

**NEEDHAM
ZONING BOARD OF APPEALS
AGENDA**

Wednesday, April 24, 2024 - 7:30PM

Select Board Chambers Needham Town Hall 1471 Highland Avenue Needham, MA 02492	Also livestreamed on Zoom Meeting ID: 869-6475-7241 To join the meeting click this link: https://us02web.zoom.us/j/86964757241
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- 1. Minutes** Review and approve Minutes from March 21, 2024 meeting.

- 2. 7:30PM – 315 Chestnut Street**
315 Chestnut Street Needham, LLC, applied to the Board of Appeals for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2, 5.1.3 and any other applicable sections of the By-Law to permit the conversion and use of the second floor space, most recently used as office space, for residential purposes as one residential dwelling unit and waiving strict adherence to the number of required parking and the parking plan and design requirements. The property is located at 315 Chestnut Street, Needham, MA in the Chestnut Street Business (CSB) Zoning District.

- 3. 7:45PM – 37 Moseley Avenue**
Saybrook Construction, LLC, applied to the Board of Appeals for a Variance pursuant to Sections 7.5.3, and MGL40A, Section 10, from the following provisions of Section 4.2.3 and any other applicable sections of the By-Law to permit the demolition of a deteriorated single family residential dwelling with detached garage and shed and to allow the construction of a new single-family residential dwelling with a side setback of 13.8 feet where 25 feet are required and a front yard setback of 20 feet where 30 feet are required. The lot contains 35,726 square feet, less than the required 43,560 square feet. The property is located at 37 Moseley Avenue, Needham, MA in the Single Residence A (SRA) Zoning District.

Next ZBA Meeting – Thursday, May 16, 2024
Charles River Room, PSAB, 500 Dedham Ave, Needham

NEEDHAM
ZONING BOARD OF APPEALS
MINUTES
THURSDAY, March 21, 2024 - 7:30PM

Charles River Room Public Service Administration Building 500 Dedham Avenue Needham, MA 02492	Also livestreamed on Zoom Meeting ID: 869-6475-7241
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Pursuant to notice published at least 48 hours prior to this date, a meeting of the Needham Board of Appeals was held in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, MA 02492 on Thursday, March 21, 2024 at 7:30 p.m.

BOARD MEMBERS PRESENT: Jonathan D. Tamkin, Chair, Nikolaos M. Ligris, Peter Friedenberg and Valentina Elzon.

BOARD MEMBERS ABSENT: Howard S. Goldman

STAFF PRESENT: Daphne M. Collins, Zoning Specialist

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

1. MINUTES OF JANUARY 18, 2024

Mr. Friedenberg moved to approve the minutes of January 18, 2024. Mr. Ligris seconded the motion. The motion was unanimously approved.

2. 20 ALDER BROOK LANE

VARIANCE

DENIED

Mr. Friedenberg moved to deny a Variance under MGL 40A, Section 10, and Section 7.5.3 of the By-Law to allow a front setback at 15.4” where 25 feet are required as applied by Amit Swartz and Neta Levin Swartz at 10 Alder Brook Lane. Mr. Ligris seconded the motion. The motion to deny the grant of a Variance was unanimously approved.

SPECIAL PERMIT

WITHDRAWN WITHOUT PREJUDICE

Mr. Ligris moved to allow Amit Swartz and Neta Levin Swartz to withdraw without prejudice, the application for a Special Permit for 20 Alder Brook Lane. Mr. Friedenberg seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:21 p.m.

A summary of the discussions on each subject, a list of the documents and other exhibits used at the meeting, the decisions made, and the actions taken at each meeting, including a record of all votes, are set forth in a detailed decision signed by the members voting on the subject and filed with the Town Clerk. Copies of the Decisions are filed at the Board website linked here:

<https://needhamma.gov/Archive.aspx?AMID=141&Type=&ADID=>

or by contacting Daphne Collins, Zoning Specialist, dcollins@needhamma.gov or 781-455-7550, ext. 261.

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

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

TELEPHONE (781) 449-4520

FAX (781) 465-6059

March 18, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Administrative Specialist

Re: 315 Chestnut Street Needham, LLC
315 Chestnut Street, Needham, MA

Dear Ms. Collins,

Please be advised this office represents 315 Chestnut Street Needham, LLC (hereinafter the Applicant and “315 Chestnut”) with respect to the property known and numbered 315 Chestnut Street, Needham, MA (hereinafter the “Premises”). In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;
2. Seven copies of architectural plans, including floor plans and elevations;
3. Seven copies of plot plan;
4. Check in the amount of \$500 for the applicable filing fee.

The Premises is situated in the Chestnut Street Business (CSB) Zoning District and is occupied by an existing two-story commercial that appears to have been built in 1950. The first floor of the building contains two tenant spaces, with the second floor containing just one tenant space. Since construction of the building, the entirety appears to have been used for various commercial purposes. At present, one of the first-floor spaces is used and occupied by Kostas Pizza and Seafood, pursuant to special permits issued by the Zoning Board of Appeals¹, and the other two spaces are vacant. The remaining first-floor space was most recently used and occupied for dry cleaning purposes and the second-floor space was most recently used and occupied for office purposes. The Applicant desires to convert the entire second floor space into a single residential unit, while maintaining the existing commercial uses on the first floor.

¹ See Decision d. August 30, 1988, filed with the Town Clerk October 3, 1988, issued to L. Petrini & Son, Inc, Decision d. September 1, 1992, filed with the Town Clerk May 17, 1993, issued to Diomedes Logothetis d/b/a Mom & Pop’s Pizza, and Decision d. November 21, 1996, filed with the Town Clerk December 2, 1996, issued to Diomedes Logothetis d/b/a Mom & Pop’s Pizza.

While residential apartment use is allowed in the Chestnut Street Business Zoning District, it is only allowed on the second floor and requires a special permit. Whereas the conversion of the second floor will not fundamentally alter the operation of the building, and will provide additional housing, the Applicant asserts that such permit is warranted and appropriate. Moreover, as discussed below, the conversion of the second floor will reduce parking demand and bring the building closer into compliance relative thereto.

At present, the overall parking demand for the building is 25 spaces, calculated as follows:

Kostas Pizza and Seafood: 15 seats @ 1/3 seats = 5 spaces + 10 spaces for take-out = 15 total spaces

First Floor Retail: 1,200 square feet @ 1 space / 300 SF = 4 spaces

Second Floor Office – 1,552 square feet @ 1 space / 300 SF = 5.17 spaces = 6 spaces

With the conversion of the second floor from office to retail, the total number of spaces required will be reduced to 21, calculated as follows:

Kostas Pizza and Seafood: 15 seats @ 1/3 seats = 5 spaces + 10 spaces for take-out = 15 total spaces

First Floor Retail: 1,200 square feet @ 1 space / 300 SF = 4 spaces

Second Floor Residential – One Apartment unit @ 1.5 spaces / unit = 1.5 = 2 spaces

There are currently a total of 8 spaces on site. Therefore, at present, there is a shortfall of 17 spaces. While the conversion of the second floor from office space to residential will result in a net reduction in parking demand, there will still be a shortfall of 13 spaces. As a result, a special permit waiving strict adherence with the number of parking spaces is required. In addition, because none of the existing spaces comply with applicable design requirements, a special permit waiving strict adherence with the parking design guidelines is also required. And, while these waivers are required, in as much as both calculated and actual parking demand will decrease, and the existing parking has been in existence for many years, the Applicant asserts that they are appropriate.

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

Sincerely,



George Giunta, Jr.



ZBA Application For Hearing

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

Applicant Information

Applicant Name	315 Chestnut Street Needham, LLC			Date:	03/18/24
Applicant Address	16 Main Street, Dennis Port, MA 02639				
Phone		email			
Applicant is ☒ Owner; ☐ Tenant; ☐ Purchaser; ☐ Other_____					
If not the owner, a letter from the owner certifying authorization to apply must be included					
Representative Name	George Giunta, Jr., Esq.				
Address	281 Chestnut Street, Needham, MA 02492				
Phone	617-840 -3570	email	george.giuntajr@needhamlaw.net		
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other_____					
Contact ☐ Me ☒ Representative in connection with this application.					

Subject Property Information

Property Address	315 Chestnut Street, Needham, MA 02492		
Map/Parcel Number	Map 46 / Parcel 51	Zone of Property	Chestnut Street Business (CSB)
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☐ Yes ☒ No			
Is property ☐ Residential or ☒ Commercial			
If residential renovation, will renovation constitute "new construction"? ☐ Yes ☒ No			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐ Yes ☒ No			
Do the spaces meet design requirements? ☐ Yes ☒ No			
Application Type (<i>select one</i>): ☒ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

Two story commercial building with two tenant spaces on the first floor and one tenant space on the second floor. One first floor space occupied by pizza / sandwich shop pursuant to existing special permits. Remaining first floor space currently vacant; most recently occupied by dry cleaner. Second floor space currently vacant, most recently occupied for office purposes.

Statement of Relief Sought:

1. Special permit pursuant to Section 3.2.2 to permit the conversion and use of the second floor space for residential purposes as one residential dwelling unit,
2. Special permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements);
3. All other relief that is or may be necessary for the conversion and use of the second floor for residential purposes as one residential dwelling unit.

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

3.2.2, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Section or By-Law.

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

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



ZBA Application For Hearing

Date Structure Constructed including additions:

Date Lot was created:

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

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

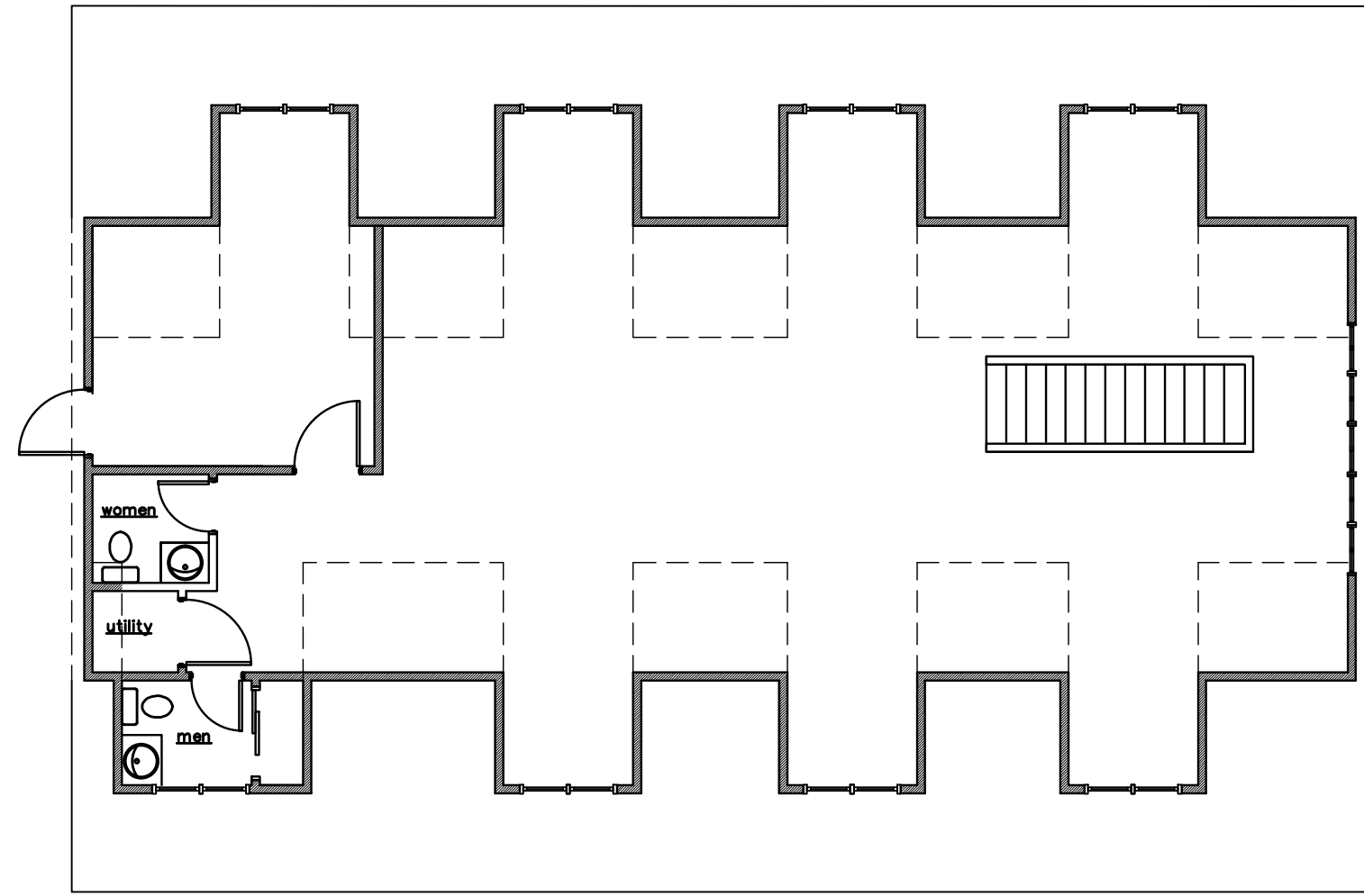


I hereby request a hearing before the Needham Zoning Board of Appeals. I have
reviewed the Board Rules and instructions.

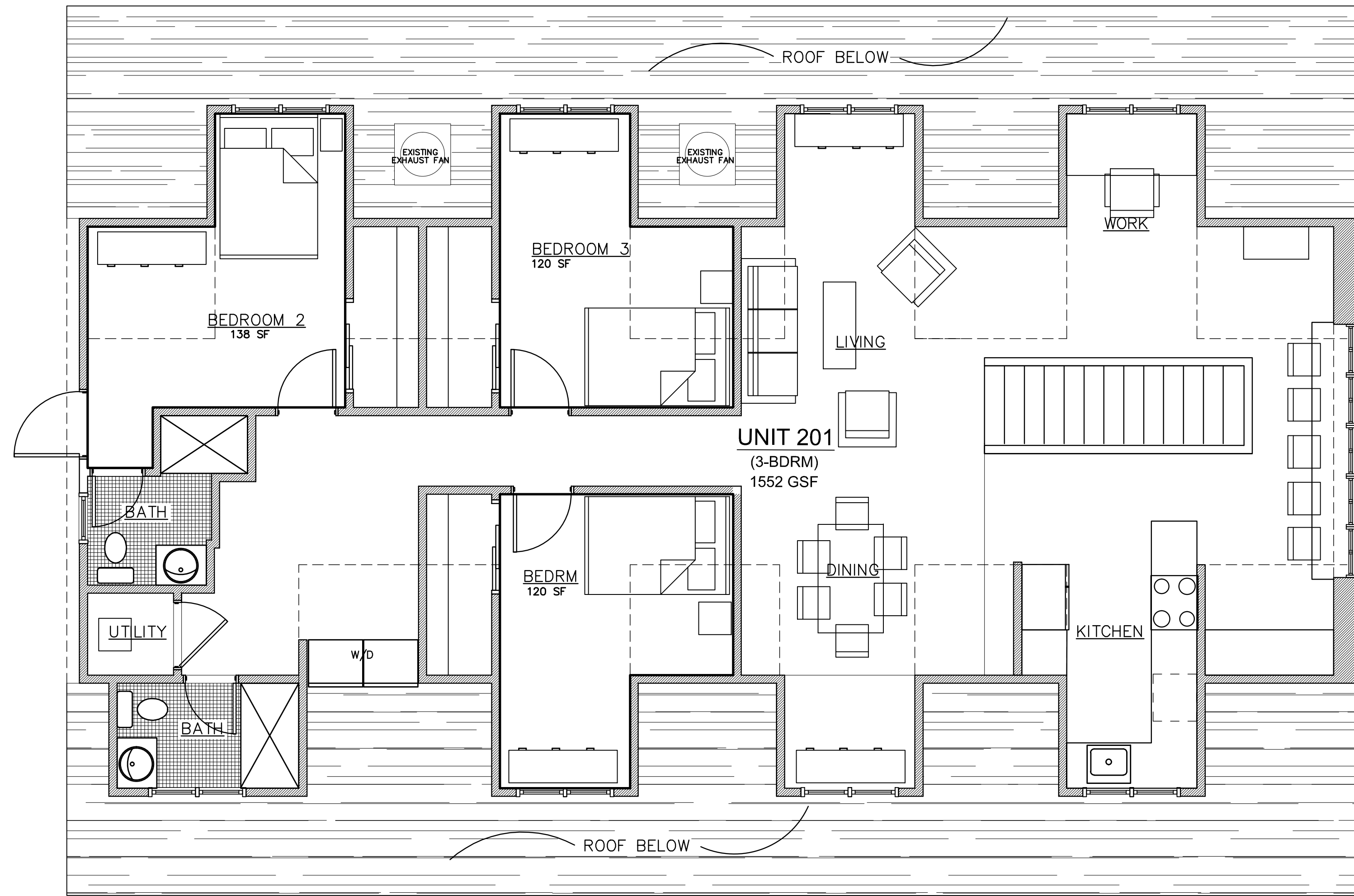
I certify that I have consulted with the Building Inspector _____
date of consult

Date: 3/18/24 Applicant Signature George Giunta Jr
George Giunta, Jr., Esq.
Attorney for 315 Chestnut Street Needham, LLC

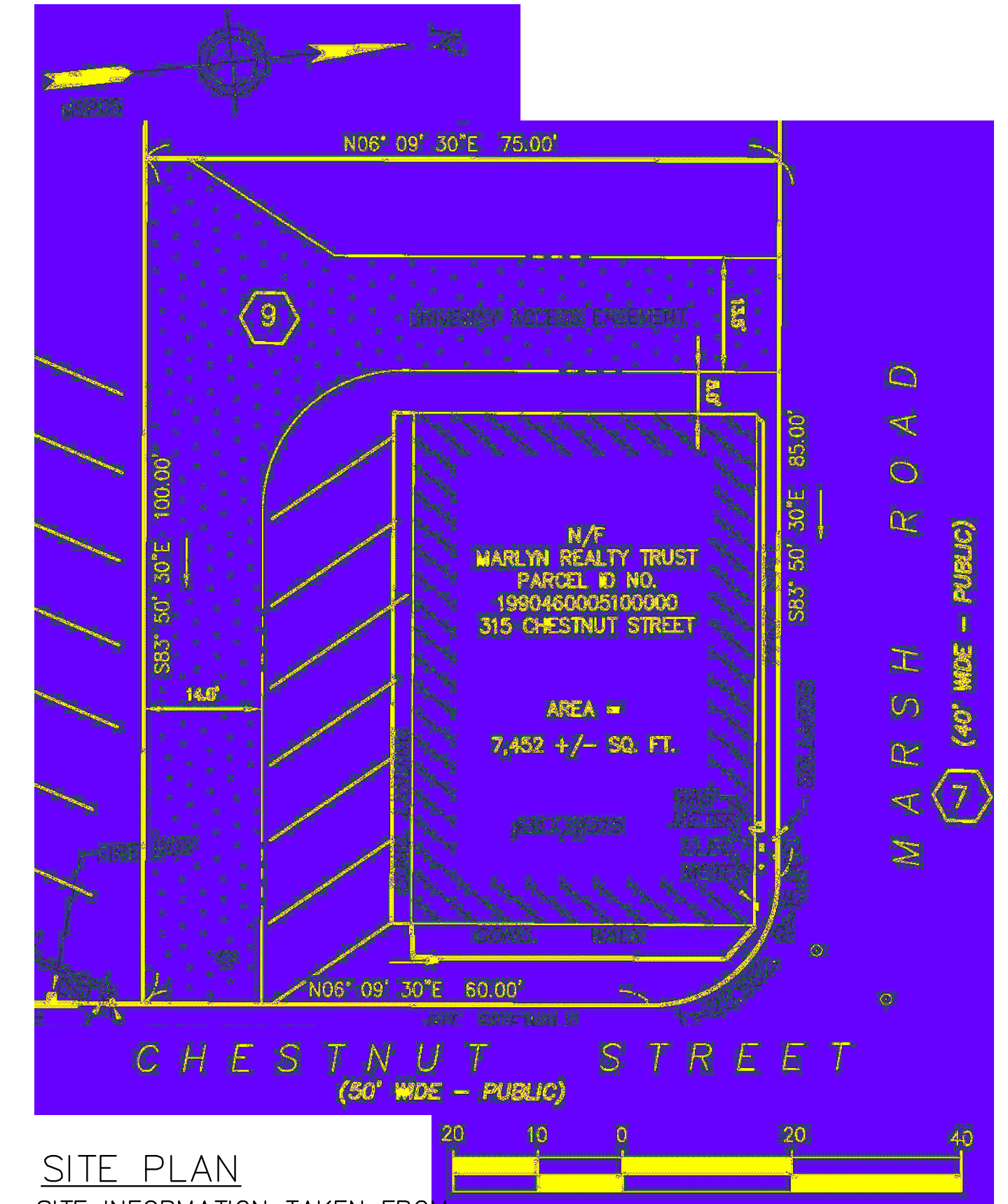
*An application must be submitted to the Town Clerk's Office at
townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov*



EXISTING FLOOR PLAN
SCALE: 1/8"=1'-0"



PROPOSED 2ND FLOOR PLAN — THREE BEDROOM APARTMENT (1552 GSF)
SCALE: 1/4"=1'-0"



SITE PLAN
SITE INFORMATION TAKEN FROM
PLAN TITLED, ALTA/NSPS LAND
TITLE INSURANCE SURVEY, DATED
04/07/2022, PREPARED BY "CHA".



EXISTING LEFT SIDE FACADE PARKING LOT



EXISTING FRONT FACADE CHESTNUT STREET



EXISTING RIGHT SIDE FACADE MARSH ROAD



EXISTING REAR FACADE

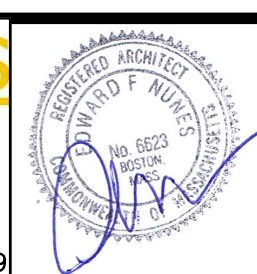
EFNArchitects LLC retains the ownership of these documents. They are licensed for use only in accordance with the terms and conditions of the Owner/Architect Agreement. EFNArchitects LLC retains all rights not expressly granted.

