



**TOWN OF WEST NEWBURY  
PLANNING BOARD  
Tuesday October 3<sup>rd</sup>, 2023 7:00 p.m.  
AGENDA**

***For Remote Participation (see below)***

1. 7:00 - Public Hearing - Continued from September 19 - 26 Church Street – Special Permit for a Kennel in a Residential District
2. 8:15 - Public Hearing - Continued from September 19 – 87 Crane Neck Street – Special Permit for a Reduced Frontage Lot
3. 8:15 - Public Hearing - Continued from September 19 – 87 Crane Neck Street – Special Permit for a Common Driveway
4. Accessory Dwelling Unit Bylaw
5. Fall Town meeting – Board Report
6. Town Planner’s Report
7. General Business:
  - Minutes – September 5, 2023; Others, if any.
  - Correspondence
  - Administrative Details
  - Placement of Items for Future Planning Board Agendas
  - Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting

*The Planning Board reserves the right to take Agenda items out of order*

Addendum to Meeting Notice Regarding Remote Participation

Pursuant to Chapter 2 of the Acts of 2023 that includes extending certain COVID - 19 measures adopted during the state of emergency, this meeting of the West Newbury Planning Board will be conducted via remote participation to the greatest extent possible. Members of the public who wish to view and/or listen to the meeting may do so using Zoom, by calling the telephone number or using the VideoLink listed below:

Zoom Meeting Instructions:

Phone: 1+(646) 558-8656

VideoLink: <https://us06web.zoom.us/j/83195327547?pwd=OC91TW5EOTVPL29hQWl0VFBMNkhOZz09>

Meeting ID: 831 9532 7547

Passcode: 553322

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.



**WEST NEWBURY  
PLANNING BOARD**

## Memo

To: Legal Ads  
Attention: Christa MacDonald  
The Daily News  
Telephone (978) 961-3181  
Email: [NTLegals@newburyportnews.com](mailto:NTLegals@newburyportnews.com)

From: Katelyn Bradstreet, Planning Administrator  
Town of West Newbury Planning Board  
(978) 828-2280  
[Planning.admin@wnewbury.org](mailto:Planning.admin@wnewbury.org)

Date: August 31, 2023

Re: **Legal Notice for West Newbury**

Please place the following Legal Notice in the **Wednesday, September 6, 2023 AND Wednesday, September 13, 2023** editions of the **The Daily News**. Please send the invoice to:

Sean Castro  
26 Church Street  
West Newbury, MA 01952  
Tel: 978-807-0813

Please call or email me to confirm receipt of this Legal Notice. Thank you.

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### **Legal Notice West Newbury Planning Board**

The West Newbury Planning Board will hold a Public Hearing on Tuesday, September 19, 2023 during a meeting that begins at 7:00 PM to consider an Application for a Special Permit to build a Kennel in a Residential Zone (Zoning Bylaw 4.3.3 b.) at 26 Church Street, Assessors Map R11, Lot 20 in the Residence C Zoning District. Owner/Applicant: Sean Castro, 26 Church Street, West Newbury, MA 01985. To view the application visit: [www.wnewbury.org/planning-board/west-newbury-legal-adspublic-hearing-notices](http://www.wnewbury.org/planning-board/west-newbury-legal-adspublic-hearing-notices) or contact [planning.admin@wnewbury.org](mailto:planning.admin@wnewbury.org). Interested persons may participate in the meeting by joining from computer, tablet or smartphone using: Interested persons may participate in the public hearing by joining from computer, tablet or smartphone using: <https://us06web.zoom.us/j/83669185994?pwd=WS9JcW13dW9sUEFNSW5xYXpLQmFOQT09> OR by calling: +1- 646-558-8656. Enter Meeting ID: 836 6918 5994 Passcode: 607197

# SUMMARY

**SPECIAL PERMIT APPLICATION  
SEAN CASTRO  
26 CHURCH STREET  
WEST NEWBURY, MA**

08/28/2023

**Business Description:**

To assist in raising and training service dogs for my current employer in Amesbury, MA. These services would require the dogs to be on-site. The secondary reason for the kennel addition is to provide a safe and secure place for not only the service dogs, but for my own dogs that I train and compete with. As a business, we will NOT be providing any services like grooming or daycare, therefore there will be little impact on additional traffic in or out of the premises. This will be a family-run business - there will be NO hiring of employees.

The kennel is constructed as both indoor and outdoor fenced in areas. All dogs would be placed inside during the night. The dogs would be rotated in and out to reduce any potential noise concerns. It is unlikely that the kennel would be at full capacity 24/7/365. Security systems will include door/window alarms and cameras to be installed for additional monitoring of the dogs.

Sincerely,

Sean Castro

**TOWN OF WEST NEWBURY PLANNING BOARD  
APPLICATION FOR SPECIAL PERMIT and/or SITE PLAN REVIEW**

Application for:  Special Permit  Site Plan Review  Both

(Adopted December 21, 2011)

Please type or print clearly.

1. Applicant: SEAN CASTRO

Applicant's Address: 26 CHURCH STREET, WEST NEWBURY, MA 01985

Telephone Number: 978-807-0813

2. Owners of the Land: SEAN CASTRO & ALAINA McNALL

Address: 26 CHURCH STREET, WEST NEWBURY, MA 01985

Telephone Number: 978-807-0813

Number of years of Ownership: 1

3. Year Lot was Created: \_\_\_\_\_

4. Description of Proposed Project, including applicable section(s) of the Zoning Bylaw: ADDING AN ADDITION TO EXISTING BARN TO BUILD A KENNEL FOR PERSONAL DOGS AND DOGS I AM RAISING/ TRAINING FOR SERVICE WORK FOR MY EMPLOYER IN AMESBURY, MA. ZONING BYLAW 5.A.3

5. Description of Premises: PRIMARY RESIDENCE/ WOODED LOT

6. Address of Property Affected: 26 CHURCH ST., WEST NEWBURY, MA 01985

Zoning District: RC

Assessors: \_\_\_\_\_ Map: R11 Lot #: 20

Registry of Deeds: \_\_\_\_\_ Book: 41343 Page: 196

Plan Book and Plan Number \_\_\_\_\_

7. Existing Lot:  
Lot Area (sq. ft.) 78,408

Street Frontage 242.05'

Front Setback 39'

Building Height \_\_\_\_\_

Side Setbacks 87.4'

Rear Setback \_\_\_\_\_



Floor Area Ratio \_\_\_\_\_

Lot Coverage \_\_\_\_\_

**8. Proposed Lot (if applicable):**

Lot Area (sq. ft.) \_\_\_\_\_  
Street Frontage \_\_\_\_\_  
Front Setback \_\_\_\_\_  
Floor Area Ratio \_\_\_\_\_

Building Height: \_\_\_\_\_  
Side Setbacks \_\_\_\_\_  
Rear Setback \_\_\_\_\_  
Lot Coverage \_\_\_\_\_

**9. Required Lot (as required by Zoning Bylaw):**

Lot Area (sq. ft.) \_\_\_\_\_  
Street Frontage \_\_\_\_\_  
Front Setback \_\_\_\_\_  
Floor Area Ratio \_\_\_\_\_

Building Height \_\_\_\_\_  
Side Setbacks \_\_\_\_\_  
Rear Setback \_\_\_\_\_  
Lot Coverage \_\_\_\_\_

**10. Existing Building (if applicable):**

Ground Floor (sq.ft.) 576  
Total sq. ft. 576  
Use: BARN

# of Floors 1  
Height 24'  
Type of Construction WOOD

**11. Proposed Building:**

Ground Floor (sq.ft.) 924  
Total sq. ft. 924  
Use: \_\_\_\_\_

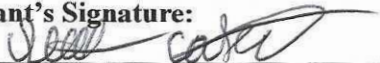
# of Floors 1  
Height 22'  
Type of Construction WOOD

**12. Has there been a previous application for a Special Permit or Site Plan Review from the Planning Board on these premises?** NO **If so, when, what type of construction, and the action made?**

**13. Applicant and Landowner signature(s):**

Every Application for a Special Permit/Site Plan Review shall be made on this form which is the official form of the Planning Board. Every Application shall be filed with the Town Clerk's Office. It shall be the responsibility of the Applicant to furnish all supporting documentation with this application. The dated copy of this Application received by the Town Clerk or Planning Office does not absolve the Applicant from this responsibility. The Applicant shall be responsible for all expenses for filing and legal notification. Failure to comply with application requirements, as cited herein and in the Planning Board Regulations, may result in a dismissal by the Planning Board of this Application as incomplete.

**Applicant's Signature:**



**Print or type name here:**

SEAN CASTRO

**Date:** 08/24/23

Owner's Signature:

Sean Castro

Alaina McNall

Print or type name here:

SEAN CASTRO

ALAINA McNALL

Date: 08/24/23

08/24/23



# TOWN OF WEST NEWBURY

## CONSERVATION COMMISSION

381 Main Street, West Newbury, Mass. 01985

Office: 978-363-1100 x126 | Cell: 978-891-0238

[conservation@wnewbury.org](mailto:conservation@wnewbury.org)

July 28, 2023

Christopher Castro  
9 Bridle Way  
North Reading, MA 01864

Re: Determination of Applicability – 26 Church Street, West Newbury, MA

Dear Mr. Castro,

Enclosed is your Determination of Applicability for the Request for Determination of Applicability that was filed by you or your representative for construction of an addition to an existing barn at 26 Church Street, West Newbury.

The Determination is valid for three years from the issuance date for the work specified. Any future work at the property proposed in a buffer zone or resource area as defined in the Massachusetts Wetlands Protection Act will require a new permit issued by the Commission.

Please read the material carefully. It is your responsibility to ensure that all work at your property is done according to any issued conditions found on page 3 of the Determination. There is a ten-day appeal period before any work can begin however, you may begin earlier at your own risk.

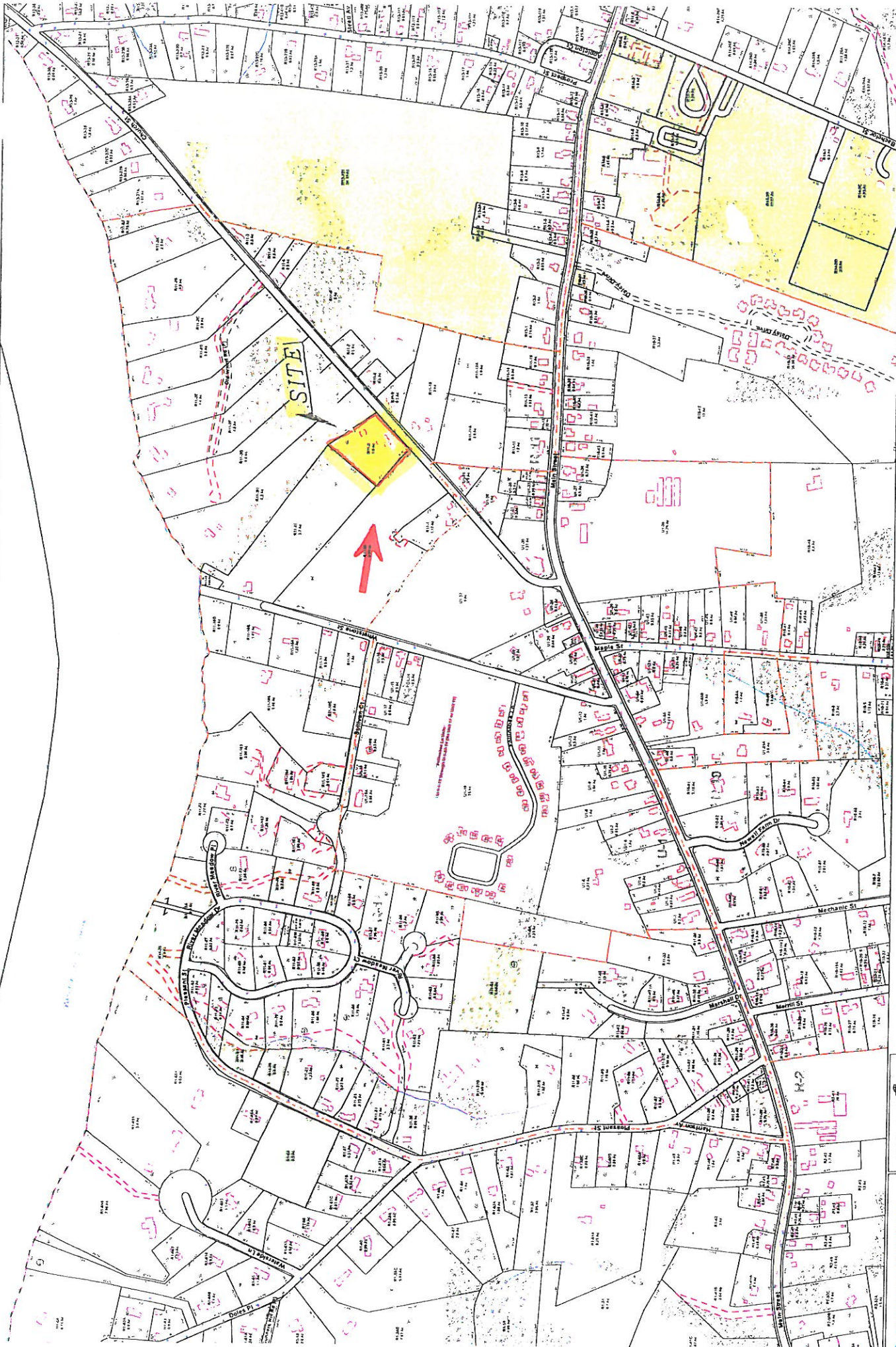
If you have any questions, please do not hesitate to contact me.

