. 41, § 81BB.

Enclosed herein, we are providing you with a copy of the complaint that was filed on **February 10, 2023** which commenced this action ("Appeal Complaint") for review at your convenience. *See* Exhibit 1, a true and accurate copy of the Appeal Complaint attached hereto.

Please note, the name, address, and telephone number of all attorney(s) who are entered on this matter commenced by the filing the Appeal Complaint below.

Sincerely,



Michael A Kelly

Enclosure

**Attorney(s) Address, Phone Number, and Relative Information:**

Michael A. Kelly, Esq. (#2116)  
KELLY, SOUZA & PARMENTER, P.C.  
128 Dorrance Street, Suite 300  
Providence, RI 02903  
Tel: (401) 490-7334 | Fax: (401) 490-7874  
[mkelly@ksplawpc.com](mailto:mkelly@ksplawpc.com)

**COMMONWEALTH OF MASSACHUSETTS  
 SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT**

**BRISTOL, ss**

**ELIZABETH MEYER.**

*Appellant,*

**v.**

**JAMES T. WHITIN, ROBERT DAYLOR,  
 JOHN BULLARD, MARK L. SCHMID, and  
 MANUEL SOARE, as they are Members  
 of the WESTPORT PLANNING BOARD,  
 DANIEL G. RICHARD, in his capacity as  
 Trustee for The RICHARD FAMILY TRUST;  
 DAVID L. TAYLOR, as Trustee for the Richard  
 Family Trust; and THE RICHARD FAMILY  
 TRUST.**

*Appellee(s).*

**DOCKET NO. \_\_\_\_\_**

**APPEAL COMPLAINT**

**NOW COMES** the Appellant, Elizabeth Meyer (*hereinafter*, the “Appellant”) in the above captioned matter, pursuant to M.G.L. c. 41, § 81BB, brings this action against the Appellees, James T. Whittin as Chairman for the Westport Planning Commission, Robert Daylor as Vice Chairman of the Westport Planning Commission, John Bullard as a member of the Westport Planning Commission, Mark L. Schmid as a member of the Westport Planning Commission, Manuel Soares as a member of the Westport Planning Commission, Daniel G. Richard, in his capacity as the Trustee (and Applicant of ANR Plan) for the Richard Family Trust, David L. Taylor, in his capacity as Trustee for the Richard Family Trust, and The Richard Family Trust (*hereinafter*, collectively as the “Appellees”), for their unwarranted approval of the Plan of Land, 533 Horseneck Road, Westport MA” as an Approval Not Required (“ANR”) Plan endorsed by the Planning Commission under M.G.L. c. 41, § 81P.

**Parties**

1. The Appellant, Elizabeth Meyer, is an individual resident of the Commonwealth of Massachusetts, and an aggrieved party in this action, having a domicile of 519 Horseneck Road, Westport, MA 02790. Elizabeth Meyer's property located at 519 Horseneck Road directly abuts the property subject to this appeal (533 Horseneck Road, Westport, MA).

2. The Appellee, James T. Whittin, is the Chairman for the Town of Westport Planning Commission, and is a resident of the Commonwealth of Massachusetts, having a residential address of 462 River Road, Westport, MA 02790.

3. The Appellee, Robert Daylor, is the Vice Chairman for the Town of Westport Planning Commission, and is a resident of the Commonwealth of Massachusetts, having a domicile of 1800 Drift Road, Westport, MA 02790.

4. The Appellee, John Bullard, is a Member of the Town of Westport Planning Commission, and is a resident of the Commonwealth of Massachusetts, having a domicile of 5 Nick's Way, Westport, MA 02790.

5. The Appellee, Mark L. Schmidt, is a Member of the Town of Westport Planning Commission, and is a resident of the Commonwealth of Massachusetts, having a domicile of 250 Fisherville Lane, Westport, MA 02790.

6. The Appellee, Manuel Soares, is a Member of the Town of Westport Planning Commission, and is a resident of the Commonwealth of Massachusetts, having a domicile of 316 Gifford Road, Westport, MA 02790.

7. The Appellee, Daniel G. Richard, as Trustee for the Richard Family Trust, having an address of 1615 North Kenilworth Street, Arlington, VA 22205.

8. The Appellee, David L. Taylor, as Trustee for the Richard Family Trust, address unknown.

9. The Appellee, the Richard Family Trust, dated June 12, 1992, is a Trust owning Real Property in the Commonwealth of Massachusetts having an address of 533 Horseneck Road, Westport, MA.

**Jurisdiction**

10. This Court has jurisdiction over this Appeal pursuant to M.G.L. c. 41, §§ 81P and 81BB.

11. The Appellant is a party aggrieved by the Westport Planning Commission's decision regarding the subject Plan approval.

**Facts and Travel**

12. On January 24, 2023, Daniel L. Richard, Trustee of the Richard Family Trust (*hereinafter*, the "Applicant") came before the Westport Planning Commission (*hereinafter*, the "Commission") to present for endorsement by the Commission, the "Plan of Land, 533 Horseneck Road, Westport, MA" as an ANR plan (*hereinafter*, the "Plan") consisting of four (4) lots located on 533 Horseneck Road, Westport MA, consisting of Westport Assessors Plat 73, Lot(s) 73, 74, and 76. See **Exhibit A**, a true and accurate copy of the Plan attached hereto.

13. During the Planning Commission consideration of endorsement of the plan, though the Planning Commission considered the existing issues with the configuration of "Lot 4" on the Plan, they ultimately voted to endorse the Plan as an ANR pursuant to M.G.L. c. 41, § 81P.

14. Specifically, Lot 4 has two (2) separate narrow strips which run through it, one being for "access to utilities" which travels from the western side of Lot, and runs easterly to Horseneck Road in a very narrow strip, creating an unnecessarily odd shaped lot. The other narrow

strip, being the “frontage” access, which travels from a flared shaped access abutting Pettey Lane, and travels north on a narrower strip than the frontage access to the main portion of Lot 4, which then widens out substantially once past the access. *See **Exhibit A***.

15. In a unanimous vote, the Planning Commission voted to endorse the Plan as an ANR under M.G.L. c. 41, § 81P at the end of the Hearing on January 24, 2023.

16. On the same day, January 24, 2023, the Assistant Town Planner transmitted a Form A-1 : Determination That Subdivision Approval Is Not Required to the Westport Town Clerk. *See **Exhibit B***, a true and accurate copy of the Form A-1 attached hereto.

**COUNT I**  
***(M.G.L. c. 41, § 81BB Appeal of Endorsement)***

17. Appellant restates and incorporates by reference the preceding Paragraphs of this Appeal Complaint as if stated fully herein.

18. The Plan presented to the Planning Commission depicts a “Subdivision” as defined under the Massachusetts Subdivision Control Law rather than a project constituting that of an Approval Not Required under 41, § 81P.

19. M.G.L. c. 41, § 81L designates that a “Subdivision” shall mean “the division of a tract of land into two or more lots . . . provided, however, that the division of tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on a public way . . .” *See M.G.L. c. 41, § 81L*.

20. M.G.L. c. 41, § 81P provides that: “Any person . . . who believes that his plan does not require approval under the subdivision control law may submit his plan to the planning board of such city or town . . . and if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person

authorized by it the words “approval under the subdivision control law not required . . .” *See M.G.L. c. 41, § 81P.*

21. Massachusetts Courts have held that the Subdivision Control Law imposes three (3) standards that must be met in order for lots shown on a plan for the Planning Commission to endorse as an Approval Not Required Plan, those being: 1) The lots shown on the plan must front on a public way; 2) the lots shown on the plan must meet the minimum frontage requirement; and 3) a planning commissions determination that the “vital access” to such lots as contemplated by Chapter 41, Section 81M otherwise exist.

22. Massachusetts Courts have held the “Vital Access Standard” requires there exists adequacy of access from the way to the buildable portion of the lot in order to be endorsed as an ANR.

