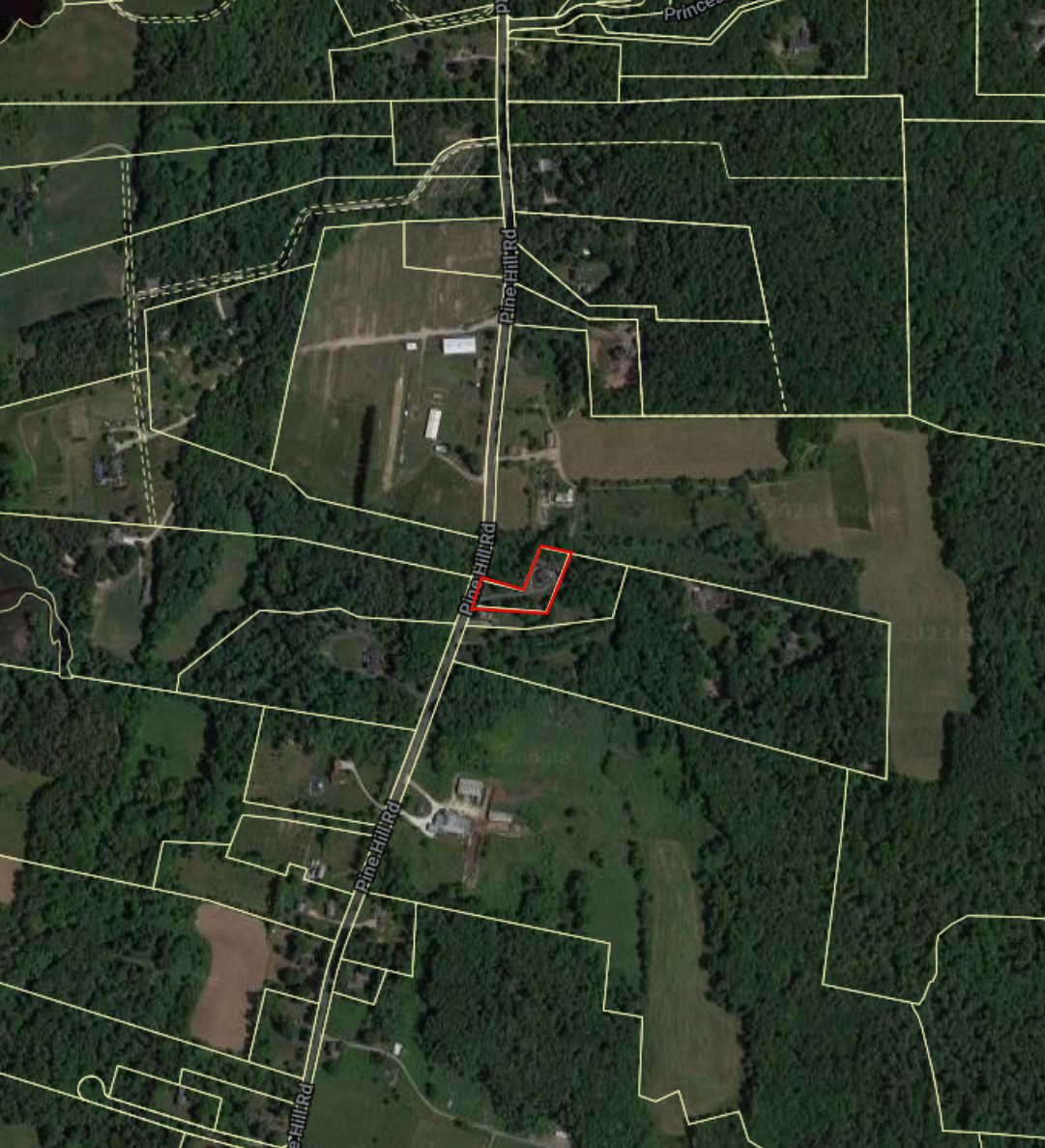
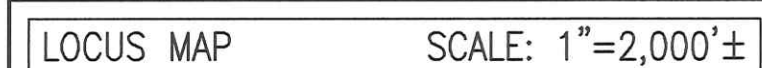


Planning Board Meeting

OCTOBER 3, 2023







DISTRICT: RESIDENTIAL/AGRICULTURAL	
<u>DESCRIPTION</u>	<u>REQUIRED</u>
LOT AREA	60,000 S.F.
LOT FRONTAGE	150 FT
FRONT SETBACK	25 FT
SIDE SETBACK	10 FT
REAR SETBACK	6 FT

APPROVAL UNDER THE SUBDIVISION CONTROL LAW
NOT REQUIRED

DATE:..

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

PLAN REFERENCES:

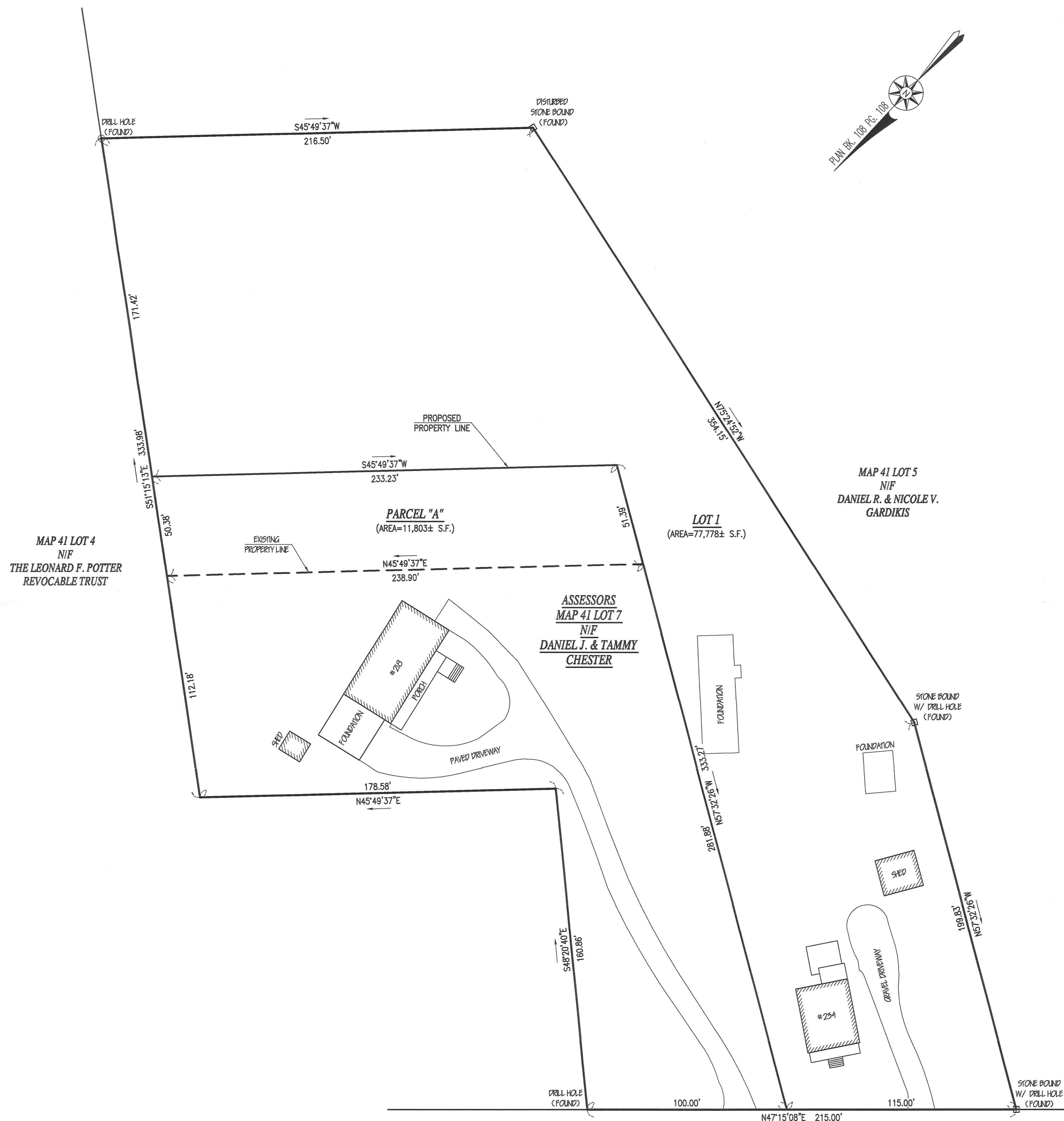
PLAN BOOK 92 PAGE 69
PLAN BOOK 108 PAGE 108

RECORD OWNER:

ASSESSORS MAP 41 LOT 6
MICHAEL D. GAGNON & DONNA A. GAGNON
234 PINE HILL ROAD
WESTPORT, MA 02790
DEED BOOK 2043 PAGE 587
PLAN BOOK 92 PAGE 69

NOTES:

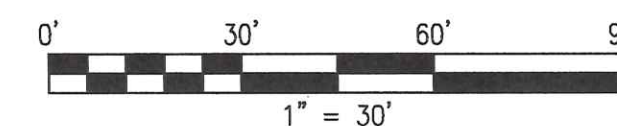
1. SURVEY LOCATIONS PERFORMED BY FARLAND CORP. IN JUNE 2023.
2. THE PURPOSE OF THE PLAN IS TO SUBDIVIDE PROPERTY OWNED BY MICHAEL D. GAGNON AND DONNA A. GAGNON, BY CREATING LOT 1 AND PARCEL "A". PARCEL "A" IS NOT TO BE CONSIDERED A SEPARATE BUILDABLE LOT AND IS TO BE COMBINED WITH THE ABUTTING LAND OWNED BY DANIEL J. & TAMMY CHESTER FOR A TOTAL AREA OF 53,048± S.F.



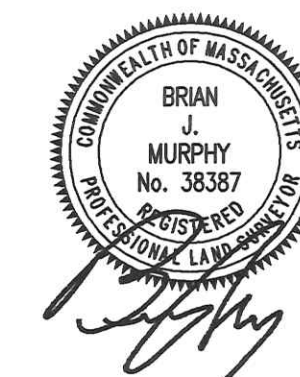
PINE HILL ~PUBLIC - VARIABLE WIDTH~ ROAD

RECEIVED
SEP - 7 2023

WESTPORT
PLANNING BOARD



REVISIONS



www.FarlandCorp.com

154 HUTTLESTON AVENUE
FAIRHAVEN, MA 02719
P.508.717.3479

- ENGINEERING
- SITEWORK
- LAND SURVEYING
- DEVELOPMENT

DRAWN BY: SB

DESIGNED BY: ***

CHECKED BY: BJM

APPROVAL NOT REQUIRED

— 234 PINE HILL ROAD —
ASSESSORS MAP 41 LOTS 6 & 7
WESTPORT, MASSACHUSETTS

PREPARED BY: TAMMY CHESTER
FOR: 218 PINE HILL RD

JULY 28, 2023

SCALE: 1"=30'

JOB NO. 23-210

LATEST REVISION:

SHEET 1 OF 1

23-033A



TOWN OF WESTPORT

856 Main Road
Westport, MA 02790

PLANNING BOARD

Approval Not Required

Tel. (508) 636-1037

planning@westport-ma.gov

ASSISTANT PLANNERS REPORT

OCTOBER 3, 2023

File No.:	23-033A
Owner(s):	Michael & Donna Gagnon (lot 6) , Daniel & Tammy Chester (Lot 7)
Applicant(s):	Daniel & Tammy Chester
Address:	234 Pine Hill Rd.
Parcel:	Map 41 Lot 6 (218 Pine Hill Rd.) & Map 41 Lot 7 (234 Pine Hill Rd.)
Acreage:	2.057 ac (lot 6) & .946 AC (lot 7)
Upland:	All area on both properties is upland
Wetland:	N/A
Proposal:	To subdivide the property owned by Michael & Donna Gagnon by creating lot 1 and Parcel "A". Parcel "A" is not to be considered a separate buildable lot and is to be combined with the abutting land by Daniel and Tammy Chester for a total area of 53,048 s.f.

Staff Review: Approval Not Required (ANR)

- Per MGL Chapter 41, §81L, an ANR must meet the following criteria for ANR endorsement:

1. The lots shown on the plan must front on one of three types of ways:

- (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way;*
- (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law; or,*
- (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies.*

- **The applicant's frontage fronts on Pine Hill Road which is a public way that is certified by the Town Clerk and is maintained and used as a public way.**

2. The lots shown on the plan must meet the minimum frontage requirements:

Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.

- **The creation of parcel "A" to be combined with the abutting land (Lot 7) owned by Daniel and Tammy Chester will leave the existing frontage unchanged. The current frontage for Lot 6 is 115' and the current frontage for lot 7 is 100'.**

3. Determination that the access to the buildable areas of the lots is provided:

[The way has], in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the 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.

- **There will be no change to Pine Hill Road, or the creation of any “way” relating to this proposal. Pine Hill Road is a Town accepted street that provides sufficient width and suitable grades.**

• Westport Zoning By-Laws, section 7, Intensity Regulations, requires a minimum lot area of 60,000 square feet and contiguous uplands of 30,000 square feet.

- **Lot 6 currently has approximately 89,639 s.f. in area and uplands**
- **Lot 7 currently has approximately 41,248. s.f. in area and uplands**
- **The addition of parcel “A” to lot 7 will increase the lot size to 53,051 s.f. in area and will leave lot 6 with 77,836 s.f. of area.**
- **Staff finds that lot 7 will remain unbuildable as it does not meet the 60,000 s.f. requirement and leaves lot 6 to still be considered as buildable due to its sufficient area under the Zoning By-Laws.**

Staff Recommendation

Staff finds that the proposed ANR meets the criteria for ANR endorsement. Staff recommends that the Planning Board (endorse the proposed ANR plan.



Amy L. Messier, Assistant Town Planner



Robert Terrace

Borden St

Christopher Dr

Sanford Rd

Sanford Rd

Sanford Rd

Old Rd

Alberto Dr

Grand Army of the Republic Hwy

PROJECT LOCATION: 146 STATE ROAD, WESTPORT, MA.
ASSESSOR'S MAP 03, LOT 40-40A.