Sincerely,

Michelle Greene  
Conservation Agent

Cc: Sean Castro



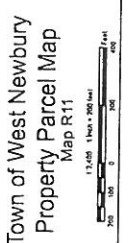


**Legend**

- Red outline: Property Boundary
- Blue outline: Easement
- Green outline: Wetlands
- Yellow outline: Flood Hazard
- Red outline: Historic District
- Blue outline: Water
- Black outline: Other



**Town of West Newbury**  
**Property Parcel Map**  
 Map R11



**Merrimack Valley Planning Commission**

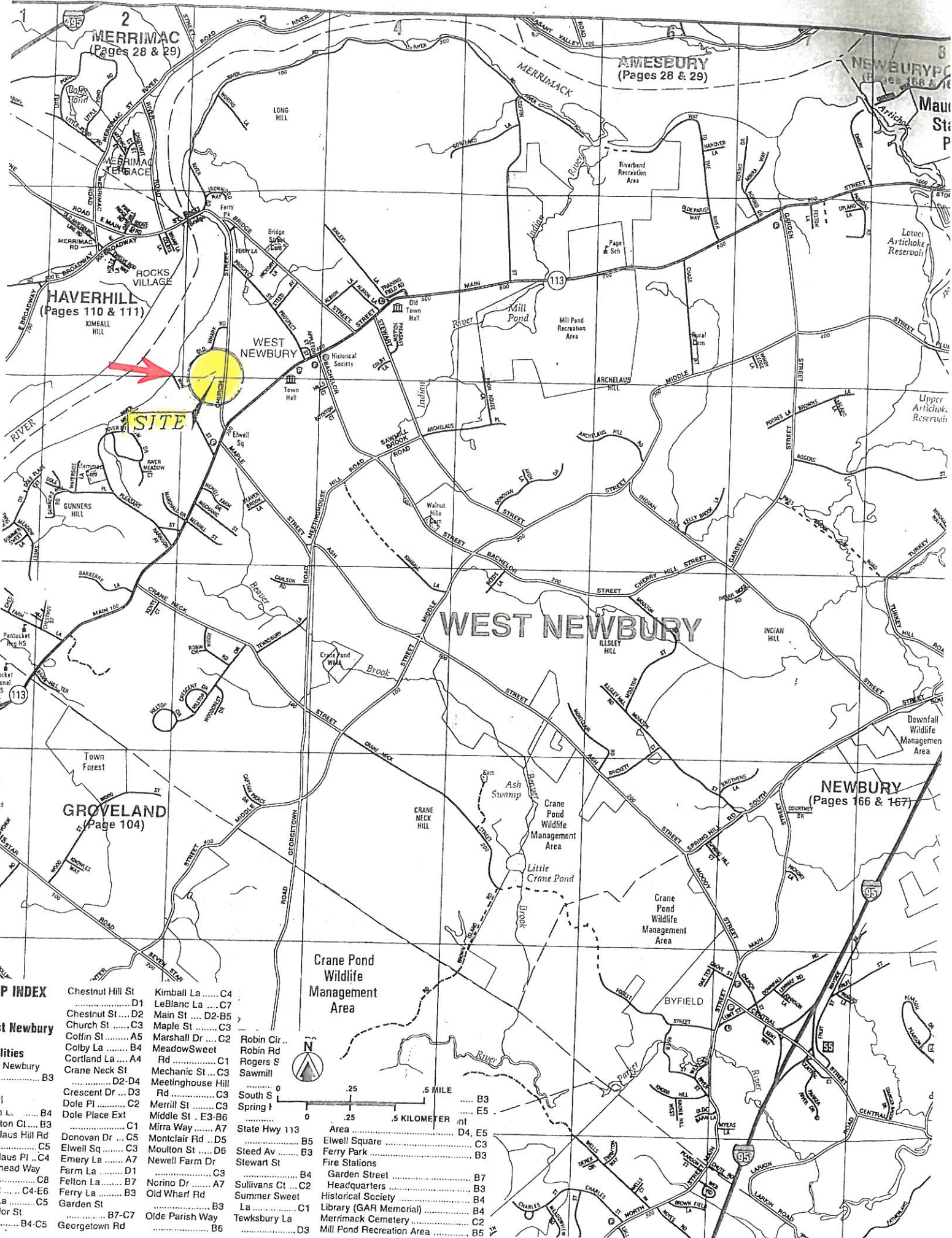
13.000 1 inch = 200 feet

**Merrimack Valley Planning Commission**

13.000 1 inch = 200 feet

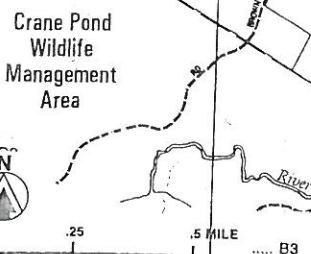
FY 2022





**AP INDEX**

Chestnut Hill St	Kimball La	C4
Chestnut St	LeBlanc La	C7
Church St	Main St	D2-B5
Coffin St	Maple St	C3
Colby La	Marshall Dr	C2
Cortland La	MeadowSweet Rd	C1
Crane Neck St	Mechanic St	C3
Crescent Dr	Meetinghouse Hill Rd	C3
Dole Pl	Merrill St	C3
Dole Place Ext	Middle St	E3-B6
Donovan Dr	Mirra Way	A7
Elwell Sq	Montclair Rd	D5
Emery La	Moulton St	D6
Farm La	Newell Farm Dr	C3
Felton La	Norino Dr	A7
Ferry La	Old Wharf Rd	B3
Garden St	Olde Parish Way	B3
Georgetown Rd		B6
	Robin Cir	
	Robin Rd	
	Rogers S	
	Sawmill	
	South S	B3
	Spring St	E5
	State Hwy 113	
	Steed Av	B5
	Stewart St	B3
	Sullivan Ct	B4
	Summer Sweet La	C2
	Tewksbury La	C1
		D3



**Crane Pond Wildlife Management Area**

**West Newbury**

**Localities**

**Crane Pond Wildlife Management Area**

Area	D4, E5
Elwell Square	C3
Ferry Park	B3
Fire Stations	
Garden Street	B7
Headquarters	B3
Historical Society	B4
Library (GAR Memorial)	B4
Merrimack Cemetery	C2
Mill Pond Recreation Area	B5

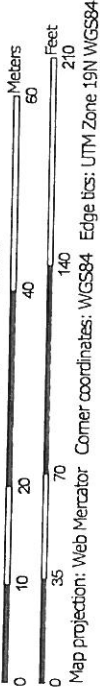


Soil Map—Essex County, Massachusetts, Northern Part  
(26 Church Street - West Newbury)



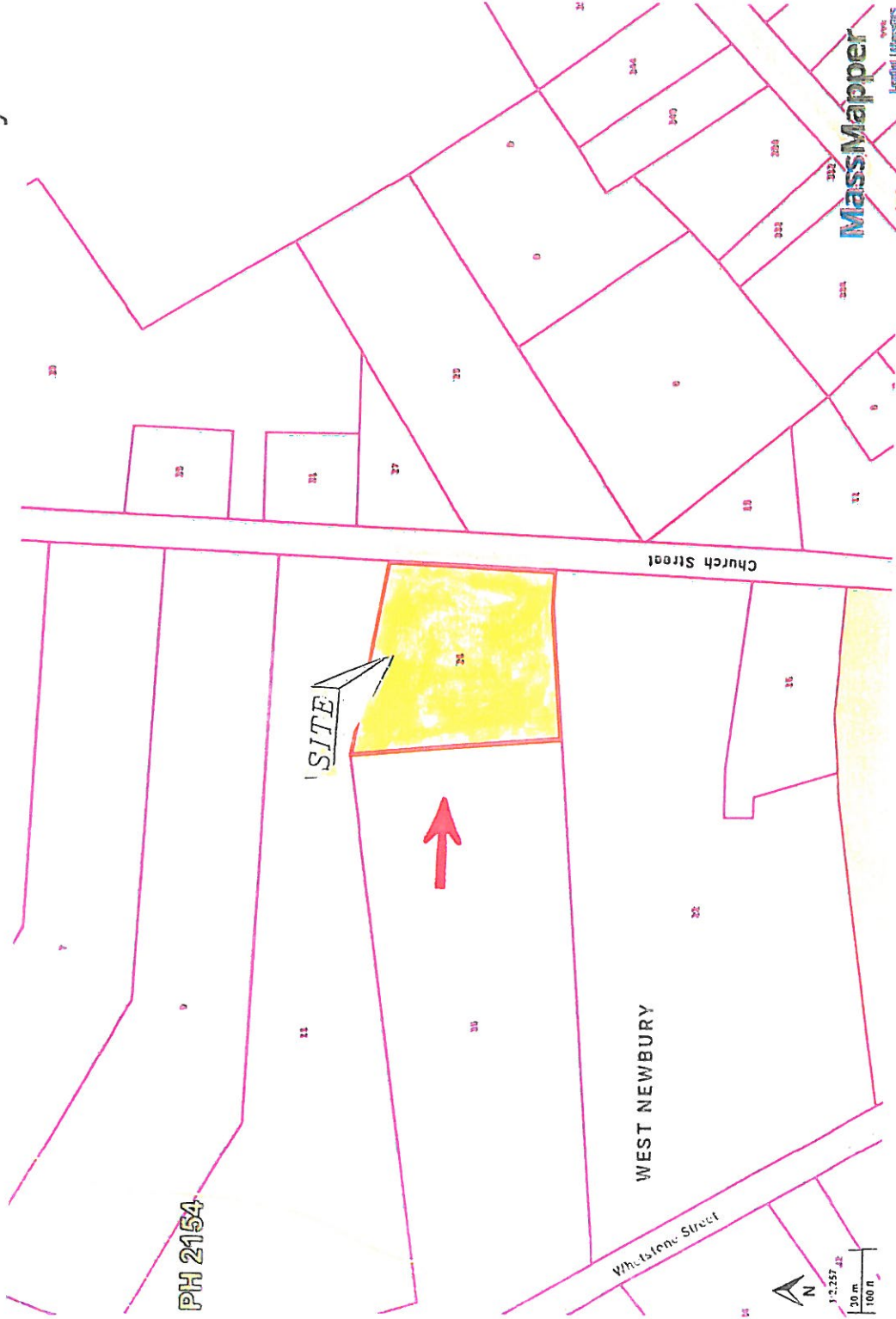
Soil Map may not be valid at this scale.

Map Scale: 1:777 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator. Corner coordinates: WGS84. Edge tics: UTM Zone 19N WGS84

# 26 Church Street West Newbury



Potential Vernal Pools



NHESP Priority Habitats of Rare Specie:



NHESP Estimated Habitats of Rare Wildlife



NHESP Certified Vernal Pools

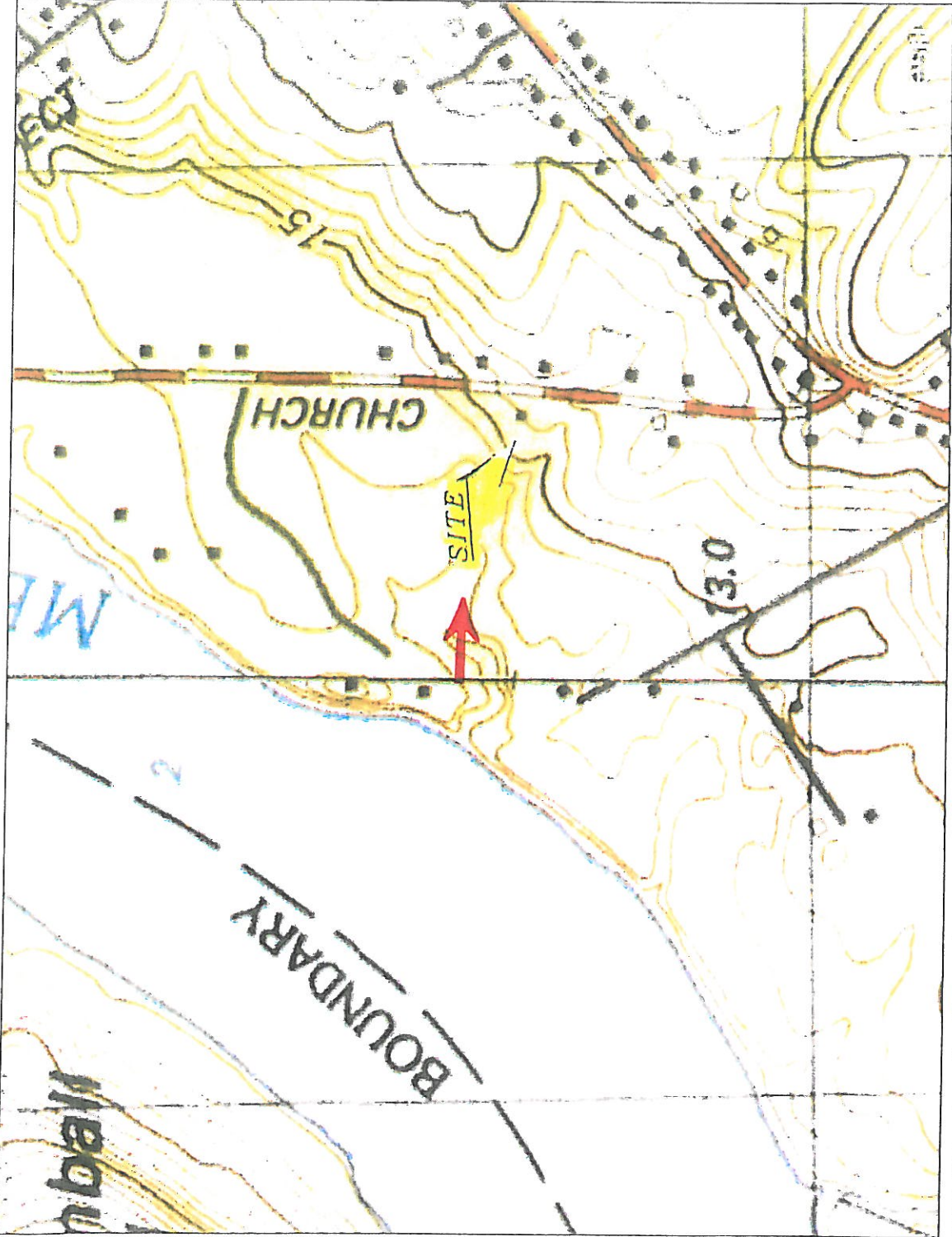


Property Tax Parcels



# USGS Topographic Quadrangle Maps

No legend



USGS 1:25,000 Topographic Maps for Massachusetts. Scanned map images published as a tile service by MassGIS at ArcGIS Online.