23. Lot 4 on the Plan does not meet the adequacy of access to satisfy the Vital Access Standard, as Lot 4’s access is wider than the passage up to the buildable portion of the Lot, creating a lot which Massachusetts Courts have deemed constitute a “Subdivision” rather than an ANR Plan. *See Exhibit C*, a true and accurate copy of the portion of Lot 4 referenced, which is at issue. Therefore in fact, the Plan is a Subdivision rathe than an ANR.

24. In the case of *Gallitano v. Board of Survey & Planning of Waltham*, the Court found that “As a rule of thumb, we would suggest that the Gifford case should not be read as applying to a plan, such as the one before us, in which the buildable portion of each lot is connected to the required frontage by a strip of land not narrower than the required frontage at any point measured from that point to the nearest point of the opposite sideline.” *See Gallitano v. Board of Survey & Planning of Waltham*, 10 Mass. App. Ct. 269, 272-274 (1980). Here, the Plan shows Lot 4 as being the exact form of lot which *Gallitano* contemplates is impermissible, where the portion of the lot

providing frontage is wider than the channel leading up to the buildable portion of the lot. *See Exhibit C.*

25. Lot 4's frontage requires that the Plan should have been treated as a "Subdivision" by the Planning Commission, and not endorsed as an ANR.

26. The Appellant seeks to challenge the endorsement of the Plan as an ANR, as it should properly have been contemplated as a subdivision based on the foregoing reasons. M.G.L. c. 41, § 81BB provides the Appellant with a cause of action for appealing a decision of the Westport Planning Commission concerning their decision on a plan of a subdivision of land. The endorsement of the plan exceeds the authority of the Planning Commission.

**WHEREFORE**, the Appellant requests this Court enter a judgment in their favor, and grant the following relief:

- a. Annulment of the Decision;
- b. Such further relief as this Court deems necessary and just.

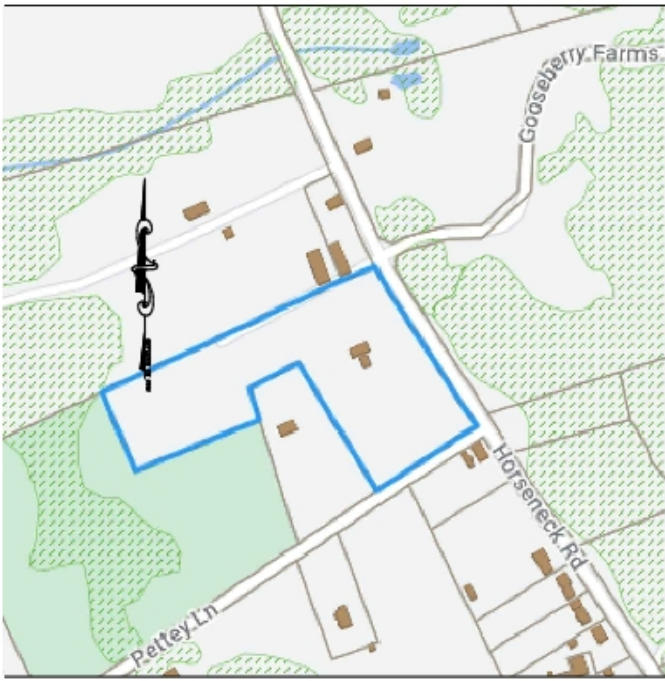
Respectfully submitted,

**ELIZABETH MEYER**  
*By and through counsel,*

/s/ Michael A. Kelly  
Michael A. Kelly, Esq. (BBO #266820)  
Kelly, Souza & Parmenter, P.C.  
128 Dorrance Street, Suite 300  
Providence, RI 02903  
Tel: (401) 490-7334 | Fax: (401) 490-7874  
[mkelly@ksplawpc.com](mailto:mkelly@ksplawpc.com)

Dated: February 10, 2023

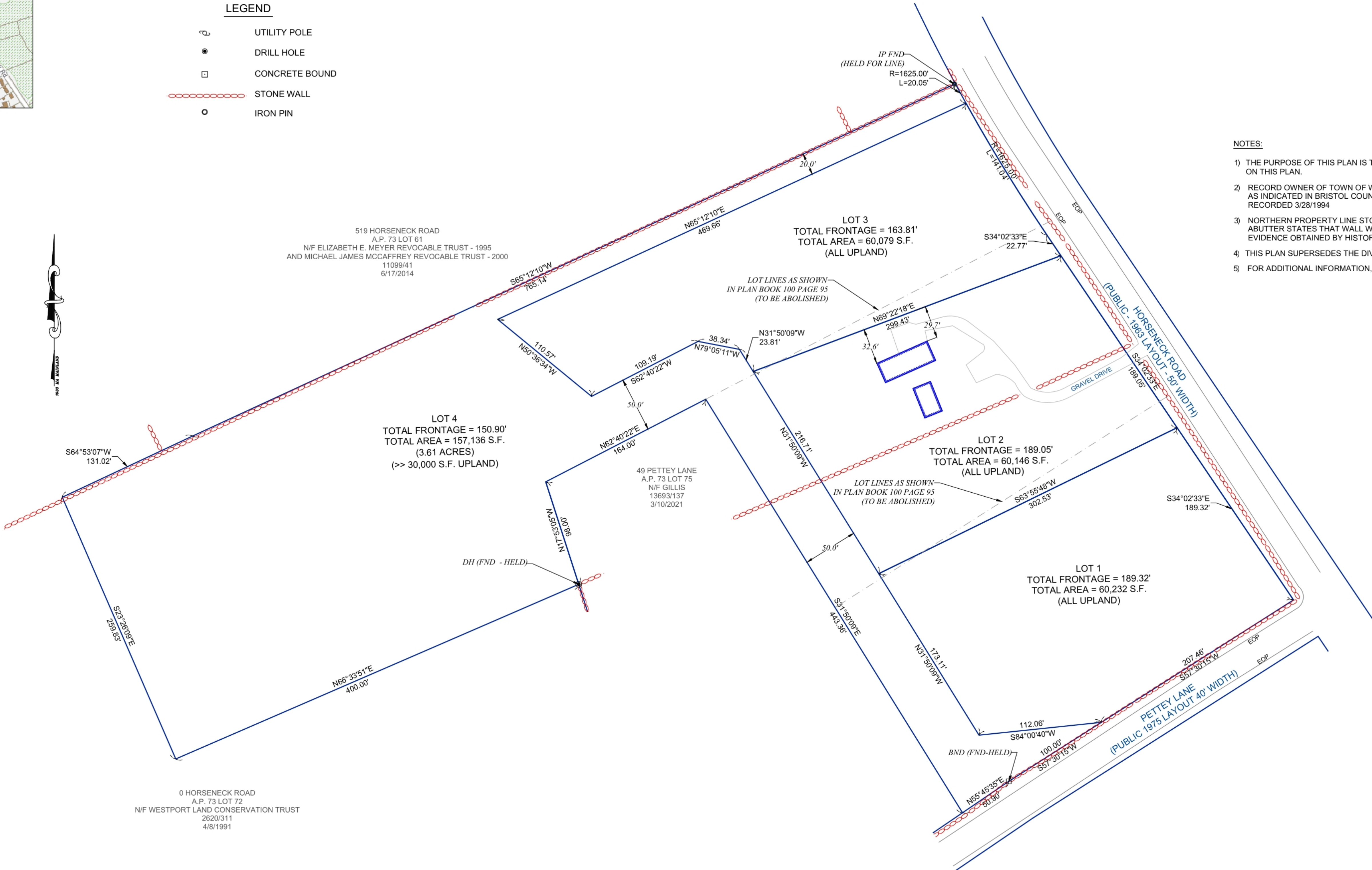
# **EXHIBIT A**



LOCUS  
(NOT TO SCALE)