- ### GENERAL NOTES

- | ZONING TABLE | | |
|--|-----------|-----------|
| ZONE: BUSINESS | | |
| TOTAL LOT AREA MAP 3 LOT 40-40A = 1.37± ACRES | | |
| EXISTING USE: RESIDENTIAL - MULTI FAMILY
PROPOSED USE: AUTO SALESROOM CLASS-2 &
RESIDENTIAL - MULTI FAMILY | | |
| | REQUIRED | EXISTING |
| BUILDING SETBACK | | |
| FRONT SETBACK | 25 FT | 22.8 FT ± |
| SIDE SETBACK | 10 FT | 14.8 FT ± |
| REAR SETBACK | 6 FT | 47.8 FT ± |
| MAX. BUILDING HEIGHT | 40 FT | 20 FT ± |
| MIN. FRONTAGE | 150 FT | 200 FT ± |
| MIN. LOT AREA | 60,000 SF | 1.38 AC. |

PARKING SUMMARY			
	REQUIRED*	EXISTING	PROVIDED
STANDARD SPACES (10'x18')	6	3	6
ACCESSIBLE SPACES	1	0	0
TOTAL SPACES	6	3	6

MULTI-FAMILY RESIDENTIAL PARKING REQUIREMENT:

2 UNITS x 1.5 SPACES PER UNIT = 3 SPACES

TO SALESROOM CLASS-2 PARKING REQUIREMENT:

**AUTO SALESROOM CLASS-2 PARKING REQUIREMENT:
1.5 SPACES / 1,000 S.F. & 1 SPACE / 2 EMPLOYEES**

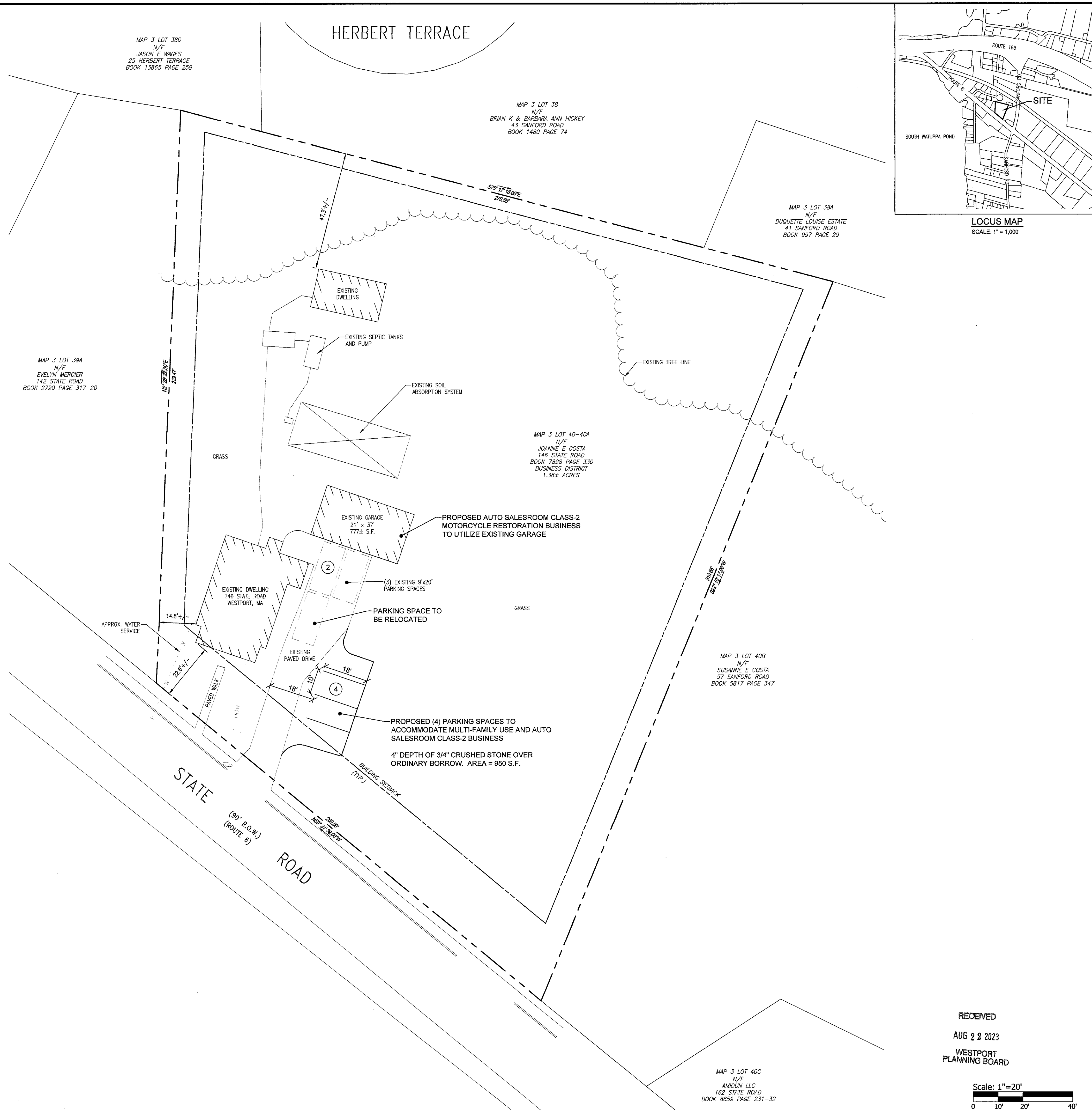
$$\frac{777 \pm \text{S.F. GARAGE}}{1,000 \text{ S.F.}} \times 1.5 \text{ SPACES} = 1.2 \text{ SPACES} = 2 \text{ SPACES}$$

$$\frac{2 \text{ EMPLOYEES}}{2 \text{ EMPLOYEES}} \times 1 \text{ SPACE} = 1 \text{ SPACE}$$

2 SPACES + 1 SPACE = 3 SPACES REQUIRED FOR AUTO SALESROOM

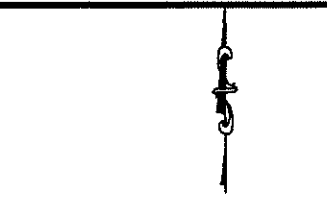
3 RESIDENTIAL + 3 AUTO SALESROOM = 6 REQUIRED SPACES TOTAL

PROPERTY LINE	
SETBACKS	
EASEMENT LINE	
CONTOUR MINOR	
CONTOUR MAJOR	
WATER LINE	
GAS LINE	
OVERHEAD ELECTRIC LINE	
LIMIT OF DISTURBANCE	
UTILITY POLE	
TREE LINE	
CHAIN LINK FENCE	
CURBING	
EDGE OF PAVEMENT	



OWNER:
JOANNE ECOSTA
146 STATE ROAD,
WESTPORT, MA 02790

APPLICANT:
JAMES BURKE
BURKE V TWIN
146 STATE ROAD,
WESTPORT, MA 02790

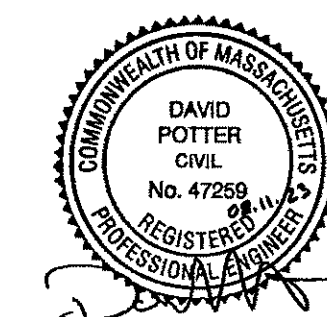


SCALE ADJUSTMENT GUIDE

0" 1"

BAR IS ONE INCH ON ORIGINAL DRAWING

BURKE V TWIN
146 STATE ROAD
WESTPORT, MASSACHUSETTS



REVISIONS:

[illegible]

PROJECT NO.:	23060.0
--------------	---------

DATE: 08/11/202

SCALE: AS SHOWN

DESIGNED BY: DJL

CHECKED BY: DL

DRAWN BY: DJL

APPROVED BY: _____ DL _____

DRAWING TITLE:

SITE PLAN

DRAWING NO.

C1.0

SHEET NO. 1 OF 1

RECEIVED

AUG 22 2023

WESTPORT
PLANNING BOARD

Scale: 1"=20'

23-030SPA-Minor

Assessors Dept

Form M-1 Plan Review Form

[CLICK HERE TO REVIEW ATTACHED PLAN.](#)

RECEIVED

September 14, 2023

WESTPORT
PLANNING BOARD

Email *

gabrielt@westport-ma.gov

Subject: **23-030SPA 146 State Road - Burke V Twin**

Request for Determination and Approval of Minor Site Plan

Comments and recommendations regarding the application of **James Burke; Burke V Twin** for property located at **146 State Road**, Assessor's **Map 3, Lots 40-40A**, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

A public meeting is scheduled for **October 3, 2023 AT 6:15 P.M.** at the Town Hall Annex. Your response is greatly appreciated no later than **September 14, 2023**.

I recommend the following:

Click recommendation below.

- ☒ Approval
- ☐ Approval with modifications
- ☐ Disapproval
- ☐ No Comment

The reasons for this recommendation is as follows:

This form was created inside of Town of Westport.

Google Forms

Please RETURN To Planning Board No Later Than
September 14, 2023

FROM: Board of Health

DATE: August 25, 2023

RECEIVED

AUG 29 2023

WESTPORT
PLANNING BOARD

TO: The Westport Planning Board

FORM M-1 PLAN REVIEW FORM

Application No. 23-030SPA-MINOR

SUBJECT: Comments and recommendations regarding the application of James Burke; Burke V Twin for property located at 146 State Road, Assessor's Map 3, Lots 40-40A, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

A public meeting is scheduled for **October 3, 2023** at **6:15** p.m. at the Westport Town Hall Annex.

Your response is greatly appreciated no later than September 15, 2023.


The undersigned recommends:

- ☒ Approval
☐ Approval with modifications
☐ Disapproval

☐ No Comment

of the above-named plan insofar as its area of jurisdiction is concerned. The reasons for this recommendation are as follows:

cc: Matt Armendo


Name of officer

Note: The Planning Board will take into consideration any recommendations made hereon before taking final action on the definitive subdivision plan. Lack of a timely report by any officer, agency, or board will be so recorded in the minutes of the Planning Board.

23-030SPA-MINOR

Please RETURN To Planning Board No Later Than
September 14, 2023

FROM: Building Dept

DATE: August 25, 2023

RECEIVED

AUG 31 2023

TO: The Westport Planning Board

WESTPORT
PLANNING BOARD

FORM M-1 PLAN REVIEW FORM

Application No. 23-030SPA-MINOR

SUBJECT: Comments and recommendations regarding the application of James Burke; Burke V Twin for property located at 146 State Road, Assessor's Map 3, Lots 40-40A, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

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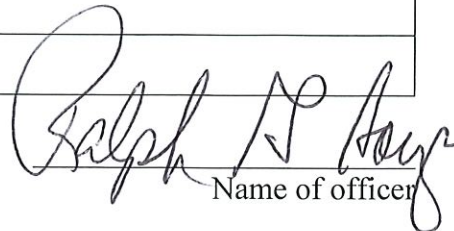
Your response is greatly appreciated no later than September 15, 2023.

The undersigned recommends:

- ☐ Approval
☐ Approval with modifications
☐ Disapproval

☒ No Comment

of the above-named plan insofar as its area of jurisdiction is concerned. The reasons for this recommendation are as follows:


Name of officer

Note: The Planning Board will take into consideration any recommendations made hereon before taking final action on the definitive subdivision plan. Lack of a timely report by any officer, agency, or board will be so recorded in the minutes of the Planning Board.

23-030SPA-MINOR

Conservation Commission

Form M-1 Plan Review Form

[CLICK HERE TO REVIEW ATTACHED PLAN.](#)

RECEIVED

August 25, 2023

WESTPORT
PLANNING BOARD

Email *

ccagent@westport-ma.gov

Subject: **23-030SPA 146 State Road - Burke V Twin**

Request for Determination and Approval of Minor Site Plan

Comments and recommendations regarding the application of **James Burke; Burke V Twin** for property located at **146 State Road**, Assessor's **Map 3, Lots 40-40A**, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

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I recommend the following:

Click recommendation below.

- ☒ Approval
- ☐ Approval with modifications
- ☐ Disapproval
- ☐ No Comment

The reasons for this recommendation is as follows:

Upland Commercial Site with no wetland issues.

This form was created inside of Town of Westport.

Google Forms

Fire Dept

Form M-1 Plan Review Form

[CLICK HERE TO REVIEW ATTACHED PLAN.](#)

Email *

captbrisk@westport-ma.gov

Subject: **23-030SPA 146 State Road - Burke V Twin**

Request for Determination and Approval of Minor Site Plan

Comments and recommendations regarding the application of **James Burke; Burke V Twin** for property located at **146 State Road**, Assessor's **Map 3, Lots 40-40A**, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

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I recommend the following:

Click recommendation below.

- ☒ Approval
- ☐ Approval with modifications
- ☐ Disapproval
- ☒ No Comment

The reasons for this recommendation is as follows:

Sales Only, no changes to structures.

This form was created inside of Town of Westport.

Google Forms

Board of Selectmen Form M-1 Plan Review Form

[CLICK HERE TO REVIEW ATTACHED PLAN.](#)

RECEIVED

September 12, 2023

WESTPORT
PLANNING BOARD

Email *

brownp@westport-ma.gov

Subject: **23-030SPA 146 State Road - Burke V Twin**

Request for Determination and Approval of Minor Site Plan

Comments and recommendations regarding the application of **James Burke; Burke V Twin** for property located at **146 State Road**, Assessor's **Map 3, Lots 40-40A**, Westport, MA, pursuant to Westport Zoning By-Law Section 8.7 for a Minor Site Plan Approval for an Auto Salesroom – Class 2 business on a property that is currently used as residential and the addition of three (3) parking spaces with no expansion of building footprints.

A public meeting is scheduled for **October 3, 2023 AT 6:15 P.M.** at the Town Hall Annex. Your response is greatly appreciated no later than **September 14, 2023**.

I recommend the following:

Click recommendation below.

- ☐ Approval
- ☐ Approval with modifications
- ☐ Disapproval
- ☒ No Comment

The reasons for this recommendation is as follows:

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Google Forms

Zoning Board of Appeals

Form M-1 Plan Review Form

[CLICK HERE TO REVIEW ATTACHED PLAN.](#)

RECEIVED

September 12, 2023

WESTPORT
PLANNING BOARD

Email *

brancom@westport-ma.gov

Subject: **23-030SPA 146 State Road - Burke V Twin**

Request for Determination and Approval of Minor Site Plan

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I recommend the following:

Click recommendation below.