USGS, MassGIS

## MAP LEGEND

	Area of Interest (AOI)		Soil Area
	Area of Interest (AOI)		Stony Spot
	Soils		Very Stony Spot
	Soil Map Unit Polygons		Wet Spot
	Soil Map Unit Lines		Other
	Soil Map Unit Points		Special Line Features
	Special Point Features		Water Features
	Blowout		Streams and Canals
	Borrow Pit		Transportation
	Clay Spot		Rails
	Closed Depression		Interstate Highways
	Gravel Pit		US Routes
	Gravelly Spot		Major Roads
	Landfill		Local Roads
	Lava Flow		Background
	Marsh or swamp		Aerial Photography
	Mine or Quarry		
	Miscellaneous Water		
	Perennial Water		
	Rock Outcrop		
	Saline Spot		
	Sandy Spot		
	Severely Eroded Spot		
	Sinkhole		
	Slide or Slip		
	Sodic Spot		

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Essex County, Massachusetts, Northern Part  
Survey Area Data: Version 18, Sep 9, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 22, 2022—Jun 5, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
240A	Elmwood fine sandy loam, 0 to 3 percent slopes	0.2	11.1%
405C	Charlton fine sandy loam, 8 to 15 percent slopes	1.5	88.9%
Totals for Area of Interest		1.7	100.0%



# National Flood Hazard Layer FIRMette



190°5'W 42°48'13"N



70°59'27"W 42°47'47"N  
1:6,000  
0 500 1,000 1,500 2,000 Feet

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE) Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway
- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with draining areas of less than one square mile (Zone J)
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes, Zone X
- Area with Flood Risk due to Levee Zone D

**OTHER AREAS**

- NO SCREEN
- Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/3/2023 at 9:47 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



JMA ARCHITECTS + PLANNERS  
 Four New Street, Unit 101  
 Newburyport, Massachusetts 01950  
 (phone) 978.453.2253 (mobile) 978.521.0811

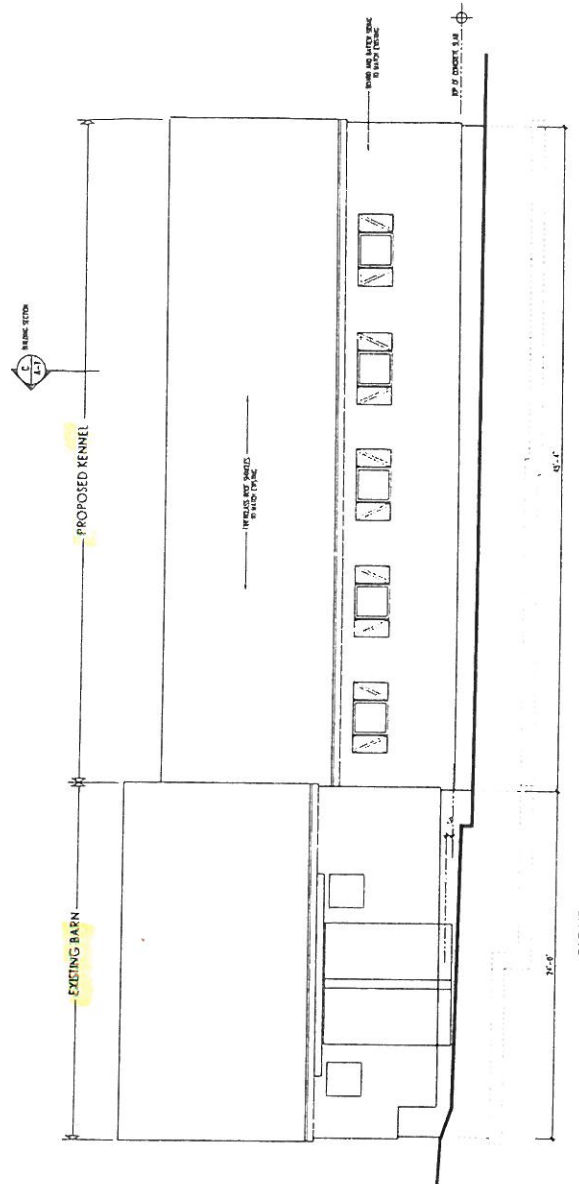
DOG KENNEL  
 26 CHURCH STREET  
 WEST NEWBURY, MA

EXTERIOR ELEVATIONS

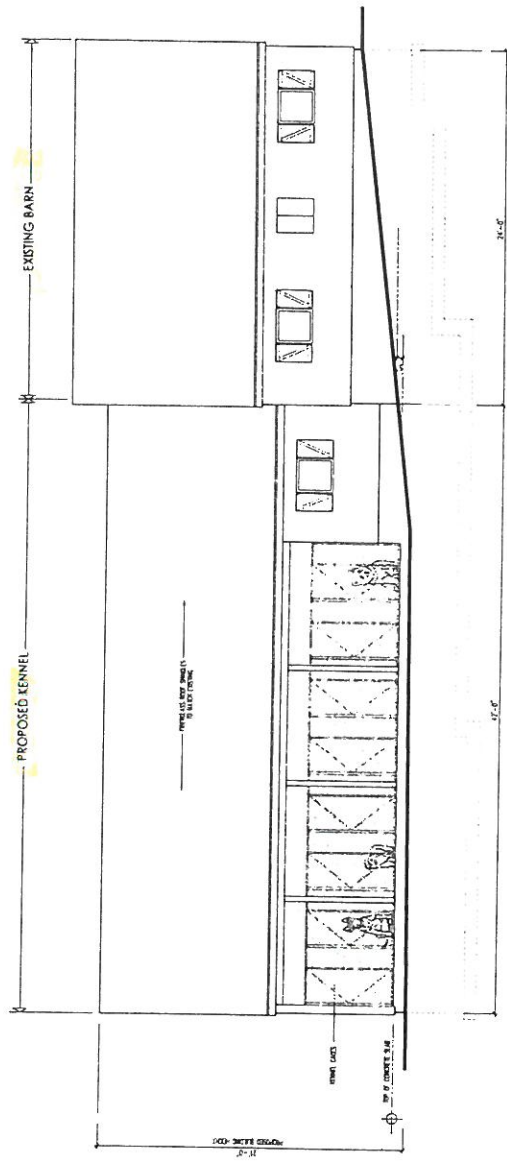
DATE	DESCRIPTION

PROJECT NO.  
 SHEET NO.  
 DATE  
 DRAWN BY  
 CHECKED BY  
 TITLE

A-2  
 SHEET

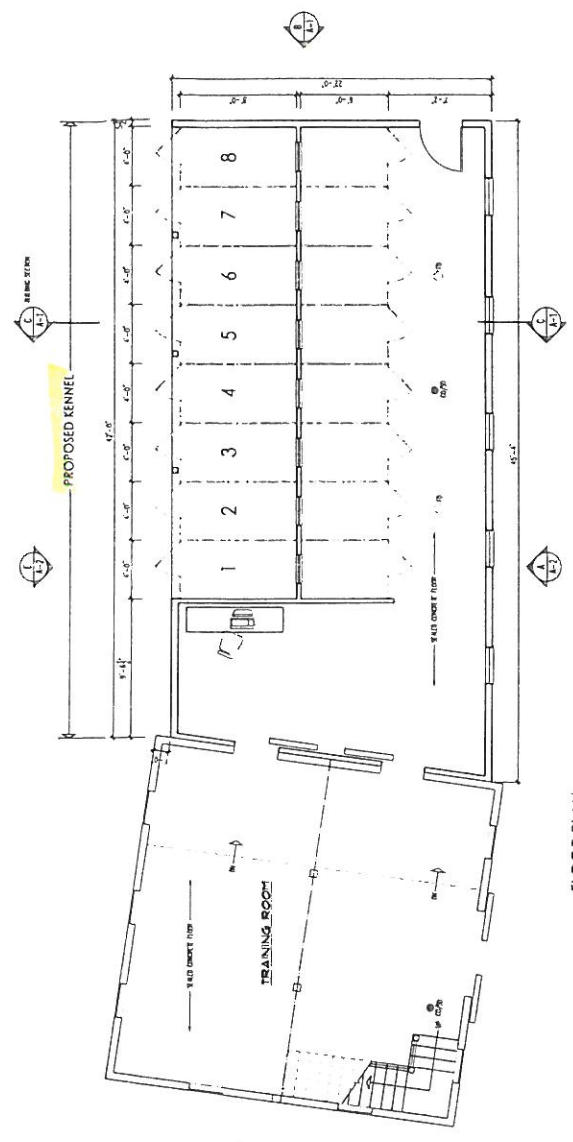


**D** RIGHT SIDE ELEVATION  
 SCALE: 1/4" = 1'-0"

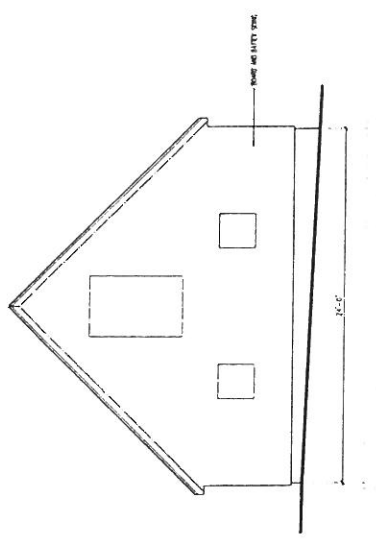


**E** LEFT SIDE ELEVATION  
 SCALE: 1/4" = 1'-0"

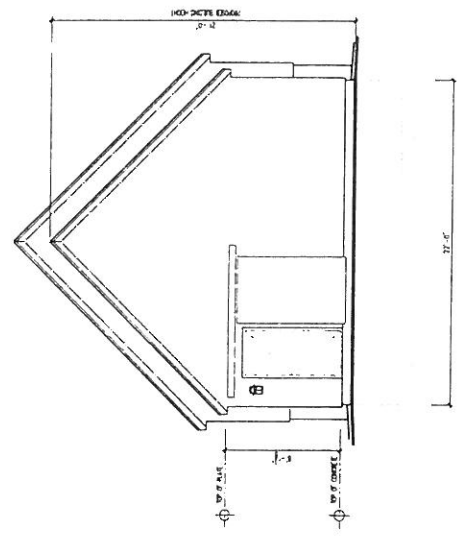
NO.	DATE	REVISIONS

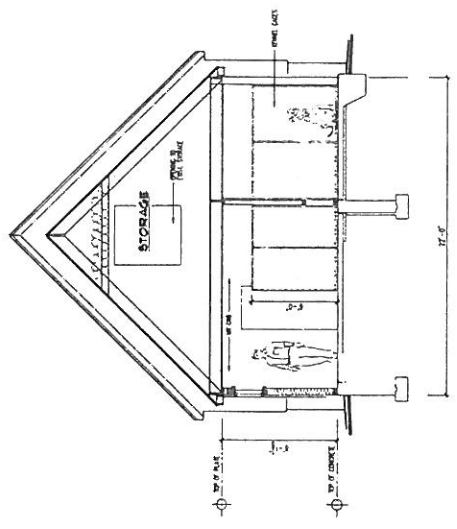
FLOOR PLAN  
 SCALE: 1/2" = 1'-0"



FRONT ELEVATION - CHURCH STREET SIDE  
 SCALE: 1/4" = 1'-0"

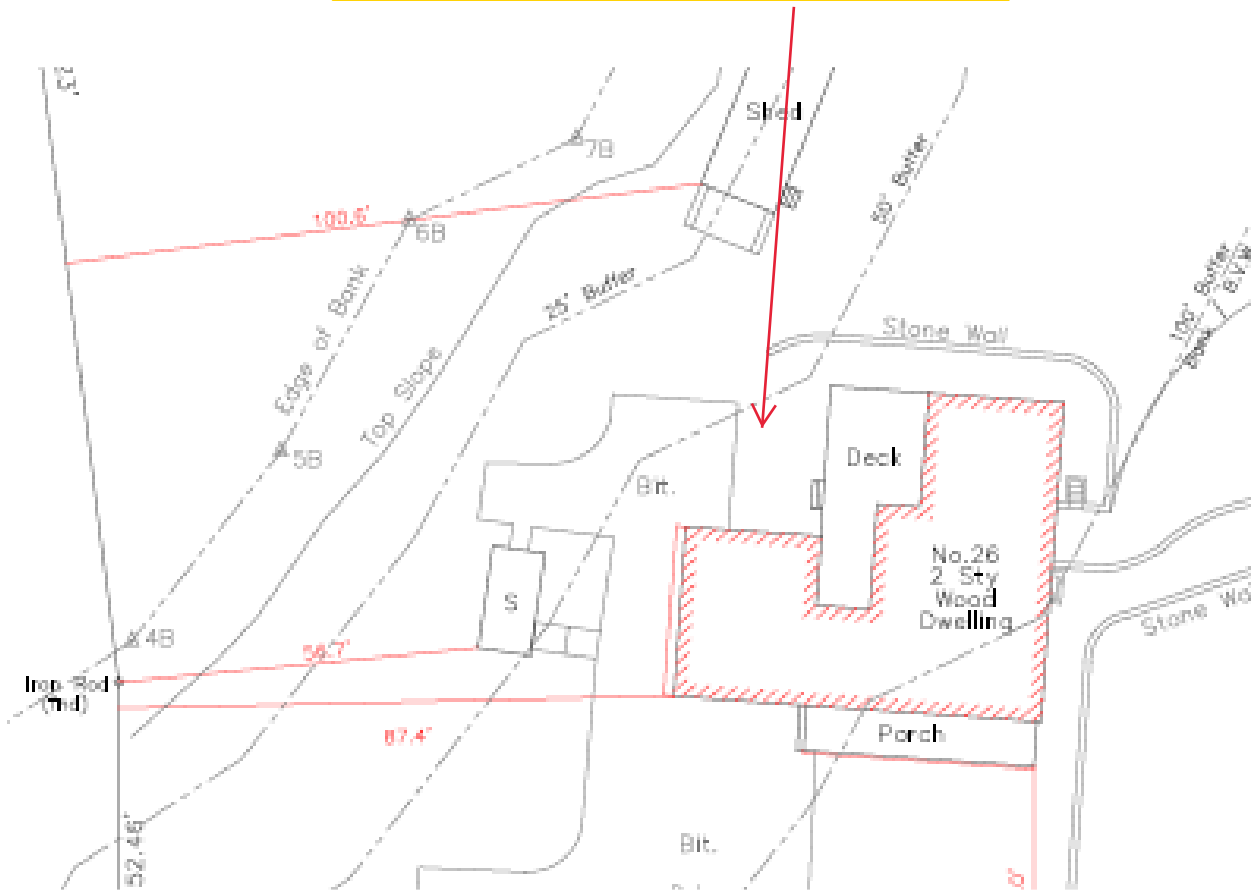


REAR ELEVATION  
 SCALE: 1/4" = 1'-0"