LEGEND

- UTILITY POLE  
DRILL HOLE  
CONCRETE BOUND  
STONE WALL  
IRON PIN



NOTES:

- 1) THE PURPOSE OF THIS PLAN IS TO DIVIDE A.P. 73 LOTS 73, 74 AND 76 INTO FOUR NEW BUILDABLE LOTS AS SHOWN ON THIS PLAN.
- 2) RECORD OWNER OF TOWN OF WESTPORT ASSESSORS' PLAT 43 LOTS 73, 74 AND 76 LISTED AS RICHARD FAMILY TRUST AS INDICATED IN BRISTOL COUNTY REGISTRY OF DEEDS, SOUTHERN DISTRICT ON BOOK 3267 PAGE 231 RECORDED 3/28/1994
- 3) NORTHERN PROPERTY LINE STONEWALL HAS BEEN REBUILT. TESTIMONY FROM LOCUS OWNER AND NORTHERN ABUTTER STATES THAT WALL WAS REBUILT ON PREVIOUSLY EXISTING WALL. THIS STATEMENT IS SUPPORTED BY EVIDENCE OBTAINED BY HISTORICAL ARIEL PHOTOGRAPHY
- 4) THIS PLAN SUPERSEDES THE DIVISION OF LOTS 2,3 AND 5 AS SHOWN IN PLAN BOOK 100 PAGE 95.
- 5) FOR ADDITIONAL INFORMATION, SEE SURVEYOR'S RECORDS

DEED REFERENCES:

AS NOTED ON PLAN.

PLAN REFERENCES:

PLAN BOOK 133 PAGE 109  
PLAN BOOK 134 PAGE 13  
PLAN BOOK 171 PAGE 44  
PLAN BOOK 137 PAGE 30  
PLAN BOOK 149 PAGE 87  
PLAN BOOK 100 PAGE 95  
PLAN BOOK 96 PAGE 96  
PLAN BOOK 64 PAGE 18

I CERTIFY THAT THIS SURVEY AND PLAN CONFORM TO ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS DATED JANUARY 1, 2018.

REGISTERED PROFESSIONAL LAND SURVEYOR

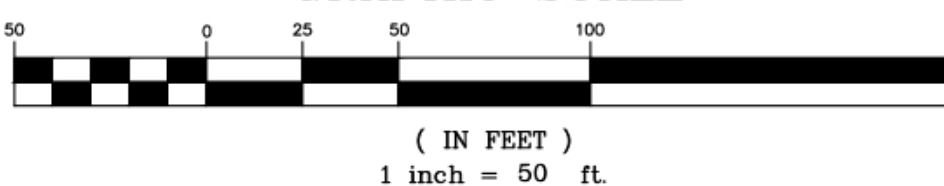
DATE

APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
WESTPORT PLANNING BOARD

1)  
2)  
3)  
4)  
5)  
DATE:

ENDORSEMENT BY THE PLANNING BOARD DOES NOT CONSTITUTE CONFORMANCE TO WESTPORT ZONING BYLAWS NOR ASSURE THAT ANY LOT CREATED HEREIN IS BUILDABLE.

GRAPHIC SCALE



PLAN OF LAND

AT: 533 HORSENECK ROAD

WESTPORT, MA

FOR: RICHARD FAMILY TRUST

SOUTHCOAST ENGINEERING

P.O. BOX N 217 WESTPORT, MA 02790

SCALE: AS NOTED (508) 636-8815 DATE: 12/29/22

DESIGN: GN DRAWN BY: GN REV.

REV. FIELD: VV, GN

# **EXHIBIT B**

Planning Board  
856 Main Road  
Westport, MA 02790  
www.westport-ma.com



Tel. (508) 636-1037  
Fax (508) 636-1031  
Planning@westport-ma.gov

FORM A - 1

DETERMINATION THAT SUBDIVISION  
APPROVAL IS NOT REQUIRED

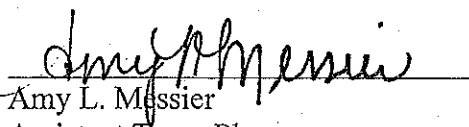
January 24, 2023

Town Clerk, Town of Westport  
816 Main Road  
Westport, Massachusetts 02790

Re: Application for endorsement of plan believed not to require  
subdivision approval

Applicant: Daniel L. Richard, Trustee of the Richard Family Trust  
Owner's Name: Adrienne G. Richard and Daniel G. Richard, Trustees of the Richard  
Family Trust  
Owner's address: 1615 North Kenilworth Street, Arlington, VA 22205

You are hereby notified that the plan entitled "Plan of Land, 533 Horseneck Road,  
Westport, MA" A.P. 73 Lots 73, 74 and 76 Prepared for Richard Family Trust dated  
December 29, 2022 submitted by the above applicant on January 17, 2023 accompanied  
by a Form A application for a determination by the Planning Board, dated January 8, 2023  
has been endorsed by the Planning Board as follows: "Westport Planning Board Approval  
under Subdivision Control Law not Required."