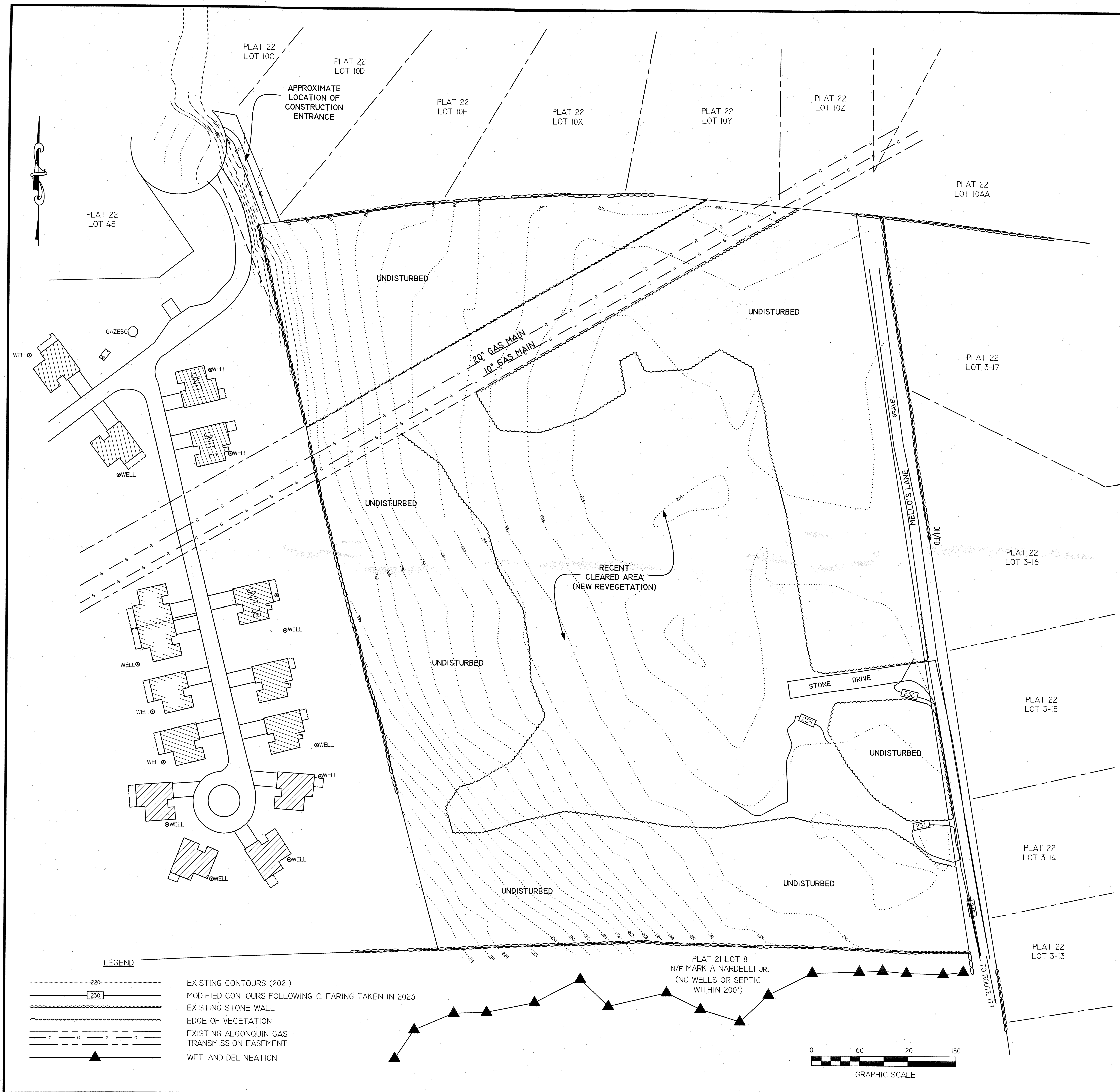
- ☐ Approval
- ☐ Approval with modifications
- ☐ Disapproval
- ☒ No Comment

The reasons for this recommendation is as follows:

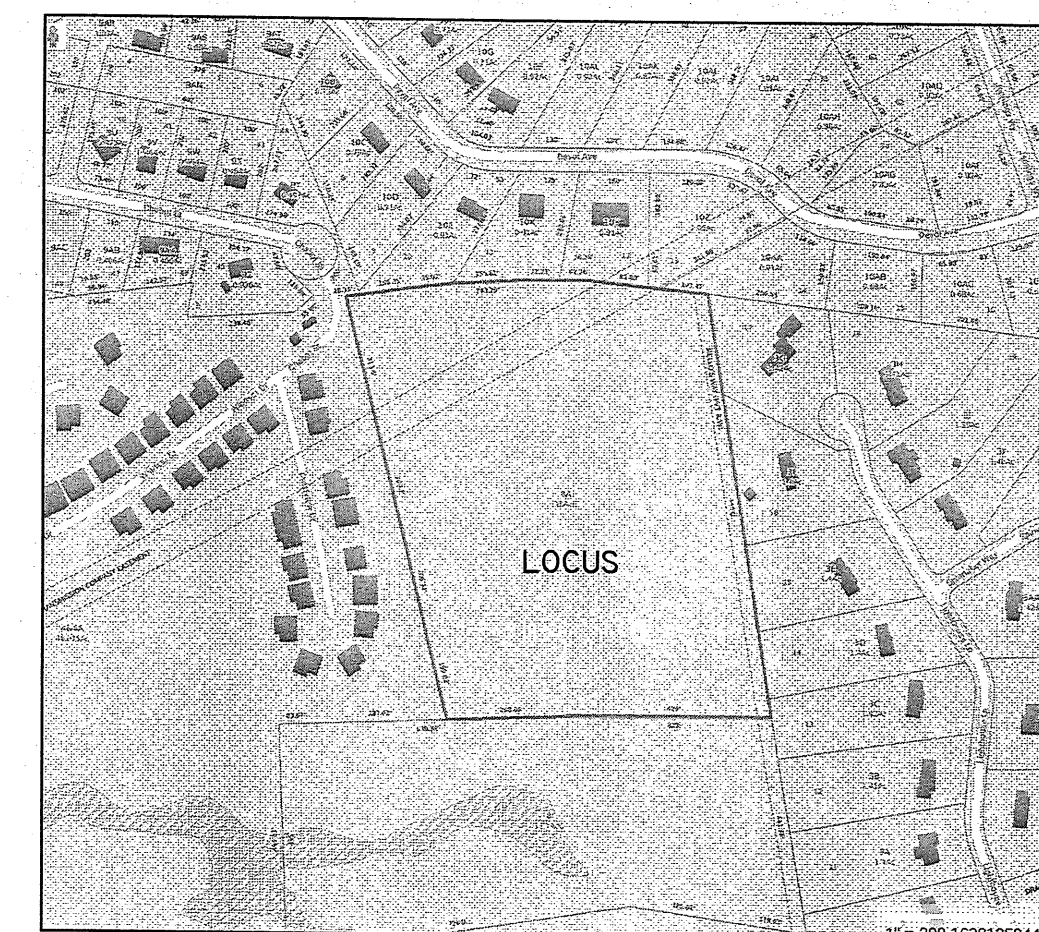
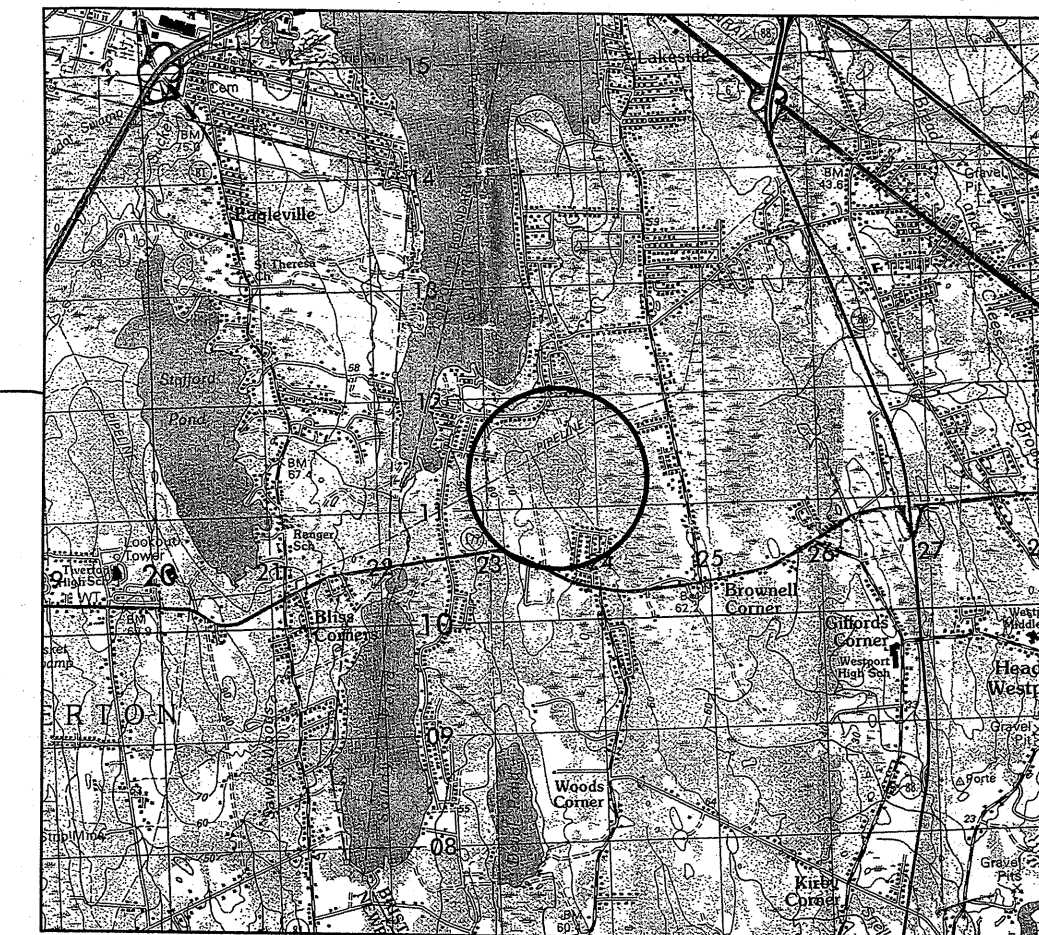
This form was created inside of Town of Westport.

Google Forms





LOCUS



ASSESSOR'S MAP
NOT TO SCALE

NOTES:

1. THIS LID PLAN AND APPLICATION HAS BEEN PREPARED TO REFLECT CLEARING AND STUMP REMOVAL THAT WAS PERFORMED IN ANTICIPATION OF A 39 UNIT CONDOMINIUM PROJECT THAT IS NO LONGER BEING PERSUED.
2. THE EXISTING (POST CLEARING) ELEVATIONS ARE MINOR RESULTING IN VIRTUALLY NO IMPACTFUL CHANGES.
3. THE EXISTING SITE WILL BE ALLOWED TO REVEGETATE NATURALLY TO RETURN TO PRE-CLEARING CONDITIONS.
4. THE PROPOSED LID PLAN MAY BE SUPERCEDED BY APPROPRIATE APPLICATION TO WESTPORT BUILDING DEPARTMENT AND/OR PLANNING BOARD.

RECEIVED
AUG 14 2023
WESTPORT
PLANNING BOARD

PROPOSED SITE PLAN FOR LIMITED IMPACT DEVELOPMENT (L.I.D.)
CATHERINE CARLOS / R.L. BUILDING & DEVELOPMENT
ASSESSOR'S PLAT 21 LOT 8A
CHABOT STREET/MELLO'S LANE
WESTPORT, MASSACHUSETTS

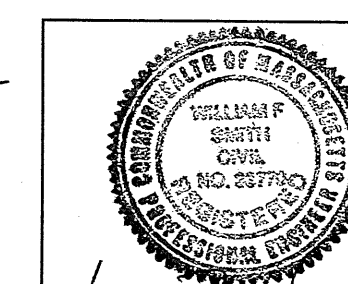
SCALE: 1" = 60' DATE: AUGUST 11, 2023

Civil Engineering Concepts, Inc.

34A MAIN STREET
LITTLE COMPTON, RI 02837
PH: (401) 592-0177
FAX: (401) 592-0178

EMAIL: wsmithccc@aol.com

JOB#: 21-084



REVISIONS:

23-0283PA-410

RECEIVEDwww.swcole.com

September 22, 2023

**WESTPORT
PLANNING BOARD**

22-1940 C

September 21, 2022

Town of Westport Planning Board
Attention: Mr. James Whitin Chairman
856 Main Road
Westport, MA 02790

Subject:

Low Impact Development 23-028SPA – LID
Chabot Street and Mello's Lane
Westport, Massachusetts

Dear Mr. Whitin:

S.W. Cole as requested has made site visit to the aforementioned project to review the current conditions.

The site in its current state is mildly vegetated. There is some evidence of construction or tree removal equipment being on site which delineated by some mild rutting. Large boulders are piled randomly for potential removal or crushing. At the middle of the site there are some larger pine trees that were not removed as part of lot clearing operation. There is a gravel access roadway that was installed off Mello's Lane that is very good condition and holding up well. Some household debris was noted to the south of the access roadway. The surrounding properties Oak Ridge Community, and Lighthouse Lane are buffered by a layer of existing densely populated trees and natural vegetation that was not disturbed during the forestry removal, except for the roadway off Mello's Lane. The access roadway runs parallel with a rock wall that appears to be minimally disturbed.

It is our understanding that the project that necessitated the clearing has been abandoned by the developer and that during the approval process of the previously planned project numerous property abutters had contacted the planning department regarding water run-off from the site.

S.W. Cole as part of this observation observed the current conditions of the properties on Crestview Drive, and Lighthouse Lane. The site visit was made after a rain event to see if there was any considerable water runoff. The plans provided to S.W. COLE indicate that the site is fairly flat with an elevation of about 236 at the easterly side of the site near Mello's Lane and sloping towards Crestview Drive with the elevation at the westerly side of the

cleared area being 233. The site does slope off more dramatically in the undisturbed area that abuts the Oak Ridge community.

It is also noted that there is a rock wall along the property Line to Oak Ridge Community.

S.W. COLE did not note any visual indications that water runoff is a concern with the site in its current state. This summer season has had considerable precipitation which could have caused considerable water runoff. It could be assumed if water runoff was a problem that it would be notable in the abutting Oak Ridge community due to its proximity to the site, and the sloping topography.

Provided that the site remains in its current condition with no further disturbances and is allowed to continue to vegetate, no additional action may be needed. S.W. Cole does recommend that the site be secured with some type of forestry gate and locking mechanism as household waste was observed during the site visit. This appears to be isolated and should be removed immediately, however as the site continues to vegetate and become less noticeable this may become an issue in the future.

The Board could also consider minimally disruptive measures such as the addition of silt fencing and haybales, or straw waddles along the site perimeter where runoff may occur. This can be done with no heavy machinery and would be an added layer of protection as the site continues re-vegetate.