APARTMENT CONVERSION (2ND FLOOR)
135 CHESTNUT STREET
NEEDHAM, MA

NO. REVISIONS

EFNArchitects

43 Broad Street B204 • Hudson, MA 01749
781-455-9880 www.EFNArchitects.com



TITLE

SITE PLAN
2ND FLOOR APARTMENT PLAN
EXISTING BLDG PLAN/ELEVATIONS

PROGRESS 09/23/23
PROGRESS rev09/25/23
PROGRESS rev10/19/23

DRWN BY: EFNA
CHKD BY: EFNA
DATE: 00/00/00
SCALE: AS NOTED
PROJECT NO.: 0000

GENERAL NOTES:

1. THE EXISTING CONDITIONS INFORMATION SHOWN HEREON ARE THE RESULTS OF AN ON THE GROUND SURVEY ON APRIL 15, 2022.

2. ALL DEED REFERENCES ARE TO NORFOLK COUNTY REGISTRY OF DEEDS UNLESS OTHERWISE NOTED.

3. LOCUS OWNER OF RECORD:

315 CHESTNUT STREET NEEDHAM LLC
DEED BOOK 40551 PAGE 214
PARCEL ID NO.1990460005100000

4. TOPOGRAPHY, CONTOURS AND BENCHMARKS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88). TEMPORARY BENCHMARKS, REFERENCED TO THE DATUM ARE INDICATED ON THE SURVEY.

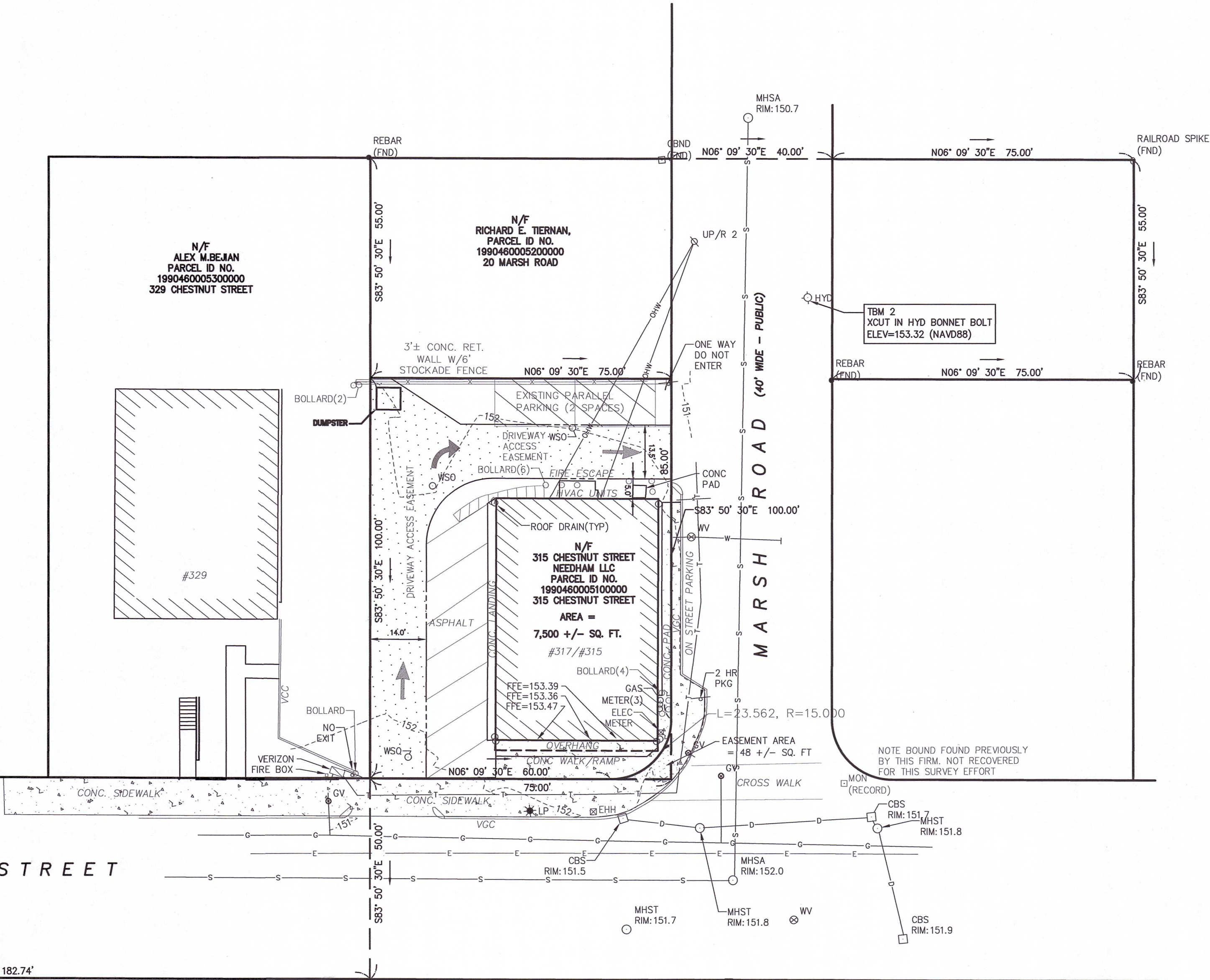
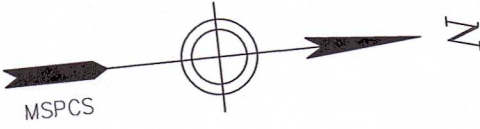
5. THE PROJECT AREA IS LOCATED IN FLOOD ZONE X AS SHOWN ON FLOOD INSURANCE RATE MAP FOR NORFOLK COUNTY, COMMUNITY PANEL NUMBER 25021C0038E, EFFECTIVE DATE 7/17/2012.

6. THE LOCUS PARCEL IS LOCATED IN THE TOWN OF NEEDHAM CHESTNUT STREET BUSINESS DISTRICT (LOWER CHESTNUT STREET OVERLAY DISTRICT) AS DEFINED BY THE TOWN OF NEEDHAM ZONING MAP REVISED MARCH 1, 2020.

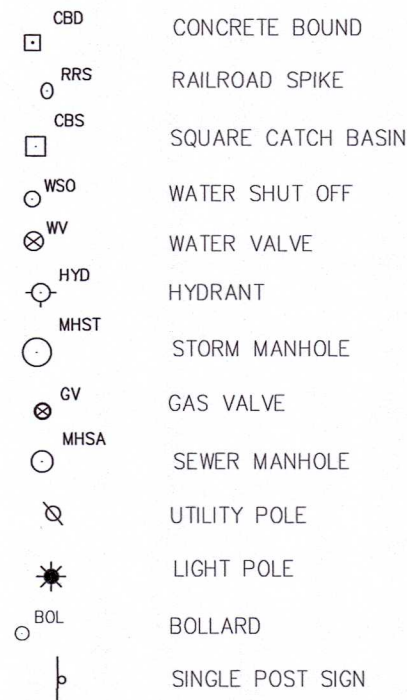
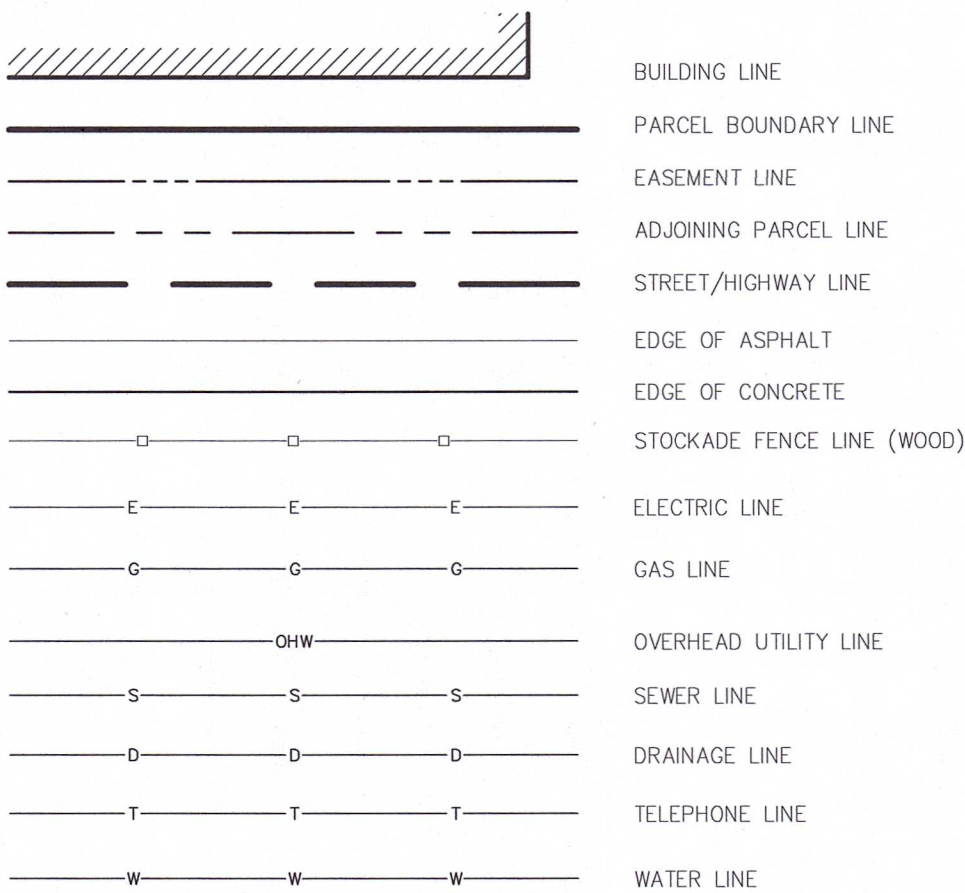
7. LOCATION OF SUBSURFACE UTILITIES SHOWN HEREON ARE APPROXIMATE AND ADDITIONAL UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS PLAN. LOCATIONS ARE COMPILED FROM UTILITY PLANS OF RECORD AND DIG-SAFE FIELD MARKINGS. RIM AND INVERT INFORMATION HAS BEEN COMPILED AND FIELD VERIFIED WHERE POSSIBLE. THIS INFORMATION IS NOT TO BE USED FOR CONSTRUCTION. PRIOR TO ANY CONSTRUCTION, CONTACT DIG-SAFE (811) TO FIELD VERIFY LOCATION OF ALL UTILITIES.

8. PLAN REFERENCES:

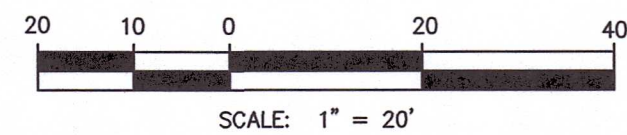
PLAN BOOK 404 PAGE 92
PLAN BOOK 359 PAGE 1153
PLAN BOOK 203 PAGE 370



LEGEND:



TBM 1
XCUT IN SIGN POLE BASE SW BOLT
ELEV=152.91 (NAVD88)



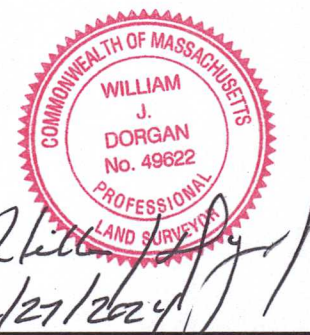
Drawing Copyright © 2022

CHA
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Norwell, MA 02061
781.982.5400 • www.chacompanies.com

PREPARED FOR:

315
CHESTNUT
STREET NEEDHAM
LLC

315 CHESTNUT
STREET NEEDHAM
MA 02492



IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND SURVEYOR TO ALTER AN ITEM IN ANY WAY. IF AN ITEM BEARING THE STAMP OF A LICENSED PROFESSIONAL IS ALTERED, THE ALTERING ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND SURVEYOR SHALL STAMP THE DOCUMENT AND INCLUDE THE NOTATION: 'ALTERED BY [NAME] [DATE]'. THE DATE OF SUCH ALTERATION AND A SPECIFIC DESCRIPTION OF THE ALTERATION.

TITLE

PLAN OF LAND
315 CHESTNUT STREET
NEEDHAM, MA
NORFOLK COUNTY

No.	Submittal / Revision	App'd	By	Date
0	DRAFT	WJD	WJD	04/07/2022
1	PROGRESS PRINT	WJD	SBH	04/19/2022
2	CLIENT COMMENTS	WJD	SBH	04/29/2022
3	CLIENT COMMENTS	WJD	WJD	10/11/2023
4	CLIENT COMMENTS	WJD	WJD	1/19/2024

315-317 CHESTNUT STREET
NEEDHAM, MA

Designed By: ---	Drawn By: SBH	Checked By: WJD
Issue Date: X	Project No: 78330	Scale: 1" = 20'

Drawing No.:

SHEET 1 OF 1

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA

March 18, 2024

MEMORANDUM IN SUPPORT OF
APPLICATION FOR SPECIAL PERMITS
315 Chestnut Street Needham, LLC
315 Chestnut Street, Needham, MA

The applicant, 315 Chestnut Street Needham, LLC (hereinafter, interchangeably, the “Applicant” and “Chestnut, LLC”), seeks a Special Permit pursuant to Section 3.2.2 to convert existing second floor commercial space to a residential apartment, a Special Permit pursuant to Section 5.1.1.5, waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements), and any and all other relief as may be necessary for the conversion, use and occupancy of the second floor at 315 Chestnut Street (the “Premises”) for residential purposes in a single apartment.

BACKGROUND

The Premises is situated in the Chestnut Street Business Zoning District. It is identified as Parcel 51 on Town of Needham Assessor’s Map No. 46 and is situated on the corner of Chestnut Street and Marsh Road with approximately 75 feet of frontage on Chestnut Street and 85 feet of frontage on Marsh Road. The Premises consists of approximately 7,500 square feet of land and is occupied by an existing two-story commercial building and associated off-street parking. There is no existing landscaping on site. The building consists of approximately 2,400 square feet of space on the first floor with 1,552 square feet on the second floor.

The first floor is divided into two tenant spaces, one of which is currently used and occupied by Kostas Pizza and Seafood, pursuant to multiple special permits issued by the Zoning Board of Appeals¹. The other first floor space, which was vacant for a time after having been used for dry cleaning purposes, has just recently been occupied by a jewelry store. The second floor space, which has been used for a variety of purposes over the years, including a hairdresser, was most recently used for office purposes.

¹ See Decision d. August 30, 1988, filed with the Town Clerk October 3, 1988, issued to L. Petrini & Son, Inc, Decision d. September 1, 1992, filed with the Town Clerk May 17, 1993, issued to Diomedes Logothetis d/b/a Mom & Pop’s Pizza, and Decision d. November 21, 1996, filed with the Town Clerk December 2, 1996, issued to Diomedes Logothetis d/b/a Mom & Pop’s Pizza.

PROPOSED USE

The Applicant is proposing to renovate, reuse repurpose the entire second floor space to serve as a single residential apartment. This new residential unit will consist of three bedrooms and two bathrooms, with living, dining and work areas in an open plan, as well as a full kitchen. All the renovations and changes are internal only, with no changes proposed to the exterior of the building. The apartment will be served by the existing set of stairs, accessed from a door in the front of the building, located between the doors to the first-floor commercial tenants. There is an emergency egress / fire escape at the rear of the space, accessed through Bedroom 2, as shown on the plans.

PARKING

There are a total of 8 existing parking spaces at the Premises, including two parallel spaces along the fence at the rear of the property and six head-in spaces along the left, southerly side of the building. None of these spaces comply with the parking design requirements set forth at Section 5.1.3. The parallel spaces are shorter than the 22 feet required by Section 5.1.3(f) and are not setback a minimum of 4 feet from the rear lot line as required by Section 5.1.3(j). The six spaces along the side of the building are not setback the required minimum 20 feet from Chestnut Street, nor the minimum of 5 feet from the building, both as required by Section 5.1.3(j). No landscaped areas are provided, as required by Section 5.1.3(k), nor trees as required by Section 5.1.3(l).

In addition to the existing design nonconformities, the total number of spaces is currently less than required pursuant to the By-Law. At present, based on the most recent commercial use of the second-floor space, the overall parking demand for the building is 25 spaces, calculated as follows:

Kostas Pizza and Seafood: 15 seats @ 1 space / 3 seats = 5 spaces + 10 spaces for take-out = 15 total spaces

First Floor Retail (jewelry store): 1,200 square feet @ 1 space / 300 SF = 4 spaces

Second Floor Office – 1,552 square feet @ 1 space / 300 SF = 5.17 spaces = 6 spaces (rounded up)

$15 + 4 + 6 = 25$ total spaces required.

Therefore, the Premises currently has a shortfall of 17 parking spaces.² This situation will be improved with the conversion of the second floor to residential space, as the total parking demand will decrease to 21 spaces, calculated as follows:

Kostas Pizza and Seafood: 15 seats @ 1/3 seats = 5 spaces + 10 spaces for take-out = 15 total spaces

First Floor Retail: 1,200 square feet @ 1 space / 300 SF = 4 spaces

Second Floor Residential – One Apartment unit @ 1.5 spaces / unit³ = 1.5 = 2 spaces (rounded up)

15 + 4 + 2 = 21 total spaces.

Therefore, while a parking waiver from the number of required spaces is still required, the size of the waiver is now 13, a net reduction of 4 spaces from the current waiver.

LAW

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

Pursuant to Section 3.2.2 of the By-Law, the request for a special permit for an apartment use on the second floor in the Chestnut Street Business District is to be evaluated pursuant to the standards of Section 7.5.2 of the By-law. That Section requires that all use related aspects:

- (a) comply with such criteria or standards as may be set forth in the section of the By-Law which refers to the granting of the requested special permit;
- (b) are consistent with: 1) the general purposes of the By-Law as set forth in subparagraph 1.1, and 2) the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in the By-Law, such as, but not limited to, those at the beginning of the various sections; and
- (c) are designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area

² Note that this shortfall is currently addressed, in part, through the parking waivers granted in connection with Kostas Pizza and Seafood use and in part, through the pre-existing, non-confirming nature of the building relative to parking requirements.

³ The By-Law does not provide any explicit parking requirement for a single apartment unit, just as it does not provide any parking requirement for single or two-family dwellings. However, the By-Law does provide a parking standard of 1.5 spaces per unit for multi-family housing (3 or more units) as set forth at Section 5.1.4. That standard has been applied here, consistent with other mixed-use projects.

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

ARGUMENT / ANALYSIS

I. USE

The proposed conversion and use of the second-floor space at the Premises for residential purposes in a single apartment is consistent with both the general and specific purposes of the By-Law. The creation of an additional unit of housing in a busy commercial area will promote the welfare and interests of both the businesses and residents of the Town of Needham by providing an additional unit of badly needed housing in a location with excellent access to business and transportation links. This will be an ideal residence for someone who works in the town or who commutes into Boston on a regular basis.

The Premises is in a highly developed area, within a well-developed, existing commercial zoning district that specifically contemplates mixed commercial and residential uses. It is bordered to the south by a commercial building, and to the west and north by small residential dwellings. The proposed use of the second floor is compatible with the spirit and intent of the Zoning District as well as the characteristics of the surrounding area. Therefore, the Applicant asserts that the proposed conversion and use of the second-floor space for residential purposes in a single apartment complies with the applicable provisions of both Chapter 40A and the By-Law and should be allowed.

II. PARKING

The current / most recent use of the Premises requires a total of 25 parking spaces, with only 8 spaces available on site. As a result, there is currently a shortfall of 17 spaces. However, with the conversion of the second-floor space, this shortfall will be reduced to 13 spaces, a

marked improvement. Moreover, it is contemplated that due to the location and nature of the proposed residential use, it is likely to attract occupants with only one or possibly no vehicles. The Premises is located within walking distance of many businesses, including a food market, and also within walking distance of both bus and train links. It is the perfect location for someone without a car.

Therefore, Chestnut, LLC asserts that, owing to the special circumstances applicable to the proposed use of the second-floor space, the application of the parking requirements of Section 5.1.2 are not warranted and the requested waiver is appropriate. Furthermore, issuance of such waiver will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses and will be consistent with the intent of the Zoning By-Law.

The parking area on site is fully developed and has been in existence since prior to the adoption of parking design guidelines in the 1980s. Whereas no changes are proposed to the parking area, Chestnut, LLC asserts that a parking waiver from the applicable design requirements contained in Section 5.1.3 is appropriate. If the parking area were forced to comply with current design requirements, due to the small size of the lot and the location and layout of the existing building, nearly all, if not all the existing parking would need to be removed.

CONCLUSION

There are currently multiple ongoing efforts to find, create and promote additional housing in the Town of Needham. It has been recognized as a significant need of the Town. The proposed conversion and use of the second-floor space at the Premises serves these efforts with minimal, if any effect. Moreover, the conversion and use of such space for residential purposes will materially reduce the current parking demand at the Premises, bringing same into better compliance with the By-Law, notwithstanding the need for continued waivers. Therefore, there are good and sufficient reasons for granting the requested special permits. As a result, Chestnut, LLC asserts that the requested zoning relief is both proper and appropriate and should be granted.

Respectfully submitted,
315 Chestnut Street Needham, LLC
by its attorney,



George Giunta, Jr., Esquire
281 Chestnut Street
Needham, Massachusetts 02492
617-840-3570



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

Tel. 781-455-7550 x 308

March 28, 2024

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

Re: Application Review, 315 Chestnut St.

Dear Board Members,

I have reviewed the application submitted by Attorney George Guinta seeking to convert the 2nd floor of 315- 317 Chestnut St. from office use to a single residential apartment.

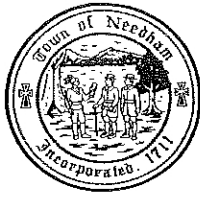
The Table of Use regulations found under Section 3.2.2 of the Zoning Bylaw is the appropriate table for this proposal and a Special Permit is required.

Table 5.1.2 Required Parking, Part 21 provides that the Building Commissioner can determine the parking requirement based on the closest similar use. (No specific requirement exists for a single apartment in the CSB District). I find that a multi-family structure is the closest similar use. Section 5.1.4 Off-Street Parking Requirements for Multi-Family Structures requires 1.5 spaces per dwelling unit. Therefore, I agree with Attorney Guinta's analyses that 2 spaces are required.

This office has no zoning concerns for this proposal.

Sincerely,

Joe Prondak, Building Commissioner



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

April 2, 2024

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

RE: Case Review-Special Permit
315 Chestnut Street

Dear Members of the Board,

The Department of Public Works has completed its review of the above-referenced Special Permit for the proposed conversion of the existing second floor office space to a single residential dwelling unit.