  
Amy L. Messier  
Assistant Town Planner

OR: Clerk  
Dup: applicant.  
File No. 23-001A

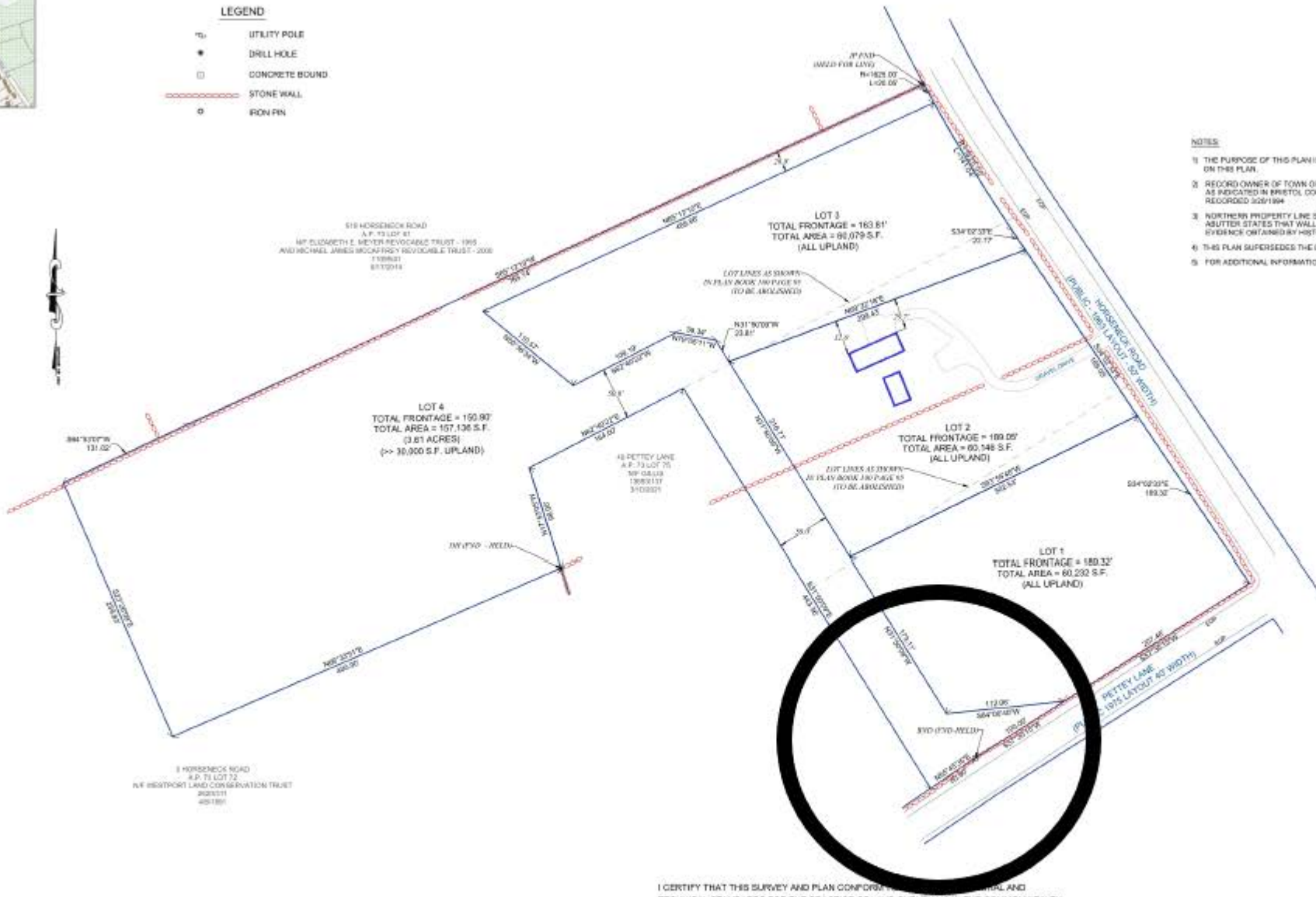


# **EXHIBIT C**



LOCUS  
(NOT TO SCALE)

- LEGEND**
- UTILITY POLE
  - DRILL HOLE
  - CONCRETE BOUND
  - STONE WALL
  - IRON PIN



**NOTES**

- 1) THE PURPOSE OF THIS PLAN IS TO DIVIDE A.P. TO LOTS 13, 14 AND 15 INTO FOUR NEW BUILDABLE LOTS AS SHOWN ON THIS PLAN.
- 2) RECORD OWNER OF TOWN OF WESTPORT ASSESSORS PLAT 43 LOTS 13, 14 AND 15 LISTED AS RICHARD FAMILY TRUST AS INDICATED IN BRISTOL COUNTY REGISTRY OF DEEDS, SOUTHERN DISTRICT ON BOOK 3267 PAGE 231 RECORDED 3/25/1994
- 3) NORTHERN PROPERTY LINE STONEWALL HAS BEEN RESULT. TESTIMONY FROM LOCUS OWNER AND NORTHERN ASBUTTER STATES THAT WALL WAS RESULT ON PREVIOUSLY EXISTING WALL. THIS STATEMENT IS SUPPORTED BY EVIDENCE OBTAINED BY HISTORICAL AERIAL PHOTOGRAPHY.
- 4) THIS PLAN SUPERSEDES THE DIVISION OF LOTS 2, 3 AND 4 AS SHOWN IN PLAN BOOK 180 PAGE 95.
- 5) FOR ADDITIONAL INFORMATION, SEE SURVEYORS RECORDS.

**DEED REFERENCES**  
AS NOTED ON PLAN.

**PLAN REFERENCES**

PLAN BOOK 133 PAGE 109  
PLAN BOOK 134 PAGE 13  
PLAN BOOK 171 PAGE 44  
PLAN BOOK 137 PAGE 30  
PLAN BOOK 149 PAGE 87  
PLAN BOOK 156 PAGE 95  
PLAN BOOK 98 PAGE 96  
PLAN BOOK 84 PAGE 18

**GRAPHIC SCALE**



I CERTIFY THAT THIS SURVEY AND PLAN CONFORM TO THE ETHICAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS DATED JANUARY 1, 2018.

REGISTERED PROFESSIONAL LAND SURVEYOR

DATE

APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
WESTPORT PLANNING BOARD

1)  
2)  
3)  
4)  
5)  
DATE

ENDORSEMENT BY THE PLANNING BOARD DOES NOT CONSTITUTE CONFORMANCE TO WESTPORT ZONING BYLAWS NOR ASSURE THAT ANY LOT CREATED HEREIN IS BUILDABLE.

**PLAN OF LAND**

AT: **533 HORSENECK ROAD**

**WESTPORT, MA**

FOR: **RICHARD FAMILY TRUST**

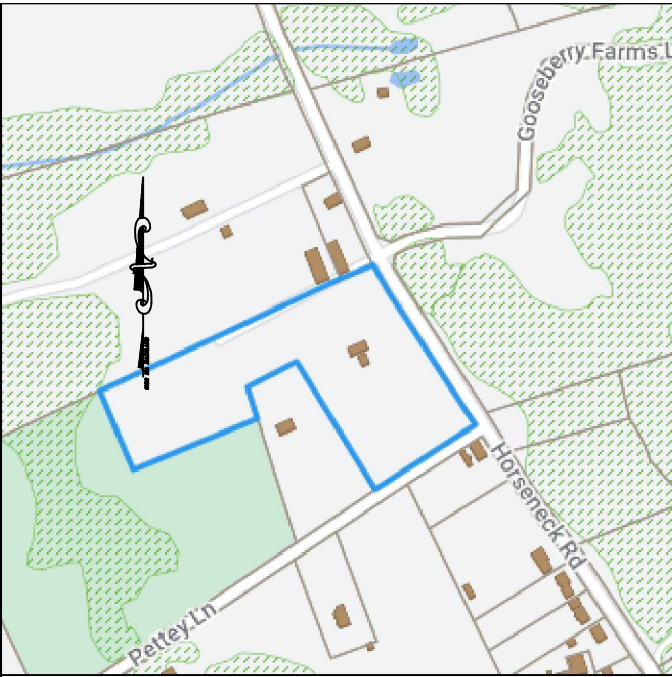
**SOUTHCOST ENGINEERING**

P.O. BOX N 217 WESTPORT, MA 02790

SCALE: AS NOTED (508) 636-8815 DATE: 12/06/22

DESIGN: GN DRAWN: 28-001A REV:

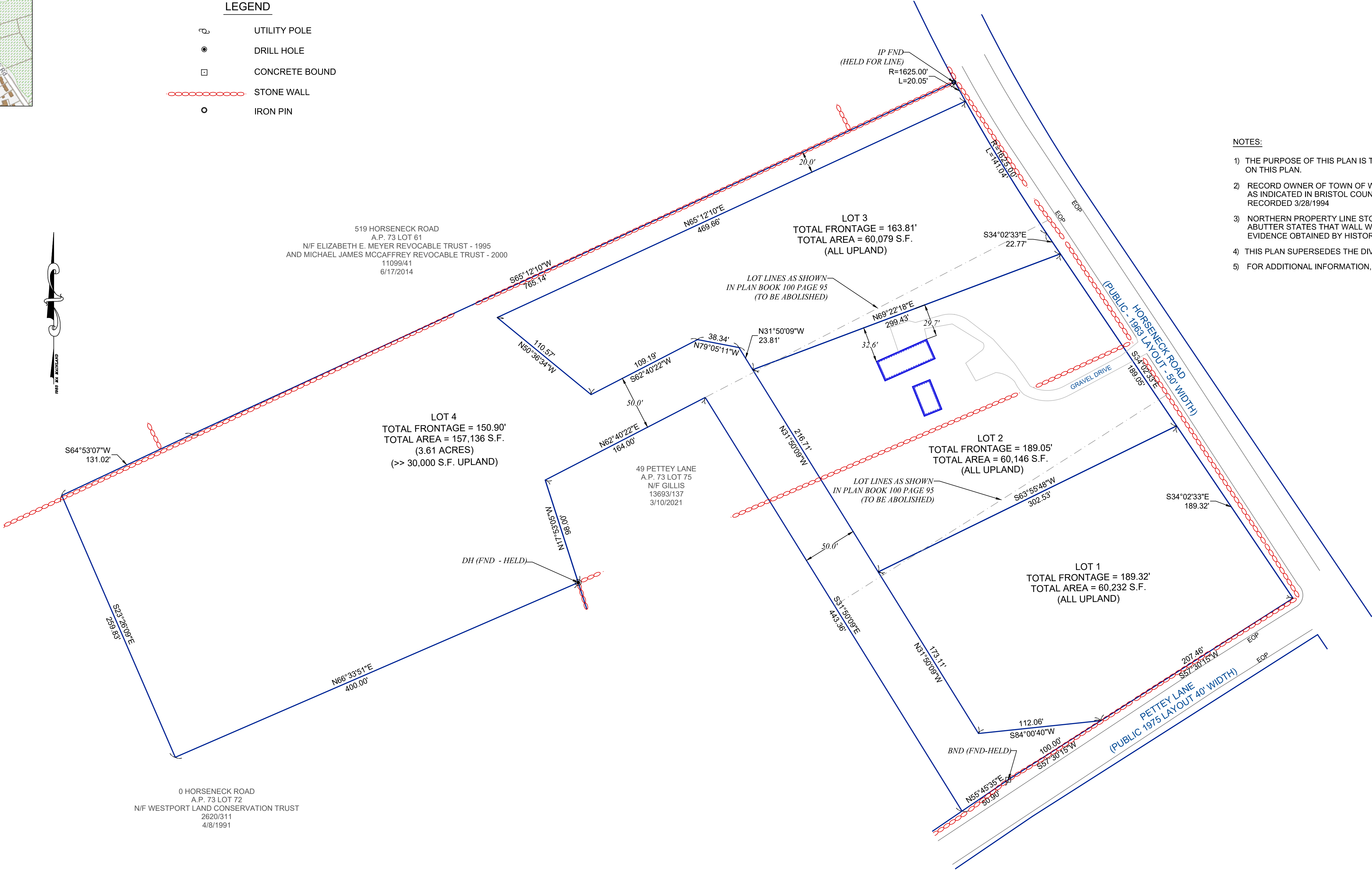
REV: FIELD: VV, GN



LOCUS  
(NOT TO SCALE)

LEGEND

- UTILITY POLE  
DRILL HOLE  
CONCRETE BOUND  
STONE WALL  
IRON PIN



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DEED REFERENCES:

AS NOTED ON PLAN.

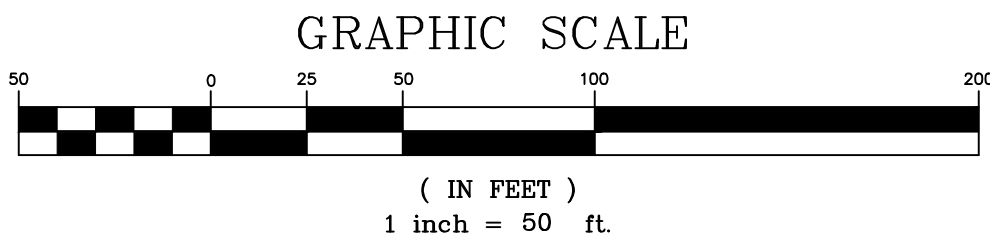
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PLAN BOOK 171 PAGE 44  
PLAN BOOK 137 PAGE 30  
PLAN BOOK 149 PAGE 87  
PLAN BOOK 100 PAGE 95  
PLAN BOOK 96 PAGE 96  
PLAN BOOK 64 PAGE 18

APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
WESTPORT PLANNING BOARD

1) \_\_\_\_\_  
2) \_\_\_\_\_  
3) \_\_\_\_\_  
4) \_\_\_\_\_  
5) \_\_\_\_\_  
DATE: \_\_\_\_\_

ENDORSEMENT BY THE PLANNING BOARD DOES NOT CONSTITUTE CONFORMANCE TO  
WESTPORT ZONING BYLAWS NOR ASSURE THAT ANY LOT CREATED HEREIN IS  
BUILDABLE.



I CERTIFY THAT THIS SURVEY AND PLAN CONFORM TO ETHICAL, PROCEDURAL AND  
TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH  
OF MASSACHUSETTS.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES  
AND REGULATIONS OF THE REGISTERS OF DEEDS DATED JANUARY 1, 2018.

REGISTERED PROFESSIONAL LAND SURVEYOR

DATE

PLAN OF LAND		
AT:	533 HORSENECK ROAD	
	WESTPORT, MA	
FOR:	RICHARD FAMILY TRUST	
SOUTHCOST ENGINEERING		
P.O. BOX N 217 WESTPORT, MA 02790		
SCALE: AS NOTED	(508) 636-8815	DATE: 12/29/22
DESIGN: GN	DRAWN BY: GN	REV.
REV.		FIELD: VV, GN

PURPOSE OF THIS PLAN :

- TO SUBDIVIDE A PORTION OF THE EXISTING ASSESSOR'S LOTS 397-398, WITH NO EXISTING STRUCTURES ON PARCEL TO BE CONVEYED, BEING SHOWN AS PARCEL 'A' ON THIS PLAN.

- PARCEL 'A' IS NOT TO BE CONSIDERED A BUILDABLE LOT IN ITSELF AND IS TO BE COMBINED WITH ABUTTING LAND OWNED BY DEREK & SHANA VIVEIROS. & FOR THE PURPOSE OF THE SUBDIVISION CONTROL LAW, PARCEL 'A' CANNOT BE USED AS A SITE FOR A BUILDING WITHOUT FURTHER ZONING RELIEF

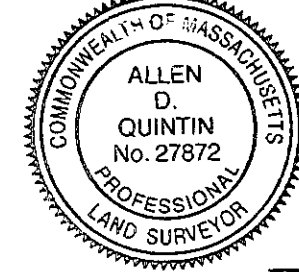
RECEIVED

February 15, 2023

WESTPORT  
PLANNING BOARD

WESTPORT PLANNING BOARD "APPROVAL UNDER  
SUBDIVISION CONTROL LAW NOT REQUIRED."

"I CERTIFY THIS PLAN HAS BEEN PREPARED IN  
CONFORMITY WITH THE RULES AND  
REGULATIONS OF THE REGISTERS OF DEEDS."