Very truly yours,

S.W. Cole Engineering



Derek G. Mello
Construction Services Manager

Attachments:

CC: Nadine Castro
Amy Messier













TOWN OF WESTPORT
856 Main Road
Westport, Massachusetts 02790

PLANNING BOARD
Pre-Application Consultation

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

James Whitin, Chairman
Robert Daylor, Vice Chair
Manuel Soares, Clerk
John Bullard, Member
Mark Schmid, Member

ASSISTANT PLANNERS REPORT

Case #:	23-028SPA-LID
Applicant:	RL Building & Development c/o Richard Leblanc
Owner:	Catherine Carlos
Parcel ID#:	21_8A
Address:	220 American Legion Highway
Acreage:	15.5 (675,180)
Upland:	15.5 ac
Wetland:	n/a
Zoning:	Residential/Agriculture
Proposal:	Applicant is filing an LID permit to satisfy the Enforcement Order previously issued due to the clearing of land over 40,000 s.f. without obtaining permission through Site Plan Approval- Low Impact Development from the Planning Board.

8.2 LOW IMPACT DEVELOPMENT

8.2.1 PURPOSE: *The purpose of this bylaw is to establish minimum requirements and controls to protect and safeguard the environment, natural resources, general health, safety, and welfare of the public residing in watersheds within the Town's jurisdiction from the adverse impacts of soil erosion, sedimentation, and stormwater runoff. This section seeks to meet that purpose through the following objectives:*

- a. To eliminate or reduce the adverse effects of soil erosion and sedimentation;*
- b. To minimize stormwater runoff from any development;*
- c. To minimize nonpoint source pollution caused by stormwater runoff from development*
- d. To provide for groundwater recharge where appropriate; and e. To ensure controls are in place to respond to objectives in Subsections 8.2.1.a and 8.2.1.b and that these controls are properly operated and maintained*

8.2.2 APPLICABILITY: *This bylaw shall apply to all activities that result in a land disturbance activity of 40,000 sq. ft. of land, or that will disturb less than 40,000 sq. ft. of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 40,000 sq. ft. of land. No person shall perform any activity that results in a land disturbance activity of 40,000 sq. ft. or more of land without site plan approval by the Planning Board, by majority vote, following review at a duly posted meeting, but without a formal public hearing, of soil erosion and sediment control plan and a stormwater management plan. Normal maintenance and/or improvement of land in agricultural or aquaculture use, as defined by the Wetland Protection Act Regulation 310 CMR 10.4, shall be exempt from this by-law. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions or Request for*

Determination of Applicability (RDA) issued by the Town of Westport Conservation Commission shall be deemed to be in compliance with this bylaw.

8.2.5 DESIGN STANDARDS: *The applicant shall submit a plan to the Planning Board that illustrates how the following LID site design standards were utilized to the maximum extent feasible and explains any site and financial constraints which limited application of items a through j below and how items k and l were considered for implementation:*

- a. Preservation of the site's natural features and environmentally sensitive areas such as wetlands, existing vegetation, slopes, drainage ways, permeable soils, flood plains, woodlands and soils to the greatest extent possible;*
 - The application does not provide any detail on how the sites natural features and environmentally sensitive areas will be preserved. The applicant previously cleared the land of vegetation, and states that over time, the vegetation will grow back.
 - There are no wetlands located on the site itself, however there are wetlands located on adjacent land. The grade of the land slopes towards the Oakridge Community, however it has been noted in the consultants review that there is a dense vegetative buffer between the site and the Oakridge Development and the homes on Lighthouse Lane that remain undisturbed.
 - It was also noted in the consultants review that the cleared land is showing vegetative regrowth.
- b. permeable soils, flood plains, woodlands and soils to the greatest extent possible; b. Minimization of grading and clearing;*
 - The site already been graded and cleared last fall, therefore the application does not address minimization of these items. However, there is no additional proposed grading and clearing proposed.
- c. Clustering of buildings and a reduction in size of building footprints;*
 - The application does not propose any buildings.
- d. Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff; maximizing infiltration and reducing contact with paved surfaces;*
 - The application does not propose any stormwater management components or paved surfaces
- e. Creation of sub watersheds to treat and micromanage runoff in smaller, decentralized, innovative stormwater management techniques to treat and recharge stormwater close to the source;*
 - The application does not propose any creation of sub watersheds to treat and micromanage runoff.
- f. Lengthen flow paths and maximize sheet flow;*
 - The application does not propose to lengthen flow paths and maximize sheet flow.

- g. *Emphasis on simple, nonstructural, innovative, low-cost methods including open drainage systems, recharging of roof runoff, parking areas and/or roadways, to recharge on site as close to the source as possible.*
- The application does not propose any drainage systems, recharging of roof runoff, parking areas and/or roadways.
- h. *A maintenance program including information on regular street and parking lot sweeping shall be provided to the Planning Board for approval;*
- The application does not propose any development, therefore a maintenance program relating to information on street and parking lot sweeping is not necessary.
- i. *Reduction of impervious surfaces wherever possible through alternative street design, such as omission of curbs and use of narrower streets, the use of porous pavement or permeable pavers, shared driveways and through the use of shared parking areas;*
- The application does not propose any development, and therefore a reduction in impervious surfaces is not necessary.
- j. *Reduction of the heat island effect;*
- The application does not propose any development, therefore there is no need to satisfy this standard.
- k. *Use of vegetation in buffer strips and in rain filter runoff);*
- The applicant is not proposing additional vegetation and/or buffer strips, however, it was noted in the consultants review that there are undisturbed, dense buffers of vegetation between the site and the Oakridge community, along with the houses along Lighthouse Lane.
- l. *Techniques integrated into every part of site design to create a hydrologically functional lot or development site, including but not limited to the following:*
1. *Grass swales along roads;*
 2. *Rain gardens;*
 3. *Buffer areas;*
 4. *Use of roof gardens where practicable;*
 5. *Use of amended soils that will store, filter and infiltrate runoff;*
 6. *Bioretention areas;*
 7. *Use of rain barrels and other cisterns to provide additional stormwater storage;*
 8. *Use of permeable pavement and/or pavers in driveways, overflow parking, outside sales areas, etc.*
 9. *Use of native plants and grasses*
- The application does not propose any site design, therefore the creation of hydrologically functional lot or development site is unnecessary.

Staff Recommendation: Based on S.W. Coles report and site visit, staff recommends that the site be secured with some type of forestry gate and a locking mechanism since household waste was observed on site, as well as the removal of the waste in a timely manner. The report noted that as the site continues to revegetate, this

could become an issue in the future, so the gate and locking mechanism would prevent this from becoming a larger issue down the road. Staff also recommends the installation of minimally disruptive measures, much as the addition of silt fencing and haybales, or straw waddles along the perimeter where runoff may occur. This could be done without the use of heavy machinery and would be an added layer of protection as the site continues to revegetate. S.W. Cole noted that the site has already begun revegetating since last fall, and therefore staff further recommends that the site be left to allow further revegetation.


A handwritten signature in dark ink, reading "Amy L. Messier". The signature is written in a cursive, flowing style.

Amy L. Messier, Assistant Town Planner

Project Locus with Plan Overlay



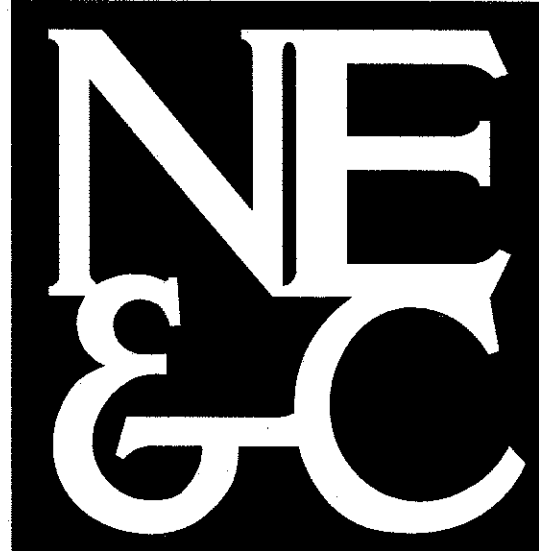
N

A black arrow pointing upwards, indicating North.

0 170 340 680 Feet

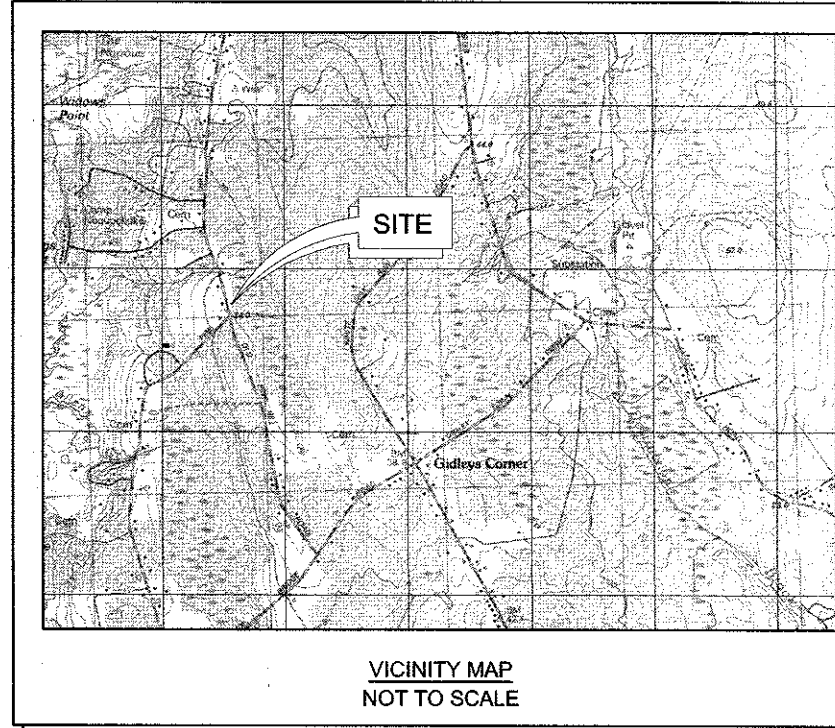




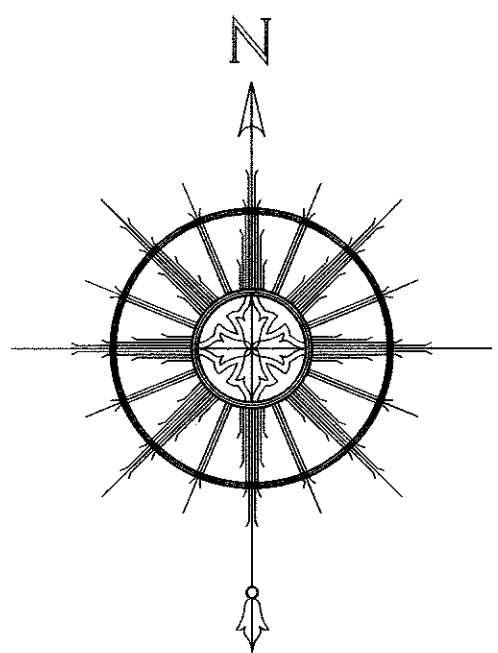


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APPROVAL NOT REQUIRED
UNDER THE SUBDIVISION
CONTROL LAW
WESTPORT PLANNING BOARD

DATE: _____

ENDORSEMENT BY THE WESTPORT PLANNING BOARD DOES
NOT CONSTITUTE DETERMINATION OF CONFORMANCE WITH THE
REQUIREMENTS OF THE TOWN OF WESTPORT'S ZONING BY-LAW.
NOR ASSURE THAT ANY LOT CREATED HEREIN IS BUILDABLE.

LOT SUMMARY				
LOT NUMBER	FRONTAGE	AREA	REQUIRED FLEX AREA	UPLANDS
LOT 1	54.01	251,661 SF	166,686 SF	91,109 SF (90,000)
LOT 2	50.85	361,383 SF	176,992 SF	167,591 SF (90,000)
LOT 3	104.58	86,059 SF	86,058 SF	61,553 SF (34,091)

LOCUS INFORMATION

OWNER: ERIC & JILLIAN RAPOSO
82 HIGHRIDGE ROAD
WESTPORT, MA
ASSESSORS' PLAT 42, LOT 1T, 7 & 8
DEED BOOK 11901, PAGE 38
DEED BOOK 14208, PAGE 194
DEED BOOK 14694, PAGE 177

NARRATIVE
THIS PLAN DEPICTS THE CREATION OF TWO APPROVAL NOT REQUIRED LOTS. LOTS 1, 2, & 3 MEET THE REQUIREMENTS OF THE TOWN OF WESTPORT'S ZONING BY LAWS SECTION 8.6, FLEXIBLE FRONTAGE FOR REDUCED DENSITY.

NOTES

A) "SUBJECT TO A SPECIAL PERMIT PURSUANT TO THE TOWN'S FLEXIBLE FRONTAGE BY-LAW, ARTICLE 23 GRANTED ON APRIL 7, 2015, BY THE WESTPORT PLANNING BOARD AND RECORDED IN THE BRISTOL COUNTY SOUTHERN DISTRICT REGISTRY OF DEEDS IN BOOK _____ PAGE _____."

B) LOTS 1, 2 & 3 AS SHOWN ON THIS PLAN BENEFITING FROM REDUCED FRONTAGE UNDER ZONING BY-LAW, ARTICLE 23 SHALL NOT BE FURTHER SUBDIVIDED AND NO MODIFICATION OF THE CLEARING RESTRICTIONS AND OF THE BUILDING LOCATIONS SHALL OCCUR WITHOUT A CORRESPONDING MODIFICATION OF THE FLEXIBLE FRONTAGE PERMIT.

C) NO LOT CLEARING SHALL BEGIN AND NO BUILDING PERMIT SHALL BE ISSUED FOR LOTS 1 & 2 AS SHOWN ON THIS PLAN BENEFITING FROM REDUCED FRONTAGE UNDER ZONING BY-LAW, ARTICLE 23 UNTIL THE SPECIAL PERMIT HAS BEEN DULY APPROVED, EXECUTED AND RECORDED AND EVIDENCE OF THE RECORDING HAS BEEN FILED WITH THE INSPECTOR OF BUILDINGS.