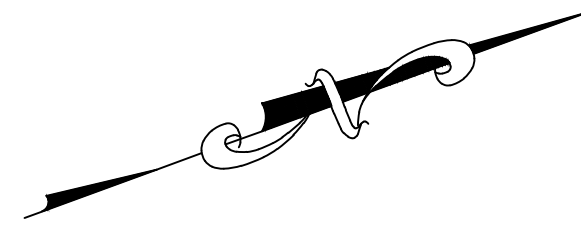


BUILDING SECTION  
 SCALE: 1/4" = 1'-0"

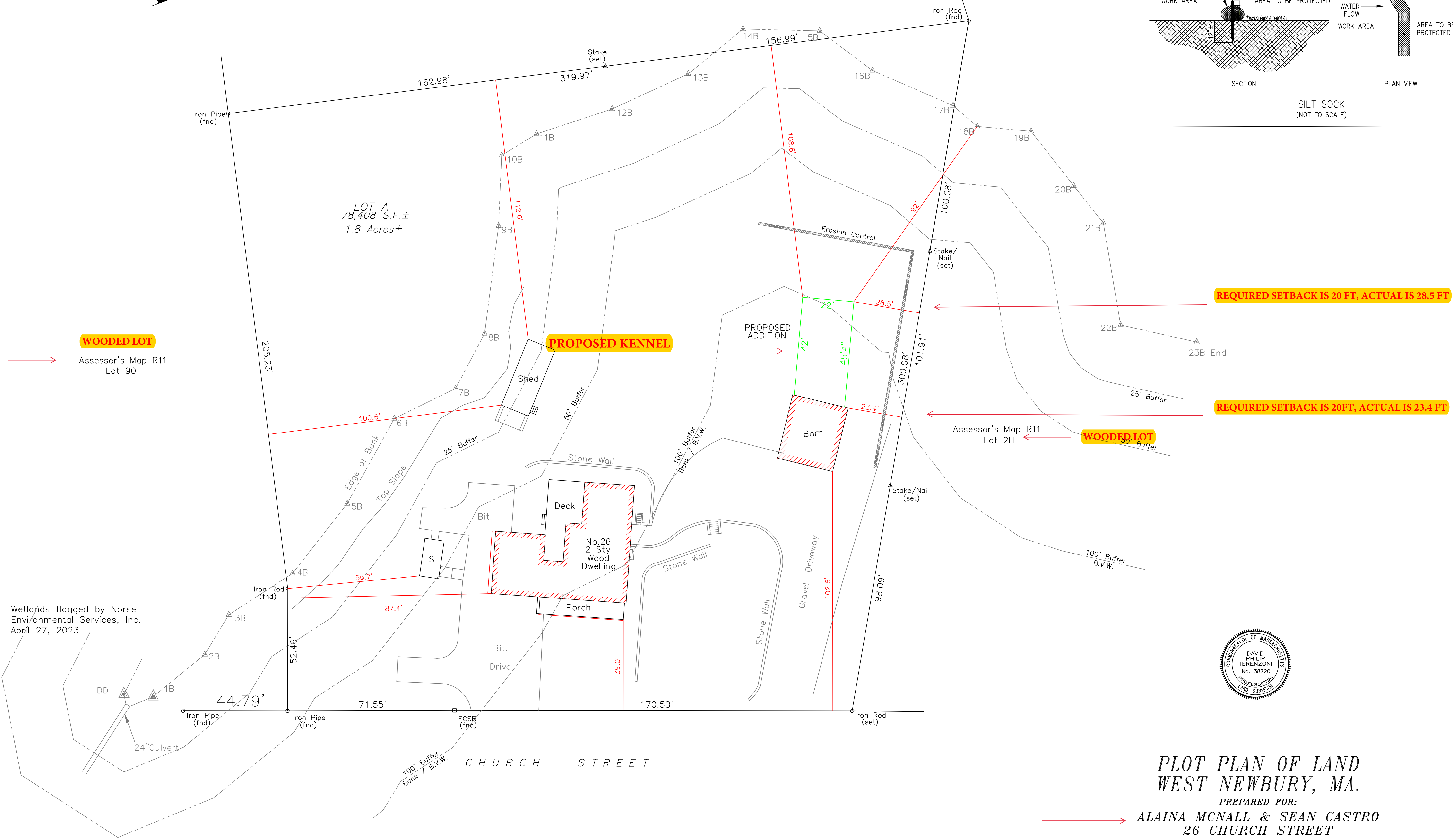
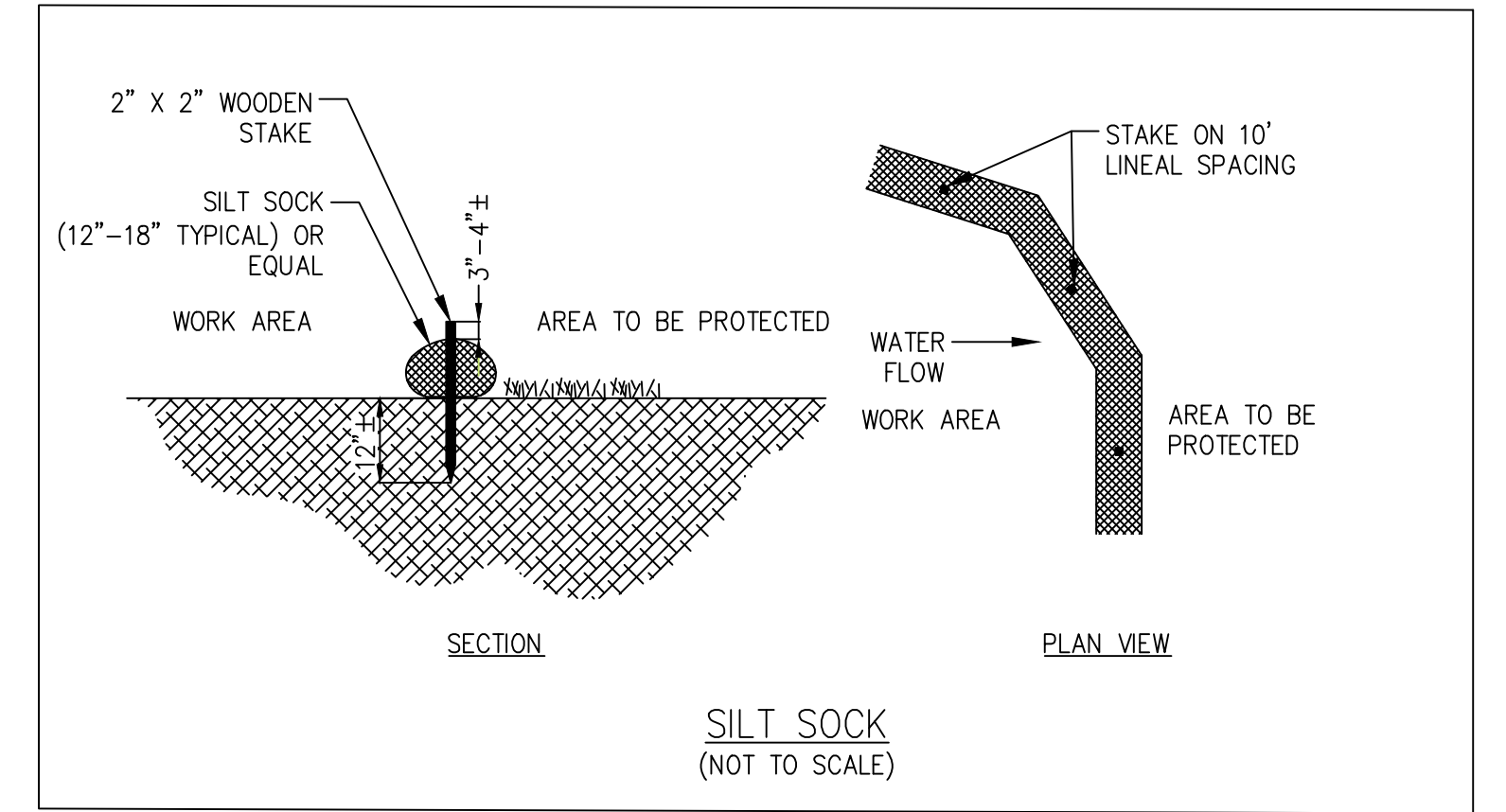
# DOG EXERCISE RUN LOCATION







Assessor's Map R11  
Lot 21



**WOODED LOT**  
Assessor's Map R11  
Lot 90

Wetlands flagged by Norse  
Environmental Services, Inc.  
April 27, 2023



**PLOT PLAN OF LAND  
WEST NEWBURY, MA.**

PREPARED FOR:  
**ALAINA MCNALL & SEAN CASTRO  
26 CHURCH STREET**

SCALE: 1"=20' DATE: JUNE 24, 2023  
DAVID P. TERENCEZONI, P.L.S.  
4 ALLEN ROAD, PEABODY, MA. 01960

**Application for Special Permit and Proposed  
Kennel Addition to the Existing Barn to Raise  
and Train Service Dogs**

Zoning District: RC  
Deed Reference: Book 41343, Page 196  
Assessor's Map R11, Lot 2  
Existing Lot Coverage = 5.0% ±  
Proposed Lot Coverage = 6.2% ±

**From:** [Peter Nolan](#)  
**To:** [Town Planner](#)  
**Subject:** Special Permit to build a Kennel in a Residential Zone  
**Date:** Tuesday, September 26, 2023 7:21:16 PM

---

Good Day,

As abutters, I am writing today on behalf of my wife Phyllis and myself, in opposition to the Application for a Special Permit to build a Kennel in a Residential Zone, at the Castro residence at 26 Church Street in W. Newbury.

We own and occupy the home at 31 Church St, West Newbury, located diagonally across the street from Mr. Sean Castro, the Special Permit Applicant at #26. We have lived in our home for the past 30+ years, and devoted our lives to our family and our work. Our home is where we enjoy the fruits of our labor, to gather with family and friends, and have quiet time alone in a peaceful setting, on a quiet, residential street in a quiet residential neighborhood. We feel that we and our neighbors have earned the right to keep it that way. We have worked hard to keep our property looking good, make improvements, and maximize its value for when we sell our home. We believe the proposed Kennel businesses with "10 - 18 dogs", (or more) would jeopardize all we have worked for by having a negative impact on our home value, and limit potential buyers that may have these and other concerns. This is not fair.

Please allow me to ask, would you buy a home across the street from a Kennel (or Kennels) with 10 - 18 dogs, or more?

In addition, we feel that if approved, this Special Permit for a commercial business in a residential area could potentially set a precedent for other homeowners in our neighborhood, (Church St., Old Wharf Rd., Whetstone St.) to do the same. That would significantly change the neighborhood in a negative way for residents.

Phyllis and I attended the Planning Board Zoom meeting on September 19. Mr. Sean Castro and his Dad Chris made a professional presentation. However, after reflection, we have additional questions and concerns.

1. It seems that Mr. Sean Castro has applied for one Special Permit to run two businesses at his residence, his own dog training and kennel business in whole, and some kind of partnership with Fox Hill Farm and K9 of Amesbury, to train and kennel dogs owned by Fox Hill or in their care. Does W. Newbury Special Permit Zoning allow for two businesses in one residential location? Shouldn't Fox Hill ownership be required to apply for a Special Permit as well?

2. It is not clear how many dogs would be living there. Mr. Sean Castro stated that he had six dogs living there now, (more than allowed without a Kennel permit, pending a decision on his Special Permit application) and if approved, would probably have 10 - 18 dogs at his residence. In addition, breeding one or two litters a year would increase those numbers by many dogs each litter. A Special Permit as requested, for "10 or more dogs", would allow for a maximum of how many dogs?

3. Mr. Castro stated that there would be up to 12 dogs outside during the day. Everyone knows that dogs bark. We have two beagles that bark, and we can only imagine what 12 dogs

would sound like. With the exception of an hour in the morning and an hour in the afternoon on school days, Church Street is not a busy street, and traffic noise would not provide sound cover for barking.