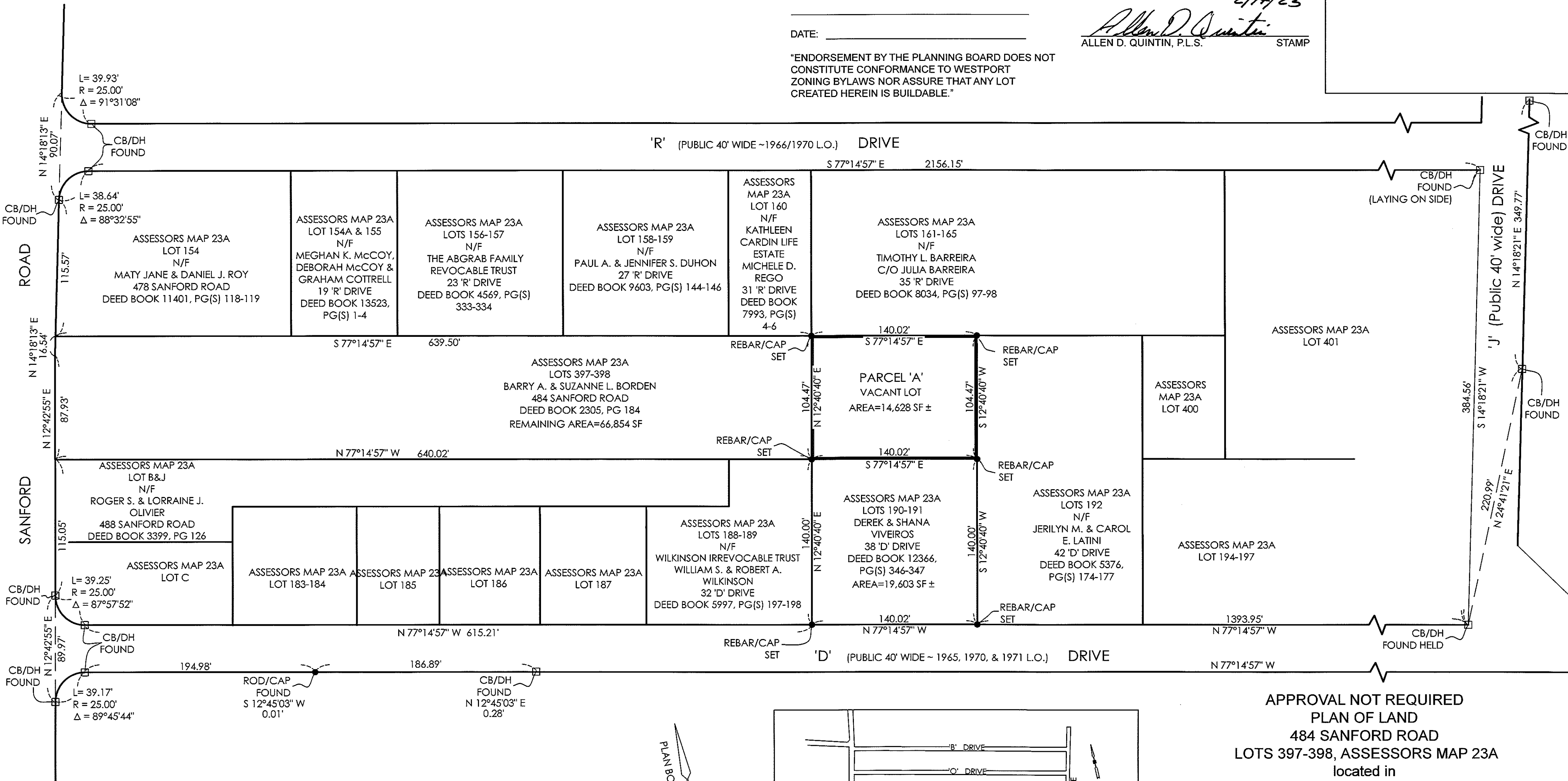
2/14/23

ALLEN D. QUINTIN, P.L.S.

STAMP

DATE:

"ENDORSEMENT BY THE PLANNING BOARD DOES NOT  
CONSTITUTE CONFORMANCE TO WESTPORT  
ZONING BYLAWS NOR ASSURE THAT ANY LOT  
CREATED HEREIN IS BUILDABLE."



GENERAL NOTES:

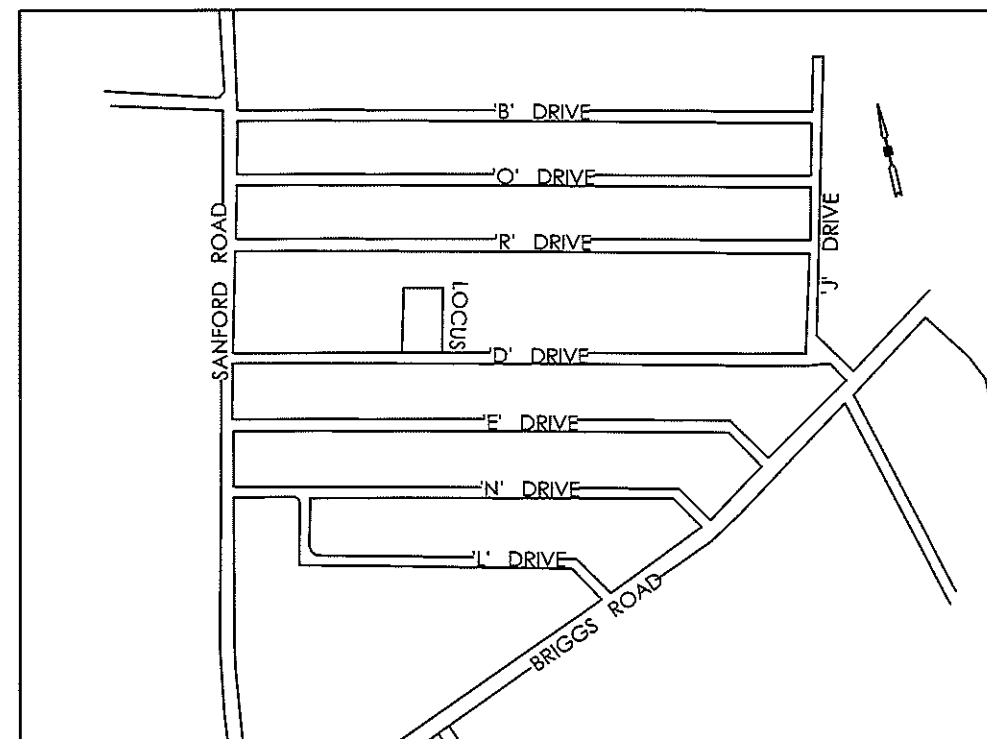
REFER TO PLAN BOOK 84, Page 74.  
REFER TO PLAN BOOK 40, PAGE 54.

OWNER OF RECORD:  
ASSESSORS MAP 23A, LOTS 397-398  
DEED BOOK 2305, PAGE 184  
BARRY A. & SUZANNE L. BORDEN  
484 SANFORD ROAD  
WESTPORT, MA 02790

ZONING REQUIREMENTS:

AREA = 60,000 SF (30,000 SF UPLAND)  
FRONTAGE = 150'  
FRONT YARD SETBACK = 25'  
SIDE YARD SETBACK = 10'  
REAR YARD SETBACK = 6'

PLAN BOOK 40, PAGE 54



LOCUS MAP: n.t.s.

APPROVAL NOT REQUIRED  
PLAN OF LAND  
484 SANFORD ROAD  
LOTS 397-398, ASSESSORS MAP 23A  
located in  
WESTPORT, MA  
prepared for  
DEREK & SHANA VIVEIROS

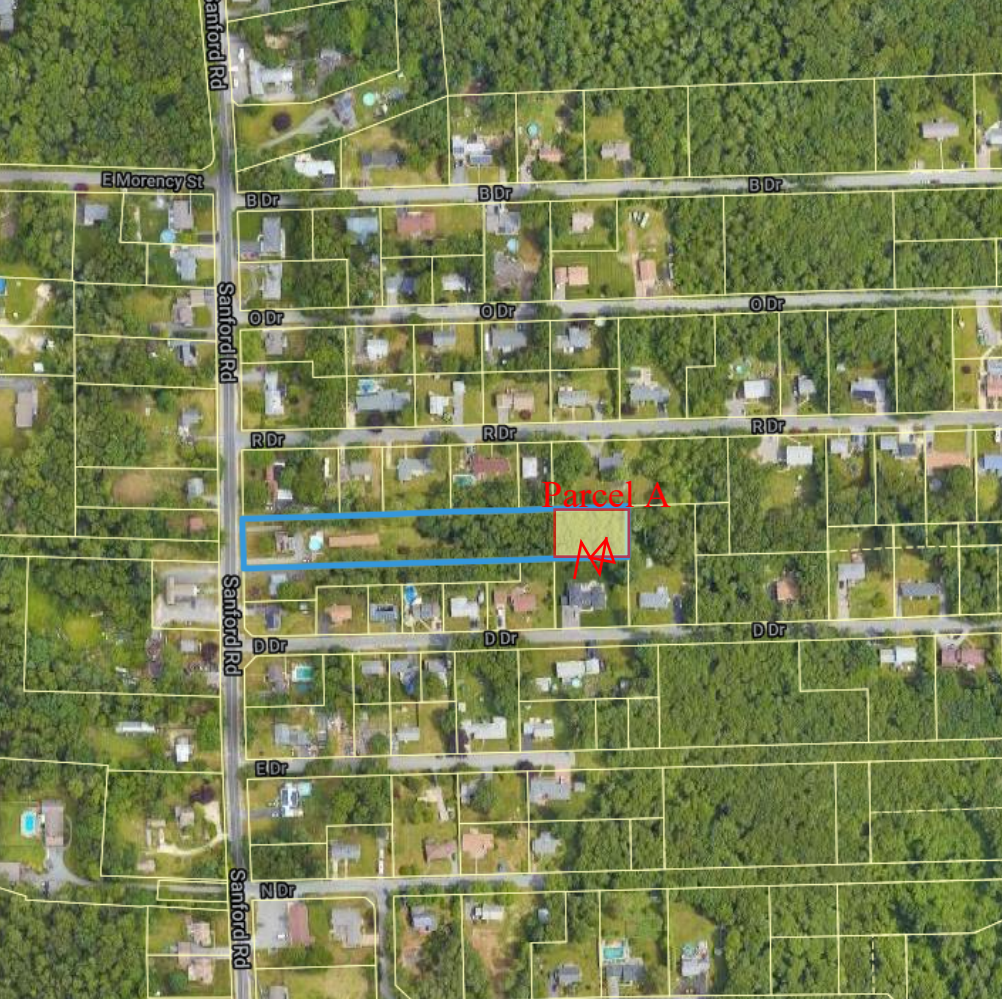


SCALE: 1" = 60'