I HEREBY CERTIFY THAT THIS PLAN CONFORMS WITH
THE RULES AND REGULATIONS OF THE REGISTER OF
DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

Seam Michael Leach
PROFESSIONAL LAND SURVEYOR

6/20/23
DATE

PLAN REFERENCES:

1. PLAN BOOK 149, PAGE 57
2. PLAN BOOK 158, PAGE 67
3. PLAN BOOK 178, PAGE 49



GRAPHIC SCALE



(in feet)

1 INCH = 80 FEET

No.	Revision	Date	App.
Designed By:	Drawn by:	Checked by:	SML
Scale:	1"=80'	Date:	01JUNE2023
Project Title:			
A.P. 42, LOTS 7, 8-2 & 1T HIGHRIDGE ROAD WESTPORT, MASSACHUSETTS			
Client/Owner:			
ERIC & JILLIAN RAPOSO 82 HIGHRIDGE ROAD WESTPORT, MA			
Issued for:			
FOR ENDORSEMENT			
Drawing Title:			
FLEXIBLE FRONTAGE PLAN ASSESSORS PLAT 42 LOTS 1T, 7 & 8 IN WESTPORT, MA			
Drawing Number:		FLEX 1	
Sheet		1 of 1	
Project Number:		21106	
Survey Index:		WSP- 42 - 7 & 8	
OWNERSHIP AND USE OF DOCUMENTS: DRAWINGS AND SPECIFICATIONS, AS INSTRUMENTS OF PROFESSIONAL SERVICE, ARE AND SHALL REMAIN THE PROPERTY OF THE ENGINEER. THESE DOCUMENTS ARE NOT TO BE USED, IN WHOLE OR PART, FOR ANY OTHER PROJECTS OR PURPOSES, OR BY ANY OTHER PARTIES, THAN THOSE PROPERLY AUTHORIZED BY CONTRACT, WITHOUT THE EXPRESS AUTHORIZATION OF THE ENGINEER.			



WESTPORT PLANNING BOARD

*Town Hall Annex
856 Main Road
Westport, MA 02790
508-636-1037*

*James Whitin, Chairman
Robert Daylor, Vice Chair
John Bullard, Member
Mark Schmid, Member
Manuel Soares, Member*

September 19, 2023

ANR / Flexible Frontage – 82 Highridge Rd. (23-023SP-FF):

Case #:	23-023SP-FF
Applicant:	Eric & Jillian Raposo
Owner:	Same as applicant
Parcel ID#:	Map 42, Lots 1T, 7 & 8-2
Address:	82 Highridge Road
Area:	Lot 1: 251,651 s.f.; Lot 2: 372,232 s.f.; Lot 3: 80,942 s.f.
Upland:	Lot 1: 91,109 s.f.; Lot 2: 178,591 s.f.; Lot 3: 55,553 s.f.
Wetland:	Wetlands line delineated on plan
Zoning:	Residential/Agriculture
Proposal:	The applicant is proposing to reconfigure Lot 3 and create two new lots under an ANR and Special Permit for flexible frontage for three lots total where 4 lots could be created under a traditional subdivision.

Staff Review: Approval Not Required (ANR)

- An ANR must meet the following criteria for ANR endorsement:
 1. The lots shown on the plan must front on one of three types of ways:
 - (a) *a public way or a way which the clerk of the city or town certifies is maintained and used as a public way;*
 - (b) *a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law; or,*
 - (c) *a way in existence when the subdivision control law became effective in the city or town in which the land lies.*
 - Both lots are proposed to front on Highridge Road, a way in existence when the subdivision control law became effective.
 2. The lots shown on the plan must meet the minimum frontage requirements:

Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.

 - Lot 1 will have 54.01 feet of frontage on Highridge Avenue. Lot 2 will have 50.85 feet of frontage on Highridge Road. Lot 3 will have 104.58 feet of frontage on Highridge Road. The proposed lots comply with the minimum 50' frontage requirement if granted reduced frontage per zoning bylaw section 8.6.4.
 3. Determination that the access to the buildable areas of the lots is provided:

[The way has], in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the 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.

- Staff finds that Highridge Road conveys adequate access to both lots.
- Westport Zoning By-Laws, section 7, Intensity Regulations, requires a minimum lot area of 60,000 square feet and contiguous uplands of 30,000 square feet.
 - The applicant is proposing Lot 1 with 91,109 square feet of upland. Lot 2 is proposed to have 178,591 square feet of upland. Lot 3 is proposed to have 55,553 square feet of upland and 25,389 square feet of wetland.
 - Accordingly, each lot is considered a buildable lot.

8.6 FLEXIBLE FRONTAGE

8.6.1 PURPOSE & INTENT:

The purpose and intent of this Section is to encourage reduction in potential residential development density, reduce future vehicular trips, road congestion, demand for public services and the number of curb cuts onto Town roadways; preserve the natural and cultural resources visible along these roadways; facilitate the movement of wildlife; protect traditional access to “backland” open space; and improve the design and site planning of smaller residential neighborhoods. To achieve this, the Planning Board may issue a special permit to allow a reduction in the otherwise applicable frontage requirements on a public way, a way approved by the Planning Board under the subdivision control law or a private way that the Planning Board votes to determine has been in existence since prior to the effective date of the Subdivision Control Law in the Town of Westport and has adequate, width, grade and construction within the meaning of G.L. c. 41, §81L for the proposed development, for one or more of the lots proposed, in exchange for a corresponding reduction in development density and reliance upon common driveways, if applicable.

- This proposal meets the purpose and intent of the bylaw by satisfying the design standards set forth below

DESIGN STANDARDS

A. Retain Existing Roads and Laneways: *The project shall retain, reuse and/or enhance existing farm/woods roads and laneways rather than construct new roads or driveways, in order to minimize clearing and disruption of the landscape and shall take advantage of existing lanes and shall foster the use of low impact development techniques and shall minimize loss of significant large trees or stone walls and shall lessen the disturbance to existing topography.*

- The proposal does not require the construction of an additional roadway and cul de sac as previously proposed in the PAC. Therefore, the proposal is using existing laneways to the greatest extent possible.

B. Reduce Potential Number of Driveways: *The project shall reduce the number of individual driveways and shall wherever and whenever feasible use a common driveway*

- The applicant will be applying for a special permit for a common driveway to service lots 1 & 2 in the future, further refusing the number of individual driveways.
- The yield plan depicted that 4 lots could be created with a traditional subdivision, which would potentially render 4 driveways, this 3 lot subdivision will have 2 driveways in totality.

C. Preserve Stone Walls and End-of-Field Vegetation: *The project shall preserve existing stonewalls and edge-of-field vegetation as these traditional landscape features define open space edges in a natural way and maintain corridors useful for wildlife. Using these features as property lines may also be appropriate to establish lot line boundaries, if this does not require constructing buildings in otherwise sensitive locations.*

- There are no historic walls, or other historic resources that would be affected by this division.

D. Site Buildings Carefully *The project shall site buildings either at the edges of fields or in a wooded area; however, septic systems and leach fields may be located in fields. Buildings and clearing of land shall be designed and performed to minimize tree canopy penetration and to avoid crest-lines of hills as seen from public places and public and private roads. Wherever practicable, the project shall open up views to serve a building only through the selective cutting of small trees and pruning lower branches of large trees, to create a filtered view and shall not use clear cutting involving the removal of large areas of growth or the removal of mature trees (e.g. exceeding 24" dbh).*

- The two new lots are generously portioned to take advantage of the natural landscape and discourage over development. Buildings will be sited accordingly. The frontage of the property is significantly less than the lot width, therefore the buildings can be placed on the property with minimal sight from the roadway.
- The existing property is extensively wooded and vegetated, further allowing the buildings to be built with less visibility

E. Use Existing Vegetation and Topography to Buffer and Screen New Buildings: *The project shall design and locate building envelopes in relation to the road or driveway in a manner historically or visually appropriate to the neighborhood. The project shall use vegetation as a backdrop to reduce the prominence of the structure. If vegetative buffers are used, a minimum depth of fifty (50) feet of mixed indigenous ground covers, shrubs, and trees shall be provided. The principal structure and any accessory structures shall be grouped on each lot in a cluster or they shall be placed behind tree lines or knolls rather than spreading them out across the open landscape in a "sprawl" pattern.*

- The applicant states that the housing lots will be well away from resource areas and trees would buffer the view from the existing subdivision road. The existing vistas from roadways would be preserved virtually as is, thereby keeping the traditional drive on Pine Hill and Highridge Rd. unchanged.

F. Minimize Clearing of Vegetation: *The project shall be designed so as to minimize clearing of vegetation particularly at the edge of the road that provides access, or any other adjacent road and clearing shall be limited only to as much clearing as is necessary to create a driveway entrance with adequate sight distance and width to safely accommodate residential and emergency vehicles. For example, the project shall use curves in the driveway to increase the screening of buildings from the road.*

- The site is significantly wooded. Staff recommends that the Planning Board condition approval upon incorporating delineation of a clearing area on each proposed lot to restrict clearing of vegetation outside of the defined area.

G. Minimize Slope Disturbance: *The project shall minimize crossing of slopes that exceed ten (10) percent with roads and driveways. If necessary, to build on a slope, the project shall take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat and by using the flattest portions of the site for parking areas*

- Proposed development will not cross significant slopes.

H. Keep Traditional Access Open: *The project shall site buildings and develop other areas so as not to block trails or paths traditionally used as access to back land or that are established wildlife corridors. This provision shall not be construed to create any access rights.*

- Applicant states that the protection and monitoring of resource areas while keeping a corridor for wildlife within the Westport River Watershed. Wildlife will continue to flourish in the preserved area, adjacent to farms. It is expected that the larger of the lots will become a family farm in congruency with Westport's Historical heritage.

8.6.4. FRONTAGE REDUCTION RATIOS IN PROPORTION TO DWELLING DENSITY REDUCTION

A special permit may be issued so that the required lot frontage is decreased as a function of average density decrease (average lot size and upland increase) in equal proportions, to a minimum of fifty (50) feet of frontage, based on the following formulas: Minimum Lot Size = 60,000 x (150 /proposed frontage) Minimum Upland = .5 x Minimum Lot size. At no point shall the new lot lines create a width narrower than 50 feet, the width shall also be equal to or greater than the required frontage from the street line to the proposed dwelling. The width shall be measured in accordance with Section 7.8.1.1.2. If the Board determines that reducing the width improves the overall design of the project, the board may waive the width requirement.

The lots so benefiting from reduced frontage under this Section shall be indicated on the endorsed plan and the plan shall be recorded with the special permit decision which shall contain conditions that the lots shown on the plan shall not be further subdivided and that the clearing and building locations shall not be changed from what is shown on the plan without a modification of the special permit. The following notes shall also be placed on the plan:

A. "Lots shown on this plan benefiting from reduced frontage under Zoning By-law Section 8.6 shall not be further subdivided and no modification of the clearing restrictions and building locations shall occur without a corresponding modification of the special permit and recorded plan. and;

B. "No lot clearing shall begin, and no building permit shall be issued for lots shown on this plan benefiting from reduced frontage under Zoning By-law Section 8.6 until the Special Permit has been duly approved, executed and recorded and evidence of the recording has been filed with the Inspector of Buildings."

- The frontage ratios in proportion to dwelling density reduction meet the standards for flexible frontage.
 - LOT 1: Area: 251,651 s.f. ; Upland: 91,109 s.f. ; Frontage 54.01'
 - LOT 2: Area: 372,232 s.f. ; Upland: 178,591 s.f. ; Frontage: 50.85'
 - LOT 3: Area: 80,942 s.f. ; Upland: 55,553; Frontage: 104.58'
- At no point do the new lot lines create a width narrower than 50 ft., the width is also greater than the required frontage from the street line to the proposed dwelling.
- Notes A & B are marked on the plan

Technical Advisory Group

- Conservation Commission: *This wetland line is not approved by Conservation at this time (as of 7/11/2023).*

Staff recommendation: Endorsement of the ANR as it meets the requirements for ANR approval. Endorsement of the Special Permit for Flexible Frontage as the request and proposed plan meets the purpose and intent of the bylaw and meets the design standards as mentioned above.

Recommended conditions of approval:

- The narrowest point of lot 2 should be measured and labeled to ensure that the narrowest part of the lot is not less than 50 ft. in width.
- Incorporate a delineated clearing area on each proposed lot to restrict clearing of vegetation outside of the defined area.
- The applicant shall receive wetland delineation approval from Conservation.



TOWN OF WESTPORT
Westport Town Hall
816 Main Road, Westport, MA 02790
Zoning Board of Appeals
Tel: 508-636-1041 or Fax 508-636-1147

September 28, 2023

Kristin Stinson, Town Clerk
Town of Westport
Westport, MA 02790

RECEIVED

SEP 28 2023

WESTPORT
PLANNING BOARD

NOTICE OF GRANTING OF ADMINISTRATIVE APPEAL

Dear Ms. Stinson:

The Zoning Board of Appeals hereby submits for filing in your office the following record of the Zoning Board of Appeals proceeding and its decision on the administrative appeal of Mary Raposo, Owner, and David Raposo, Applicant, from a cease and desist order of the Building Commissioner and the Building Commissioner's determination that the screening of soils is a form of manufacturing and not allowed in a Residential/Agricultural District. The subject property is located at 17 Sodom Road and is shown on Assessor's Map 61, Lots 21R and 21AA-O.

RECORD OF PROCEEDINGS

Pursuant to a Notice of Public Hearing that was duly published in the Westport Shorelines on August 31, 2023 and September 7, 2023 and posted in the Town Hall Bulletin Board and mailed to the owners, Applicant, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the Applicant, the Westport Planning Board, the Dartmouth Planning Board and the Fall River Planning Department, public hearing was held on Wednesday, September 20, 2023 at 6:30 p.m. at the Westport Town Hall, 816 Main Road, Westport, MA on the above-mentioned petition.

At the outset, Chair Menard stated that the members voting on this matter would be Cynthia Kozakiewicz, Barbara Pontolilo, Constance Gee, Ray Elias and himself, Roger Menard. He also noted that a supermajority of four (4) out of five (5) members must vote to either grant or reject the appeal for it to pass.

Chair Menard explained the procedure that would be followed at this hearing, namely: the Applicant would present his evidence; the Board would ask questions and discuss the information submitted; the Board would open up the hearing to the public for comment or questions; the Board would close the hearing; and the Board would then deliberate and render a determination.

Chair Menard read the notice into the record, stating that the administrative appeal was prompted by a letter issued by the Building Commissioner, stating in pertinent part:

"After review of the Westport Zoning by-Laws Article 4.1, I have determined that the property in question is a pre-existing, non-conforming commercial business in a Residential/Agricultural district which has operated since 1985.

...

It is my opinion that the screening of soils is a form of manufacturing and is not allowed in a Residential/Agricultural district, and you must Cease and Desist that portion of the activity."