4. Kennel/Training businesses are 24/7 and 365 days a year.

5. Mr. Sean Castro and Fox Hill Farm and K9 train Protection Dogs for Police departments and private owners. From reading the Fox Hill website, they also compete in Schutzhund, a sport named for the German word "protection dog". We have no doubt that they are certified professionals and expert trainers. However, accidents happen, and God forbid there was an incident involving other dogs or people.

6. This whole business has added stress and anxiety to our lives that is unwarranted.

In closing, we believe that the Castro's are a quality family and as they stated, wish to be good neighbors. We are the same. We respect Mr. Castro's ambition and wish him all the best to pursue his Kennel and Training business goals - in a different location.

Respectfully,  
Phyllis and Peter Nolan



**TOWN OF WEST NEWBURY  
OFFICE OF THE PLANNING BOARD  
381 MAIN STREET  
WEST NEWBURY MA 01985  
978-363-1100 X125 Fax: 978-363-1119  
e-mail: [townplanner@wnewbury.org](mailto:townplanner@wnewbury.org)**

**Legal Notice  
West Newbury Planning Board**

The West Newbury Planning Board will hold Public Hearings on Tuesday, August 15, 2023 during a meeting that begins at 7:00 PM to consider an Application for a Special Permit for a Reduced Frontage Lot (Zoning Bylaw 6.A.1.) and a Common Driveway (Zoning Bylaw 7.D.) to serve two lots at 87 Crane Neck Street, Assessors Map R3, Lot 14B in the Residence A Zoning District. Owner/Applicant: Brook view Trust -William and Dianne Spalding, Trustees, 87 Crane Neck Street, West Newbury, MA 01985. To view the application visit: contact [planning.admin@wnewbury.org](mailto:planning.admin@wnewbury.org). Interested persons may participate in the meeting by joining from computer, tablet or smartphone using: <https://us06web.zoom.us/j/86872896224?pwd=Rmd5Z3kwSW1JQTRKd3FKOXMrMHZpZz09> OR by calling: +1-646-558-8656 and entering Meeting ID: 868 7289 6224, Passcode: 945806

Ann Bardeen, Planning Board Clerk

**From:** [Robin Stein](#)  
**To:** [Town Planner](#)  
**Cc:** [Town Manager](#); [Brian Murphey](#)  
**Subject:** RE: West Newbury - Question Regarding ANR and Reduced Frontage Lot Special Permit  
**Date:** Monday, September 18, 2023 10:22:50 AM

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Sue:

In my opinion the holding in [Baker v. Town of West Newbury Planning Board](#), 2018 WL 4098458 (Land Court 2018), does not prevent the Planning Board from acting on the pending applications relative to 87 Crane Neck Street for a Reduced Frontage Lot Special permit pursuant to Section 5.2 of the Zoning Bylaw and a Common Driveway Special Permit pursuant to Section 9.8 of the Zoning Bylaw, but may impact an application for a Common Driveway Special Permit if an order of conditions is needed to accomplish the access. It is my understanding that this project will not require the issuance of an order of conditions.

Of note, [Baker](#) involved an appeal of the Planning Board's endorsement of a so-called approval not required plan pursuant to G.L. c. 41, §81P. In order to approve the plan at issue the Planning Board needed to make findings both as to the required minimum frontage and as to the adequacy of access. The proposed access was to be constructed over wetlands and the necessary order of conditions had not yet issued. The Court annulled the plan endorsement finding that the order of conditions needed to issue before the lot could be considered to have adequate access.

Let me know if you have any questions or need anything else.

-Robin

Robin Stein, Esq.

**KP | LAW**

101 Arch Street, 12th Floor

Boston, MA 02110

O: (617) 654-1706

C: (617) 816-9882

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[rstein@k-plaw.com](mailto:rstein@k-plaw.com)

[www.k-plaw.com](http://www.k-plaw.com)

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

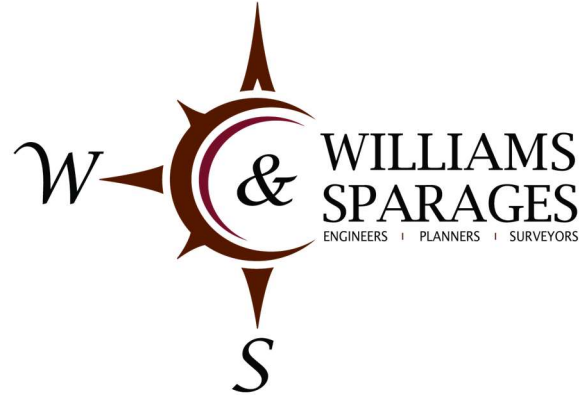
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Project No. WNEW-0048

September 26, 2023

Sue Brown  
Town Planner  
381 Main Street  
West Newbury, MA 01985



Subject: Supplemental Information Package  
87 Crane Neck Street, West Newbury, MA

Dear Sue

As a result of our planning Board discussions, we are providing the following updated information.

1. **Updated Common Driveway site plan.** The plan has been revised to include the following:
  - a) a gravel turnaround for emergency vehicles.
  - b) Additional wetland flags along Crane Neck Street
  - c) A reduced area of clearing on Lot 2. Areas outside the limit of clearing to the limit of work are designated as forest management areas.
2. **Concept subdivision plan.** This plan shows a concept for a subdivision that could create frontage and provide access without the use of the common driveway provision of the bylaw.
3. **Aerial view and cross section of proposed dwelling to abutters dwelling.**
4. **List of common driveway waivers.**
5. **Sketch plan showing an alternative wetland crossing.** This plan shows an alternative



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to the common driveway. Access would be provided through a wetland crossing.

We look forward to presenting these materials at your next Planning Board meeting. Please feel free to reach out if you have any questions.

Sincerely,

WILLIAMS & SPARAGES LLC



Richard L. Williams, P.E.  
Principal

Cc: William Spalding



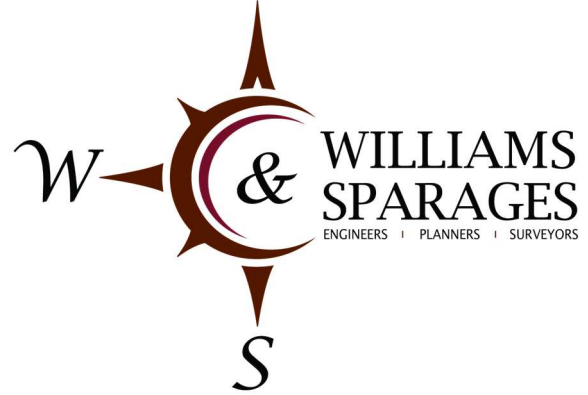


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Project No. WNEW-0048

September 26, 2023

Sue Brown  
Town Planner  
381 Main Street  
West Newbury, MA 01985



Subject: Waiver discussion – Common Driveway  
87 Crane Neck Street, West Newbury, MA

Dear Sue

Based on our planning board discussions, we are providing the following list of waivers for the common driveway from the construction standards related to Minor Streets in the Town of West Newbury.

These are being provided relative to section 7.D.7 of the Zoning Bylaws which requires Common Driveway dimensions and construction meet the requirements for Minor Roadway Standards.

Minor Access Road Construction Detail (page 52 of the subdivision rules & regulations)

1. The applicant is requesting a waiver from the requirement of a paved 20' travelled way width. In place thereof, a gravel driveway of varying width (minimum width = 14') is proposed. This driveway currently exists on the ground.
2. The applicant is requesting a waiver from the requirement of a 6" paved surface. In place thereof, a gravel driveway is proposed. This driveway currently exists on the ground.



- 
3. The applicant is requesting a waiver from the requirement of 2% driveway cross- slope. In place thereof, a gravel driveway of varying cross slopes is proposed. Given the driveway is gravel, the cross-slope is not applicable. This driveway currently exists on the ground.

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

Sincerely,

WILLIAMS & SPARAGES LLC



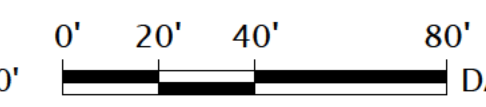
Richard L. Williams, P.E.  
Principal

Cc: William Spalding

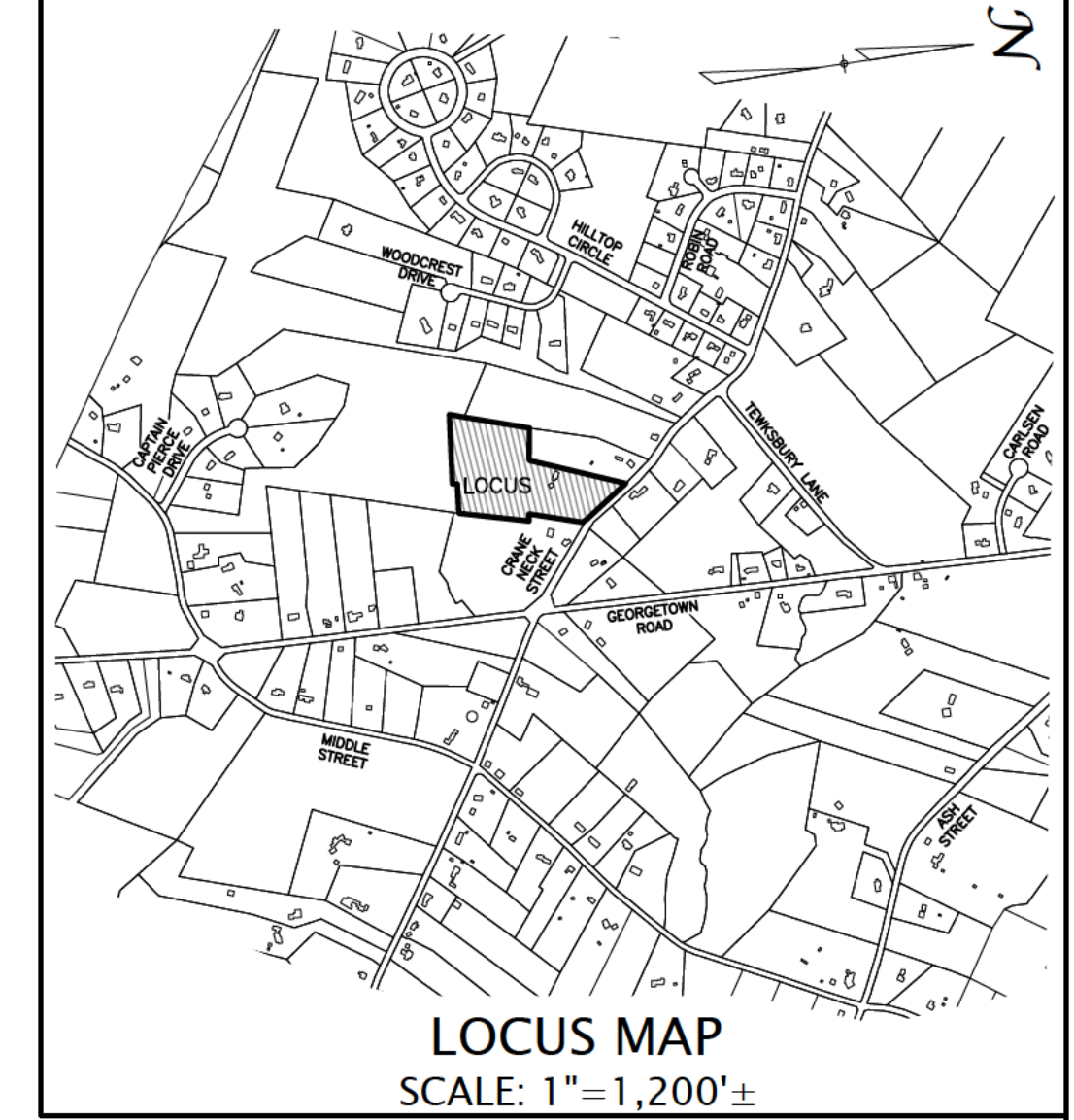
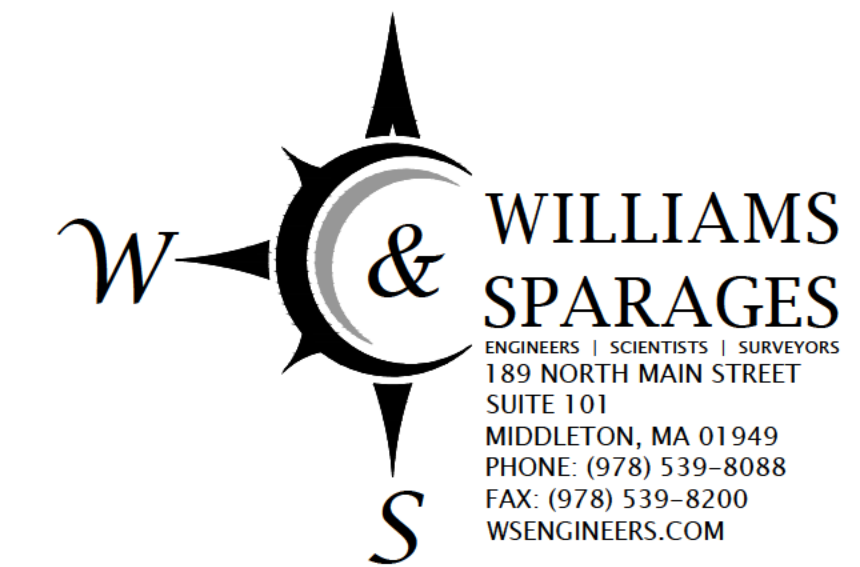




# CONCEPT PLAN CONVENTIONAL SUBDIVISION IN WEST NEWBURY, MA

SCALE: 1" = 40'  DATE: SEPTEMBER 13, 2023

87 CRANE NECK STREET



**OWNER/APPLICANT:**  
BROOK VIEW TRUST  
(WILLIAM P. SPALDING AND DIANNE E. SPALDING, TRUSTEES)  
87 CRANE NECK STREET  
WEST NEWBURY, MA 01985  
ASSESSORS MAP R3 LOT 14B  
(PARCEL ID 0030 0000 0014B)  
DEED REFERENCE: BOOK 40466 PAGE 164  
RECORDED AT THE ESSEX SOUTH REGISTRY OF DEEDS