The documents submitted for review are as follows:

- Application for Special Permit dated 03/18/24.
- Cover letter by George Guida Jr dated 3/18/24.
- Certified Existing Conditions Site plan dated 1/19/22 by William J Dorgan
- Proposed Plot Plan by Matthew Belski dated 1/16/24.
- Architectural Proposed plan for Second floor By EFN Architects Dated 10/19/23.
- Memorandum in Support for Special Permit dated 3/18/24 by George Guida Jr

Our comments and recommendations are as follows:

- No Comment or Objection to the Proposal

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

Truly yours,

Thomas A Ryder

Town Engineer

Daphne Collins

From: Tom Conroy
Sent: Tuesday, April 2, 2024 12:14 PM
To: Daphne Collins
Subject: RE: 315 Chestnut Street - ZBA Administrative Review - Due April 2, 2024

Hi Daphne,
No issues with Fire.
Thank you.



Thomas M. Conroy

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

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, April 2, 2024 9:24 AM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: FW: 315 Chestnut Street - ZBA Administrative Review - Due April 2, 2024

Friendly reminder – Due today.
Thanks,
Daphne

Daphne M. Collins

Zoning Specialist

Phone 781-455-7550, x 261

Web <https://www.needhamma.gov/>

<https://needhamma.gov/1101/Board-of-Appeals>

www.needhamma.gov/NeedhamYouTube

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

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

Remote Hours: Thurs 8:00am-5:00pm

From: Daphne Collins
Sent: Thursday, March 21, 2024 2:43 PM
To: Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 315 Chestnut Street - ZBA Administrative Review - Due April 2, 2024

Daphne Collins

From: Tara Gurge
Sent: Monday, April 1, 2024 1:13 PM
To: Daphne Collins
Subject: RE: 315 Chestnut Street - ZBA Administrative Review - Due April 2, 2024

Daphne –

The Public Health Division conducted the Zoning Board review for the proposed addition and alteration of the existing property located at **#315 Chestnut Street**. See comments noted below:

- Prior to these proposed extensive renovations/demolition, the owner must apply for this Demolition review online, via the Towns ViewPoint Cloud online permitting system through Public Health Division. See direct link to this permit review application- <https://needhamma.viewpointcloud.com/categories/1073/record-types/1006508>. This form will need to be completed along with the uploading of the required supplemental report documents for our review and approval (as noted on the form.) **PLEASE NOTE:** Pest control reports, along with the asbestos sampling reports, etc., must be uploaded to our online system for review and approval, prior to the start of construction, which includes issuance of a Demolition/Extensive renovation permit by the Building Department. **This pest control proactive measure is also important due to the fact that there is a permitted food establishment on site. If pest activity is found to be present, during your initial baiting, you must allow sufficient time to bait and rebait, until pest activity subsides, prior to construction. Copies of these pre-construction pest reports must be submitted to the Public Health Division.**
- On-going pest control must be conducted during renovations/demolition AND on-going pest control must be conducted throughout construction.

Please let us know if you have any follow-up questions or if you need any additional information from us on those requirements.

Thanks,



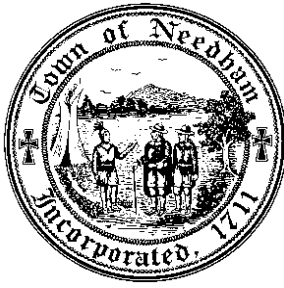
TARA E. GURGE, R.S., C.E.H.T., M.S. (she/her/hers)
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health



Prevent. Promote. Protect.



please consider the environment before printing this email



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

April 2, 2024

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

Dear Mr. Tamkin and Members of the Zoning Board of Appeals:

At its meeting of April 2, 2024, the Planning Board reviewed the applications to be heard by the Board of Appeals on April 24, 2024, and made the following recommendations:

1. 315 Chestnut Street Needham, LLC, applied to the Board of Appeals for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2. and any other applicable sections of the By-Law to permit the conversion and use of the second floor space, most recently used as office space, for residential purposes as one residential dwelling unit and waiving strict adherence to the number of required parking and the parking plan and design requirements. The property is located at 315 Chestnut Street, Needham, MA in the Chestnut Street Business (CSB) Zoning District.

The Planning Board makes NO COMMENT.

2. Saybrook Construction, LLC, applied to the Board of Appeals for a Variance pursuant to Sections 7.5.3, and MGL40A, Section 10, from the following provisions of Section 4.2.3 and any other applicable sections of the By-Law to permit the demolition of a deteriorated single family residential dwelling with detached garage and shed and to allow the construction of a new single-family residential dwelling with a side setback of 13.8 feet where 25 feet are required and a front yard setback of 20 feet where 30 feet are required. The lot contains 35,726 square feet, less than the required 43,560 square feet. The property is located at 37 Moseley Avenue, Needham, MA in the Single Residence A (SRA) Zoning District.

The Planning Board makes NO COMMENT.

NEEDHAM PLANNING BOARD

Lee Newman

Lee Newman

Director of Planning and Community Development

Daphne Collins

From: John Schlittler
Sent: Thursday, March 21, 2024 3:05 PM
To: Daphne Collins
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Police has no issues

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Thursday, March 21, 2024 2:55 PM
To: Deb Anderson <andersond@needhamma.gov>; Clayton Hutchinson <chutchinson@needhamma.gov>; Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Good Afternoon-

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

The applicant is also seeking a relief for the right side setback at 13.8 feet where 25 feet are required; and a front setback at 20 feet which requires 30 feet are required. The property is located on a 35,726 square foot lot in the SRA Zoning District which has a minimum lot size requirement of 43,560.

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

I appreciate your comments no later than **April 2, 2024** to allow time for the applicant to respond prior to the hearing.

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

Daphne

Daphne M. Collins

Zoning Specialist

Phone 781-455-7550, x 261

Web <https://www.needhamma.gov/>

<https://needhamma.gov/1101/Board-of-Appeals>

www.needhamma.gov/NeedhamYouTube

Town of Needham

Planning and Community Development

500 Dedham Avenue

Needham, MA 02492

Regular Office Hours: Mon-Wed 8:30am – 5:00pm

Remote Hours: Thurs 8:30am-5:00pm

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

TELEPHONE (781) 449-4520

FAX (781) 465-6059

March 18, 2024

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Zoning Specialist

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

Dear Ms. Collins,

Please be advised this office represents Saybrook Construction, LLC (hereinafter the Applicant and "Saybrook") with respect to the property known and numbered 37 Moseley Avenue, Needham, MA (hereinafter the "Premises"). In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing;
2. Seven copies of architectural plans, including floor plans and elevations;
3. Seven copies of plot plans depicting existing and proposed conditions; and
4. Check in the amount of \$200 for the applicable filing fee.

The Premises is situated in the Single Residence A Zoning District (SRA). It contains 35,726 square feet, less than the required one acre. It has a somewhat unusual or irregular shape, and a substantial portion of the lot, approximately two-thirds, is covered by wetlands. The Premises is currently occupied by an existing one-story residential dwelling that appears to have been built in 1922, as well as an associated detached garage and shed. All three structures are in very bad condition and the house has been subject to flooding due to proximity to wetlands and an apparent high water table.

Due to the condition of the existing structures, Saybrook desires to demolish them all and replace them with one new, single-family residential structure with an attached garage. Because of the extensive wetlands that cover the Premises, and the applicable limitations and regulations associated therewith, the useable portion of the lot is limited to a small area, in the northwest corner (the right front corner viewed from the street). Furthermore, because of the apparent high water table and frequency of flooding, it is not practical or desirable to construct any occupied

basement space, as same will likely incur water damage. As a result, the proposed new house is designed without any basement, and therefore requires a bit more space above grade to meet current housing needs.

Unfortunately, to fit such house into the small useable area of the lot requires some intrusion into the applicable setback. As a result, Saybrook is requesting a variance from the applicable side yard setback requirements to reduce the setback from the minimum 25 feet to 13.8 feet at the closest point as well as a variance from the applicable front yard setback to reduce the setback from the minimum 30 feet to 20 feet. Saybrook asserts that such variations are permissible and warranted due to the shape of the lot, the soil conditions, and because strict application of the By-Law would impose a hardship.

While the Premises is situated in the SRA Zoning District, only two of the nine lots on Moseley Avenue contain the minimum one acre of area or more. All the rest consist of less than one acre. Furthermore, the houses on Moseley Avenue are situated and located in such a way as to be generally consistent with SRB development rather than SRA. Whereas the requested setback variations are very nearly consistent with the applicable SRB setback, Saybrook asserts that the requested side yard setback variation would be consistent with the general character of the neighborhood, and is generally appropriate.

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

Sincerely,

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

George Giunta, Jr.



ZBA Application For Hearing

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2024 MAR 19 AM 10:03

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

Applicant Information

Applicant Name	Saybrook Construction, LLC	Date:	3/18/24
Applicant Address	11 Shepard Drive, Brighton, MA 02134		
Phone	617-480-5990	email	danieldeychman@gmail.com
Applicant is ☒ Owner; ☐ Tenant; ☐ Purchaser; ☐ Other _____			
If not the owner, a letter from the owner certifying authorization to apply must be included			
Representative Name	George Giunta, Jr., Esq.		
Address	281 Chestnut Street, Needham, MA 02492		
Phone	617-840-3570	email	george.giuntajr@needhamlaw.net
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other _____			
Contact ☐ Me ☒ Representative in connection with this application.			

Subject Property Information

Property Address	37 Moseley Avenue, Needham, MA 02492		
Map/Parcel Number	Map 213 / Parcel 60	Zone of Property	Single Residence A (SRA)
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☒ Yes ☐ No			
Is property ☒ Residential or ☐ Commercial			
If residential renovation, will renovation constitute "new construction"? ☒ Yes ☐ No			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐ Yes ☐ No			
Do the spaces meet design requirements? ☐ Yes ☐ No			
Application Type (select one): ☐ Special Permit ☒ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

Single family residential dwelling with detached garage and shed; all in very bad condition and subject to flooding.

Statement of Relief Sought:

1. Variance, pursuant to Section 7.5.3 and M.G.L. c. 40A, Section 10, from the following applicable provisions of Section 4.2.3 of the By-Law:

- a. 25 foot minimum side yard setback requirement; and
- b. 30 foot minimum front yard setback requirement; and

2. Any and all other relief necessary for the construction of a new single-family residential dwelling on the premises, in the location as shown on the plans submitted herewith and approved by the Needham Conservation Commission pursuant to Order of Conditions DEP File #234-896.

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

4.2.3, 7.5.3 and any other applicable section or By-Law.

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

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



ZBA Application For Hearing

Date Structure Constructed including additions:

Date Lot was created:

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

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

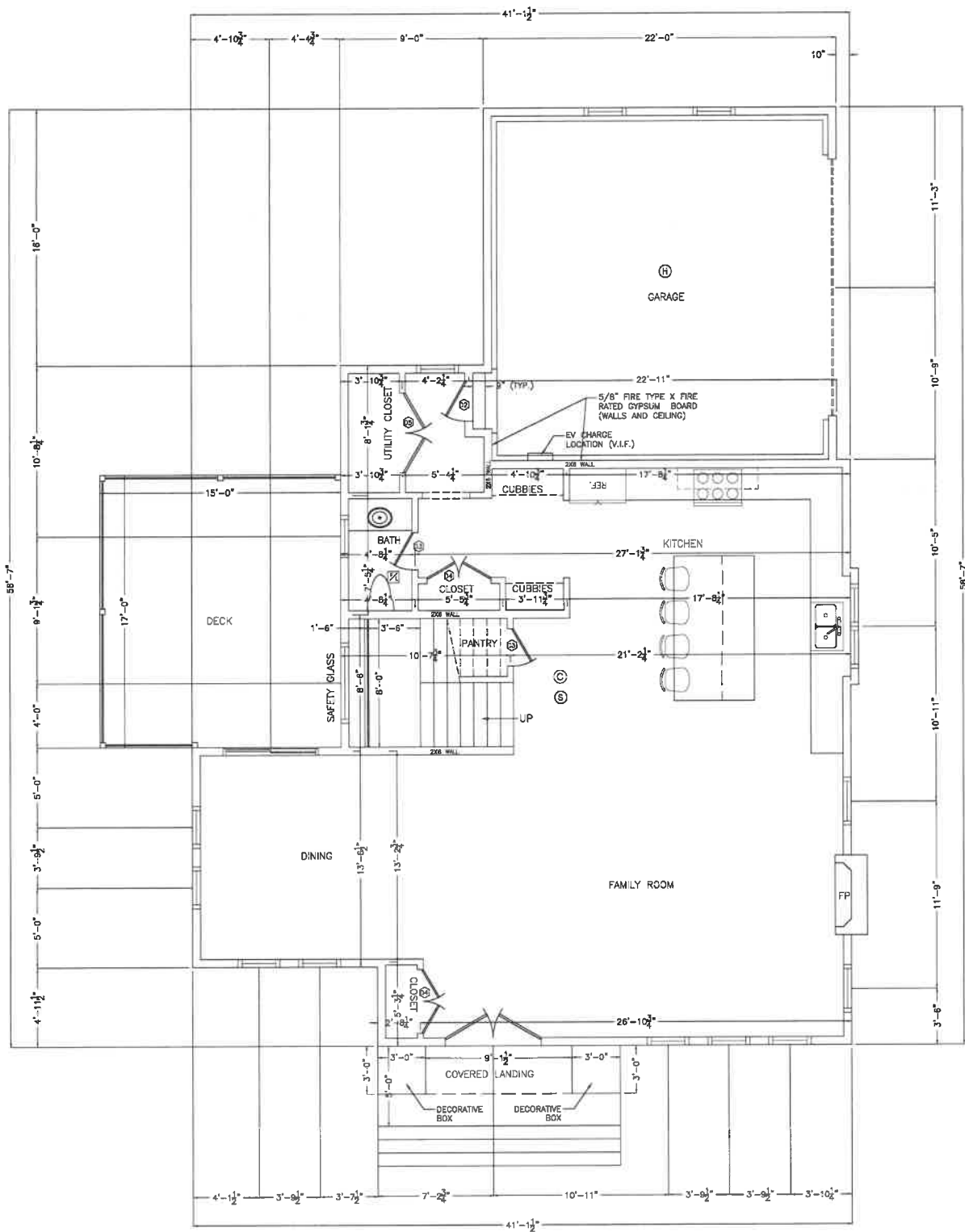


I hereby request a hearing before the Needham Zoning Board of Appeals. I have
reviewed the Board Rules and instructions.

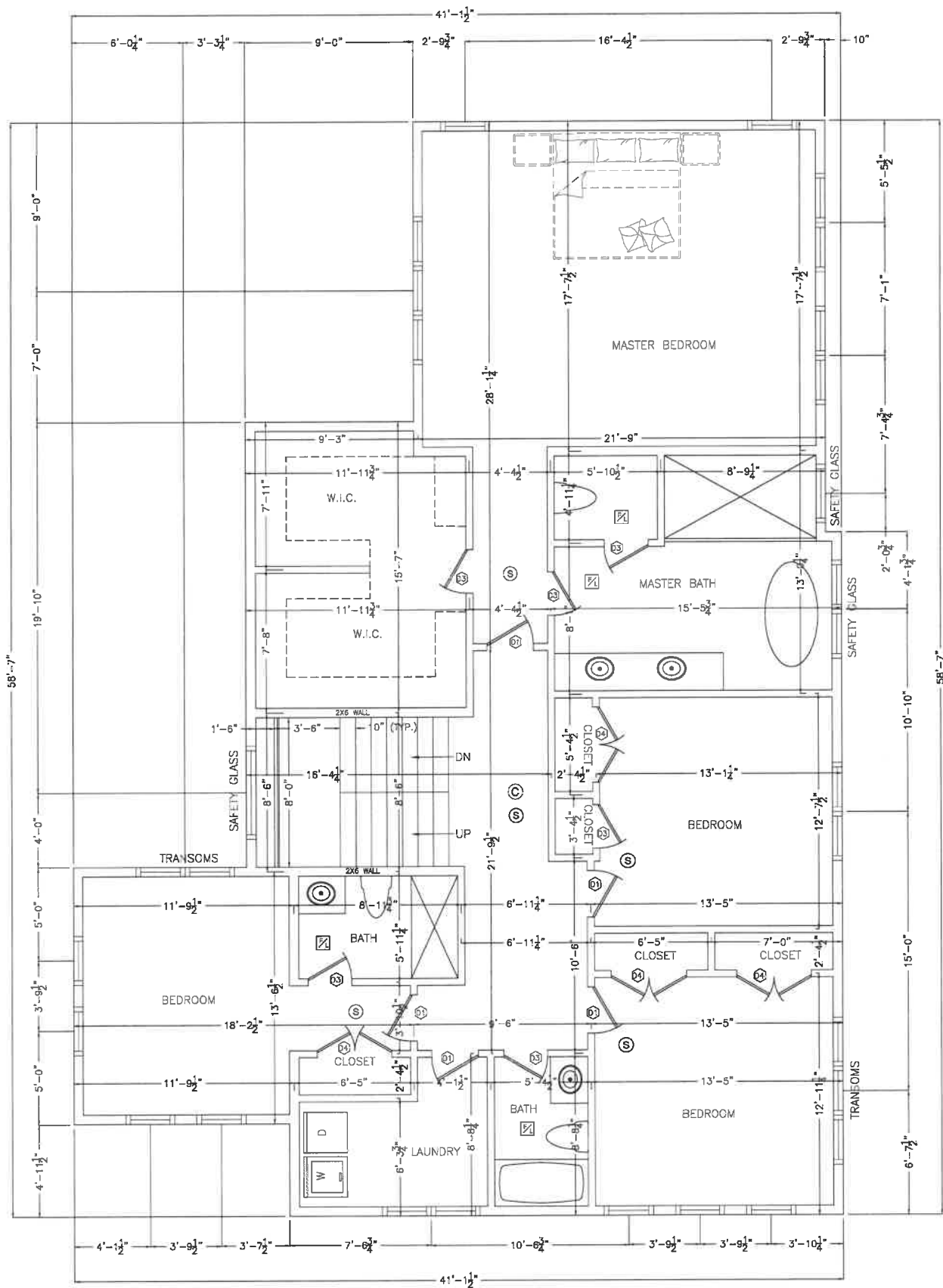
I certify that I have consulted with the Building Inspector _____
date of consult