DATE: 2/09/2023

Allen D. Quintin, P.L.S.  
28 Costa Street  
N. Dartmouth, MA

REV. NO.	REVISION	BY	DATE	JOB NO.
				22-051



E Morency St

Sanford Rd

BDr

BDr

BDr

Sanford Rd

ODr

ODr

ODr

RDr

RDr

RDr

Parcel A



Sanford Rd

DDr

DDr

DDr

EDr

Sanford Rd

NDr

# Project Locus with Plan Overlayed





**TOWN OF WESTPORT**  
856 Main Road  
Westport, Massachusetts 02790

Tel. (508) 636-1037  
Fax (508) 636-1031

***PLANNING BOARD***

Subject: Planner's Report – February 21, 2023

- 2023 Annual Town Meeting: zoning revisions
- Route 6 Rezoning
- Municipal Vulnerability Preparedness Program Grant
- Open Meeting Law: remote meetings update
- Main Road Streetscape Improvement Plan

Sincerely,

Michael Burris  
Town Planner, AICP

East Bay Media Group  
PO Box 90  
Bristol, RI 02809  
Phone: (401) 253-6000



## Invoice

**RECEIVED**

February 13, 2023

WESTPORT  
PLANNING BOARD

**Bill To:**  
Nadine Castro  
Westport Planning Department  
856 Main Rd  
Westport, MA 02790

**Advertiser:** Westport Planning Department

DATE	INVOICE #	SALES REP
2/2/2023	2023-159823	Scott Pickering

Pub.	Billing Note	Issue	Year	Ad Size	Net
Westport Shorelines	Feb. 7 public hearing	Feb 2	2023	3/14 Ver. (tall)	\$246.00
					\$246.00

### Zoning By-law amendments

Invoice Total:	\$246.00
----------------	----------

[CLICK HERE](#) TO MAKE YOUR PAYMENT

or go online to: <http://portal.mirabeltechnologies.com/signup/1646>  
[View Digital Tearsheet\(s\)](#)

**Questions about your bill or account? Please email [accounting@eastbaymediagroup.com](mailto:accounting@eastbaymediagroup.com) or Call (401) 424-9134.**

**Please make all checks payable to:**

*East Bay Media Group  
PO Box 90  
Bristol, RI 02809*

**Please return the top portion of this invoice.**

East Bay Media Group  
PO Box 90  
Bristol, RI 02809  
Phone: (401) 253-6000



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Nadine Castro  
Westport Planning Department  
856 Main Rd  
Westport, MA 02790

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February 13, 2023

WESTPORT  
PLANNING BOARD

**Advertiser:** Westport Planning Department

DATE	INVOICE #	SALES REP
2/16/2023	2023-160880	Scott Pickering

Pub.	Billing Note	Issue	Year	Ad Size	Net
Westport Shorelines	Stonebridge hearing	Feb 16	2023	1/14 Ver.	\$82.00
					\$82.00

**23-002SP Stoneridge: A Private Community**

<b>Invoice Total:</b>	<b>\$82.00</b>
-----------------------	----------------

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Nadine Castro  
Westport Planning Department  
856 Main Rd  
Westport, MA 02790

**RECEIVED**  
  
February 13, 2023  
  
WESTPORT  
PLANNING BOARD

**Advertiser:** Westport Planning Department

DATE	INVOICE #	SALES REP
2/23/2023	2023-160881	Scott Pickering

Pub.	Billing Note	Issue	Year	Ad Size	Net
Westport Shorelines	Stonebridge hearing	Feb 23	2023	1/14 Ver.	\$82.00
					\$82.00

Invoice Total:	\$82.00
----------------	---------

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PO Box 90  
Bristol, RI 02809*

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PO Box 90  
Bristol, RI 02809  
Phone: (401) 253-6000



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February 13, 2023

WESTPORT  
PLANNING BOARD

**Bill To:**  
Nadine Castro  
Westport Planning Department  
856 Main Rd  
Westport, MA 02790

**Advertiser:** Westport Planning Department

DATE	INVOICE #	SALES REP
3/2/2023	2023-161082	Scott Pickering

Pub.	Billing Note	Issue	Year	Ad Size	Net
Westport Shorelines	March 21 public hearing	Mar 2	2023	1/14 Ver.	\$82.00
					\$82.00

**23-005SP-FF Buzzards Bay Coalition**

<b>Invoice Total:</b>	<b>\$82.00</b>
-----------------------	----------------

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Bristol, RI 02809*

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February 13, 2023

WESTPORT  
PLANNING BOARD

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Nadine Castro  
Westport Planning Department  
856 Main Rd  
Westport, MA 02790

**Advertiser:** Westport Planning Department

DATE	INVOICE #	SALES REP
3/9/2023	2023-161083	Scott Pickering

Pub.	Billing Note	Issue	Year	Ad Size	Net
Westport Shorelines	March 21 public hearing	Mar 9	2023	1/14 Ver.	\$82.00
					\$82.00

**23-005SP-FF Buzzards Bay Coalition**

<b>Invoice Total:</b>	<b>\$82.00</b>
-----------------------	----------------

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**Please make all checks payable to:**

*East Bay Media Group  
PO Box 90  
Bristol, RI 02809*

**Please return the top portion of this invoice.**

PM



W.B. MASON CO., INC.  
59 Centre St  
Brockton, MA 02301

Address Service Requested  
888-WB-MASON www.wbmason.com

Invoice Number	236030369
Customer Number	C1076112
Invoice Date	02/02/2023
Due Date	03/04/2023
PO Number	23-175-02
Order Date	02/01/2023
Order Number	S130127646
Order Method	WEB

1863 1 AB 0.507 E0352X I0558 D10253632315 S2 P9509771 0001:0001



WESTPORT PLANNING BOARD  
856 MAIN RD  
WESTPORT MA 02790-4311

**Delivery Address**  
Town of Westport  
Attn.: Planning Dept.  
856 Main Road  
Westport MA 02790

W.B. Mason Federal ID #: 04-2455641

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Sign up for Paperless Invoicing at [wbmason.com/paperless](http://wbmason.com/paperless). Your Registration Code: 5637427681

## Looking for an easier way to see and pay bills?

Visit [WWW.WBMASON.COM/ACCOUNTSTATEMENT.aspx](http://WWW.WBMASON.COM/ACCOUNTSTATEMENT.aspx) to access your account, go paperless, review invoices and account statements, and link your checking account or credit card to make fast secure payments.