**PLAN REFERENCE:**  
PLAN BOOK 294 PLAN 46  
RECORDED AT THE ESSEX SOUTH REGISTRY OF DEEDS

TOWN OF WEST NEWBURY  
CONSERVATION COMMISSION  
0 CAPTAIN PIERCE DRIVE  
ASSESSORS MAP R3 LOT 14C  
DEED BOOK 14284 PAGE 392

**LOT 2**  
345,148 S.F.  
7.924 ACRES  
LOT FRONTAGE: 200.00 FEET  
LOT WIDTH: 180.97 FEET  
C.B.A.: 262,100± S.F.

CHRISTOPHER A. & KELLY R. DUKARSKI  
81 CRANE NECK STREET  
ASSESSORS MAP R3 LOT 14A  
DEED BOOK 22927 PAGE 572

**LOT 1**  
106,463 S.F.  
2.444 ACRES  
LOT FRONTAGE: 480.88 FEET  
LOT WIDTH: 322.70 FEET  
C.B.A.: 60,700± S.F.

RICHARD H. SHEA IRREVOCABLE TRUST  
(RICHARD H. SHEA, TRUSTEE) AND  
DEBORAH P. SHEA IRREVOCABLE TRUST  
(DEBORAH P. SHEA, TRUSTEE)  
93 CRANE NECK STREET  
ASSESSORS MAP R3 LOT 13  
DEED BOOK 32794 PAGE 303

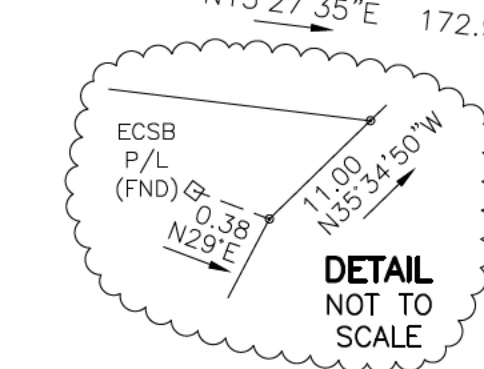
**LEGEND OF ABBREVIATIONS**

DH - DRILL HOLE  
ECSB - ESSEX COUNTY STONE BOUND  
(FND) - FOUND  
12" D - 12" DECIDUOUS TREE

- NOTES:**
1. THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE ONE EXISTING BUILDING LOT INTO TWO BUILDING LOTS.
  2. THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARD AREA (ZONE A) AS SHOWN ON FLOOD INSURANCE RATE MAP NUMBER 25009C0113F; EFFECTIVE DATE JULY 3, 2012.
  3. CRANE NECK STREET IS A SCENIC ROAD.
  4. WETLAND RESOURCE AREAS SHOWN HAVE BEEN DELINEATED BY WILLIAMS & SPARAGES ON JUNE 10, 2021.
  5. EXISTING TOPOGRAPHIC INFORMATION SHOWN IS THE RESULT FROM AN ACTUAL INSTRUMENT SURVEY CONDUCTED BY WILLIAMS & SPARAGES ON AUGUST 16, 2021.

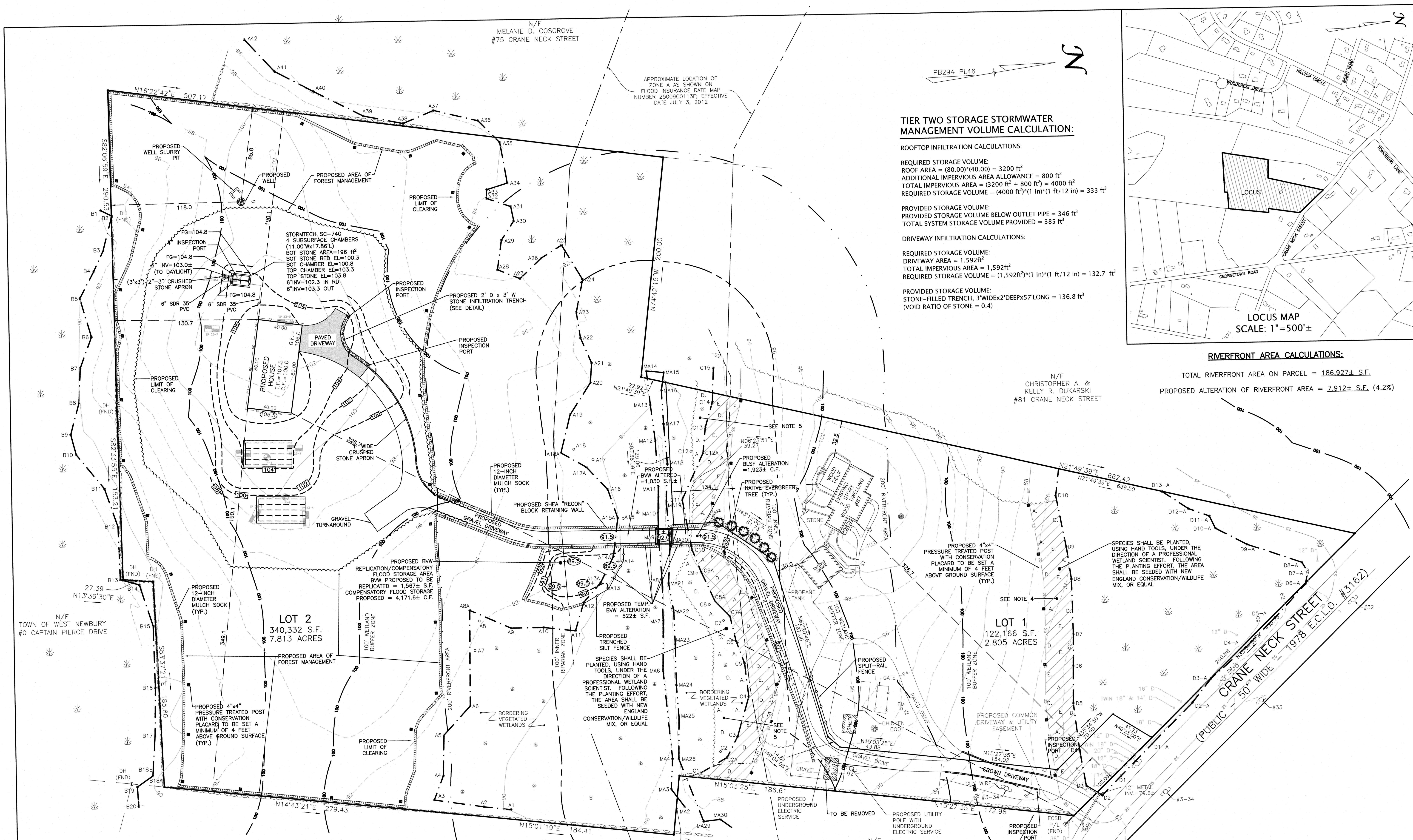
**ZONING DISTRICT: RESIDENCE A:**

MINIMUM LOT AREA: 80,000 S.F.  
MINIMUM LOT FRONTAGE: 200 FEET  
MINIMUM CONTIGUOUS AND BUILDABLE AREA  
(C.B.A.): 75% (60,000 S.F.)  
FRONT YARD SETBACK: 40 FEET  
SIDE YARD SETBACK: 20 FEET  
REAR YARD SETBACK: 20 FEET  
MAXIMUM LOT COVERAGE: 30%  
MAXIMUM BUILDING COVERAGE: 20%  
MAXIMUM BUILDING HEIGHT: 35 FEET  
MINIMUM LOT WIDTH: 90% @ FRONT YARD SETBACK (180 FEET)  
MINIMUM DISTANCE BETWEEN LOT LINES: 40 FEET  
PROPERTY PARTIALLY LIES IN FLOODPLAIN OVERLAY DISTRICT.



P:\NEW\44181 Crane Neck Street\Drawings\CS\CraneNeckSP.dwg, 18





**TIER TWO STORAGE STORMWATER MANAGEMENT VOLUME CALCULATION:**

**ROOFTOP INFILTRATION CALCULATIONS:**

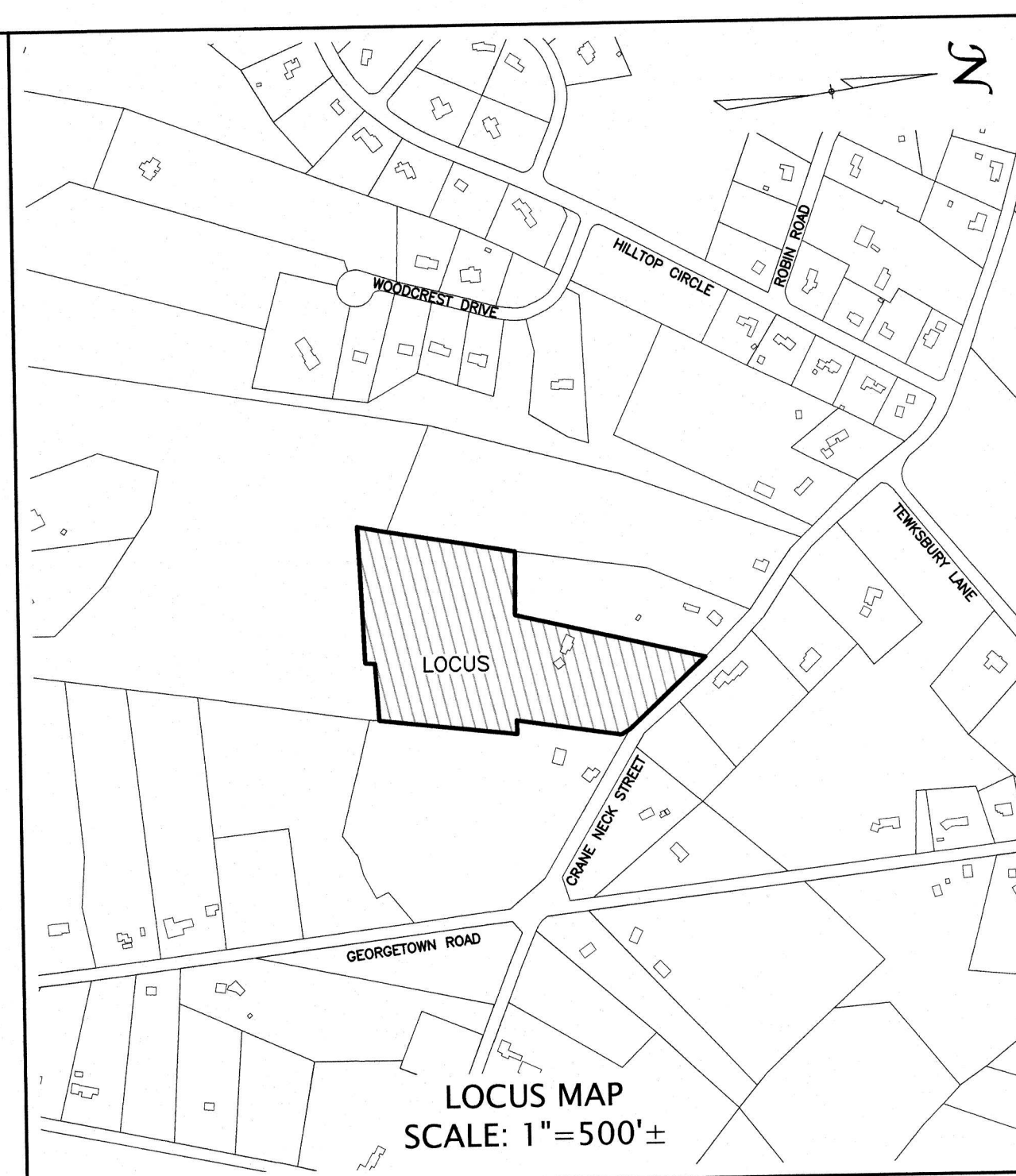
REQUIRED STORAGE VOLUME:  
 ROOF AREA = (80.00')\*(40.00') = 3200 ft<sup>2</sup>  
 ADDITIONAL IMPERVIOUS AREA ALLOWANCE = 800 ft<sup>2</sup>  
 TOTAL IMPERVIOUS AREA = (3200 ft<sup>2</sup> + 800 ft<sup>2</sup>) = 4000 ft<sup>2</sup>  
 REQUIRED STORAGE VOLUME = (4000 ft<sup>2</sup>)\*(1 in)\*(1 ft/12 in) = 333 ft<sup>3</sup>

PROVIDED STORAGE VOLUME:  
 PROVIDED STORAGE VOLUME BELOW OUTLET PIPE = 346 ft<sup>3</sup>  
 TOTAL SYSTEM STORAGE VOLUME PROVIDED = 385 ft<sup>3</sup>

**DRIVEWAY INFILTRATION CALCULATIONS:**

REQUIRED STORAGE VOLUME:  
 DRIVEWAY AREA = 1,592 ft<sup>2</sup>  
 TOTAL IMPERVIOUS AREA = 1,592 ft<sup>2</sup>  
 REQUIRED STORAGE VOLUME = (1,592 ft<sup>2</sup>)\*(1 in)\*(1 ft/12 in) = 132.7 ft<sup>3</sup>

PROVIDED STORAGE VOLUME:  
 STONE-FILLED TRENCH, 3' WIDE x 2' DEEP x 57' LONG = 136.8 ft<sup>3</sup>  
 (VOID RATIO OF STONE = 0.4)



**RIVERFRONT AREA CALCULATIONS:**

TOTAL RIVERFRONT AREA ON PARCEL = 186.927± S.F.  
 PROPOSED ALTERATION OF RIVERFRONT AREA = 7.912± S.F. (4.2%)

ZONING DISTRICT: RESIDENCE-A

	REQUIRED	PROPOSED (LOT 1)	PROPOSED (LOT 2)
MIN. LOT AREA	80,000 S.F.	122,166 S.F.	340,332 S.F.
MIN. LOT FRONTAGE	200 FT.	260.9 FT.	100.0 FT.
FRONT YARD	40 FT.	326.7 FT.	797.4
SIDE YARD (LEFT)	20 FT.	30.0 FT.	349.1 FT.
SIDE YARD (RIGHT)	20 FT.	32.6 FT.	190.1 FT.
REAR YARD	20 FT.	134.1 FT.	130.7 FT.
MAX. LOT COVERAGE	30%	10.3%	6.0%
MAX. BUILDING HEIGHT	35 FT.	< 35 FT.	< 35 FT.