Date: 3/18/24 Applicant Signature George Giunta Jr

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

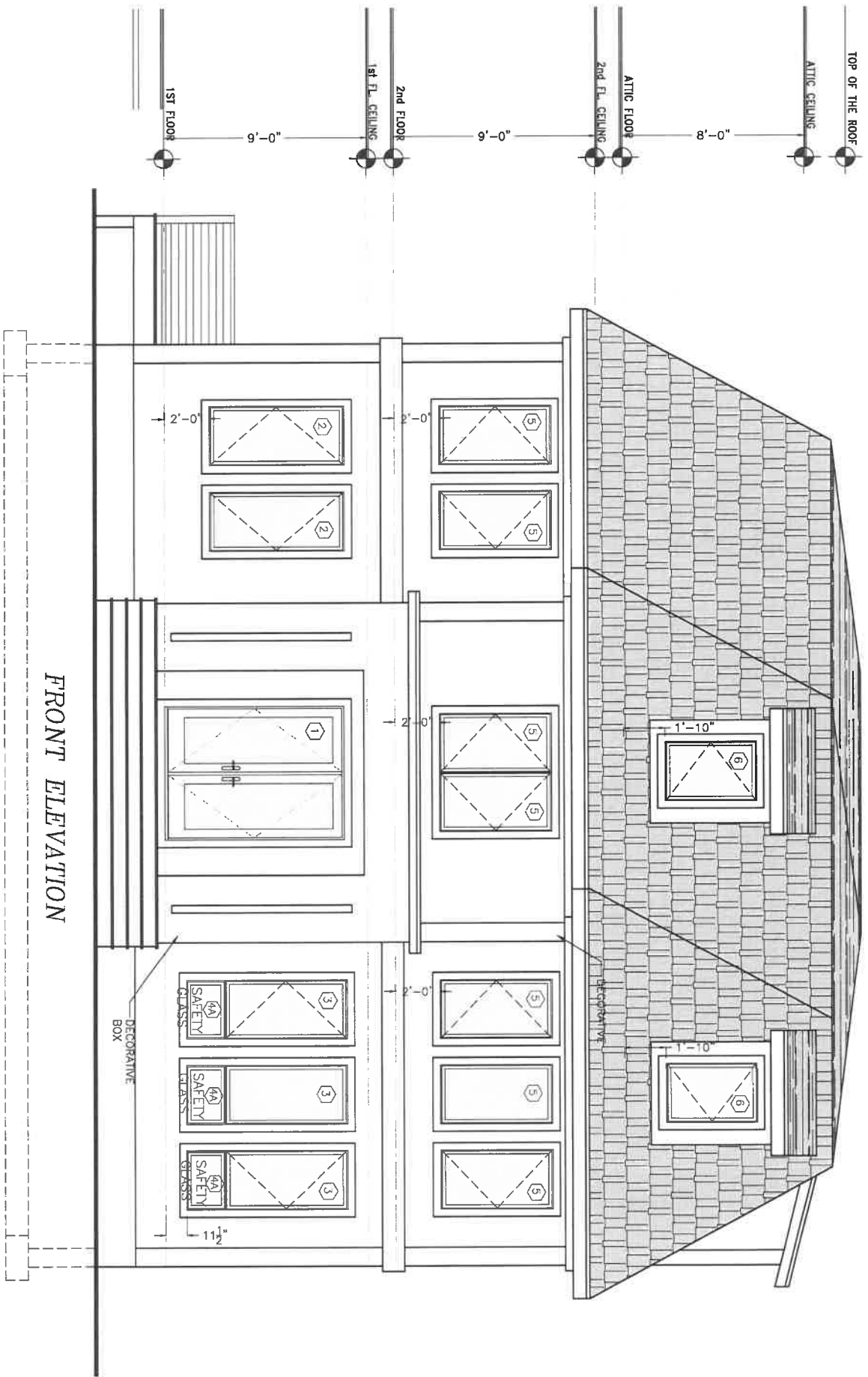


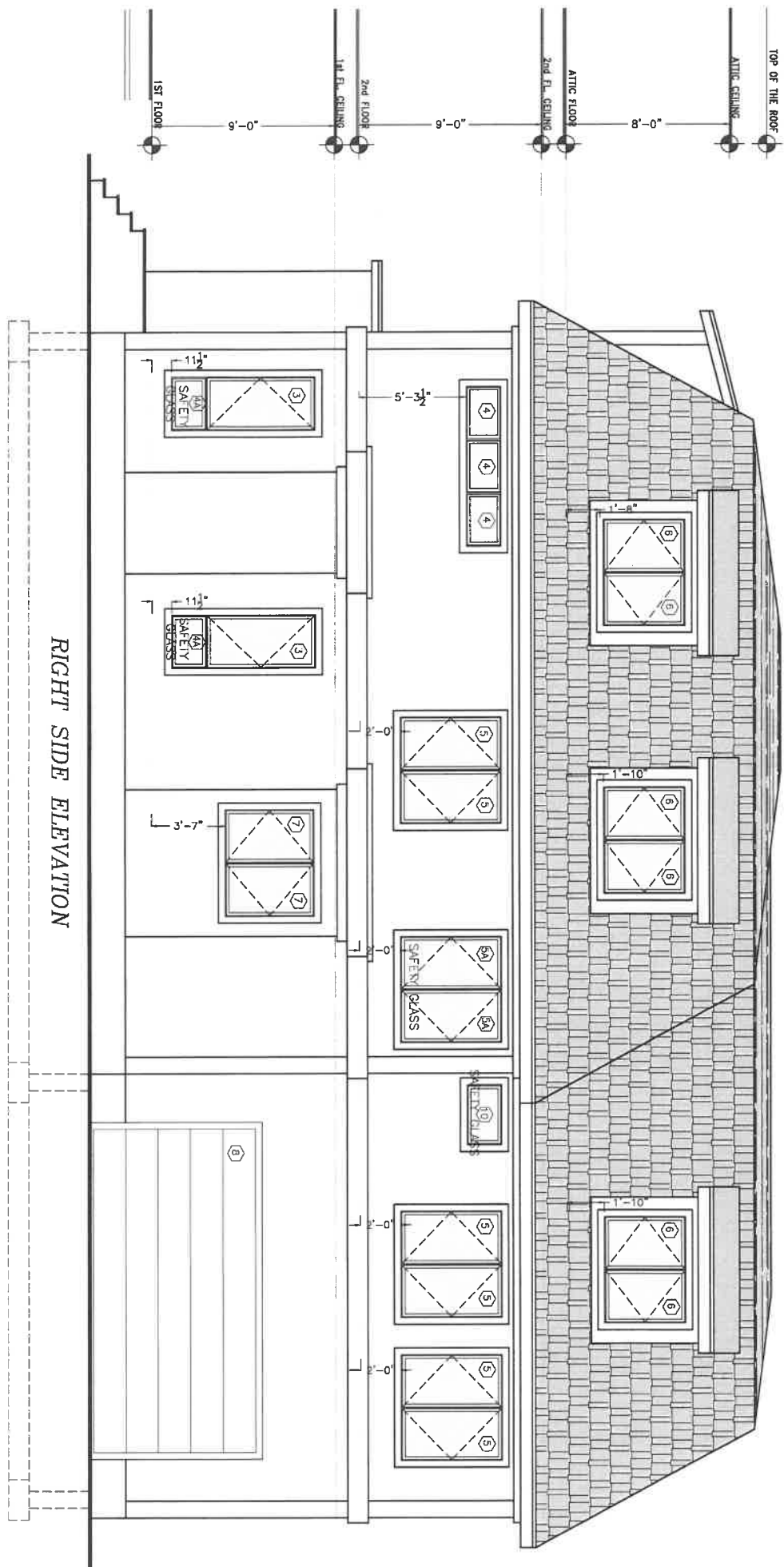
FIRST FLOOR PLAN

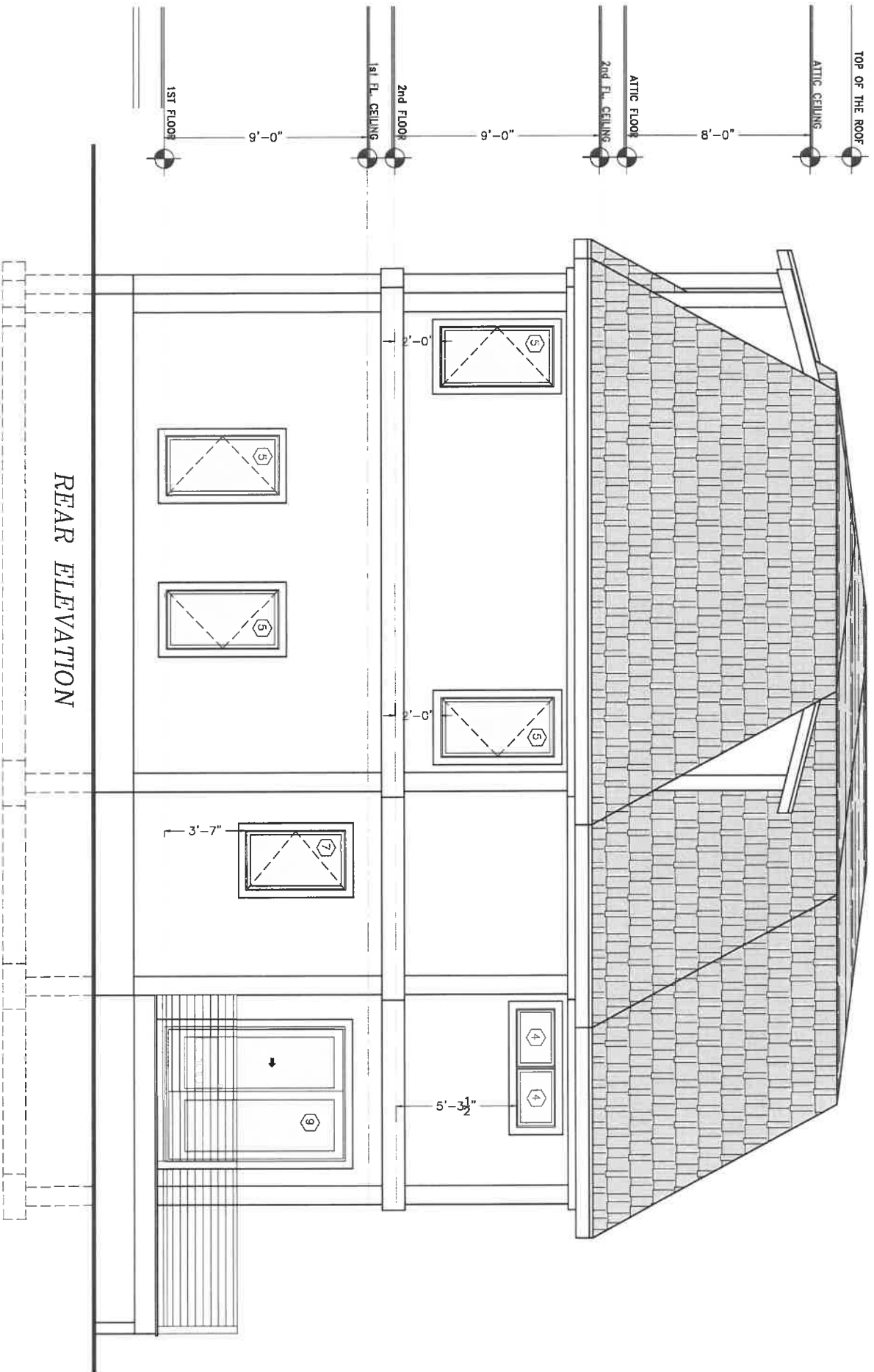


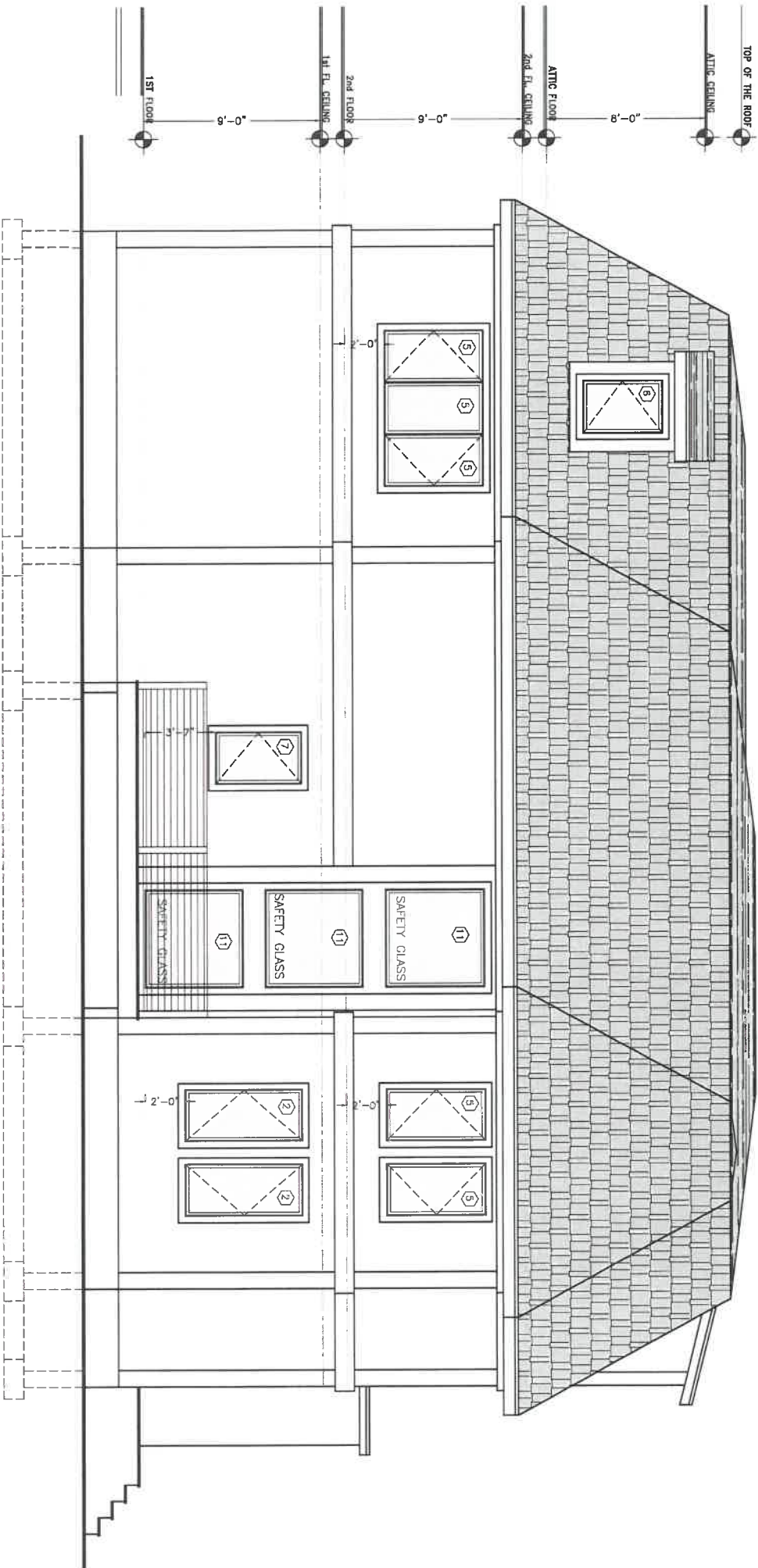
SECOND FLOOR PLAN











LEFT SIDE ELEVATION

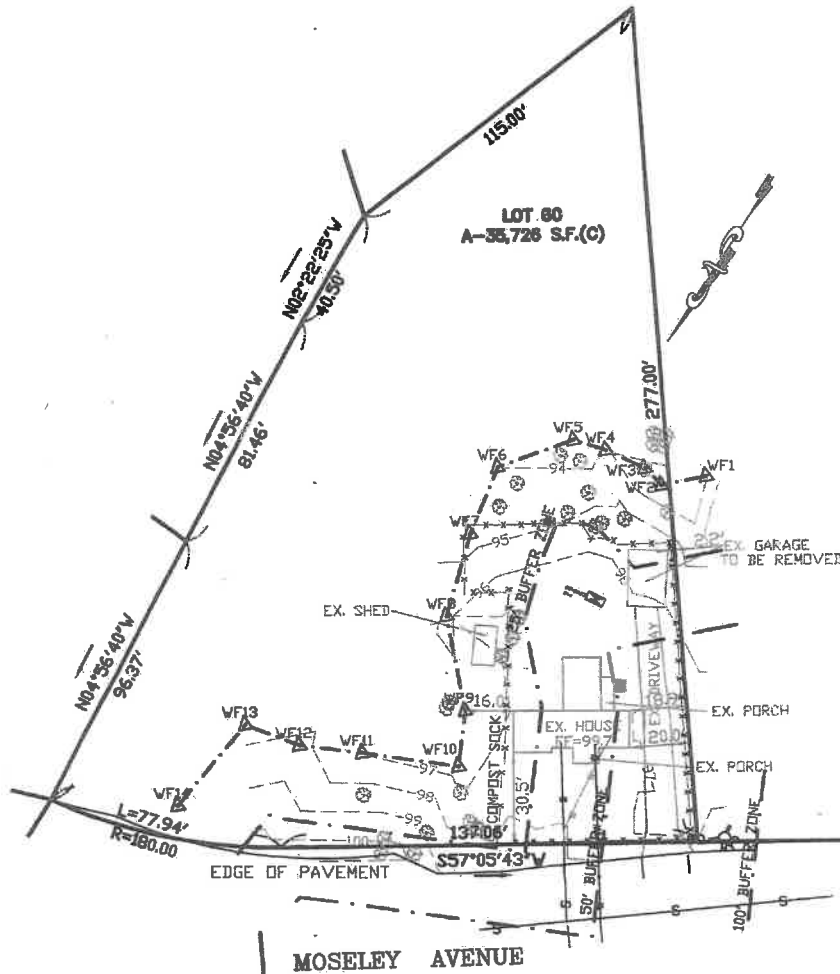
1700

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

Assessor's Map & Parcel Number: 213 LOT 60
 Building Permit No. _____ Zoning District: SRA
 Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE
 Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

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



3/6/24

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

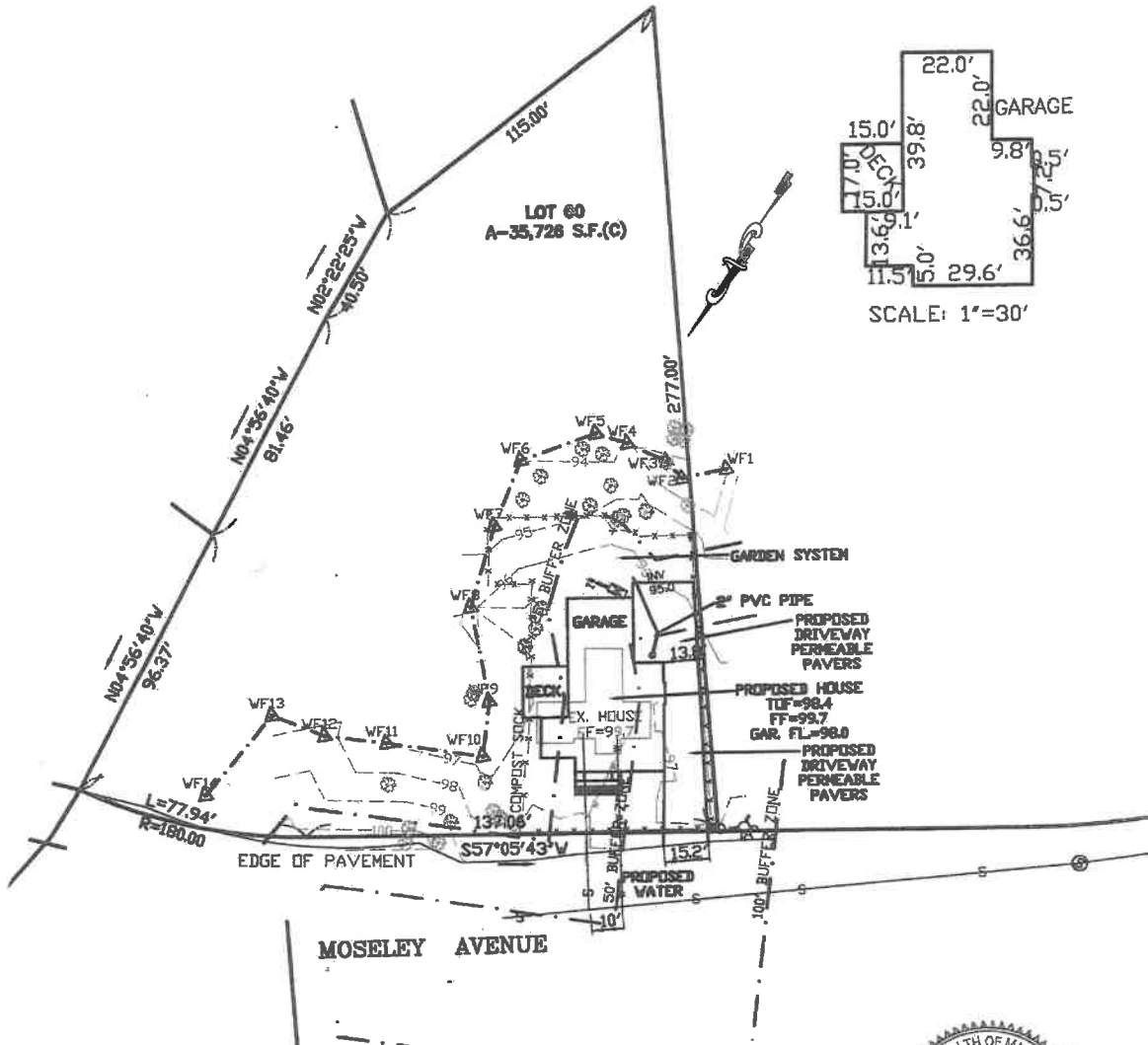
I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
 The above is subscribed to and executed by me this 21 day of JULY 2022.
 Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
 Address 35 MAPLE ST. City W. NEWBURY State MA Zip Tel. No. (978) 363-8130
 Approved _____ Date _____
 Approved _____ Building Inspector Date _____

TOWN OF NEEDHAM, MASSACHUSETTS

Building Inspection Department

Assessor's Map & Parcel Number: 213 LOT 60
 Building Permit No. _____ Zoning District: SRA
 Lot Area 35,726 S.F. Address: 37 MOSELEY AVENUE
 Owner: SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

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



HEIGHT OF DWELLING 34.7'
 FROM AVERAGE GRADE
 TO THE RIDGE OF ROOF



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

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
 The above is subscribed to and executed by me this 16 day of JANUARY 20 24.
 Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
 Address 35 MAPLE ST. City W. NEWBURY State MA Zip Tel. No. (978) 363-8130
 Approved _____ Date _____
 Approved _____ Date _____
 Building Inspector

TO: THE MEMBERS OF THE BOARD OF APPEALS
TOWN OF NEEDHAM, MA

March 25, 2024

REVISED
MEMORANDUM IN SUPPORT OF APPLICATION OF
SAYBROOK CONSTRUCTION, LLC
37 Moseley Avenue, Needham, MA

The applicant, Saybrook Construction, LLC (hereinafter both “Saybrook” and the “Applicant”), seeks a Variance, pursuant to Section 7.5.3 of the Needham Zoning By-Law and M.G.L. c. 40A, Section 10, and any and all other relief that is or may be necessary and proper to permit the construction of a proposed single family dwelling at the property at 37 Moseley Avenue (the “Premises”) with less than the required side-yard setback.

I. Existing Conditions / History

The Premises is identified as Parcel 60 on Town of Needham Assessor’s Map No. 213 and is located in the Single Residence A Zoning District (the “SRA”). It appears to originally have been created as a separate lot when it was conveyed to Harold W. Pierce by deed dated October 3, 1931, recorded with Norfolk County Registry of Deeds in Book 1947, Page 431. At that time, the lot contained only approximately 8,250 square feet. It was later enlarged through the addition of a portion of the land described in deed dated June 12, 1948, recorded with Norfolk County Registry of Deeds in Book 2765, Page 150, and was shown on “Compiled Plan of Land in Needham, Mass.”, dated July, 1948, recorded with Norfolk County Registry of Deeds as Plan no. 732 of 1948 at Book 2775, Page 201.¹ At that time, the Premises contained approximately .85 acre.

The Premises is currently occupied by a one-story, wood frame, single-family dwelling, a detached garage, and a shed. The records of the Assessor’s Department indicate that the dwelling was initially constructed in 1922, and the index card on file with the Building Department indicates 1926.² Whenever the house was first built, it is currently in very bad condition, as are

¹ See Exhibit A attached hereto, excerpt of Assessor’s Map. Note that the original lot can be shown as the dashed line inside the current lot.

² See Exhibit B attached hereto, Assessor’s Residence Information and Building Department Index Card.

the garage and shed, and subject to flooding.³ The house contains five rooms, with two bedrooms and one full bath and its condition is graded as D- by the Assessor Department.⁴

Approximately two-thirds of the Premises is covered by wetlands, with the remaining area located inside the applicable 100 foot buffer zone. In fact, only a small area of the Premises is located outside the applicable 50 foot buffer zone, and the portion of the lot that is located between the right-side property line and the 25 foot no touch / no disturb buffer zone line is only a bit over 45 feet wide. Furthermore, because the way the wetlands wrap around the useable portion of the lot in the rear, said useable area is only approximately 100 feet deep. If the required side and front yard setbacks are deducted from the useable area, it results in an area approximately 20 feet wide by 70 deep, at most. But even then, because of the shape of the wetlands area in the rear, the back 20 feet or so are significantly constrained, resulting in an even smaller useable area.

II. Proposed Work

As indicated above, because of the very bad condition of all three existing structures and the fact that the existing house is prone to flooding, Saybrook proposes to demolish the two outbuildings and the entirety of the existing house above the foundation, and replace them with a new single-family dwelling and attached garage.⁵ To avoid and protect against future flooding, the new house will not include any useable basement.⁶ As a result, all the living areas and storage space will need to be located above grade. Given the small useable area created by the proximity of the wetlands, this is not practical if the side and front yard setbacks are strictly applied. Moreover, because of current stormwater requirements, a stormwater infiltration system also needs to be located within the small useable space, as well as a rain garden, all further limiting the size of any house situated at the Premises.

As a result, Saybrook is requesting a variance from the side and front yard setbacks, so that instead of a 25 foot side yard setback, the house be located 13.8 from the right, northwesterly, sideline, and instead of a 30 foot front yard setback, the house would be located 20 feet from the front property line. The proposed front setback is consistent with the applicable

³ See Exhibit C attached hereto, photo of flooding in basement.

⁴ Refer to Exhibit B attached hereto.

⁵ Saybrook intends to retain and modify the existing house foundation, and construct a wholly new dwelling above.

⁶ Although the existing foundation is being retained, no access to the current basement space will be provided inside the new dwelling.

front yard setback in the SRB Zoning District, and the proposed side yard setback very nearly so.⁷ This is of note as, notwithstanding the location of Moseley Avenue in the SRA Zoning District, the houses on the street are laid out more like houses in the SRB Zoning District; being closer together and situated up close to the street. Furthermore, of the nine lots located on Moseley Avenue, only two contain the requisite minimum area of one acre or more; the rest consisting of less than one acre.