Addressing the Board for the Applicant was Attorney Thomas Killoran, 350 North Main Street, Fall River, MA, who stated that:

1. He represents the Raposos in this matter.
2. There are approximately 23 acres on the property.
3. Since approximately 1985, JR & Sons Construction utilized the property to park their business vehicles and stockpile materials for the business, which is asphaltting and excavating.
4. The business has a stockpile permit since 2009, which was renewed in 2023. Asphalt material that has been dug up from parking lots or streets is then stored on the premises.
5. Once or twice a year, for approximately two (2) weeks, the Applicant hires A.J. Potter, Jr. & Sons (Len Potter) to grind and recycle the asphalt piles that have been accumulated throughout the year.
6. The business is a pre-existing, non-conforming use for the past 35 years or so.
7. There are abutters in the audience who support the business.

Chair Menard said that the Board appreciates comments from the audience; however, whether the abutters are in favor of the business or not is not relevant to the administrative appeal. The Board must determine whether or not the Zoning Enforcement Officer correctly interpreted the Zoning Bylaw.

Attorney Killoran agreed and said that:

1. Len Potter can provide the history of the processing and any other information that the Board needs.
2. The nearest residence is about 200 feet away.

3. The Applicant is seeking approval of the screening/crushing component of the business is part and parcel of the business that is conducted by JR & Sons Construction at the subject property, which has been in existence for many years, since the 1980s, as a pre-existing, non-conforming use.

Attorney Killoran showed the buildings that were shown on an illustration, explaining the area where the business is conducted, as well as the residences and processing area.

Chair Menard asked Mr. Souza why he had not issued a cease and desist order for the entire business, which is located in and prohibited by a residential area.

Mr. Souza said that the business had been conducted for more than 10 years and the statute of limitations had expired. The sole issue is the manufacturing of the asphalt materials.

Attorney Killoran confirmed that, once 10 years have gone by, then the statute of limitations also expires. He also stated that the screening/crushing is termed as recycling by Mr. Raposo, and this process has been a consistent component of the business the entire time that the business has been in existence.

Ms. Pontolilo asked Mr. Souza what the complaints were by neighbors.

Mr. Souza said that he received a complaint from an abutter of noise during the process of screening.

Chair Menard noted that if what the Applicant is doing is perceived as manufacturing, the Zoning Bylaws do not allow that process in a Residential/Agricultural District.

Mr. Elias said he researched the definitions of recycling and manufacturing and they are different. He stated that the term "recycling" is not mentioned anywhere in the Zoning Bylaws. Mr. Elias noted that the materials are being brought in, they are then processed/recycled and then brought out.

Chair Menard said that that process is considered to be manufacturing.

Mr. Elias said that materials are not being "manufactured" on the property.

Ms. Kozakiewicz noted the definition of manufacturing in the Zoning Bylaw is to bring something into being by forming, shaping, combining, or altering materials, and that it seemed that the materials were being altered on the premises. She also stated whether, the Applicant living on the premises, provided the business with an exception. Chair Menard did not believe so.

Attorney Killoran said that the business has been conducting the screening process for 35 years.

Mr. Elias said he reviewed the GIS records on 2009, 2012 and 2022 and the stockpiling and construction activities are shown to be at that location; however, recycling is not noted anywhere in the Zoning Bylaws.

Mr. Souza stated that if the business has been in operation for more than 10 years, it may be considered a prior non-conforming use and, therefore, allowed by the Bylaw.

Chair Menard asked if anyone in the audience would like to make a comment.

Len Potter of A.J. Potter, Jr. and Sons, 604 Main Road, Westport, MA confirmed that he has been crushing asphalt at the location for many years, as far back as 1988 or 1990. The process typically takes about two (2) weeks.

Antone Vieira, 8 Kelly Avenue, Westport, MA disputed whether the screening of soils is considered manufacturing as screening of soils is conducted by farmers.

Joseph Carvalho, 28 Sodom Road, Westport, MA said that he has lived at his address since 1977 and has been going on for more than 10 years; the recycling is done in the rear of the property; typically operates between 8:00 a.m. and 4:00 p.m.; and he has no complaints and supports the business.

David Raposo, Applicant, said that the processing starts around 8:00 a.m. and rarely works on Saturdays.

Ed Thibeault, 41 Sodom Road, Westport, MA said he has lived at his address since 2009 and that Len Potter has been at the business each year to recycle. He also said that the business does not interrupt his life.

Valerie Martin, 287-289 American Legion Highway, Westport, MA, said that her house is near where the crushing takes place. She is bothered by the noise and the dust that gets into the area where she lives. Although she understands that the Raposos have a permit, she is concerned with silica in the air and the exposure is hazardous. She has sent several e-mails to Mr. Souza since last year and complained not only about the noise but the dust as well. When her mother purchased the property in 1999, cows were in the area where the recycling is currently taking place. She remembers her father making complaints in 2017.

Mr. Potter said that he is aware of the silica dust and any silica derived from the recycling process is handled by water spraying from the water tank on the premises during the processing to meet OSHA standards.

Chair Menard asked whether the Board of Health has been to the location.

Mr. Raposo said no one has from the Board of Health.

Mr. Potter said that OSHA is on the location and observes the process.

Mr. Elias noted that the same process is done at the Potter location on Main Road.

Mr. Potter agreed, but that his location is in a business district.

Valerie Martins said that, even if the machinery keeps dust to a minimum, as she had advised Mr. Souza, the dust derived from the dumping of used asphalt is not kept to a minimum.

Mr. Souza noted that the Raposos have a soil permit from Conservation Commission to dump used asphalt.

Attorney Killoran said that, in the past, the Raposos would buy and sell cows in the rear area of the property, however, there are none there now.

Mr. Raposo said that the area is fenced in.

Mr. Elias recalled that the 2009 GIS showed cows on the property.

Attorney Killoran reiterated that the crushing process has been in operation in excess than 10 years.

Valerie Martins said she did not believe the recycling has been going on for more than 10 years, although the business has been on the property for many years.

Mr. Potter confirmed that the crushing of asphalt has been occurring in excess of 10 years.

Motion to Close the Hearing

Mr. Elias made a motion to close the hearing at 7:03 p.m. Ms. Pontolilo seconded the motion and the Board voted unanimously in favor.

Discussion:

Chair Menard said that the Board will begin with a motion to grant the administrative appeal. If the Board votes to grant the appeal, the determination is that the cease and desist order was incorrectly issued.

Ms. Kozakiewicz noted that the issue is not whether Mr. Souza was correct in issuing the cease and desist order, but that he and the Board required more information.

Mr. Elias noted that the process being conducted by the business is grandfathered to allow its use.

Chair Menard said that any health-related issues should be brought to the attention of the Board of Health.

Ms. Gee said that the Board has heard that the business of recycling has been operating for more than 10 years, which would then be allowed as a pre-existing, non-conforming use. She does not believe, however, that the business of recycling asphalt can be considered agricultural or within the "right to farm" provision.

Ms. Kozakiewicz said that the term "soil" in the cease and desist letter was misinterpreted to mean an agricultural use when, in actuality, it is crushing of used asphalt, which is not an agricultural use.

Decision:

There being no further discussion, Mr. Elias made a motion to grant the administrative appeal of Mary Raposo, Owner, and David Raposo, Applicant, from a cease and desist order of the Building Commissioner and the Building Commissioner's determination that the screening of soils is a form of manufacturing and not allowed in a Residential/Agricultural District. The subject property is located at 17 Sodom Road and is shown on Assessor's Map 61, Lots 21R and 21AA-O. Ms. Kozakiewicz seconded the motion.

Chair Menard said that an affirmative vote means that the Zoning Enforcement Officer incorrectly interpreted the Zoning Bylaw.

Mr. Elias asked whether the Board could impose conditions as a part of its decision.

Chair Menard said that is not possible to do so on an administrative appeal.

Chair Menard noted that there is more than enough evidence that it has been in operation for more than 10 years, and according to the Zoning Enforcement Officer, if it has been in operation for more than 10 years, it is grandfathered.

The Board voted unanimously to grant the administrative appeal.

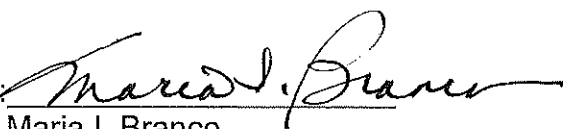
Chair Menard said there is a 20-day appeal period from the date of filing of this determination with the Town Clerk.

The hearing concluded at 7:13 p.m.

FILED WITH THE TOWN CLERK ON



ZONING BOARD OF APPEALS

By: 
Maria I. Branco
Zoning Board Administrator

Any person aggrieved by a decision of the Board of Appeals may appeal to the Superior Court Department in which the land concerned is situated or to the Land Court Department, or to the division of the District Court Department within whose jurisdiction the land is situated by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk. Notice of the action with copy of the complaint shall be given to such Town Clerk so as to be received within such twenty (20) days in accordance with M.G.L. Chapter 40A, Section 17.



TOWN OF WESTPORT
Westport Town Hall
816 Main Road, Westport, MA 02790
Zoning Board of Appeals
Tel: 508-636-1041 or Fax 508-636-1147

September 28, 2023

Kristin Stinson, Town Clerk
Town of Westport
Westport, MA 02790

RECEIVED

SEP 28 2023

**WESTPORT
PLANNING BOARD**

NOTICE OF DECISION

Dear Ms. Stinson:

The Zoning Board of Appeals hereby submits for filing in your office the following record of the Zoning Board of Appeals proceeding and its decision on the petition of Casey Amaral for a variance to continue use of the residential building known as 581-C Drift Road, Westport, MA, which will not be detrimental to the public good, will not impact the integrity or character of the neighborhood, nor negatively impact abutting properties and require no structural changes, and would otherwise cause substantial hardship to the Applicant as mandated by Zoning Bylaw Article 5, Section 5.1. The subject property is located at 581-C Drift Road, Westport, MA and is shown on Assessor's Map 53, Lot 12A.

RECORD OF PROCEEDINGS AND WITHDRAWAL

Pursuant to a Notice of Public Hearing that was duly published in the Westport Shorelines on July 27, 2023 and August 3, 2023 and posted in the Town Hall Bulletin Board and mailed to the owners, Petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the Petitioner, the Westport Planning Board, the Dartmouth Planning Board and the Fall River Planning Department, a public hearings were held on Wednesday, August 23, 2023 and September 20, 2023 at 6:30p.m. at the Westport Town Hall, 816 Main Road, Westport, MA.

August 23, 2023

Chair Menard stated that the members voting on this matter would be Gerald Coutinho, Constance Gee, Barbara Pontolilo, Ray Elias and himself, Roger Menard. He said that four (4) affirmative votes are required to grant the variance.

Attorney Vincent Cragin of Halloran, Lukoff, Smith & Tierney, 432 County Street, New Bedford, MA addressed the Board. He stated that he represents the Petitioner, Casey

Amaral, who is requesting a variance, the only viable solution to the issue of the existence of an accessory building on the same lot as a single-family residence, both structures of which are being rented out. Attorney Cragin said that, at the prior hearing, the Zoning Board had asked that Mr. Amaral return with a variance request, in light of the history of the structure, which dates back prior to issuance of zoning in 1973.

Chair Menard stated that, in 2018, the Board had made a ruling that re-established the property into two (2) separate parcels, both of which would be subject to current zoning provisions.

Attorney Cragin agreed, stating that the lots are non-conforming and the Board had requested at its last meeting that it needed evidence that the structure was a residence prior to the institution of zoning provisions. He further noted that the shape and topography of the land are proof of a hardship for purposes of a variance.

Vice-Chair Coutinho said he remembers that the Board made a compromise with Mr. Amaral, in that the Board had previously requested that the structure be disabled as a residence, and, at that time, Mr. Amaral said that he had a veteran living in the structure.

Attorney Cragin said that he watched the video, wherein Mr. Amaral withdrew his application, and would return to the Board with proof that the structure has been lived in for many years prior to zoning. He also stated that there was no request by the Board at the prior hearing that Mr. Amaral remove the kitchen pursuant to the 2018 decision before re-filing for a variance.

Chair Menard noted that, in the decision of April 2018, the Board helped the petitioner (Joan Amaral) and decided that the structure at 581C Drift Road "shall not be used as a residential dwelling and any and all kitchen facilities must be completely removed, never exist in the future unless legally allowed." Mrs. Amaral agreed to that condition at that time.

Attorney Cragin agreed that, at the prior hearing, this matter was discussed and the Board requested that Mr. Amaral return with a request for a variance and show at which point the structure was used as a residence. Attorney Cragin said the Petitioner is ready to provide that information to the Board tonight.

Ms. Kozakiewicz said that the prior decision of 2018 was made at the time that Joan Amaral owned the property. At this time, Casey Amaral owns the property and, therefore, may be considered a new owner.

Chair Menard said the decision stays with the property, not future owners. Town Counsel Blake confirmed this fact.

Chair Menard said that he believes the discussion at the prior hearing in 2022 was that, although the petition that Mr. Amaral had filed at that time was not a valid request, that, perhaps, there may be other avenues that would be valid to resolve this matter. The

Petitioner has opted to ask for a variance, which he believes is a proper avenue to resolve the issue.

Attorney Cragin said that the person currently residing in the structure is paying minimal rent and, if evicted, would need to find other low-income housing, which would be very difficult. Mr. Amaral purchased the property from his mother when she was unable to sell the property. The renting of the structure is not disruptive to the neighborhood, and it has been rented for decades.

Chair Menard read into the record a letter from Jennifer Leite, 561 Drift Road, a neighbor, who supports the petition. Also, there was a letter from former Assessor John McDermott, who explained that the accessory building has been on the premises for decades and taxed as a dwelling.

Chair Menard said that, at this point in time, there is a single-family dwelling and an unpermitted accessory apartment on the property. The Zoning Bylaws mandate that the owner of the property reside in either the main house or the apartment for the issuance of a Special Permit by the Board. Mr. Amaral does not reside on the property.

Vice-Chair Coutinho read from the decision of November 2022, whereby the application was for a Special Permit and/or variance. The decision also notes that the Board requested that the Petitioner provide proof that the structure was an apartment prior to the zoning requirement that prohibits more than one (1) residence on a lot. Vice-Chair Coutinho also said that he suggested that the relief may be a variance.

In the November 2022 decision, Ms. Kozakiewicz said that it would be difficult for the Board to grant a variance from Zoning Bylaw 9.5.3 due to the fact that the Petitioner does not plan to reside in either the main house or the accessory apartment. The decision also noted that one option would be for Mr. Amaral to withdraw his petition and return to the Board for further relief.

Vice-Chair Coutinho said that many people can testify that the structure has been rented for decades, but that does not make the structure a legal apartment.

Attorney Cragin said that the Board previously asked the Petitioner to return with proof as to the rental activity of the structure and he is offering that proof to the Board tonight.