ITEM NUMBER	DESCRIPTION	QTY	U/M	UNIT PRICE	EXT PRICE
COS061961	PAD,F/PHRASE DATER,BE/RD	1	EA	10.45	10.45
KMWK97603WW	HEADSET,KENSINGTON HI-FI,STEREO,WIRED,MICROPHONE	1	EA	19.99	19.99
LOG920003051	KEYBOARD,K270,WRLS,BK	1	EA	23.83	23.83
LOG910002225	MOUSE,WIRELS, M185,BK	1	EA	22.67	22.67

SUBTOTAL: 76.94  
TAX & BOTTLE DEPOSITS TOTAL: 0.00  
ORDER TOTAL: 76.94  
Total Due: 76.94

To ensure proper credit, please detach and return below portion with your payment



W.B. MASON CO., INC.  
PO BOX 981101  
BOSTON, MA 02298-1101

WESTPORT PLANNING BOARD  
856 MAIN RD  
WESTPORT MA 02790-4311

## Remittance Section

Customer Number	C1076112
Invoice Number	236030369
Invoice Date	02/02/2023
Terms	Net 30
<b>Total Due</b>	<b>76.94</b>

PLEASE REFERENCE INVOICE NUMBER WHEN  
MAKING PAYMENT. PAY ON OUR WEBSITE OR  
SEND PAYMENT TO:

W.B. MASON CO., INC.  
PO BOX 981101  
BOSTON, MA 02298-1101

## TOWN OF WESTPORT PLANNING BOARD



### MEETING MINUTES February 7, 2023

#### **PLANNING BOARD MEETING**

Chairman Jim Whitin called the meeting to order at 6:03 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Mark L. Schmid, Town Planner, Michael Burris, and Assistant Town Planner Amy Messier in attendance.

**Chair's Announcement** – Under M.G.L. Chapter 30A, section 20(f) – The meeting is being recorded.

#### **Call to order 6:00 p.m.**

#### **6:00 p.m. Public Hearing**

##### *1. Administrative Items*

**a. Pre-Application Consultation (23-003PAC)** Request by the applicant to discuss a proposed subdivision of 2 lots for 0 Gifford Road, Map 29 Lot 22C.

Emanuel Pacheco, Jr. was present along with Emanuel Pacheco, Sr. of 26 Andrea Court. The applicant gave a brief description of three plan options he chose to present to the Board for their feedback and suggestions. The applicant commented he preferred the design marked “future rural lane” but that would require a waiver for the radius.

The Board agreed that design option two was the more favorable design.

There is no official action the Board can take on the pre-application consultation.

**b. Pre-Application Consultation (23-006PAC)** Request by the applicant to discuss a proposed Special Permit Common Driveway and Flexible Frontage of 3 lots for 744 Drift Road, Map 54 Lot 43A.

Keith Kauppila of 744 Drift Road was present. The applicant is looking for general feedback and suggestions regarding dividing his 24.9-acre lot into three lots using the Special Permit Flexible Frontage By-Law with access from a common driveway.

Whitin commented that the design does not meet the required 50' frontage for the Flexible Frontage By-Law to service the three lots.

Ms. Messier mentioned that based on the length of the shared driveway on the current plan, the length of the common driveway exceeds the common driveway By-Law limit of 500'.

Daylor and Whitin recommended creating a subdivision using the existing driveway using the Rural Residential Lane by-law as a possible alternative to achieve the desired layout he is looking for.

## **2. 6:15 p.m. Public Hearing**

### **a. 2023 Zoning Bylaw Amendments**

Whitin announced an overview of the minor amendments of the Flexible Frontage, Accessory Apartments, and Solar Energy systems proposed changes to the 2023 Zoning By-laws will be addressed separately.

Burris reviewed the 2023 Zoning Bylaw sections that would be changed and/or modified and he answered the Board's questions and comments. Whitin announced to the television audience that questions and comments can be directed to the Assistant Planner and Planner in the Planning Department.

### **Motion**

Bullard moved to forward the Zoning Bylaw changes, as amended, to the Town Administrator to be reviewed by Town Council. Seconded by Daylor with all five members in favor.

Bullard suggested informing the Town Administrator and Town Council that the comment period would remain open until February 21, 2023, for public input.

Bullard suggested that at the town meeting, an announcement should be made that all proper notification measures for the public hearings were followed along with public meetings with the Zoning Board of Appeals for their input.

Whitin added that he will email a copy of the amendments to Town Moderator Steve Fors, asking if all of the amendments needed to be read at Town Meeting or if it could be noted that the changes are primarily technical.

## **3. Assistant/Planners report**

### **Assistant Planners Report**

Ms. Messier read her updates into the record.

#### **Isidoro Court:**

- Spoke to Town Counsel about this matter, Town Counsel informed Ms. Messier that the case is still open and pending, however, there has not been any recent activity.

#### **Bentley Estates (Bentley Lane):**

- Mr. Kfoury mentioned that he will contact S.W. Cole in the spring to go over the items that need to be completed to wrap the project up.

#### **Granite Post Road; "Meadowbrook"; Lawton Trust:**

- Reached out to Bob Carrigg, waiting for a reply back on the status of these projects, and provided him with a breakdown of all of the surety being held for the individual projects.

Stacey Lane (off Fisher Rd.)

- Spoke with Capt. Brisk – the subsurface water tank has been installed, a letter will be provided by the Fire Department once they get on site to test the system, should take place within the next two weeks. Ms. Messier requested a letter for the files from Captain Brisk after the system is be tested. She will also follow up with the Building Inspector regarding the additional houses that are being built on that road.

Harbor Water Study:

- Reached out to Frank of Weston & Sampson to follow up from the last meeting in mid-December since at the last meeting a follow up meeting was loosely established to be sometime in mid-January.

Rte. 88/ Sullivan Drive Solar (Soltage, LLC) :

- Spoke with Manny Costa, a pre-construction meeting will most likely be scheduled within the next week or so for this project. This project site is approx. 43 acres with (2 sites), with 8.5 acres and 5.5 acres to be occupied by solar array)
- A check received today for \$50,000 – waiting on the signed hard copy of Form G

Walter's Way:

- There's been no movement on this for quite some time (summer 2021), we have \$24,000 in surety, Ms. Messier will reach out to the applicants legal representative again, and if no response, Walter's Way can go through the same process as Maya Way in order to be somewhat corrected for the amount we are holding. The last quote we received was in November of 2021 for \$66,520.00.

**Planner's Report**

Burris read and answered questions about his report:

- ANR Staff report template
- One Stop Expressions of Interest was submitted for the street-scape improvements at Central Village, the feasibility of converting the old high school to a multi-use municipal center, and extending sewer from Fall River to Route 88.
- The Buzzards Bay National Estuary Program Grant proposal was submitted with the support of the Buzzards Bay Coalition, which assisted in preparing the application for the feasibility of wastewater at the Let.
- Finance Committee Meeting update.

Whitin mentioned that he received an email about funding opportunities from the SNIP Grant Network, which he will forward to the Town Planner for his review.

**4. Invoices**

**East Bay Media Group** - Zoning By-Law ad - \$246.00

**Motion**

Bullard moved to approve the East Bay Media Invoice of \$246. Seconded by Daylor with all five members in favor.

**5. Correspondence**

Zoning Board of Appeals notice - Noted.

**6. Minutes**

January 24, 2023

**Motion**

Bullard moved to approve the January 24, 2023 minutes as amended. Seconded by Daylor with all five members in favor.

**7. Short/Long-term Planning Discussions**

Bullard is asking the Planning Board to support forming sub-committee on the impact of historic structures and buildings relevant to climate change. Bullard recommends Wendy Nicholas and Christopher (Kit) Wise to the Community Resilience Committee.

**Motion**

Bullard recommends endorsing the appointment of Wendy Nicholas and Christopher Wise to the Climate Resiliency Committee. Seconded by Daylor with all five members in favor.

**ADJOURNMENT**

The Board unanimously agreed to adjourn at 8:11p.m.

NOTE: Agenda is subject to change

***NEXT MEETINGS:***

*Planning Board: February 21, 2023 at 6:00 p.m.*

*Work Session: ?*