In furtherance of Saybrook's desire and intent, it previously sought and obtained an Order of Conditions from the Needham Conservation Commission, DEP File No. 234-896, permitting construction in the proposed location. The Order restricts the work and the location of the new home so as to leave the natural area untouched and protect the interests of the MA Wetlands Protection Act and the Needham Wetlands Protection By-law.

III. Law

Massachusetts General Laws, c.40A, Section 10, provides that variances may be granted when,

owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

The foregoing criteria are mirrored in Section 7.5.3 of the Needham Zoning By-Law.⁸

Section 1.1 of the By-Law states that is the intent and purpose of the By-Law to

promote the health, safety, convenience, morals or welfare of the inhabitants of Needham; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding

⁷ Compare 13.8 feet proposed v 14 feet applicable in the SRB Zoning District.

⁸ That Section authorizes the Board to grant a variance where, "owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-Law".

of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities under the provisions of General Laws, Chapter 40A.

IV. Analysis / Argument

There currently exist circumstances relating to the soil conditions and shape of the Premises that especially affect the Premises but not generally the Single Residence A Zoning District. As can be seen from the Plot Plans submitted with the application, the Premises consists of an usual or irregular shape, one that is not found generally within the SRA Zoning District. Moreover, the presence of wetlands over so much of the lot and the apparent high-water table (as indicated by the flooding), constitute soil conditions which are also not generally found throughout the SRA Zoning District.

Literal enforcement of the provisions of the By-Law would involve substantial hardship, financial or otherwise. The current condition of the house and outbuildings, combined with the continuing damage from flooding makes their demolition and replacement a necessity. And strict application of the setback requirements of the By-Law, when combined with the location and extent of the wetlands on the lot, would result in a severely and unduly limited space within which to build a replacement home and the necessary infiltration system associated therewith. As it is, the vast majority of the lot is completely unusable due to the extent and location of the wetlands, and even the area where the replacement home is to be located is subject to frequent flooding. Therefore, strict application of the side and front yard setbacks would result in a tremendous hardship to Saybrook.

Finally, the requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the by-law. While the Premises is currently situated in a Single Residence A Zoning District, the other houses on the street are located and laid out more consistent with conditions found generally in the Single Residence B Zoning District. They are closer together and closer to the street than generally is found throughout the SRA Zoning District. Moreover, while Saybrook is requesting a variation from the setbacks, the proposed setbacks are not very much more than the existing house, and are consistent or very nearly consistent with those found in the SRB Zoning District.

Therefore, issuance of a variance would not present any apparent detriment and further does not nullify or substantially derogate from the intent or purpose of the By-Law, as it would permit the continued use of a lot for single family residential purposes that has been so occupied for approximately 100 years.

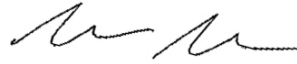
V. Conclusion

The Board is currently presented with a compelling situation. The Premises was initially created as a small lot in or prior to 1931, and when expanded shortly thereafter, given an usual and irregular shape. It is substantially and materially occupied and covered by wetlands, which wrap around the lot leaving only a small area in the front right corner useable to any real extent. And after the application of current wetlands regulations and setback requirements, this area becomes that much smaller and limited.

Given the current condition of the existing dwelling and associated outbuildings, and the fact that the existing house is prone to flooding, it is imperative that they be replaced in a different configuration, without any basement. However, if the setback requirements of the By-Law are strictly applied, any such replacement house would be impractically small, with less than adequate space and function. Moreover, because sanitary sewer is not readily available to the Premises, the small useable area also needs to contain a septic system, which would further limit the size of any replacement dwelling.

This would impose a tremendous and needless hardship upon Saybrook and would be inconsistent with not only the use of the Premises and its treatment over the past 100 or so years, but also the purposes of the By-Law. As a result, Saybrook has requested zoning relief so as to locate a modest house on the lot in a location that is generally consistent with the requirements of the SRB Zoning District. This is consistent with the useable portion of the lot and with the characteristics of the neighborhood. Therefore, Saybrook asserts that the issuance of a variance is proper and appropriate, and requests that same be granted.

Respectfully submitted,
Saybrook Construction, LLC
by its attorney,



George Giunta, Jr., Esquire
281 Chestnut Street
Needham, Massachusetts 02492
781-449-4520
george.giuntajr@needhamlaw.net

[illegible]

EXHIBIT B
1. Assessor's Residence Information

PARID: 1992130006000000
SAYBROOK CONSTRUCTION LLC

MUNICIPALITY: NEEDHAM
37 MOSELEY AVE

LUC: 101
PARCEL YEAR: 2024

Residential Card Summary

Card/Building:	1
Stories:	1
Condition:	8 - POOR
Grade:	D- - POOR
CDU:	PR - POOR
Exterior Wall:	WS - WOOD-SHN-SHK
Style:	BN - COTTGE-BNGLW
Year Built:	1922
Effective Year:	1980
Square Feet of Living Area:	672
Total Rooms:	5
Bedrooms:	2
Full Baths:	1
Half Baths:	0
Additional Fixtures:	0
Roofing Material:	AS - ASPHALT-SHNG
Heating:	D - HOT WATER
Fuel Type:	O - OIL
Dwelling Value:	\$52,400

Sections

Card #	Addition #	Lower	First	Second	Third	Area	RCNLD
1	0					672	0
1	1		P			44	900

EXHIBIT B
2. Building Department Index Card

PT. NO. 1941		FEE 3.00	DATE 4/6/26
LOCUS 37 Moseley Avenue			
BLDG. Single Family	NO. RMS		
OWNER Harold Pierce	VALUE 2,500.		
BLDR. Same	FEE		
ELECT.	PT. NO.		
PLBR.	PT. NO.		
GAS FTR.	PT. NO.		
SEPTIC TANK	SEWER		
HEAT	GRADES		
COMPLETE			
OCC. PT			
TOWN OF NEEDHAM INSPECTION DEPARTMENT			WHDX C68-0106

EXHIBIT C
Photo of Flooding in House Basement





**Town of Needham
Building Department
500 Dedham Avenue
Needham, MA 02492
Tel: 781-455-7550, Ext. 537**

April 2, 2024

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

Re: 37 Moseley Ave.

Dear Board Members,

Attorney George Guinta, on behalf of Saybrook Construction LLC, has applied for variance(s) seeking reduction in front and right-side yard setbacks for the proposed reconstruction of a home at 37 Mosely Ave. The property is located in and SRA Zoning District. The proposed home, as shown on the submitted plot plan, would be located at 20' from the front property line when 30' are normally required and 13.8' from the right-side property line when 25' are normally required by Section 4.2.3 of the Zoning Bylaw.

This office has no objection to these requested variances.

However, the architectural plans appear to show a 3rd story, when only 2.5 stories are allowed by Section 4.2.3. The definition of a half story presumes a typical gable or hip roof style home with certain allowances for dormers. The definition does not consider this mansard style roof which could be construed as having sloped walls under a pitched roof, creating a full 3rd story. A reference to buildings other than single-family homes in the last sentence of the definition, refers to that part of a building under a sloping roof where the full-length rafters rest on the top beam of the story below. Using this sentence as guidance, this mansard roof design would be considered a 3rd story.

As Building Commissioner, I would determine this proposed mansard style roof to be a 3rd story and that the applicant should also seek relief in the form of a variance or an appeal of this determination OR re-design the roof using a traditional gable or hip style with allowable dormers.

Sincerely,

Joe Prondak, Building Commissioner



TOWN OF NEEDHAM
CONSERVATION DEPARTMENT
Public Services Administration Building
500 Dedham Avenue
Needham, MA 02492

TEL: (781) 455-7550 x272
conservation@needhamma.gov

TO: Zoning Board of Appeals

FROM: Clay Hutchinson, Conservation Specialist

DATE: April 2, 2024

SUBJECT: Variance / Special Permit Request
Map 213, Lot 60
37 Moseley Avenue

At the request of Daphne Collins, the Conservation Department has conducted a preliminary review of the Variance Request for 37 Moseley Avenue (“subject property”), as it relates to the jurisdiction of the Needham Conservation Commission (NCC). The NCC’s jurisdiction is established under the Massachusetts Wetlands Protection Act (“WPA”; MGL Ch. 131 S. 40) and the Town of Needham Wetlands Protection Bylaw (“Bylaw”; Needham General Bylaws Section 6).

The NCC issued an *Order of Conditions* on July 25, 2023, approving the partial demolition and construction of new additions to the existing structure, demolition of the existing detached garage, and installation of a surface infiltration rain garden. The submitted plans underwent several revisions based on comments provided by the Commission at the NCC public hearings. Due to site limitations imposed by wetland boundaries, including the 25-foot Buffer Zone (a no-alteration area), the *Order of Conditions* included several Special Conditions including strict adherence to an approved tree pruning and removal inventory, construction of the infiltration rain garden, and use of specialized pylons for the deck structure. A waiver for work within the 25-foot Buffer Zone was issued by the NCC for *limited* disturbances related to an addition within the previously existing footprint to the single-family house and the raised deck structure.

As the NCC issued the *Order of Conditions* approving partial demolition of the existing structure, further wetland permitting may need to be pursued if the Applicant is proposing a full demolition including foundation work. Changes to the project activities previously approved by the NCC are subject to review before the plan changes can be approved.

Should you have any questions, please do not hesitate to contact myself, Clay Hutchinson, in the Conservation Department.



TOWN OF NEEDHAM
CONSERVATION COMMISSION
500 Dedham Avenue
Needham, MA 02492

VIA OFFICE PICK-UP & EMAIL

Signature

Date

To: Mikhail Deychman

From: Debbie Anderson, Director of Conservation *DOA*

Re: 37 Moseley Avenue; Order of Conditions
DEP File #234-896

Date: July 25, 2023

I have enclosed both an original and a copy of the Order of Conditions for work at 37 Moseley Avenue (DEP File #234-896). The original must be recorded at the Norfolk County Registry of Deeds, and proof of recording must be provided to the Conservation Department prior to the start of work.

Please read the Order carefully, and note that no work may commence until several pre-construction requirements have been satisfied. If you have any questions, please contact me at (781) 455-7550 x 248. *Thank you.*

cc: Daniel Deychman (danieldeychman@gmail.com)
Mikhail Deychman (mdeych@yahoo.com)
Karon Skinner Catrone (karon.skinner@ymail.com)
MA Department of Environmental Protection
Building (via email)
File



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 234-896
 MassDEP File #
 eDEP Transaction #
 Needham
 City/Town

A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

Important:
 When filling
 out forms on
 the
 computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.



1. From: Needham
 Conservation Commission

2. This issuance is for (check one):
 a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Mikhail

a. First Name

Deychman

b. Last Name

Saybrook Construction, LLC

c. Organization

11 Shepard Street

d. Mailing Address

Brighton

e. City/Town

MA

f. State

02135

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

37 Moseley Avenue

a. Street Address

Needham

b. City/Town

213

c. Assessors Map/Plat Number

60

d. Parcel/Lot Number

Latitude and Longitude, if known:

42.26444 N

d. Latitude

-71.26350 W

e. Longitude



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Norfolk
 a. County 40914 b. Certificate Number (if registered land) 121
 c. Book 121 d. Page 121
7. Dates: January 5, 2023 July 13, 2023 July 25, 2023
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
 Proposed House Plan, 37 Moseley Avenue, Needham, Mass
 a. Plan Title A. Matthew Belski, Jr., P.L.S. A. Matthew Belski, Jr., P.L.S.
 b. Prepared By 05/30/2023 c. Signed and Stamped by 1"=40'
 d. Final Revision Date See Exhibit A e. Scale
 f. Additional Plan or Document Title See Exhibit A g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☒ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
 d. ☒ Private Water Supply e. ☒ Fisheries f. ☒ Protection of Wildlife Habitat
 g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 16
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☐ Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. ☐ Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. ☐ Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. ☐ Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. ☐ Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. ☐ Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
14. ☐ Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
15. ☐ Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. ☐ Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. ☐ Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. ☐ Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. ☐ Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. ☐ Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. ☐ Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		
22. ☐ Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
 "File Number 234-896 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Exhibit A for Findings and Conditions adopted under the MA Wetlands

Protection Act (M.G.L. Ch. 131 S. 40) and the Needham General Wetlands Protection

Bylaw (Article 6).

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Needham Conservation Commission hereby finds (check one that applies):
 - a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.	
 - b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Needham Wetlands Protection Bylaw	Article 6
1. Municipal Ordinance or Bylaw	2. Citation
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
 The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Exhibit A for Findings and Conditions adopted under the MA Wetlands

Protection Act (M.G.L. Ch. 131 S. 40) and the Needham General Wetlands Protection
Bylaw (Article 6).



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 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

7/25/23

1. Date of Issuance

4

2. Number of Signers

Signature

Janet Carter Bernardo

Janet Carter Bernardo

Printed Name

Signature

Sue Barber

Sue Barber

Printed Name

Signature

Stephen Farr

Stephen Farr

Printed Name

Signature

David Herer

David Herer

Printed Name

Signature

Peter Oehlkers

Peter Oehlkers

Printed Name

Signature

Alison Richardson

Printed Name

Signature

Polina Safran

Printed Name

Signature

Printed Name

☒ by hand delivery on

☐ by certified mail, return receipt requested, on

Date

7/25/23

Date



Massachusetts Department of Environmental Protection
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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Needham
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Needham
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

37 Moseley Avenue
 Project Location

234-896
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

Norfolk
 County

Book

Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

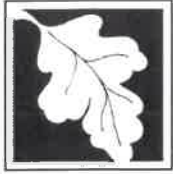
If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

Request for Departmental Action Fee Transmittal Form

Provided by DEP _____

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number: _____

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

**ORDER OF CONDITIONS
DEP FILE NO. 234-896
EXHIBIT A**

Project: The project will consist of the partial demolition of the existing single-family house, removal of an existing shed and existing detached garage and construction of several additions to the remaining structure, construction of an attached two-car garage, permeable paver driveway, porch, rain garden, supporting utilities, tree removals and mitigation planting area. A deck is proposed within the 25-foot Buffer Zone to be constructed on helical pilings. The work is located within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

Applicant: Mikhail Deychman
Saybrook Construction, LLC
11 Shepard Street
Brighton, MA 02135

Owner: Same

Location: 37 Moseley Avenue (Assessors Map 213 Lot 60)

Documents of Record:

- ☐ WPA Form 3 – Notice of Intent and supporting documents received January 5, 2023.
- ☐ Needham Wetlands Protection Bylaw Application for a Permit received January 5, 2023.
- ☐ Plan entitled: “Proposed House Plan, 37 Moseley Avenue, Needham, Mass.”, prepared by A. Matthew Belski, Jr., signed and stamped by A. Matthew Belski, Jr., P.L.S., final revision date 5/30/2023.
- ☐ Plan entitled: “Existing House Plan, 37 Moseley Avenue, Needham, Mass.”, prepared by A. Matthew Belski, Jr., signed and stamped by A. Matthew Belski, Jr., P.L.S., final revision date 5/30/2023.
- ☐ Plan entitled: “Existing to Proposed House Plan, 37 Moseley Avenue, Needham, Mass.”, prepared by A. Matthew Belski, Jr., signed and stamped by A. Matthew Belski, Jr., P.L.S., final revision date 5/30/2023.
- ☐ Plan entitled: “Proposed Plot Plan, 37 Moseley Avenue, Needham, Mass.”, prepared by A. Matthew Belski, Jr., signed and stamped by A. Matthew Belski, Jr., P.L.S., final revision date 5/30/2023.
- ☐ Plan entitled: “Proposed Site Plan, 37 Moseley Avenue, Needham, Mass.”, prepared by A. Matthew Belski, Jr., signed and stamped by A. Matthew Belski, Jr., P.L.S., final revision date 5/30/2023.
- ☐ Plan entitled: “Drainage Garden System Detail, 37 Moseley Avenue, Needham, MA.”, prepared by Mikhail Deychman, signed and stamped by Richard A. Volkin, P.E., final revision date 5/30/2023.
- ☐ Plan entitled: “Proposed Site/Planting Plan, 37 Moseley Avenue, Needham, MA.”, prepared by Richard A. Volkin, P.E., signed and stamped by Richard A. Volkin, P.E., final revision date 5/30/2023.
- ☐ Plan entitled: “Height Calculation Plan of Land, 37 Moseley Avenue, Needham, MA.”, prepared by Mikhail Deychman, signed and stamped by Richard A. Volkin, P.E., final revision date 5/30/2023.
- ☐ Plan entitled: “Tree Plan, 37 Moseley Avenue, Needham, MA.”, prepared by Richard A. Volkin, P.E., signed and stamped by Richard A. Volkin, P.E., final revision date 5/30/2023.
- ☐ Document titled: “Arborist Report”, prepared by Kray A. Small, Massachusetts Certified Arborist #1797, dated May 1, 2023.
- ☐ Document titled “Mitigation, 37 Moseley Avenue, Needham, MA”, prepared by Karon Skinner Catrone, dated April 6, 2023.

FINDINGS OF FACT:

The Applicant is proposing to partially demolish an existing single-family house and remove a detached garage and shed and then construct several additions to the remaining structure, construct an attached two-car garage, permeable paver driveway, porch, rain garden to infiltrate stormwater. A deck is proposed within the 25-foot Buffer Zone to be constructed on helical pilings. The work is located within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

The Applicant will be removing six (6) trees for the project and is proposing installation of six (6) native trees and sixteen (19) native shrubs to meet the Conservation Commission *Guidelines for Reviewing Tree Removal Projects*.

The project includes construction of a rain garden to infiltrate the 1,786 square-feet of roof stormwater runoff. An Operations and Maintenance (O&M) plan will be implemented to maintain the intended post-construction functions and operations of the rain garden, to be signed by the property owners upon or before a Certificate of Compliance is requested.

Proposed work within the 25-foot Buffer Zone includes installation of a deck on helical piles. This use within the 25-foot Buffer Zone is permitted as discussed in the:

“Town of Needham Wetlands Protection Regulations, Article 6”, 2.06 Land Within 100 feet of a Water Body, Waterway, Bank, or Vegetated Wetland (The Buffer Zone):

(3) Performance Standards

The performance standards listed below are critical to the protection of the Interests of the Bylaw. These include short- and long-term protection of the wildlife habitat capacity and water quality within the adjacent Water Body, Waterway, Bank, or Vegetated Wetland, as well as the wildlife habitat present within the Buffer Zone and adjacent resources.

(a) No construction within 25 feet of the limit of Bank or Vegetated Wetland (“The 25-Foot Buffer Zone”) may be permitted. Construction is here defined to include (but not limited to) all new roadways, driveways, buildings, decks (except as in (b) below), clearing and grading, stormwater detention basins, and point-source discharges. Any construction within the Buffer Zone must be designed to preserve a minimum of 25 feet of undisturbed natural vegetation and soils adjacent to a Vegetated Wetland or Bank.

(b) Work within 25 feet of the limit of Bank or Vegetated wetland may be permitted when the work consists of:

- ☐ *removing existing structures;*
- ☐ *planting native tree, shrub, or herbaceous species;*
- ☐ *removing invasive plant species and restoring native vegetation;*
- ☐ *adding a deck or patio to a dwelling, where no new impervious surfaces are proposed and the work area is existing lawn.*

A Waiver from strict compliance with the Regulations for work within the wetland and 25-foot Buffer Zone to Bordering Vegetated Wetlands is required. The Needham Wetlands Protection Bylaw Regulations, Section 1.11, allows the Commission to consider granting a waiver when, in the judgment of the Commission, the action will serve a substantial public interest and the following criteria are met: (a) there are no practicable alternatives to the proposed action; (b) alteration of the resource area has been minimized to the greatest extent practicable; and (c) compensatory or mitigating measures are taken, even at an off-site location, to protect the public interest in the Protected Resource Area to be removed, filled, dredged, built upon, or altered.

The Commission finds of the proposed work to occur within the 25-foot Buffer Zone that (1) there are no practicable alternatives to the proposed project that will decrease impacts to the resource areas; (2) alterations have been minimized to the maximum extent practicable; and (3) the proposed mitigation plantings within the 25-foot Buffer Zone, and installation of the rain garden to infiltrate roof runoff will contribute to the interests of the Needham Wetlands Protection Bylaw. The Commission therefore grants a Waiver for the proposed work.

The Commission finds that the work can be conditioned to protect the Interests of the MA Wetlands Protection Act and the Needham Wetlands Protection Bylaw.

SPECIAL CONDITIONS:

GENERAL

1. Except where modified by the following conditions, all work shall be performed in accordance with the plans and the Notice of Intent referenced above.
2. The Needham Conservation Commission and Needham Conservation Department staff reserve the right to enter upon the premises to inspect the work for compliance with the Order of Conditions.
3. The Contractor and/or Applicant may be fined for any applicable non-compliance with the conditions contained herein. This may include a non-criminal penalty of up to \$200.00 per day, per violation issued under the Needham Wetlands Protection Bylaw.
4. If any change is intended to be made in the work permitted hereunder, the Applicant shall submit a written request to the Commission with plans that reflect the proposed changes. The Commission shall review said request and plans, and may require the applicant to submit a request for amendment to the Order of Conditions. No changes shall be made prior to said written request to the Commission and approval thereof. Failure to comply with this condition shall be deemed a violation of the Order and may result in the issuance of non-criminal penalties of up to \$200 per day.
5. If any change is made, altered or revised without prior approval of the Commission, or if erosion, siltation or other adverse impact to the Resource occurs, the Commission may impose additional conditions as necessary to protect the interests of the Wetlands Protection Act and the Town of Needham Wetlands Protection Bylaw.