Ralph Souza, the Building Commissioner and Zoning Enforcement Officer has asked several times that the kitchen be removed pursuant to the Zoning Board's decision of April 2018.

Mr. Elias said he understands that the structure has been used as a residential dwelling for many years, as far back as the 1970s, and has been taxed as a residential dwelling.

Ms. Kozakiewicz asked whether the 2018 decision had been recorded at the Registry of Deeds and the Clerk answered that it had been.

Chair Menard opened up the hearing to the audience for comment.

Tony Vieira, 8 Kelly Avenue, Westport, MA, said that due to the farming and fishing industry over the many decades, there are many similar sheds in Westport that were built to accommodate the workers. This shed has remained in the same family since 1950 and he believes the grandfather clause would remain intact since Joan Amaral, mother, conveyed to her son, Casey Amaral.

Ann Boxler, 1 Fox Lane, Westport, MA stated she attended the meeting in November 2022 and thought that the Zoning Board's intent was to work out the issue with Mr. Amaral.

Carla Amaral, 850 Pleasant Street, New Bedford, MA said that the structure in question has been rented out for 50 years. She said that she lived on the property in the early 1980s.

Vice-Chair Coutinho stated that he would like an opportunity to review the prior decisions and review the legality of the buildings, having been built without permits. He also said that he did not believe that the Board asked the Petitioner to seek a variance, that it may have been a possible way to resolve this issue, but did not want it to seem like the Board had suggested that requesting a variance would, in fact, resolve this matter.

Mr. Elias asked whether the Petitioner had any further proof to present to the Board.

Attorney Cragin said that the letter from the former Assessor, John McDermott, and testimony of the witnesses, prove that someone has resided in the structure over many decades.

Chair Menard said the Board may revert back to the decision of April 2018, which goes with the property after conveyance, and which was not complied with. However, granting the variance would negate that decision that the Board made in good faith.

Tony Vieira reiterated that the grandfather law should be in effect and the Assessor's records also note that the structure was considered a residence.

Vice-Chair Coutinho said that the Zoning Board has heard many cases where the Assessor's records are not always in concert with the Zoning Bylaws.

Town Counsel Jeff Blake stated that the grandfather clause stays with the property, not a family conveyance.

Petitioner, Casey Amaral, stated that the property is being taxed as a multi-house property.

Attorney Cragin stated that aerial photographs show that the structure existed in 1935 and has remained the status quo for years.

Vice-Chair Coutinho said that he believes aerial photographs would show sheds, but not necessarily used as residences.

Attorney Cragin also noted that Mrs. Amaral continues to reside in the main residence and it is a safe environment for her.

Vice-Chair Coutinho asked as to a hardship for the variance.

Attorney Cragin said the shape and topography of the land pose a hardship. The house is on a steep, rocky slope and shows a true topography issue.

Ms. Kozakiewicz said that financial hardship may be a ground for a variance.

Chair Menard said that financial hardship does not mean losing money as in this case, loss of rental income.

Attorney Cragin said that, if the rental income were to cease, the Petitioner would have a financial hardship to maintain the property.

Ms. Pontolilo asked the reasons for a continuance, and the information that Mr. Coutinho would hope to acquire.

Vice-Chair Coutinho said that he would like to review the prior decisions and minutes as to exactly what was discussed at the prior hearings.

Ms. Pontolilo remembers that, at the 2018 hearing, Casey Amaral was not at the hearing and Joan Amaral's representative attended, however, Mrs. Amaral was not present.

Ms. Gee said she remembers the 2018 hearing consisted of the Board considering a complex issue and took painstaking efforts to come to a reasonable conclusion that would help the Petitioner at the time. Ms. Gee also said that she would like to review the prior decisions and meeting minutes. She also noted that the Board has asked the Zoning Enforcement Officer to contact Joan Amaral and Casey Amaral several times over the years to determine whether the decision had been complied with, but no response was given.

Dorothy Paull, 2048 Main Road, Westport, MA asked Town Counsel if the Board had previously granted a variance, does the Board have the authority to change the conditions with a new variance.

Town Counsel Blake said, yes, that the Board has the authority to grant a new variance on a new petition.

Ms. Pontolilo made a motion to continue this hearing to September 20, 2023 at 6:30 p.m. Mr. Elias seconded the motion, which was voted unanimously. Attorney Cragin assented to the continuance and extension of decision deadlines.

September 20, 2023

Chair Menard stated that this was a continued hearing. He stated that the hearing was continued to allow members to review the minutes, decisions and videos of the hearings in 2018, which are the subject of this hearing tonight.

Chair Menard started the hearing with providing a brief overview that:

1. The property contains two (2) lots with three (3) structures.
2. In 2018, a variance was requested by the previous owner, Joan Amaral, for side yard relief.
3. At the hearings in 2018, Mrs. Amaral stated that the structure known as 581C Drift Road -- which was being utilized as a rental unit -- would no longer be used as a residence.
4. At the hearings, the Board approved the variance with one of the conditions being that the kitchen be removed from the structure at 581C Drift Road and not be re-utilized as a residence in the future.
5. Thereafter, the Zoning Enforcement Officer attempted to view the structure for compliance, but was not allowed access to the inside of the structure.
6. Mrs. Amaral then sold the property (Lot 1) with the two (2) structures to her son, Casey P. Amaral, the Applicant in this matter.
7. Mr. Amaral has stated that he does not live on the property, nor does he intend to live on the property and he rents out both structures.
8. Mr. Amaral continues to derive income from both structures, which is a violation of the Board's decision of April 2018, as well as the Zoning Bylaws, which prohibit multiple rental/family residences on one (1) lot.
9. In 2018, Mr. Amaral requested that the Board grant him a special permit to convert the structure known as 581C Drift Road into an accessory apartment.

Casey P. Amaral, Applicant, stated that he believes that his mother, in 2018, did not ask that the accessory structure be removed.

Chair Menard and Ms. Kozakiewicz disputed that fact, stating that Sean Leach, Mrs. Amaral's engineer, who was present at the hearings, had suggested the kitchen be removed.

Mr. Elias said that he watched the videos and noted that there was extensive discussion regarding the driveway, splitting the lots, in an effort to help Mrs. Amaral with her problems. Mr. Elias also said that he recalls Mr. Leach stating that the kitchen would be

eliminated from the structure. Vice-Chair Coutinho, in the hearing, asked how that would be accomplished. The Zoning Enforcement Officer suggested that the kitchen, bathroom or bedroom could be removed.

Mr. Amaral said he also watched the video and agreed that the condition of removing the kitchen was properly included in the decision.

Ms. Pontolilo recalled that the property was to be sold, which would resolve the issue. The sale did not materialize and, thereby, Mr. Amaral purchasing the property from his mother.

Mr. Amaral said that the property was for sale for two (2) years, but did not sell. He thought that the new owner could move into the main residence and the structure in question would not be an issue.

Mr. Amaral said that Ralph Souza, the Zoning Enforcement Officer, was allowed on the property to do an inspection. He also stated that he admitted to Mr. Souza that, in fact, the structure was being occupied by a renter.

Ms. Gee stated that she was present at the original hearings in 2018 and she watched the videos of the hearings again to refresh her recollection. She noted that Vice-Chair Coutinho had asked if someone was living in the structure. Mr. Leach said "not that I'm aware of," and Attorney John Markey stated that he knew no one was living in the "front one."

Mr. Amaral stated that both Mr. Leach and Attorney Market were incorrect and misspoke in their statements and, in fact, no one was living in the main house, but the structure at 581C Drift Road was being rented out. Mr. Amaral also noted that the person renting the structure is the same tenant since prior to the 2018 hearings.

Chair Menard asked which part of Section 5.1 of the Zoning Bylaws, Table of Use, is the Applicant requesting a variance from. He explained that a variance is granted when there is a hardship related to the land (i.e. topography, soil conditions or shape of such land or structures).

Ms. Kozakiewicz reminded that, in order to continue with the rental of the structure, the Applicant would need a special permit. Therefore, the request for a variance that is before the Board is not proper.

Chair Menard and Ms. Kozakiewicz both disagreed with Mr. Amaral's statement that the use of the structure as a residence is grandfathered in.

Ms. Kozakiewicz said that her research showed that there was a plan dated 1972, filed and recorded at the Registry of Deeds, that denotes the structure at 581C Drift Road as a shed. The plan is signed by the prior owner -- the Applicant's father -- and the Town of Westport. Ms. Kozakiewicz also noted that the issue here is the structure known to be located at 581C Drift Road and the 2018 decision is what rules here.

Chair Menard said that the Board cannot advise the Applicant as to how to petition for relief. At the last hearing, the Board suggested that the Applicant obtain legal counsel. The attorney attended the last hearing, however, the relief being requested is not proper.

Chair Menard said that this situation is not that clear-cut. Essentially, the Applicant has two (2) single-family residences on one (1) lot.

Mr. Amaral disputed whether the 1972 plan is valid and that prior statements made at the 2018 hearings were untrue, specifically, that his family has a tendency to go "rogue."

Ms. Kozakiewicz showed Mr. Amaral information about prior variances that were requested by the Amarals. Once, in order to obtain a building permit, the plan needed to be designed and recorded, which it was. And, in 1984, a variance was requested to keep the two (2) residences on the property, which is what is being requested at this time as well. The variance in 1984 was denied.

Ms. Kozakiewicz stated that the clarifications that Mr. Amaral is looking for, to revise the statements made in 2018, cannot be made. She noted that there were many inconsistencies throughout the years, including at the 2018 hearings, and perhaps the best avenue to pursue a resolution would be to go to Land Court for clarification. It seems that the Board made decisions on incorrect data provided by the Applicant and her representatives in 2018.

There was brief discussion as to whether a building permit was ever issued at the time the residence that is currently occupied by Mrs. Amaral was constructed. Chair Menard said he does not believe so.

Chair Menard said that the issue here is whether a variance from the 2018 decision is proper.

Chair Menard advised that, once he opens up the discussion to the audience, he will allow new information, not a rehash of the comments made at the prior hearing on August 23rd.

Chair Menard explained that granting a variance is the most difficult of all other relief because of the high standard that an applicant must meet to prove to the Board that granting a variance is proper. Therefore, granting a variance must be based on specific hardship to the land, not solely a financial hardship, and that there would no other relief that an applicant can obtain.

Ms. Kozakiewicz noted that the Board has no issue with all the structures as they exist on the separate lots. The issue is the condition in the 2018 decision that has not been complied with, several years later. She also noted that, in her opinion, it is suspect whether the grandfather provision is achieved here.

Chair Menard stated that the Board's decision in 2018 negates the grandfather provision because the owner at the time, Joan Amaral, agreed that the structure would not be used

as a residence. Further, the decisions follow the property even after change in ownership. If the Board were to grant the variance to allow two residences on a single lot, that lot would forever be allowed to have two residences, regardless of who owns the property.

Chair Menard stated that the members voting on this matter would be Constance Gee, Barbara Pontolilo, Raymond Elias, Cynthia Kozakiewicz and himself, Roger Menard. In order to approve or reject a variance, there must be a supermajority of votes, being four (4) out of five (5).

Mr. Elias asked whether the Applicant can withdraw the petition without prejudice and, then, come back before the Board in the future.

Chair Menard said that withdrawing without prejudice is always an option.

Chair Menard opened up the discussion to the audience.

Antone Vieira, 8 Kelly Avenue, Westport, MA said that he understands what occurred over the years with the information he has learned tonight. He asked whether the Applicant could withdraw his petition to then request a special permit.

Chair Menard said the Board does not make recommendations to an applicant; the request for special permit would trigger a variance; a finding would be the proper relief with a non-conforming use.

Chair Menard stated that the Board's hearings are based primarily on applications for special permits for accessory apartments. He further cited from the Zoning Bylaw the rationale for accessory apartments, one reason being that an older homeowner can remain on the property and allow the accessory apartment to derive rental income.

Mr. Amaral said that he understood the reasons for the accessory apartment, however, for personal reasons, he is not able to move to Westport at this time.

Chair Menard noted that the next step would be for the Board to close the hearing and make a determination.

Mr. Amaral said he would like to withdraw his petition without prejudice and submitted a motion to withdraw his petition without prejudice to the Board.

Ms. Pontolilo made a motion to accept the request to withdraw the application without prejudice. Mr. Elias seconded the motion, which was granted with Roger Menard, Barbara Pontolilo and Ray Elias voting to grant; and Ms. Gee and Ms. Kozakiewicz voting to reject the motion. The motion to withdraw the petition without prejudice was allowed by a majority vote of 3 to 2.

Chair Menard said that he believes that the Applicant needs counsel to be able to prove to the Board that this is a grandfathered use. He also noted that these properties pose many issues that are complicated.

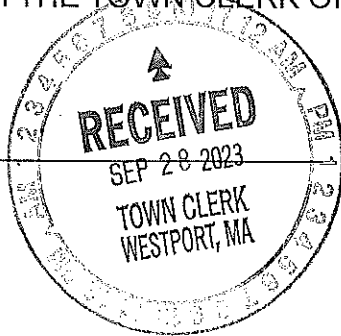
Ms. Kozakiewicz agreed, saying that the withdrawal allows the Applicant to re-file at a later date, requesting relief that may or may not resolve the issues.

Chair Menard reminded the Applicant that any decision made by the Board remains in history with the property.

The hearing concluded at 7:55 p.m.

FILED WITH THE TOWN CLERK ON:

ZONING BOARD OF APPEALS



By: Maria I. Branco
Maria I. Branco
Zoning Board Administrator

Any person aggrieved by a decision of the Board of Appeals may appeal to the Superior Court Department in which the land concerned is situated or to the Land Court Department, or to the division of the District Court Department within whose jurisdiction the land is situated by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk. Notice of the action with copy of the complaint shall be given to such Town Clerk so as to be received within such twenty (20) days in accordance with M.G.L. Chapter 40A, Section 17.



**PLANNING BOARD
MEETING MINUTES**

Date/time of Meeting: September 5, 2023, at 6:00 p.m.

Place: Town Hall Annex, 856 Main Road

Call to order: The regular meeting of the Westport Planning Board was called to order at 6:07 PM by Vice-Chairman, Robert Daylor.

ATTENDEES

Vice-Chair Bob Daylor, and members, Manuel Soares, Mark L. Schmid, Town Planner, Michael Burris, and Assistant Town Planner, Ms. Messier.

Late attendance

Chairman Whitin arrived at 6:16 p.m.

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

1. Administrative Items

a. **431 Fisher Road (20-002C)** – Form E, Modification to Definitive Subdivision Plan

Motion

Bullard moved to approve the modification to the Definitive subdivision plan. Seconded by Soares. 4-0-0

b. **431 Fisher Road (20-002C)** – Request to release lots (Form O Partial Release)

The applicant is requesting the release of lots 7,8,9,11,12, & 13 Stacy Lane, with lot 10 remaining.