- PLAN NOTES:
- ALL ELEVATIONS SHOWN ARE REFERENCED TO AN ASSUMED DATUM.
  - EXISTING TOPOGRAPHIC INFORMATION SHOWN IS THE RESULT FROM AN ACTUAL INSTRUMENT SURVEY CONDUCTED BY WILLIAMS & SPARAGES ON AUGUST 16, 2021.
  - WETLAND RESOURCE AREAS SHOWN HAVE BEEN DELINEATED BY WILLIAMS & SPARAGES ON JUNE 10, 2021.
  - MAINTENANCE WITHIN 25 FEET OF BORDERING VEGETATED WETLANDS SHALL STOP AND THE AREA SHALL BE ALLOWED TO GROW BACK NATURALLY.
  - MAINTENANCE BETWEEN C-SERIES BORDERING VEGETATED WETLANDS AND FORMER WETLAND EDGE SHALL STOP AND AREA SHALL BE ALLOWED TO GROW BACK NATURALLY.

WILLIAMS & SPARAGES  
 180 NORTH MAIN STREET  
 SUITE 101  
 WEST NEWBURY, MA 01985  
 PHONE: (978) 539-8088  
 FAX: (978) 539-8200  
 WWW.WSINCORP.COM

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Owner/Applicant:  
 William P. Spalding  
 87 Crane Neck Street  
 West Newbury, MA 01985

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Designed By: GH  
 Drawn By: AVC  
 Reviewed By: RLW  
 Project Manager: GH  
 Project File Number: WNEW-0048  
 Drawing File Folder: WNEW48

Drawing Issued for Review  
 Drawing Issued for Permit  
 Drawing Issued for Construction

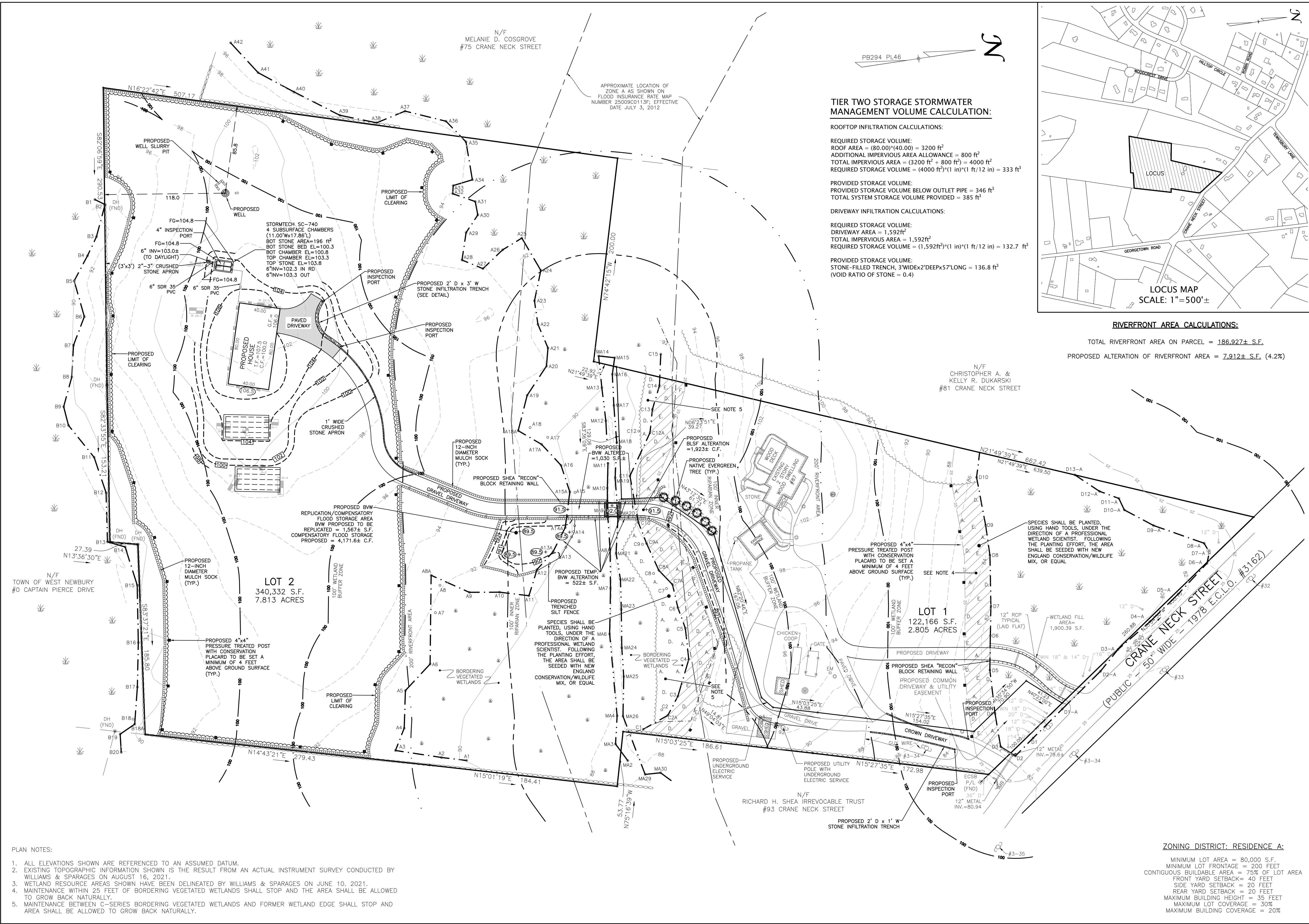
SEAL

**COMMON DRIVEWAY & STORMWATER MANAGEMENT PLAN**  
 87 CRANE NECK STREET, WEST NEWBURY, MA

DRAWING: C1.1  
 SHEET 1 OF 2

SEPTEMBER 26, 2023





**TIER TWO STORAGE STORMWATER MANAGEMENT VOLUME CALCULATION:**

**ROOFTOP INFILTRATION CALCULATIONS:**

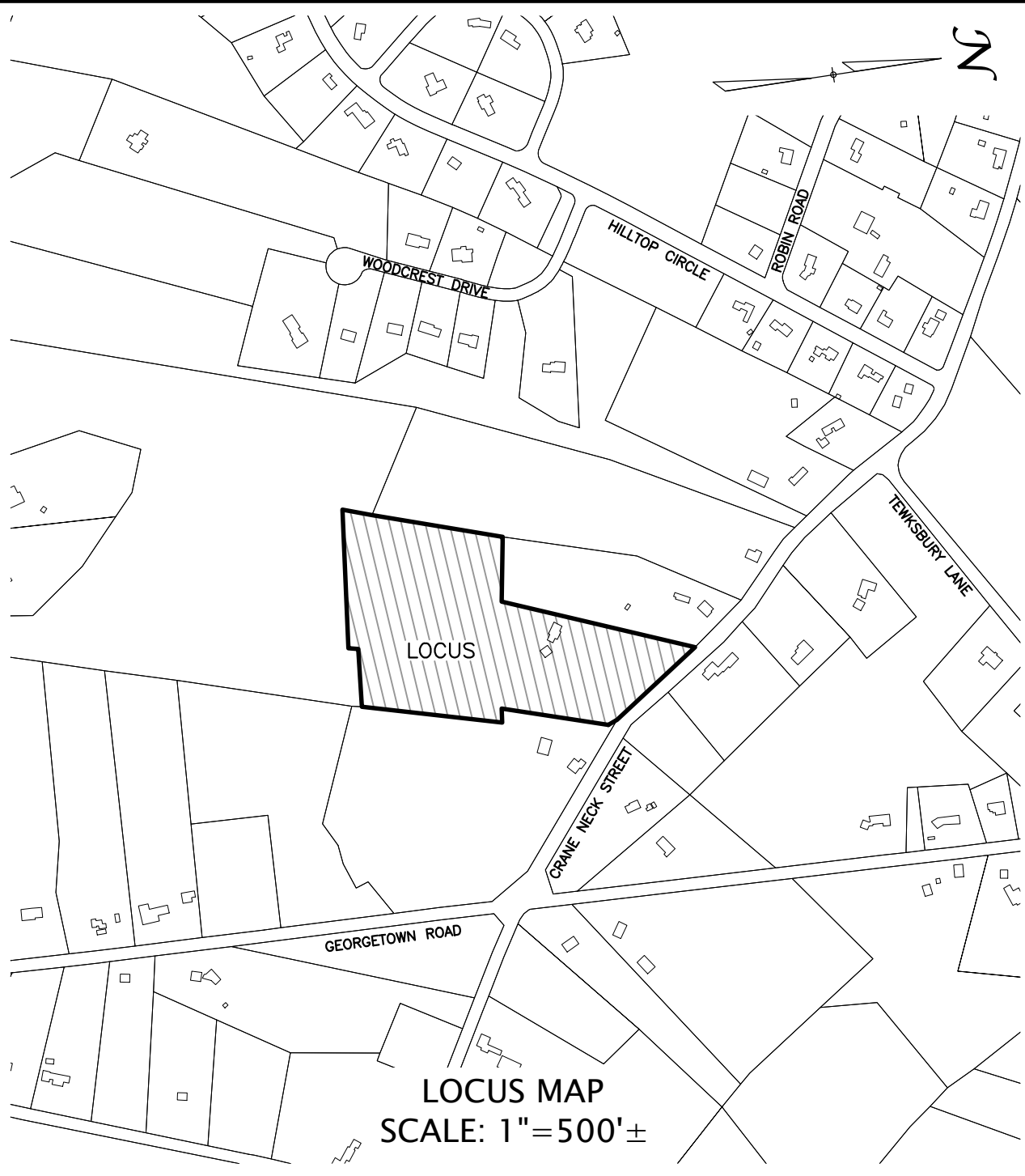
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 MINIMUM LOT FRONTAGE = 200 FEET  
 CONTIGUOUS BUILDABLE AREA = 75% OF LOT AREA  
 FRONT YARD SETBACK = 40 FEET  
 SIDE YARD SETBACK = 20 FEET  
 REAR YARD SETBACK = 20 FEET  
 MAXIMUM BUILDING HEIGHT = 35 FEET  
 MAXIMUM LOT COVERAGE = 30%  
 MAXIMUM BUILDING COVERAGE = 20%



Owner/Applicant:  
 William P. Spalding  
 87 Crane Neck Street  
 West Newbury, MA 01985

Designed By: CJH  
 Drawn By: PMB  
 Reviewed By: RLW  
 Project Manager: CJH  
 Project File Number: WNEW-0048  
 Drawing File Folder: WNEW48

Drawing Issued for Review  
 Drawing Issued for Permit  
 Drawing Issued for Construction

SEAL

**COMMON DRIVEWAY & STORMWATER MANAGEMENT PLAN**  
 87 CRANE NECK STREET, WEST NEWBURY, MA

DRAWING: C1.1  
 SHEET 1 OF 2

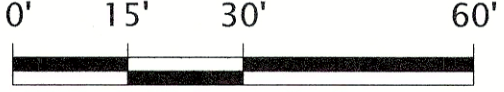
JULY 26, 2023

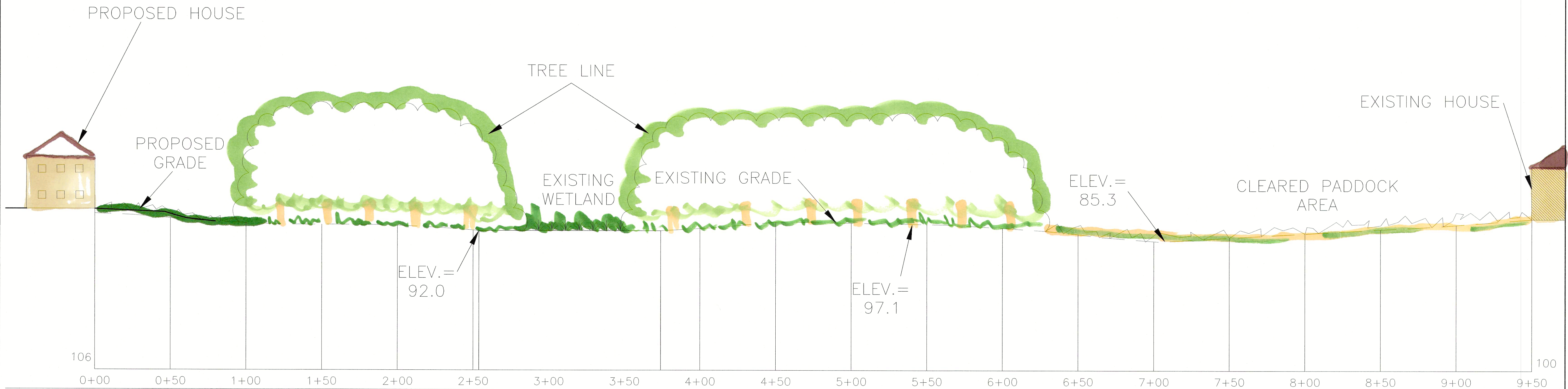
12	11	10	9	8	7
6	5	4	3	2	1
ADDITIONAL WETLAND TAGS					