PRE-CONSTRUCTION

6. **Prior to commencing any activity subject to this Order, the Applicant and contractor(s) shall meet with the Conservation Commission or their designee at the project site to review this Order of Conditions. At (or prior to) this meeting the applicant shall submit evidence that this Order has been filed at the Registry of Deeds. At the meeting, the DEP file number sign and erosion control barrier will be available for inspection by the Conservation Commission or their designee. Failure to schedule the pre-construction meeting may result in Enforcement action and fines.**
7. A copy of the approved plans, the Notice of Intent, and this Order of Conditions must be provided to the Contractor prior to the commencement of work.
8. Any person performing work on the activity that is the subject of this Order of Conditions is individually responsible for understanding and complying with the requirements of this Order and Needham's Wetlands Protection Bylaw and Regulations. The Applicant must provide the Commission with the name, address, e-mail and telephone number of the person responsible for site supervision and compliance with this Order. Such person shall have authority, among other things, to receive comments from the Conservation Commission and/or their Agent, and to direct any contractor working on the site to take measures to control erosion and sedimentation or otherwise protect the Resource Area, and to order all or any portion of the work to cease.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words "Massachusetts Department of Environmental Protection (or, "MassDEP") File Number 234-896." Such sign shall be located as to be visible to the public. The sign shall NOT be affixed to a living tree.
10. Erosion controls shall be installed at the limit of work as shown on the approved plan, and in accordance with the manufacturer instructions. Any substitute erosion control barrier must be approved by the Conservation Commission or their designee prior to installation. Hay bales are not an approved barrier due to the presence of weed seeds. The contractor shall install a protective device within any catch basins that are within 100-feet of the project site. No work may proceed until the Conservation Commission or their Agent has inspected and approved the installation of the erosion control barrier.
11. The Applicant shall notify the Conservation Office at least 3 business days before any work begins (781-455-7550 x 248 or conservation@needhamma.gov).

TREE REMOVAL

12. The proposed project requires the removal of trees, protection of trees, pruning of trees, and cutting certain trees to leave as snags. See table below which coincides with the approved "Tree Plan".

TREE IDENTIFICATION	PLAN	NOTES
T1	Remove entirely	
T2	Leave a 10' snag	
T3	Leave a 10' snag	
T4	Leave a 10' snag	
T5	Protect and retain	*See Special Condition #22
T6	Remove entirely	
T7	Protect and retain	*See Special Condition #21
T8	Retain and prune	
T9	Remove entirely	
T10	Prune from wires and retain	
T11	Prune from wires and retain	
T12	Prune from wires and retain	
T13	Prune from wires and retain	

CONSTRUCTION

13. In the event that dewatering is necessary to complete construction in any areas, the Contractor shall provide to the Conservation Department a dewatering plan which specifies means and methods of dewatering, including location of discharge points outside of resource areas.
14. No work, disturbance or alteration shall occur on the Resource Area side of the erosion controls which shall serve as the limit of work. No heavy equipment may operate beyond the limit of work at any time.
15. The Applicant shall remove all silt caught by the erosion control barrier periodically. In no event shall the silt be allowed to collect to a height greater than six inches.
16. The erosion control barrier must be regularly inspected by the Applicant and be continually maintained in good condition until all upgradient areas have been permanently stabilized with vegetation or other approved means and all construction is completed. No erosion controls may be removed without the approval of the Conservation Commission or their designee.
17. At no time shall silt or sediment be allowed to enter the resource area. The Commission must be notified within 24 hours if any silt or sediment enters any resource area or drainage system.
18. No fueling or maintenance of vehicles shall be allowed within the 100-foot Buffer Zone.
19. No stockpiling of any materials is allowed on the site.
20. The existing topography will not be raised beyond the edge of the foundation.
21. The proposed deck supports shall be helical piles (piers) installed without excavation and in a manner to minimize root damage to nearby trees. The constructed deck shall be no larger than 15 feet x 18 feet and designed such that Tree #7, as identified on the approved "Proposed Site/Planting Plan", is not damaged or removed. The deck surface shall be permeable, that is, constructed such that rainfall flows vertically through the deck to the ground surface below.
22. In order to minimize damage to the root system of Tree #5, as identified on the approved "Proposed Site/Planting Plan", and to minimize excavation, the new garage foundation will consist of concrete

sonotubes, installed no closer than 15-feet from the stem of Tree #5, upon which above-grade, steel beams will be installed, supporting a concrete-filled corrugated steel floor, which will allow the garage to be above grade.

23. No part of the existing foundation located within the 25-foot no disturb zone shall be removed.
24. No construction materials, debris, leaves, or other materials shall be deposited, intentionally or unintentionally, within Resource Areas or downgradient of the limit of work.
25. In the event that earthwork ceases for more than 30 days, all exposed soils must be stabilized with a temporary vegetative cover, straw mulch, or other method of erosion control accepted by the Massachusetts Department of Environmental Protection.

RAIN GARDEN, PLANTING WORK AND MONITORING

26. The "Garden System" shall include an inspection port consisting of a minimum 6-inch diameter PVC pipe, capped and anchored at the bottom, perforated within the drainage rock zone, and with a removable cap. See the Massachusetts Stormwater Handbook, Vol.2, Ch.2, p.85 for typical detail.
27. The approved "Tree Plan" includes the proposed plantings to be installed within the "Garden System". Plants shall be installed in accordance with the approved planting plan. Monitoring reports shall include documentation of the health of the plantings within the "Garden System" and shall have the same minimum 75% survival rate as the other mitigation plantings.
28. The approved planting plan "Tree Plan" includes installation of six (6) native trees, nineteen (19) native shrubs and several herbaceous plants for the removal and/or cutting of six (6) trees. The replacement trees shall be a minimum of 2.5" caliper. Plants shall be installed in accordance with the approved planting plan.
29. Required mitigation planting areas shall be maintained in perpetuity in their predominantly natural condition (i.e., mowing is prohibited). **This condition shall survive the issuance of a Certificate of Compliance.**
30. The Applicant shall submit notification to the Conservation Department of the mitigation planting work within 30 days of its completion or additional monitoring time may be required before a Certificate of Compliance is issued.
31. Following completion of work, all mitigation plantings shall be monitored for a period of two years. Annual reports documenting the condition of the plantings shall be submitted during each of the two years of required monitoring. The monitoring reports shall document the health of all plantings and document the overall survival rate. For an individual planting to be considered alive, it must be documented to have at least 85% live wood. The name and qualifications of the restoration monitor shall be submitted to the Commission with each annual report. Annual monitoring reports shall be submitted no later than December 1st of each year. Failure to submit annual reports shall constitute a violation of the Order of Conditions and the Owner of the property shall be subject to enforcement action, including fines in the amount of \$200 per day.
32. At the completion of the two-year monitoring period and following submission of the required reports, the Commission will evaluate whether the plantings adequately comply with this Order of Conditions. In order to be considered successful, the plantings shall have a minimum 75% survival rate.

POST-CONSTRUCTION

33. An Operation and Maintenance (O&M) Plan must be submitted prior to or with the submission of a Request for Certificate of Compliance and must be signed by the property owner. The O&M Plan shall be followed to maintain the intended post-construction functions and operations of the rain garden.
34. A berm will be constructed along the right-hand side of the proposed driveway between the property and the property adjacent to the driveway to the south. The berm will be shown on the As-Built Plan.

35. Following the completion of work, the Applicant shall mark the 25-foot Buffer Zone, along the rear of the proposed rain garden and along the front of the house with no less than five (5) permanent monuments, the type to be approved by Conservation staff, and affixed with emblems noting the presence of the protected resource area. Such emblems may be obtained from the Conservation Department. The Commission will not consider issuing a Certificate of Compliance until the markers are in place. No vegetation management, including mowing, is permitting beyond the area delineated by the permanent markers. **This condition shall survive the issuance of a Certificate of Compliance.**
36. A Certificate of Compliance Request shall be submitted in writing on WPA Form 8A. An As-Built plan showing all structures, grading and plantings, signed and stamped by a Professional Engineer or Registered Land Surveyor, must be submitted to the Commission at the time a Certificate of Compliance is requested. This plan shall be accompanied by a separate certificate signed by a Registered Surveyor or Professional Engineer stating that all work has been completed strictly in accordance with the Order of Conditions. If such work has not been so completed, this Certificate must describe any deviations from the plans as approved by the Commission.
37. It shall be presumed that any work or alteration, which includes, but is not limited to, building, grading, clearing, dumping of leaves or other landscaping debris or other materials, mowing or in any way disturbing the areas protected by the Act and By-law that is inconsistent with, or not specifically authorized by, this Order of Conditions shall require the filing of a new Notice of Intent, and the issuance of an Order of Conditions from the Conservation Commission. **This condition shall survive the issuance of a Certificate of Compliance.**

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assessor's Map & Parcel Number: 213 LOT 60

Building Permit No. _____

Zoning District: SRA

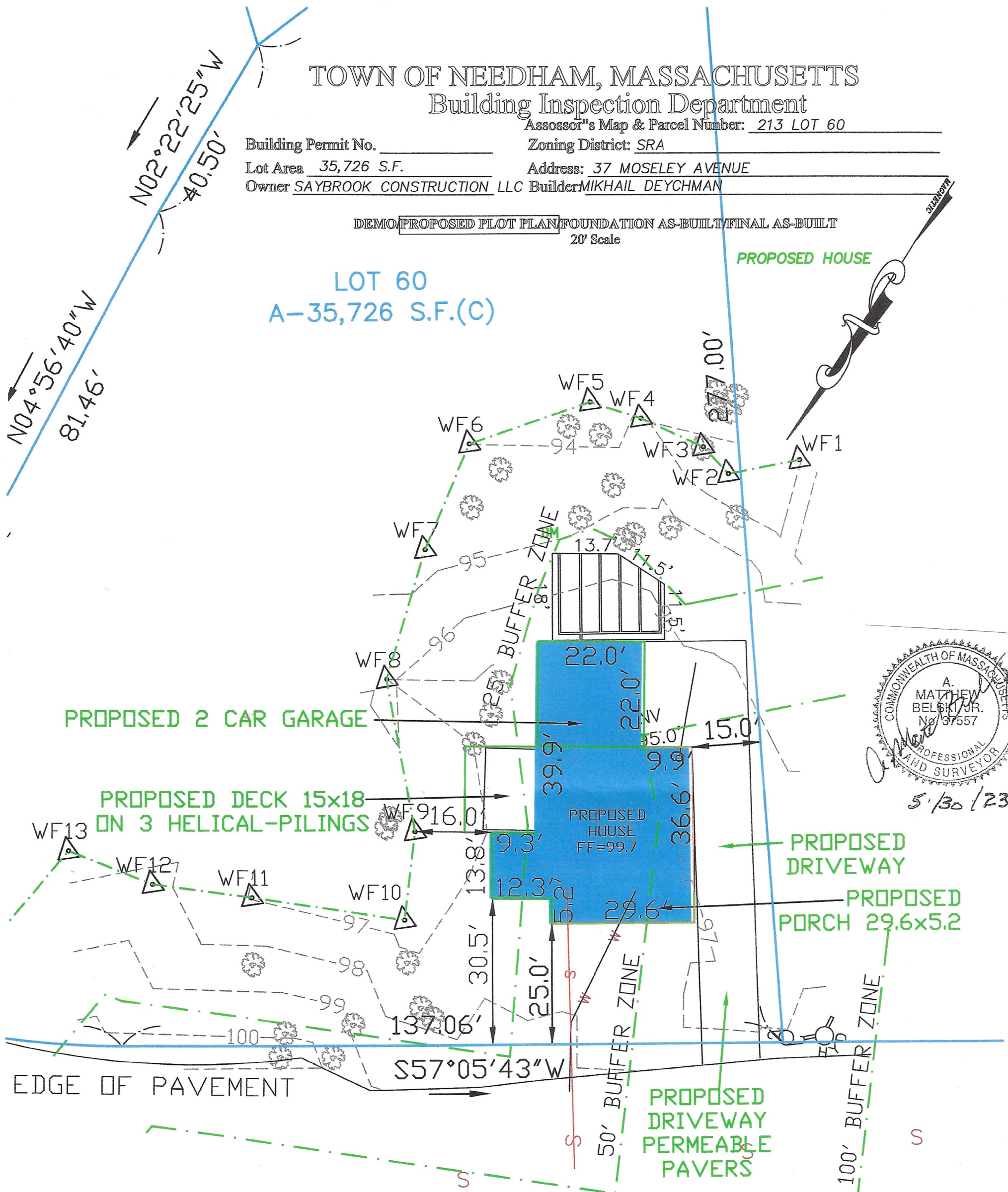
Lot Area 35,726 S.F.

Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder MIKHAIL DEYCHMAN

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

LOT 60
A-35,726 S.F.(C)



COMMONWEALTH OF MASSACHUSETTS
A. MATTHEW BELSKI, JR.
No. 37557
PROFESSIONAL
LAND SURVEYOR
5/30/23

MOSELEY AVENUE

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

I hereby certify that the information provided on this plan is accurately shown and correct as indicated.
The above is subscribed to and executed by me this 30 day of MAY 20 23.
Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip Tel. No. (978) 363-8130
Approved _____ Director of Public Works Date _____
Approved _____ Building Inspector Date _____

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assessor's Map & Parcel Number: 213 LOT 60

Building Permit No. _____

Zoning District: SRA

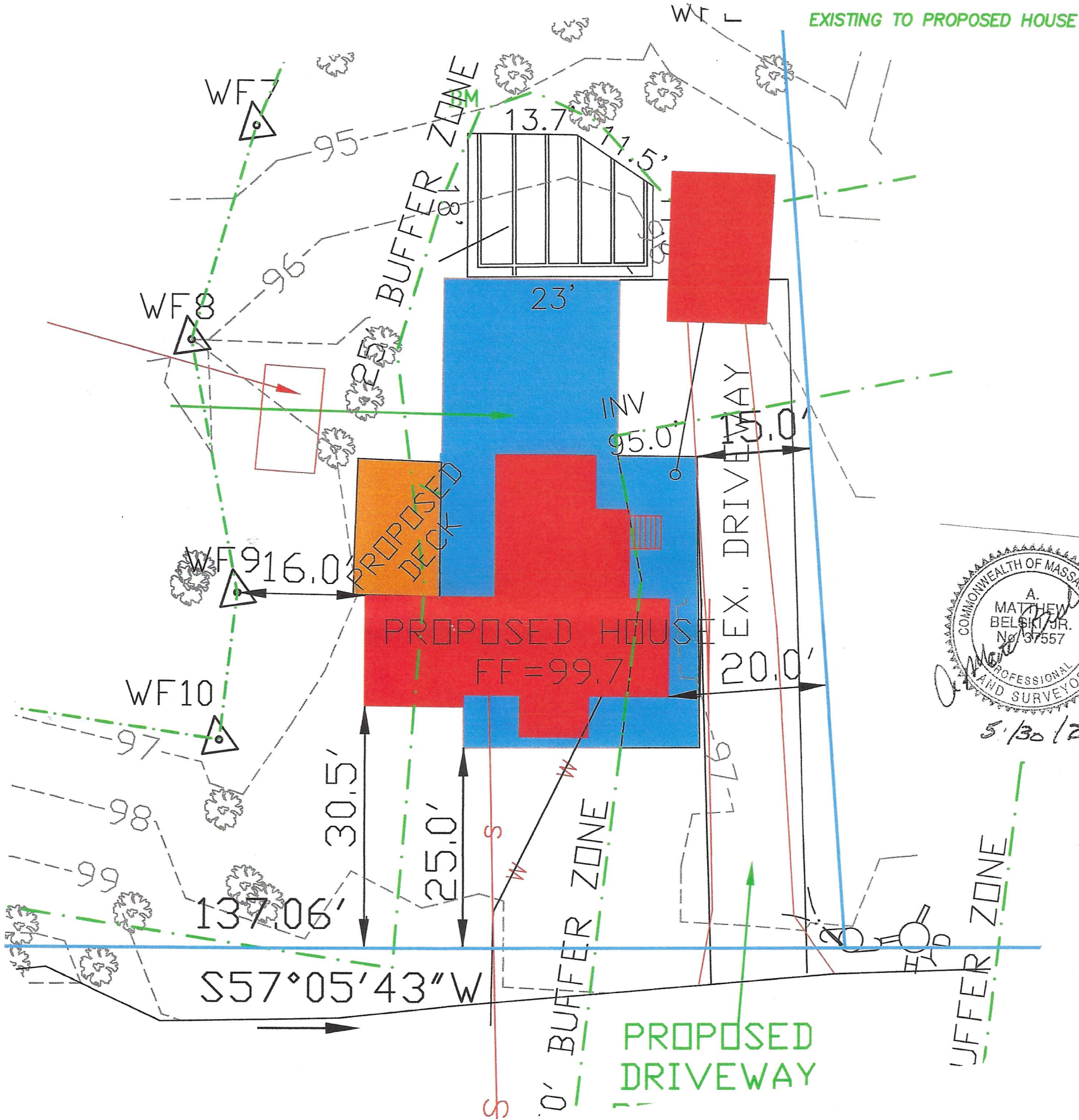
Lot Area 35,726 S.F.

Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder MIKHAIL DEYCHMAN

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

Scale NTS



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Approved _____ Director of Public Works Date _____

Approved _____ Building Inspector Date _____

TOWN OF NEEDHAM, MASSACHUSETTS
Building Inspection Department

Assessor's Map & Parcel Number: 213 LOT 60

Building Permit No. _____

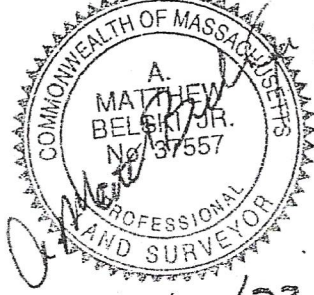
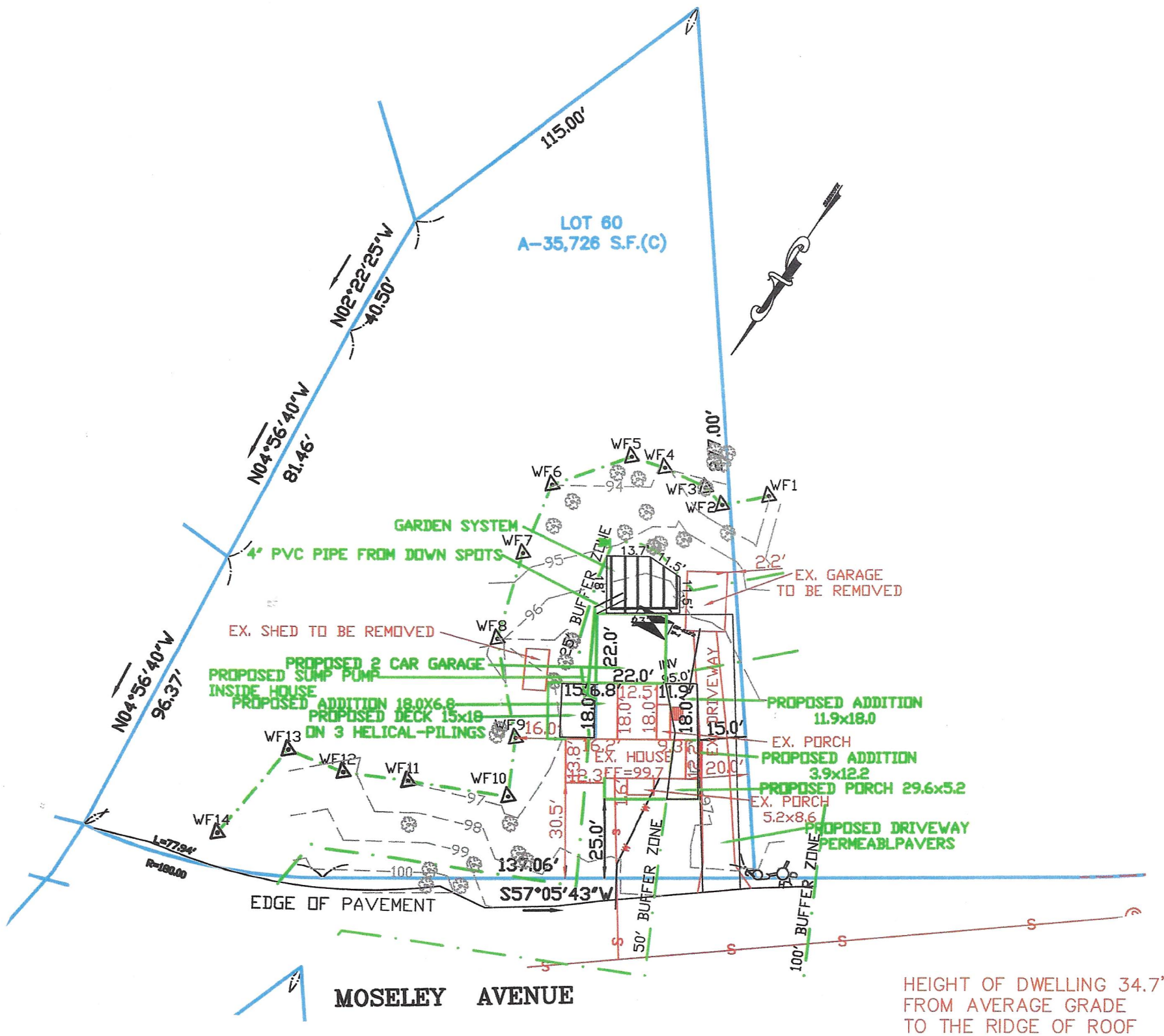
Zoning District: SRA

Lot Area 35,726 S.F.