Motion

Bullard moved to release lots 7, 8, 9, 11, 12, and 13 from the restrictions of the **Form F Covenant** dated: July 8, 2021, for the Definitive Subdivision Plan entitled: "Definitive Residential Subdivision "Stacy Lane" Off Fisher Road Westport, Massachusetts." Seconded by Soares. 4-0-0

c. **Pacheco – 0 Gifford Road (22-002SP)** – Closeout and release the Consultant Review balance of \$470 plus interest.

Motion

Bullard moved to release the inspection funds of \$470 + interest for Plat 29, Lot 22C. Seconded by Schmid. 4-0-0.

d. **Plat 29 Lot 22C RRL - Pacheco (23-013B)** – Closeout and release the Consultant Review balance of \$1500 plus interest.

Motion

Bullard moved to release the inspection funds of \$1500 + interest for Plat 29 Lot 22C. Seconded by Schmid. 4-0-0

e. **Inheritance Lane (23-010C-RRL):** Endorse Mylar for Definitive Subdivision

Motion

Bullard moved to endorse the Mylar for the definitive subdivision. Seconded by Schmid. 4-0-0

f. **Brookwood Solar (19-005SP-S)** – Full release (Form O) of performance surety for landscaping/vegetation (\$50,000.00)

Motion

Bullard moved to grant the release of the surety of \$50,000 plus interest, and the release of the balance of construction inspection funds after payment of the final invoice to S.W. Cole. Seconded by Schmid. 4-0-0

Jim Whitin joined the meeting at 6:16 p.m.

g. **Pre-Application Consultation (23-029PAC):** Request by Richard Burke to discuss adolescent education and housing facility at 435 Old Harbor Road.

Jon Connell of Northeast Engineering & Consultants, Inc., Attorney James Burke, and Ken Webber were present. They provided a concise overview of the project and are looking for input and feedback from the Board. The project aims to establish a residential facility for adolescents aged 13-17. The facility will offer on-site education, mental health counseling, and support for substance abuse disorders. The students will be housed on the premises as well. It was noted that there will be 24-hour staff with four to nine employees per shift, and a maximum of 12 students would reside there. The adolescents would participate in simple farming such as vegetable growing and raising small barn animals like chickens.

Whitin stated that filing a Site Plan Approval is required because there are more than five parking spaces. He also noted that the applicant must address stormwater issues from the driveway.

Daylor recommended implementing a water quality swale to address the runoff issue in the gravel parking areas and installing a basin and a small swale to capture runoff from the steep hill and direct it towards the basin at the end of the drive. He added it is crucial to find the most effective way to prevent runoff from flowing onto Old Harbor Road and ensure that water is not dumped onto the roadway, given that the road is sloping downwards.

Soares commented if they return with a filing, he would like to see the Building Department and the Board of Health's comments that address the septic system requirements because of the nitrogen-sensitive area.

According to Whitin, the primary purpose is for educational use, with farming as a secondary focus. However, since farming is not the main use, they may not be exempt from zoning requirements. As a result, the Board is requesting proposed plans for signage, parking, and lighting.

2. Assistant/Planners report

a. Assistant Planner's report

Ms. Messier presented her report to the Board, which included the following information.

Harbor Water Study:

- Weston & Sampson provided a Memorandum on 8/24/23 the Summary of 755 River Road Hydro geologic Evaluation. A follow-up meeting is scheduled for Wednesday 9/6/23 with staff and stakeholders for Frank Getchell to go over the findings and potential next steps.

Tickle Rd./ Watuppa Pond Stormwater System:

- This project has been turned over to the Planning Board at the request of Manny Soares. Ms. Messier was in contact with Lindsey Wilcox of Woodard & Curran who provided her with the following update which she read into the record:
A stormwater retrofit has been designed to collect and treat one inch of runoff from the residential area adjacent to 149 Plymouth Blvd. This location was selected because the 2.2-acre drainage area has a large amount of impervious area, untreated runoff is conveyed directly to the Pond in the existing condition, there is room within the right-of-way to install the system, and there is a desire by the property owners to improve the existing stormwater infrastructure in the area. Phase 1, which has progressed to completion of construction level design, includes a proprietary bio-retention structure, hydrodynamic separator, and detention system within the Plymouth Blvd. right-of-way. Phase 2, which needs further design and approval services, includes improvements to the existing impervious swale and outfall on private properties 147 and 149 Plymouth Blvd. The design approach includes the installation of a hydrodynamic separator, a drain manhole with a high flow bypass, two 6x12 non-filtration subsurface proprietary bio-retention systems in series, and a subsurface detention system within the right-of-way of Plymouth Blvd to provide TSS and phosphorous removal to an area that was previously unrelated. Additionally, improvements will be made to the existing conveyance infrastructure, including the installation of new curbing, catch basins, a subsurface detention system, and upgrades to the existing swale.
- Woodard & Curran is a consulting firm specializing in water and environmental projects.
- Ms. Messier contacted Jim H. and Lindsey for guidance on the next steps and how it would be funded.

Rte. 6 Re-Zoning Update:

- The working group met with Russ Burke of BSC Group on 8/29/23 to follow up on the last meeting and make the necessary edits previously discussed. Additional edits were made to the slide presentation and one last follow-up meeting is set for 9/13/23 at 10 AM before we hold the first public forum which will be either at the end of September or early October.

Short-Term Rental Committee:

- This item was not on the 8/21/23 Selectboard agenda, therefore it is on the next available agenda on 9/11/23 to be approved and for the committee members to be appointed.

b. Planner's report

Burris presented his report to the Board which included the following:

- Municipal Vulnerability Preparedness (MVP) 2.0
Vendor request for proposals issued in mid-August and due on September 15. We will select a vendor by September 20, in time for the MVP 2.0 Cohort kick-off meeting on September 21. Ms. Messier and Burris will be attending.
- Emerging contaminants in Small and Disadvantaged Communities Grant
Kleinfelder submitted a grant survey on behalf of the town to address PFAS in the drinking water at Westport Plaza, Lickety Splits, and the Macomber School. This project would extend the existing water main from Route 6 and provide service lines for adjacent properties to connect. This was a preliminary submission.
- Housing Production Plan (HPP)
The Housing Production Plan survey period has been closed out. SRPEDD has prepared an overview of the survey results, an existing housing conditions assessment, and a demographic report. Next, they

will prepare housing goals and strategies for the town and present them to the Planning Board at the September 19 meeting.

3. Correspondence

- a. ConCom Agent's email - Westport Lakes proposed development – *Noted.*

Gerry Coutinho was present and expressed his concern about the filing procedure with departments.

- b. Zoning Board of Appeals notice – *Noted.*

4. Minutes

- a. June 13, 2023
- b. June 27, 2023
- c. July 11, 2023

These minutes were approved at the August 8th meeting, but due to improper advertising, they must be approved again.

Motion

Daylor moved to re-approve the minutes of June 13, 2023, June 27, 2023, and July 11, 2023, as previously approved. Seconded by Schmid. 5-0-0

6. Short/Long-term Planning Discussions

None

ADJOURNMENT

The Board unanimously voted to adjourn at 7:36 p.m.

NOTE: Agenda is subject to change

NEXT MEETINGS:

Planning Board: October 3, 2023, at 6:00 p.m.
Public Hearings: 6:15 p.m. – 146 State Road
6:30 p.m. – Plat 21 Lot 8 formerly Stoneridge



Town of
Westport
MASSACHUSETTS

The Coastal Agricultural Resource Community of New England

**PLANNING BOARD
MEETING MINUTES**

Date/time of Meeting: September 19, 2023, at 6:00 p.m.
Place: Town Hall Annex, 856 Main Road

Call to order: The regular meeting of the Westport Planning Board was called to order at 6:03 PM by Chairman, Jim Whitin.

ATTENDEES

Chairman-Whitin, and members, Manuel Soares, Mark L. Schmid, Town Planner, Michael Burris, and Assistant Town Planner, Ms. Messier.

Absent

Vice-Chairman Daylor

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

1. Administrative Items

a. Southeastern Regional Planning and Economic Development District (SRPEDD)– Housing Production Plan: Goals and Strategies Presentation

Taylor Perez and Chris Welch of Southeastern Regional Planning and Economic Development District (SRPEDD) gave an update on Westport's Housing Production Plan. During the meeting, Ms. Perez talked about the goals and strategies that were developed based on the needs assessment. Ms. Perez will clarify the definition of subsidized housing, explore inclusionary zoning, and review local action.

Schmid mentioned the Long-Term Building Committee's options for repurposing the Old High School for housing and rezoning Route 6 to allow for housing. Bullard added that the existing town buildings, Town Hall, Annex, and Council on Aging Buildings, could be candidates for housing if the Old High School is repurposed as municipal offices. Ms. Perez will incorporate these options into the Housing Production Plan.

Ms. Perez mentioned the next step would be to present the information to the Board of Selectmen for their input. After receiving feedback from the participating committees, a draft should be ready by November, which will then go to EHOLC for review. Once all boards and committees have reviewed and approved the plan, a five-year Housing Production Plan will be established.

b. Planning Office Fee Schedule Review

Per the Town Administrator's request to increase application fees, Burris will compare fees to surrounding areas, and make recommendations at the October 3rd meeting.

2) 6:15 p.m. Public Hearing

a. 82 Highridge Road (23-023SP-FF) – Request by the applicant to consider the Special Permit, Flexible Frontage application for Eric J. & Jillian Raposo for property located at 82 Highridge Road, Assessors Map 42, Lots 7, 8-2 & 1T.

Ms. Messier recommended continuing the meeting to October 3, 2023, at 6:30 because there was no representation to discuss the project.

Ray Rodrigues of 73 Highridge Road was present. He expressed his concern regarding the applicant's boundary lines.

Motion to Continue

At the suggestion of the Assistant Planner, Bullard moved to continue the hearing until October 3, 2023, at 6:30 p.m. Seconded by Soares. 4-0-0

3) 6:30 p.m. Public Hearing

a. Silverback Construction (21-004SPA-Minor) - This applicant is requesting a Site Plan Minor Modification for 2 Cheryl's Way, Map 28 Lot 17C, which was approved by the Board in November 2021. The applicant requested a minor modification to reduce parking by one space, leaving 15 spaces, and move the stairwell from inside to outside. It was advertised and notice was mailed to the abutters.

Mike DeMello of Silverback Construction was present. He is requesting approval to have the stairwell from the inside of the building to the outside of the original design of the building to gain an additional 400' for the interior.

Motion

Bullard motioned to determine that the modification to the approved Site Plan is minor. Seconded by Soares. 4-0-0

Motion to approve

Bullard motioned to approve the minor modification to the approved site plan for the elimination of one (1) parking space and for the stairs to be constructed outside of the building envelope versus inside the building envelope. Seconded by Soares. 4-0-0

Motion to Close the Public Hearing

Bullard moved to close the Site Plan Approval for the Minor Modification application for Silverback Construction under the Site Plan Rules and Regulations Section 13.1, for the property at 2 Cheryl's Way, Assessors Map 28, Lot 17C. Seconded by Soares. 4-0-0

4) Assistant/Planners report

a. Assistant Planner's Report

The Board was informed by Ms. Messier with the subsequent information.

Climate Resilience Committee: Ms. Messier reminded the Board the next meeting for the CRC will be held virtually on 9/28/23 at 5:00 PM.

Harbor Water Study:

A meeting was held on 9/6/23 with staff and stakeholders. Ms. Messier mentioned that Frank Getchell presented his latest memorandum regarding the well testing on 755 River Road. Additional testing will be conducted for longer periods.

Short-Term Rental Committee: The Committee was approved by the Selectboard on 9/11/23, with their first public meeting held on 9/14/23. They reviewed a draft by-law and started the process of defining what a short-term rental was and agreed an updated table of uses was required to address Short-Term rentals. The next meeting is September 28, 2023, at 1:30 p.m. The goal would be to present this new by-law at the 2024 Town Meeting.

Plymouth Blvd. Drainage: Ms. Messier mentioned she communicated with Lindsay Wilcox from Woodard and Curran, regarding an MVP grant that was awarded to Fall River for the purpose of creating a preliminary design to improve water conditions in the South Watuppa Pond for the benefit of Fall River, Tiverton, and Westport. Ms. Messier mentioned that she, Manuel Soares, and Jim Whitin would attend the September 25, 2023, Public Informational Meeting on the South Watuppa Pond Water Quality Improvements.

Cemetery – Pare Engineering design review: During the presentation, Ms. Messier provided an update on the engineering design plans for Beech Grove Cemetery's future development.

b. Planners report

Burris gave an update on the following projects.

- i. Southeast New England Program Network (SNEP) stormwater planning assistance with
 1. Conservation/Westport Land Conservation Trust
 2. Program through SNEP where they provide municipal staff training and technical assistance to design a nature-based stormwater retrofit. The design would be at a more conceptual level. We applied to have a redesign of the ditch near Mill Pond on Gifford Road (not far south of Westport Dairy).
- ii. Municipal Vulnerability Preparedness 2.0 – Request for Proposals Update
 1. Our RFP period closed out last week on Friday. We received two proposals which are under review and we anticipate deciding by the end of the week.
- iii. Economic Development Administration – Public Works and Economic Adjustment Assistance Program Grant for funds for the Route 6 sewer.
- iv. New England Foundation for the Arts - Making it a public grant. This grant provides \$15,000 for participating communities for a public art installation. The Town Planner will look into this further pending availability.

5) Correspondence

- a. Zoning Board of Appeals. *Noted.*
 - i. Notice of Denial of Administrative Appeal: 50 Spinnaker Way short-term rental.
 - ii. Notice of Decision: setback variance of 181 East Beach Road

6) Invoices

- a. Westport Shorelines AG's notice - \$533.00
- b. Quill – Chairs for Planning Department Conference table - \$588.88

Motion

Bullard motioned to approve the invoice for the Shoreline legal notice for \$533.00 and the Quill invoice for \$588.88. Seconded by Schmid. 4-0-0

7) Matters not reasonably anticipated within 48 hours

None.

ADJOURNMENT

The Board unanimously voted to adjourn at 8:06 p.m.

Respectfully submitted,



Nadine Castro
Assistant Planner II

NOTE: Agenda is subject to change

NEXT MEETINGS:

Planning Board: October 17, 2023, at 6:00 p.m.

Public Hearings: 6:15 p.m. Marcotte

6:20 p.m. Salty Breeze

DRAFT