Address: 37 MOSELEY AVENUE

Owner SAYBROOK CONSTRUCTION LLC Builder: MIKHAIL DEYCHMAN

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

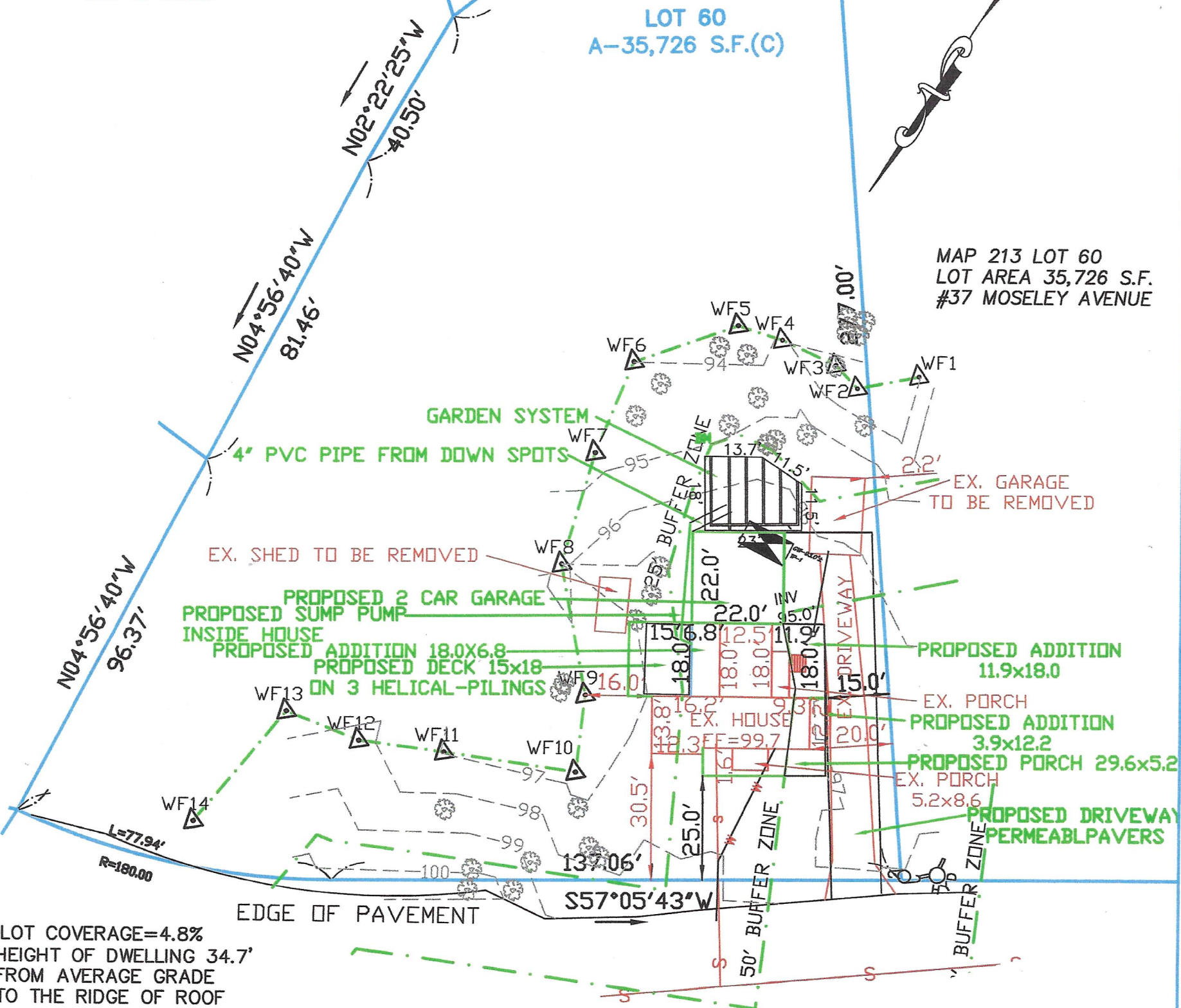
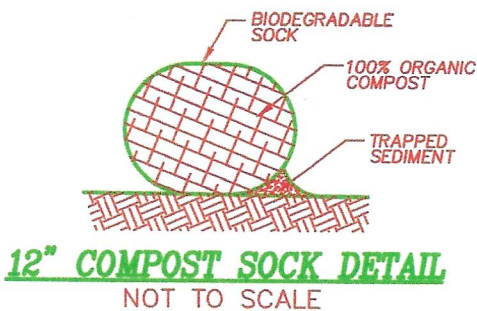


5/30/23

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Name A. MATTHEW BELSKI, JR. Registered Land Surveyor No. 37557
Address 35 MAPLE ST. City W. NEWBURY State MA Zip Tel. No. (978) 363-8130
Approved _____ Director of Public Works Date _____
Approved _____ Building Inspector Date _____

OWNER: SAYBROOK CONSTRUCTION LLC
BK. 40914 PG. 121
APPLICANT: SAYBROOK CONSTRUCTION LLC
ADDRESS: 11 SHEPARD STREET, BRIGHTON, MA 02135



SITE PLAN

TOTAL EXISTING HOUSE 802 S.F.
GARAGE 236 S.F.
TOTAL IMPERVIOUS AREA: 1,038 S.F.

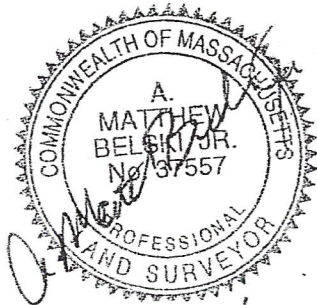
PROPOSED IMPERVIOUS AREA HOUSE
WITH GARAGE 1,779.4 S.F.

NOTES:

- 1. PROJECT IS OUTSIDE 200 FOOT RIVERFRONT AREA.
- 2. WETLANDS DEPICTED ON THIS PLAN WERE DELINEATED ON NOVEMBER 15, 2022 BY KARON SKINNER CATRONE.
- 3. APPROX. 1,786 S.F ROOF RUN OFF TO BE DISCHARGED IN 1 GARDEN SYSTEMS SHOWN ON THE PLAN.

115 S.F. OF EXISTING HOUSE FOOTPRINT INSIDE 25' BUFFER ZONE
632 S.F. OF EXISTING HOUSE INSIDE 50' BUFFER ZONE
55 S.F. OF EXISTING HOUSE INSIDE 100' BUFFER ZONE
63 S.F. OF EXISTING GARAGE INSIDE 25' BUFFER ZONE
175 S.F. OF EXISTING GARAGE INSIDE 50' BUFFER ZONE
720 S.F. EXISTING DRIVEWAY

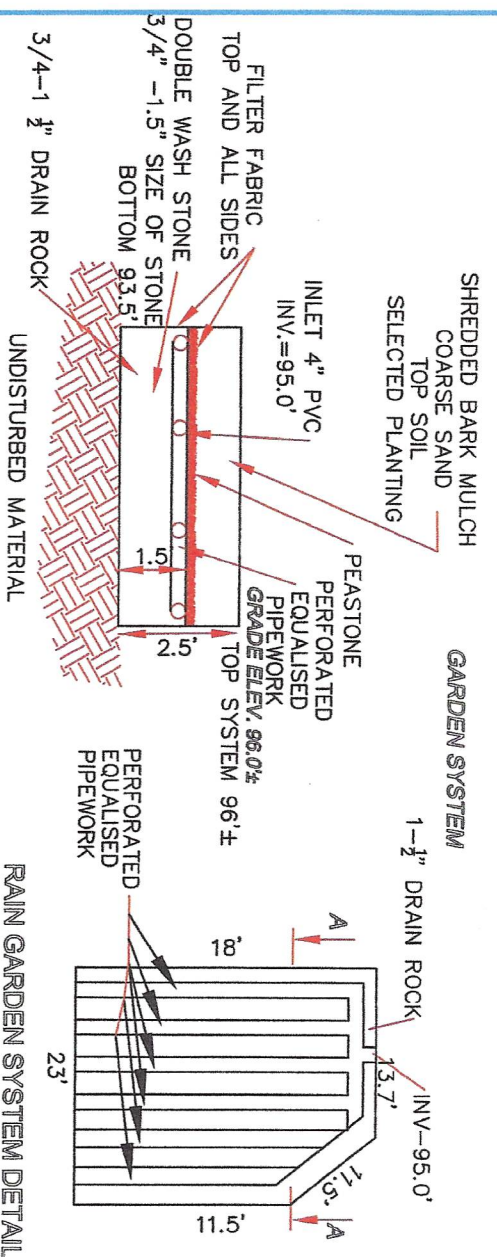
115 S.F. OF PROPOSED HOUSE INSIDE 25' BUFFER ZONE (INCLUDING EXISTING HOUSE)
1,380 S.F. OF PROPOSED HOUSE INSIDE 50' BUFFER ZONE (INCLUDING EXISTING HOUSE)
284.4 S.F. OF PROPOSED HOUSE INSIDE 100' BUFFER ZONE (INCLUDING EXISTING HOUSE)
TOTAL PROPOSED HOUSE 1,779.4 S.F.
1,300 S.F. PROPOSED DRIVEWAY (PERMEABLE PAVERS)



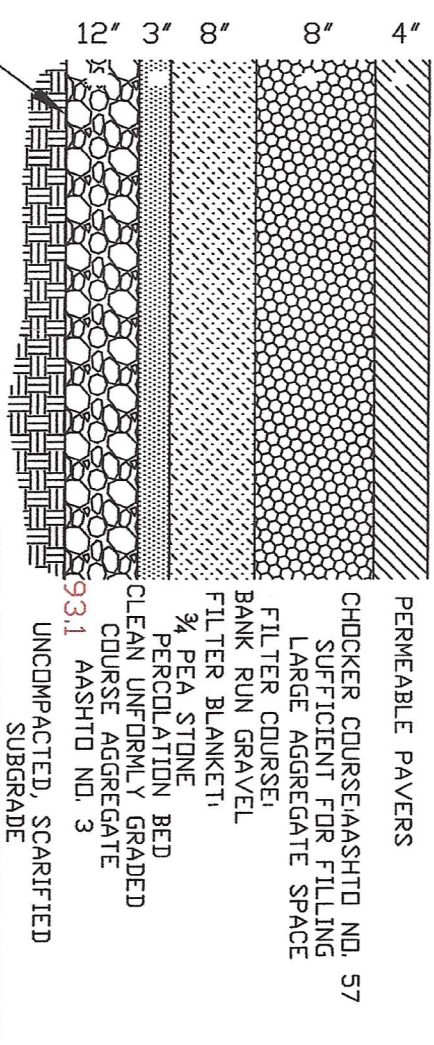
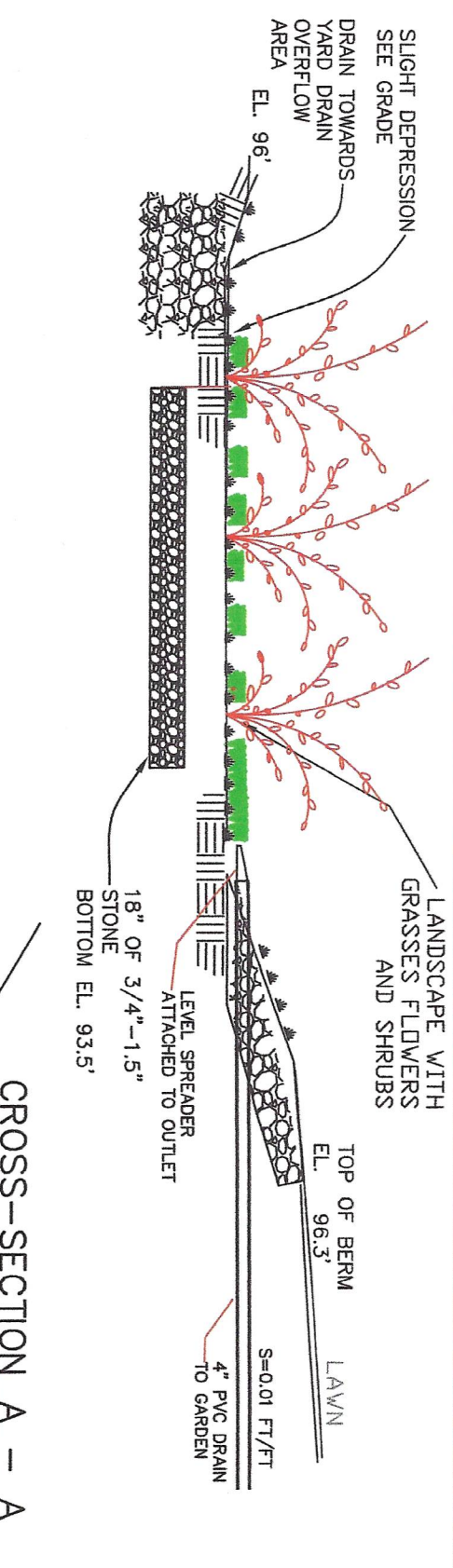
5/30/23

PROPOSED SITE PLAN

37 MOSELEY AVENUE
NEEDHAM, MA.



PROPOSED:
FOOTPRINT OF PROPOSED HOUSE 1,779.4 S.F.
1,300 S.F. PROPOSED PERMEABLE PAVERS DRIVEWAY
TOTAL IMPERVIOUS AREA 1,779.4 S.F.
1" OF STORM EVENT (1"/12")
VOLUME TO BE STORAGE BY RAIN GARDEN
SYSTEM=1,779.4x1/12=148.28 C.F.T.
THE STORAGE VOLUME PROVIDED BY THE CRUSHED STONE
SURROUNDING THE 4" PERFORATED PVC PIPES GET THE TOTAL
VOLUME OF CRUSHED STONE. MULTIPLYING THE VOLUME OF
CRUSHED STONE BY THE CRUSHED STONE'S VOID OF 0.4 WILL
PROVIDE THE GARDEN SYSTEM STORAGE VOLUME WITHIN THE
CRUSHED STONE.
(23'x18.0')-0.5(6.5'x9.3')=383.775 C.F.T.
TOTAL STORAGE VOLUME IN CRUSHED STONE
383.775 C.F.T.x0.4=153.51 C.F.T.
TOTAL STORAGE VOLUME PROVIDED BY RAIN GARDEN SYSTEM
RAINFALL-1"
INSTALL 1 GARDEN SYSTEM 18'x13.7'x11.5'x23.0'
153.51 C.F.T.>148.28 C.F.T.
IT'S OK
HOLE NUMBER: TP-1



ELEVATION	DEPTH	HORIZON	TEXTURE	COLOR	MOTTLING	OTHER
96.0'-95.6'	0" - 5"	Oa	L	10 YR 2/2	NONE	GRANULAR FIBRIC
95.6'-94.5'	5" - 18"	Ap	LS	10 YR 4/4	NONE	GRANULAR
94.5'-92.7'	18" - 40"	Bw	LS	10 YR 8/8	NONE	GRANULAR
92.7'-90.5'	40" - 66"	C1	LS	5 G 7/1		GRANULAR

ELEVATION	DEPTH	HORIZON	TEXTURE	COLOR	MOTTLING	OTHER
96.0'-95.6'	0" - 5"	Oa	L	10 YR 2/2	NONE	GRANULAR FIBRIC
95.6'-94.5'	5" - 18"	Ap	LS	10 YR 4/4	NONE	GRANULAR
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92.7'-90.5'	40" - 66"	C1	LS	5 G 7/1		GRANULAR

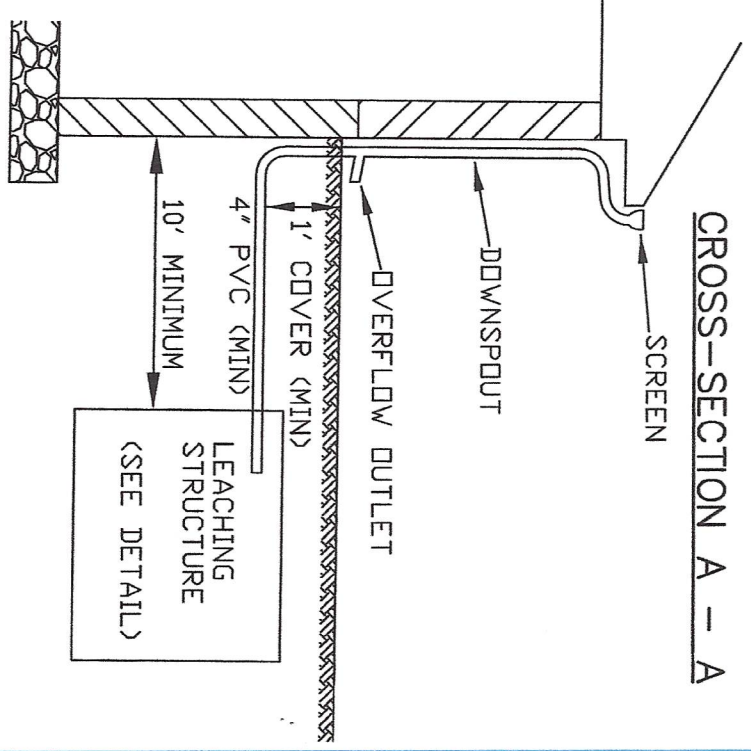
ESHGW-32" (EL.-93.3')
ZONING INFORMATION: SINGLE RESIDENCE A (SRA)

	REQUIRED:	PROPOSED:
MINIMUM LOT AREA	43,560 S.F.	35,796 S.F.
MINIMUM LOT FRONTAGE	150'	215.0'
MINIMUM FRONT SETBACK	30'	25.0'
MINIMUM SIDE YARD	25'	15.0'
MINIMUM REAR YARD	15'	-
MAXIMUM BUILDING HEIGHT	35'	33.9'
MAXIMUM BUILDING HEIGHT	2 1/2 STORIES	2 1/2

TEST PIT DONE BY:
RICHARD A. VOLKIN PE #22282

PERMEABLE PAVERS DETAIL
NTS

GARDEN DETAIL
NOT TO SCALE
EL.-96

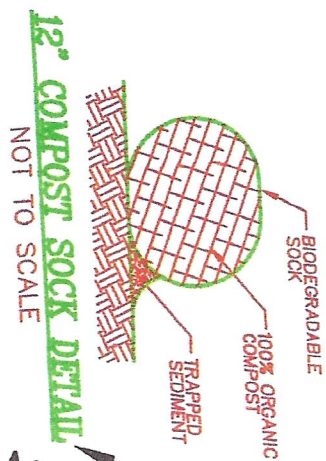


TYPICAL DOWNSPOUT DETAIL
NOT TO SCALE



DRAINAGE GARDEN SYSTEM DETAIL
37 MOSELEY AVENUE
NEEDHAM, MA.
FEBRUARY 15, 2023
DESIGN BY:
MIKHAIL DEYCHMAN
(857) 498-0951
EMAIL: MDEYCH@YAHOO.COM
SCALE: NTS DATE: 30 MAY, 2023
SHEET: 6 OF 9

OWNER: SAYBROOK CONSTRUCTION LLC
BK. 40914 PG. 121
APPLICANT: SAYBROOK CONSTRUCTION LLC
ADDRESS: 11 SHEPARD STREET, BRIGHTON, MA 02135



LOT 60
A-35,726 S.F.(C)

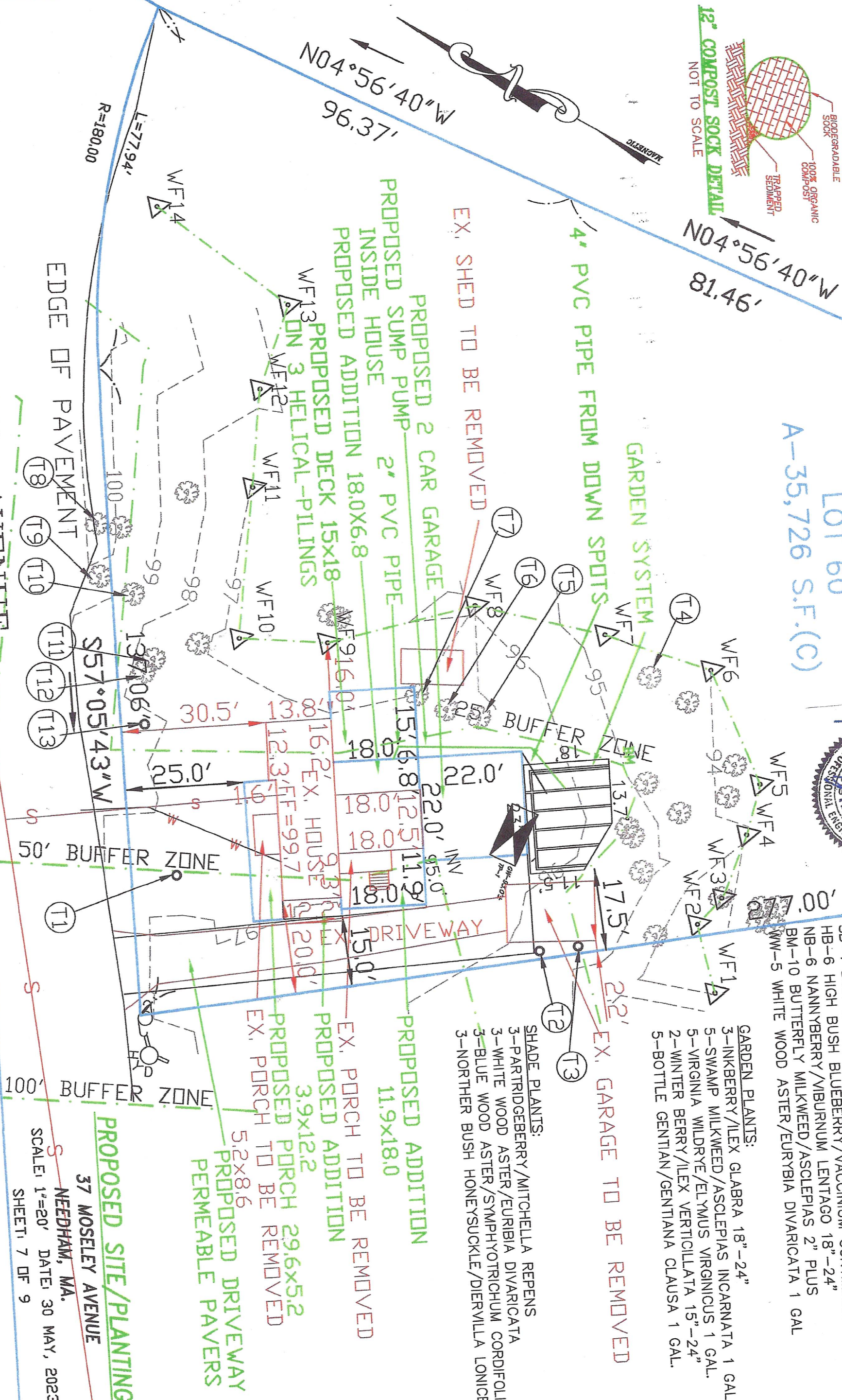


LEGEND PROPOSED PLANTS:

- SM-2 SUGAR MAPLE/ACER SOCCHARUM 2.5" DBH
 - RM-3 RED MAPLE/ACER RUBRUM 2.5" DBH
 - SB-1 BOX SHADBUSH/AMELANCHIER CANADENSIS
 - HB-6 HIGH BUSH BLUEBERRY/VACCINIUM CORYMBOSUM 18"-24"
 - NB-6 NANNYBERRY/VIBURNUM LENTAGO 18"-24"
 - BM-10 BUTTERFLY MILKWEED/ASCLEPIAS 2" PLUS
 - NW-5 WHITE WOOD ASTER/EURYBIA DIVARICATA 1 GAL
- GARDEN PLANTS:
- 3-INKBERRY/ILEX GLABRA 18"-24"
 - 5-SWAMP MILKWEED/ASCLEPIAS INCARNATA 1 GAL.
 - 5-VIRGINIA WILDRIE/ELTMUS VIRGINICUS 1 GAL.
 - 2-WINTER BERRY/ILEX VERTICILLATA 15"-24"
 - 5-BOTTLE GENTIAN/GENTIANA CLAUSA 1 GAL.

SHADE PLANTS:

- 3-PARTIDGEBERRY/MITCHELLA REPENS
- 3-WHITE WOOD ASTER/EURIBIA DIVARICATA
- 3-BLUE WOOD ASTER/SYMPHYOTRICHUM CORDIFOLIUM
- 3-NORTHER BUSH HONEYSUCKLE/DIERVILLA LONICERA



PROPOSED SITE/PLANTING

37 MOSELEY AVENUE

NEEDHAM, MA.

SCALE: 1"=20' DATE: 30 MAY, 2023

SHEET: 7 OF 9

MOSELEY AVENUE

POINT #	PROPOSED ELEVATION	POINT #	EXISTING ELEVATION
A	97.2	AA	97.2
B	97.2	BB	97.2
C	97.2	CC	97.2
D	97.2	DD	97.2
E	97.2	EE	97.2
F	97.2	FF	97.2
G	97.2	GG	97.2
H	97.2	HH	97.2
I	97.2	II	97.2
J	97.2	JJ	97.2
K	97.2	KK	97.2
L	97.2	LL	97.2
M	97.2	MM	97.2
N	97.2	NN	97.2
O	97.2	OO	97.2
P	97.2	PP	97.2
Q	97.2	QQ	97.2
R	97.2	RR	97.2
S	97.2	SS	97.2

EXISTING:
GRADE PLANE = 1,846.8/19=97.2
TOC TO GRADE = 99.7-97.2=2.5
ALLOWABLE BUILDING = 35.0-2.5=32.5

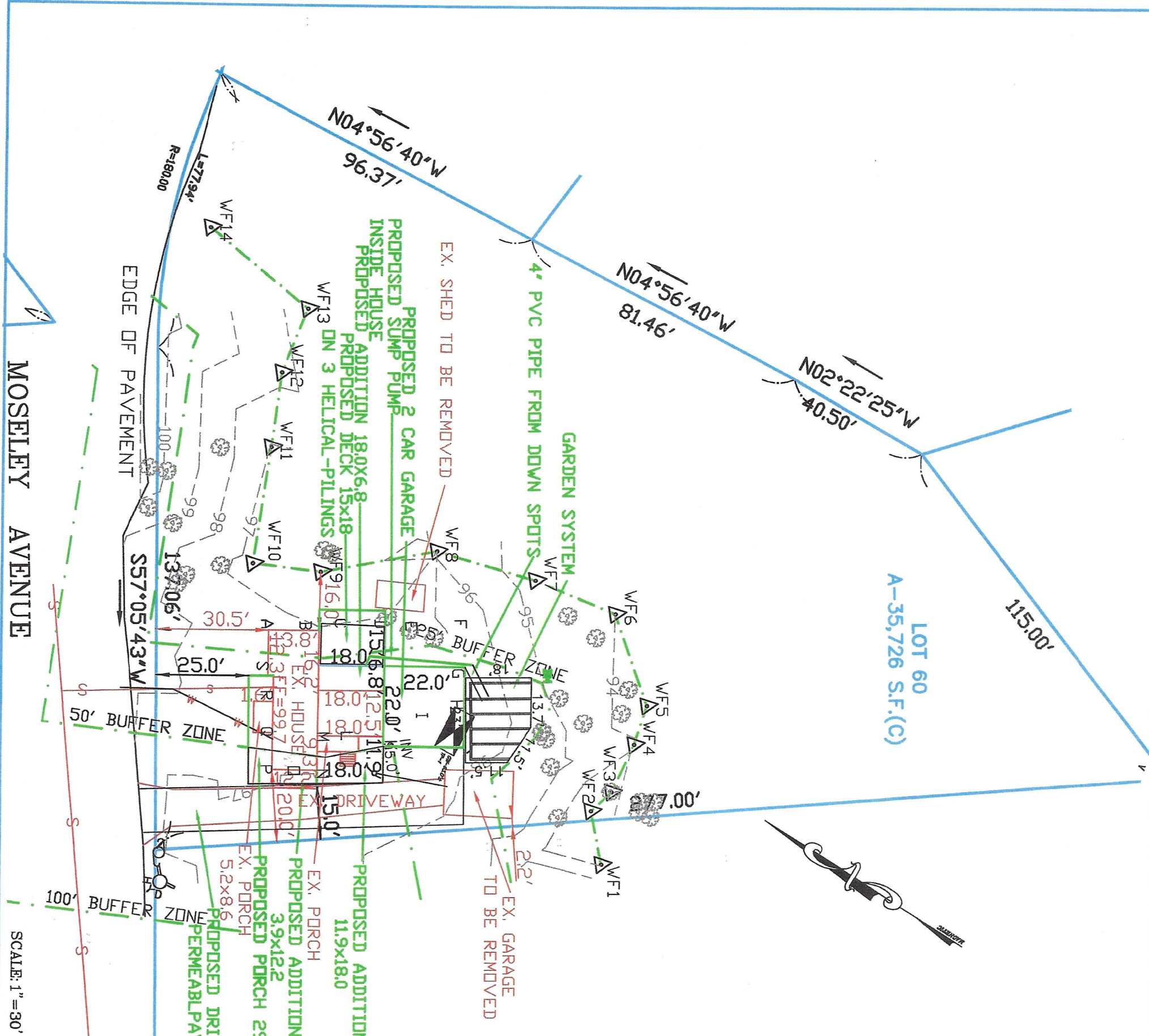
PROPOSED:
GRADE PLANE = 1,846.8/19=97.25
TOC TO GRADE = 99.7-97.2=2.5
ALLOWABLE BUILDING = 35.0-2.5=32.5

BASED UPON COMPARATIVE ANALYSIS THE EXISTING GRADE PLANE PROVIDES MORE RESTRICTIVE ENVIRONMENT FOR THE BUILDING HEIGHT THE MAXIMUM ALLOWABLE STRUCTURE ABOVE THE TOP OF CONCRETE IS 32.5

THE PROPOSED STRUCTURE FROM TOP OF CONCRETE TO RIDGE IS 32.5' MAKING THE PROPOSED HEIGHT 35.0' FROM THE EXISTING GRADE PLANE.

HEIGHT CALCULATION

PLAN OF LAND
37 MOSELEY AVENUE
NEEDHAM, MA.
FEBRUARY 15, 2023
DESIGN BY:
MIKHAIL DEYCHMAN
(857) 498-0951
EMAIL: MDEYCH@YAHOO.COM

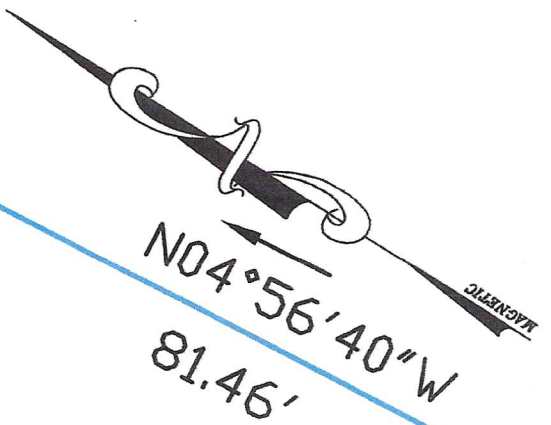


MOSELEY AVENUE

SCALE: 1"=30'

SCALE: 1"=30' DATE: 30 MAY, 2023
SHEET: 8 OF 9



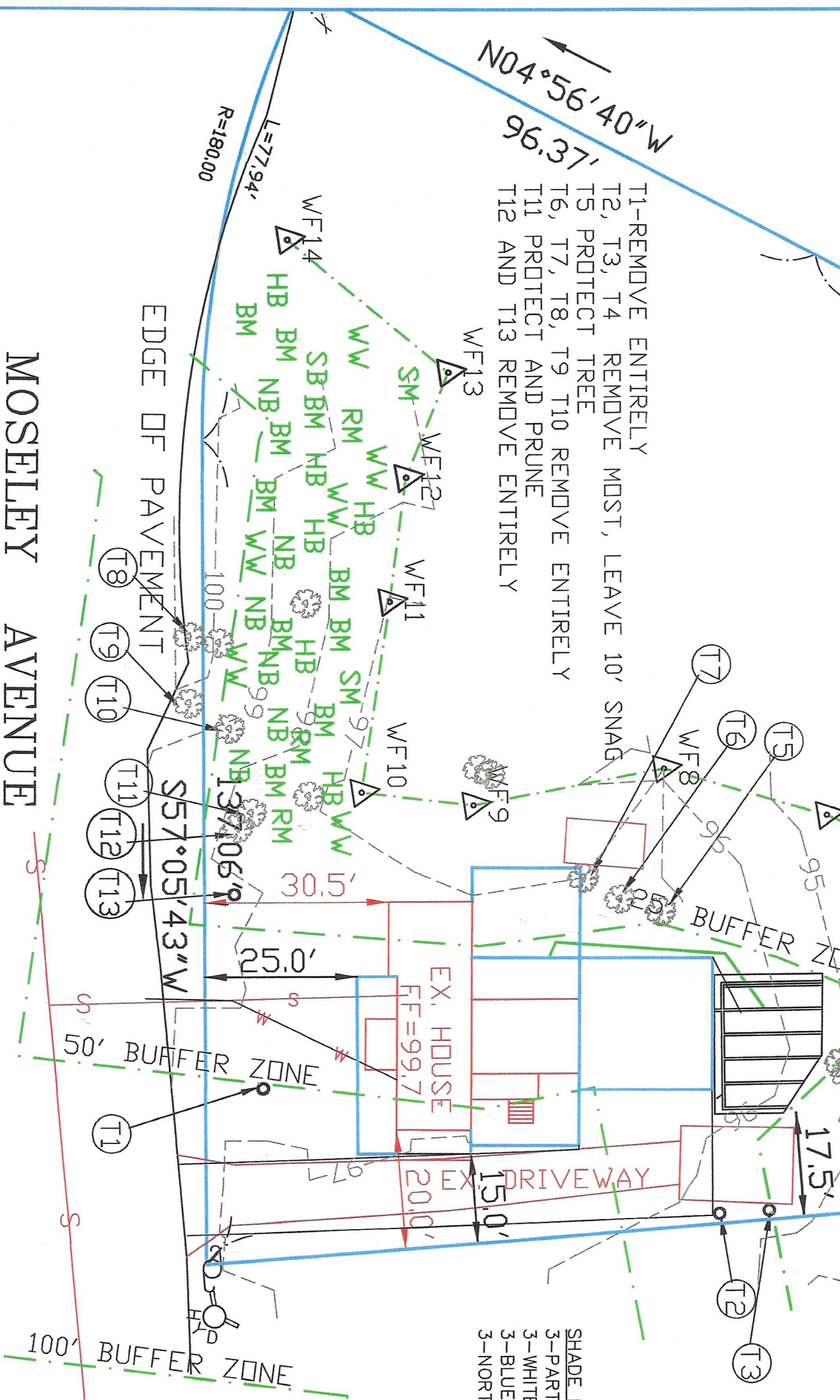


LOT 60
A-35,726 S.F.(C)

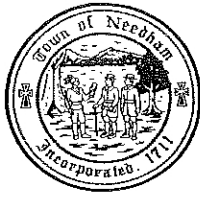
- LEGEND PROPOSED PLANTS:
- SM-2 SUGAR MAPLE/ACER SOCCHARUM 2.5" DBH
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 - SB-1 BOX SHADBUSH/AMELANCHIER CANADENSIS
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 - 5-BOTTLE GENTIAN/GENTIANA CLAUSA 1 GAL.

- SHADE PLANTS:
- 3-PARTRIDGEBERRY/MITCHELLA REPENS
 - 3-WHITE WOOD ASTER/EURIBIA DIVARICATA
 - 3-BLUE WOOD ASTER/SYMPHYOTRICHUM CORDIFOLIUM
 - 3-NORTHER BUSH HONEYSUCKLE/DIERVILLA LONICERA

T1-REMOVE ENTIRELY
T2, T3, T4 REMOVE MOST, LEAVE 10' SNAG
T5 PROTECT TREE
T6, T7, T8, T9 T10 REMOVE ENTIRELY
T11 PROTECT AND PRUNE
T12 AND T13 REMOVE ENTIRELY



TREE PLAN
37 MOSELEY AVENUE
NEEDHAM, MA.
SCALE: 1"=20' DATE: 30 MAY, 2023
SHEET: 9 OF 9



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

April 2, 2024

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

RE: Case Review-Variance
37 Moseley Road

Dear Members of the Board,

The Department of Public Works has completed its review of the above-referenced Special Permit for the proposed demolition of an existing single-family home and new construction of a 2.5 story residential single-family home. The applicant is seeking a variance for front and side setbacks. The proposed home is also within the 100' wetland buffer.

The documents submitted for review are as follows:

- Application for Special Permit dated 03/18/24.
- Cover letter by George Guita Jr dated 3/4/24
- Certified Existing Conditions/Demo plan dated 7/21/22 by Matthew Belski
- Proposed Plot Plan by Matthew Belski dated 1/16/24.
- Architectural Plan and Elevation Views of Proposed Home
- Memorandum in support from Saybrook Construction dated 3/18/24
- Memo of Understanding dated 3/25/24

Our comments and recommendations are as follows:

- In accordance with the Town of Needham Stormwater Bylaw, the proposed new structure requires a minimum combined volumetric capacity of 1 inch over the entire impervious area of the addition to be recharged. The plans should be revised, prior to receiving a building permit, showing the calculations that the infiltration system is sized to contain a minimum of 1-inch of the total impervious area of the addition for infiltration.
- The final location of storm drainage field should be reviewed for approval prior to field installation.
- Project subject to Conservation Commission Order of Conditions that may not match this application.

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

Truly yours,

Thomas A Ryder
Town Engineer

Daphne Collins

From: Tom Conroy
Sent: Tuesday, April 2, 2024 12:15 PM
To: Daphne Collins
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Hi Daphne,
No issues with Fire. Let me know if you need anything else.
Thank you.



Thomas M. Conroy

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

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Tuesday, April 2, 2024 9:28 AM
To: Deb Anderson <andersond@needhamma.gov>; Clayton Hutchinson <chutchinson@needhamma.gov>; Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: FW: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Hi Folks,
Friendly Reminder – Due Today.
Thanks,
Daphne

Daphne M. Collins

Zoning Specialist

Phone 781-455-7550, x 261

Web <https://www.needhamma.gov/>

<https://needhamma.gov/1101/Board-of-Appeals>

www.needhamma.gov/NeedhamYouTube

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

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

Remote Hours: Thurs 8:00am-5:00pm

From: Daphne Collins
Sent: Thursday, March 21, 2024 2:55 PM
To: Deb Anderson <andersond@needhamma.gov>; Clayton Hutchinson <chutchinson@needhamma.gov>; Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler

Daphne Collins

From: Tara Gurge
Sent: Tuesday, April 2, 2024 9:38 AM
To: Daphne Collins
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Daphne –

The Public Health Division conducted the Zoning Board review for the property located at **#37 Moseley Avenue**, and have the following comments, below:

- The Public Health Division was able to confirm with the Water and Sewer Division that this property is actually connected to the municipal sewer system and is not on a private septic system. Due to this, as part of this project, we will need the existing septic system to be properly decommissioned. A septic abandonment form will need to be filled out and submitted to the Public Health Division for our file.
- Prior to the demolition of the house, detached garage and shed, the owner/contractor must apply for this Demolition review online, via the Towns ViewPoint Cloud online permitting system through Public Health Division. See direct link to this permit review application- <https://needhamma.viewpointcloud.com/categories/1073/record-types/1006508>. This form will need to be completed along with the uploading of the required supplemental report documents for our review and approval (as noted on the form.) **PLEASE NOTE:** Pest control reports, along with the asbestos sampling reports, etc., must be uploaded to our online system for review and approval, prior to the issuance of a Demolition permit by the Building Department.
- Due to the condition of this home, a wildlife pest control service will also need to be hired, and a report uploaded to the online permit application. This wildlife pest report, along with a routine pest control service report for mice/pests, will need to be uploaded as part of your Demolition permit review.
- On-going routine pest control must be conducted during demolition AND on-going pest control must be conducted throughout construction.
- In reference to the applicants requested decrease in setbacks to wetlands, in order to increase the new home's footprint, that should only be allowed if the Needham Conservation Commission determines that these decrease in setback distances do not impact the surrounding wetlands and cause a detriment to the environment. And if the proposed setback distance requests are determined to be a detriment to the environment, those setbacks should be adjusted accordingly in order to minimize that.

Please let us know if you have any follow-up questions or need any additional information from us on those requirements.

Thanks,

Daphne Collins

From: John Schlittler
Sent: Thursday, March 21, 2024 3:05 PM
To: Daphne Collins
Subject: RE: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Police has no issues

From: Daphne Collins <dcollins@needhamma.gov>
Sent: Thursday, March 21, 2024 2:55 PM
To: Deb Anderson <andersond@needhamma.gov>; Clayton Hutchinson <chutchinson@needhamma.gov>; Donald Anastasi <DAnastasi@needhamma.gov>; Jay Steeves <steevesj@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Joseph Prondak <jprondak@needhamma.gov>; Justin Savignano <jsavignano@needhamma.gov>; Ronnie Gavel <rgavel@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tom Conroy <TConroy@needhamma.gov>
Subject: 37 Moseley Avenue - ZBA Administrative Review - Due April 2, 2024

Good Afternoon-

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

The applicant is also seeking a relief for the right side setback at 13.8 feet where 25 feet are required; and a front setback at 20 feet which requires 30 feet are required. The property is located on a 35,726 square foot lot in the SRA Zoning District which has a minimum lot size requirement of 43,560.

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

I appreciate your comments no later than **April 2, 2024** to allow time for the applicant to respond prior to the hearing.

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

Daphne

Daphne M. Collins

Zoning Specialist

Phone 781-455-7550, x 261

Web <https://www.needhamma.gov/>

<https://needhamma.gov/1101/Board-of-Appeals>

www.needhamma.gov/NeedhamYouTube

Town of Needham

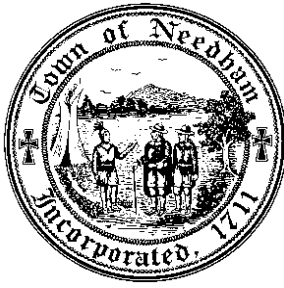
Planning and Community Development

500 Dedham Avenue

Needham, MA 02492

Regular Office Hours: Mon-Wed 8:30am – 5:00pm

Remote Hours: Thurs 8:30am-5:00pm



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

April 2, 2024

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

Dear Mr. Tamkin and Members of the Zoning Board of Appeals:

At its meeting of April 2, 2024, the Planning Board reviewed the applications to be heard by the Board of Appeals on April 24, 2024, and made the following recommendations:

1. 315 Chestnut Street Needham, LLC, applied to the Board of Appeals for a Special Permit under Sections 3.2.2, 5.1.1.5, 5.1.2. and any other applicable sections of the By-Law to permit the conversion and use of the second floor space, most recently used as office space, for residential purposes as one residential dwelling unit and waiving strict adherence to the number of required parking and the parking plan and design requirements. The property is located at 315 Chestnut Street, Needham, MA in the Chestnut Street Business (CSB) Zoning District.

The Planning Board makes NO COMMENT.

2. Saybrook Construction, LLC, applied to the Board of Appeals for a Variance pursuant to Sections 7.5.3, and MGL40A, Section 10, from the following provisions of Section 4.2.3 and any other applicable sections of the By-Law to permit the demolition of a deteriorated single family residential dwelling with detached garage and shed and to allow the construction of a new single-family residential dwelling with a side setback of 13.8 feet where 25 feet are required and a front yard setback of 20 feet where 30 feet are required. The lot contains 35,726 square feet, less than the required 43,560 square feet. The property is located at 37 Moseley Avenue, Needham, MA in the Single Residence A (SRA) Zoning District.

The Planning Board makes NO COMMENT.

NEEDHAM PLANNING BOARD

Lee Newman

Lee Newman

Director of Planning and Community Development

Daphne Collins

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

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

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

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

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

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

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

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

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

The published description of the property included:

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

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

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

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

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

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

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

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

Sincerely,

Leslie Smith Jacobs

Email: leslie.smithjacobs@gmail.com

Cell: 508-769-0565

Attachments



September 26, 2022

Logan Jacobs
Compass
6 ½ Carlisle Street
Cambridge, MA 02139

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

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

Dear Mr. Jacobs:

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

Existing Conditions and Wetland Resource Areas

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

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

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

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

cinnamomeum), poison ivy, multiflora rose, skunk cabbage (*Symplocarpus foetidus*), and Japanese knotweed.

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

Regulatory Implications and Recommendations

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

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

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

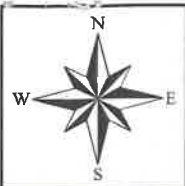
The attached GIS/GPS map we have provided can be used as a planning tool, however, OA recommends having the wetland resource area boundaries formerly delineated to determine the actual site constraints. We also recommend consulting a Professional Land Surveyor or Professional Engineer to generate a survey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

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

Sincerely,
Oxbow Associates, Inc.

A handwritten signature in black ink, appearing to read "Kyle Cormier", with a long horizontal flourish extending to the right.

Kyle Cormier
Environmental Scientist



Needham

MOSLEY AVENUE

Legend

- Wetland Flags
- Wetland Line
- 25-Foot Buffer
- 50-Foot Buffer
- 100-Foot Buffer
- Site

1:600

1 inch = 50 feet



**2021 Orthophotograph
37 Moseley Avenue
Needham, MA**

September 16, 2022

April 18, 2024

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

Re: 37 Moseley Avenue

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

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

- There is an addition to the new plans that sits squarely in the 25' No Disturb Zone (see Exhibit A). This is an addition that was not part of the original plan submitted to the Conservation Commission.
 - Only two helical pilings were approved as an exception in the 25' No-Disturb Zone.
 - Changes have been made to the deck including the height of the deck being much closer to the ground, obstructing sunlight for wild plants, to further impact the No-Disturb Zone.
- Due to the applicant's negligence, the basement is currently filled with water which is the stated "tremendous hardship" for which the applicant is requesting a variance. The basement for the referenced property was dry and in good condition at the time of purchase as confirmed by the prior owner.
- As to the applicant's claim of the house being prone to flooding, all homes on Moseley Avenue have wet basements and various mitigation systems; all have sump pumps that keep basements dry. All have backup generators in the event of a power outage. The previous owner provided a generator to the applicant for just such times.
- The applicant's sole reason for expanding the footprint of the original plan, approved by the Conservation Commission, was because of the "substantial hardship" of water in the basement. The basement can be restored and further mitigations put in place to ensure the basement remains dry and usable. The need for a variance, then, becomes moot.

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

Sincerely,

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

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