SCALE: 1"=40'  
 JULY 26, 2023



SECTION PLAN  
87 CRANE NECK STREET  
WEST NEWBURY, MA

SCALE: 1" = 30'  SEPTEMBER 1, 2023



SECTION

SCALE: 1" = 30' (HOR) & 30' (VERT)

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## PROPOSED ACCESSORY DWELLING UNIT BYLAW

### Additions to Section 2

#### New Section 4.2.4

To see if the Town will vote to amend the Zoning Bylaw of the Town of West Newbury, Massachusetts by striking the language below in italics and shown as struck through and adding the language in bold and underlined as follows, and further to authorize the Town Clerk to make any non-substantive, ministerial changes to numbering and formatting to ensure consistency with the remainder of the Zoning Bylaw, or take any action relative thereto:

### Section 2. Definitions

**ACCESSORY DWELLING UNIT – A subordinate Dwelling Unit within, attached to, or detached from, an existing Single-Family Dwelling and as further defined in Section 4.2.4.**

**SINGLE-FAMILY DWELLING – A building designed or used exclusively as a residence and including only one principal Dwelling Unit.**

#### **Section 4.2.4. Accessory Dwelling Unit subject to and incompliance with the following:**

- a. **Purpose: This section authorizing the provision of Accessory Dwelling Units is intended to:**
  - o **Increase the number of small Dwelling Units available in the Town;**
  - o **Increase the diversity of housing that may serve the needs of the current and future population of the Town including, but not limited to, young adults and senior citizens;**
  - o **Provide homeowners with a means of obtaining rental income; and**
  - o **Encourage a more economic and efficient use of the Town's housing supply while respecting the residential character of West Newbury's neighborhoods.**
- b. **Use and Dimensional Regulations**
  - i. **The Building Inspector may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within an existing or new owner-occupied, Single-Family Dwelling, or in an existing or new structure accessory to an owner-occupied Single-Family Dwelling,**

**whether attached or detached, provided that it satisfies the requirements of this Section 4.2.4. and dimensional (Intensity of Use) requirements of Section 5.**

- (1) The Accessory Dwelling Unit will be a complete, separate Dwelling Unit that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.**
- (2) The Floor Area of an Accessory Dwelling Unit shall be no greater than ½ the floor area of the principal dwelling or nine hundred (900) square feet, whichever is smaller.**
- (3) There shall be no more than one Accessory Dwelling Unit on a Lot.**
- (4) The owners(s) of the Single-Family Dwelling must continue to occupy at least one of the Dwelling Units as their primary residence, except for temporary absences per 4.2.4.b.iii.**
- (5) Any new separate outside entrance serving an Accessory Dwelling Unit shall be clearly secondary to the entrance of the principal Single-Family Dwelling.**
- (6) No new curb cuts shall be allowed for an Accessory Dwelling Unit.**
- (7) Adequate off-street parking shall be provided for the Accessory Dwelling Unit**
- (8) The Accessory Dwelling Unit is intended to be an accessory use and the Accessory Dwelling Unit, the principal Single-Family Dwelling and the Lot shall be held by the same owner.**

**ii. Prior to issuance of a Building Permit, the owner must submit an affidavit to the Building Inspector stating that they will occupy one of the dwelling units on the Lot as their primary residence.**

**iii. An absence of six months each year will not constitute a violation of this bylaw.**

**iv. When a Lot with an Accessory Dwelling Unit is sold, the new owner, if they wish to continue use of the Accessory Dwelling Unit, must within sixty (60) days of the sale, submit an affidavit to the Building Inspector stating that they will occupy one of the dwelling units on the Lot as their primary residence.**

**c. Special Permit**

**Accessory Dwelling Units exceeding floor area or curb cut limitations may be allowed by Special Permit from the Planning Board per section 11.2. of the West Newbury Zoning Bylaws.**

Diane M. Teed  
30 Way To The River  
West Newbury, MA 01985

9/27/2023

Sue Brown, Town Planner  
381 Main St.  
West Newbury, MA 01985  
Townplanner@wnewbury.org

Re: **Proposed Accessory Dwelling Unit Bylaw (version 9/7/2023)**

Good Morning Ms. Brown,

Per our brief call yesterday I am forwarding comments and questions regarding the above matter. It is my understanding that you will be forwarding a copy of these pages to each current member of the West Newbury Planning Board and that they may not be discussed outside of the scheduled Zoom meetings on Oct. 3rd and Oct. 17th (prior to the Town Meeting on Oct. 23<sup>rd</sup>, 2023).

If there are specific Massachusetts or West Newbury zoning regulations that answer some or all of the following questions it would be helpful to Town residents to have those items incorporated by reference within the proposed Bylaw to provide clarity and full disclosure before the Town Meeting vote.

## **I. ZONING**

1. It is my understanding that the West Newbury Planning Board (WNPB) intends to follow Massachusetts's guidelines on Accessory Dwelling Units (ADUs) (Chapter 40A Section 5) in part, to allow the town meeting participants' vote on ADU's to be based on a simple majority vote to win approval (WNPB Zoom Mtg. 6/6/2023).

Q1a. Apart from the desired consequence of a simple majority vote sufficient to win approval why has the WNPB proposed an ADU Bylaw that will be imposed on every single family residence when such a bold application is not needed to reach the housing goals outlined?

This Bylaw, as proposed, is a significant zoning change for the Town of West Newbury.

Q1b. In addition, it is my understanding that a substantial zoning change ordinarily requires a 2/3's vote for passage. As a result of Chapter 358 of the Acts of 2020 several amendments were made to M.G.L. Chapter 40A. Are the MA ADU guidelines being proposed to circumvent the 2/3's vote threshold? This intent was clearly implied in an answer to a member's inquiry (at 6/6/23 mtg.) as to why ADU size was limited to 900 sf. If so, why is the WNPB choosing this approach (for simplicity?) when an ADU Special Permit Bylaw could be uniquely crafted to not violate what the citizens of West Newbury have established and historically abided by for major zoning changes?



Q1c. As residents who opt to create an ADU must follow building and zoning regulations why has the WNBPA failed to create an ADU Special Permit Bylaw (a valid compromise) that respects various opinions on this issue?

Q1d. Does West Newbury have an informative document on ADU's similar to the one used by the City of Salem, MA?

Link: Proposed Accessory Dwelling Unit Ordinance Joint Public Hearing March 30, 2021  
[https://www.salemma.gov/sites/g/files/vyhlif7986/f/pages/03302021\\_adu\\_jph.pdf](https://www.salemma.gov/sites/g/files/vyhlif7986/f/pages/03302021_adu_jph.pdf)

Q1e. As West Newbury has elected to follow MA State guidelines in the proposed Bylaw please clarify whether MA Zoning Regulations for ADU's will apply or will West Newbury Zoning Regulations apply? Other than one exclusionary reference (top of page 2 Draft Bylaw dated 9/7/2023) [Intensity of Use Requirements of Section 5] there does not appear to be a clear reference cited as to the controlling Regulations for proposed ADU's in West Newbury. This is a critical factor for West Newbury voters. In addition, Note: WN Zoning Laws Section 5 (Use Regulations); Section 6 (Intensity of Use). Please clarify which is the intended reference?

Under a newly crafted ADU Special Permit Bylaw, ADU's within an existing or new owner occupied residence or attached to either could be proposed. I challenge the assertion that the currently proposed Bylaw that allows stand-alone accessory structures would "respect the residential character of West Newbury's neighborhoods".

**Residents of West Newbury clearly value the open spaces and rural character of their Town. Fully 85.48% of respondents mentioned "space between neighbors" as being very important or important. Source: Open Space census: [https://www.wnewbury.org/sites/g/files/vyhlif1436/f/uploads/osrp\\_surveyresults\\_2016.pdf](https://www.wnewbury.org/sites/g/files/vyhlif1436/f/uploads/osrp_surveyresults_2016.pdf)**

## II. PURPOSES

2. In Proposed Section 4.2.4(a) four intentions are outlined for the Draft Bylaw:

- an increase in small dwelling units;
- units that may meet the needs of current and future residents;
- the opportunity to provide homeowners with a means of obtaining rental income; and
- the intent to encourage more economic use of Town's housing supply while respecting the residential character of West Newbury's neighborhoods.

I believe the 9/7/23 ADU Draft Bylaw fails to recognize the diversity of opinion on this topic and fails to include a number of factors needed for voters to make an informed decision.

Q2a. During the (6/6/2023 mtg.) a participant mentioned that the two primary reasons for this proposal are: (1) children of current residents are unable to afford to live in the town where they grew up and (2) senior citizens are having a more difficult time paying taxes and maintaining their homes. Again-why does EVERY single family residence have to be re-zoned for there to be relief for these two groups of residents?

Q2b. It is not the obligation of the Town of West Newbury to provide homeowners with a means by right of obtaining rental income. It is not fair to the majority of single family residents to simplify the process or grant blanket approval at the expense of those who believe that stand-alone units do not

represent the character of the Town. Why are the solutions to the above two issues addressed so broadly when an ADU Special Permit zoning bylaw could provide targeted yet equitable solutions?

### III. ISSUES AND APPLICABLE ZONING CITES NOT DISCLOSED IN DRAFT BYLAW - (sample not exhaustive)

- a. Impact of ADU's on water resources.
- b. Drainage.
- c. Limit on number of occupants in ADU's  
Per (6/6/2023 mtg.) a member stated "we do not limit the number of people living in primary residences, I do not expect we would limit the number living in ADU's", concerns would include:
  - enforcement for health purposes;
  - noise levels;
  - parking; (please define "adequate off-street parking")
  - ADU's are limited to two bedrooms and 900 sf-it seems reasonable that you cannot justify unlimited occupants (even if septic guidelines are met).
- d. Are there restrictions to ensure primary homeowners NOT place their ADU's (attached or free-standing) on Airbnb, vrbo or similar venues?
- e. What limitations, if any, will be placed on the number of trees destroyed to accommodate ADU's?
- f. What limitations, if any, will be placed on destroying trees to accommodate required off-street parking?
- g. Who is responsible for ADU unit regulation compliance IF the owner occupied primary residence is rented for 6 months each year?

### IV. ENFORCEMENT

- a. Limited indication (by reference) as to whether all or select MA State or West Newbury Zoning Regulations are applicable to ADU's.
- b. According to Sec 40A "A detached ADU must be ten feet away from the main residence and five feet away from any property lines". Will local WN setback rules apply? Refer to clarification requested in Q1e. above. Do you anticipate setback amendments?
- c. What safeguards are in place if stand-alone ADU's are constructed and negatively impact the privacy and use of adjacent homeowners? How can safeguards be sufficient given the current blanket application to all single family residences?
- d. Who is responsible for enforcement? If the Building Inspector is responsible-query how in the world can he/she enforce all of this activity (and or any violations) in addition to current duties.
- e. Do screening provisions apply to protect the privacy and use of adjacent homeowners?
- f. What safeguards are in place to ensure validity of residence ownership on affidavits submitted to the Building Inspector? Precautions against "flipping" owners who will drive up home prices further?
- g. Is any mandatory wording by the Town going to be required in lease agreements to ensure all participants are fully aware of any ADU specific limitations?

**West Newbury residents should not be asked to provide an up or down vote on such a significant zoning change that does not provide answers to key questions.**

Due to the major impact on the Town of this proposed Bylaw, the Board should encourage voter participation in the final two Planning Board meetings on Oct. 3<sup>rd</sup> and Oct 17<sup>th</sup>.

I strongly recommend that one of these two meetings be in-person in the Town Offices Annex similar to those conducted by the WNPB for the MBTA Communities Act Initiative.

I urge the WNPB to draft a compromise ADU Special Permit Bylaw that would meet the primary purposes in Proposed Section 4.2.4. while avoiding the broad brush zoning change being imposed on all single family residences. In my opinion, there is no justification for the universal approach proposed.

Respectfully submitted,

Diane M. Teed  
30 Way To The River  
West Newbury, MA 01985  
[dteed1430@gmail.com](mailto:dteed1430@gmail.com)



# Town Planner Report

October 3, 2023

## **Housing Opportunities Initiative (MBTA Community Multi-Family Zoning District)**

Dodson & Flinker continue to advance Scenarios for Housing Development (Concept Plans) and approaches to zoning for the Knapp Greenhouse and Dunn Greenhouse properties on Main Street based on the latest input received at the September 5 Forum and September 19 Planning Board meeting.

Next steps include finalized Concept Plans, draft Zoning Bylaw, focus group review of proposed Zoning, testing of the Plan and Zoning against EOHL (Executive Office of Housing and Livable Communities) Compliance Model and Public Meetings.

## **ADU and Non-Conforming Bylaw Changes**

The Public Hearing on the proposed Bylaws held on September 19<sup>th</sup> resulted in a change to the Non-Conforming Use Bylaw – changing the option from a Special Permit to a Finding by the Zoning Board of Appeals in certain instances. Town Counsel opined the change is lawful.

The Select Board and Finance Committee will discuss the proposed changes as they relate to the Special Town Meeting Warrant Articles at their joint meeting on September 27.

## **Housing Production Plan**

The virtual sub-regional meeting is scheduled for Thursday, October 12<sup>th</sup> at 7:30 PM. MVPC working with Consensus Building Institute (CBI) will facilitate the event that will include full group discussions as well as breakout groups for the individual communities.

## **Land Management and Planning Forum**

This meeting may be rescheduled to November or postponed indefinitely to allow for more extensive planning. The decision to be made is whether to hold a public forum organized and intended to provide outreach – and solicit public input – on multiple major projects at one time (i.e. MVP Action Grant/River Road resiliency planning; MBTA Communities Act planning; Rte. 113 corridor study/planning), or to proceed with holding separate public forums/events for each of these (and other) project in parallel.

## **113 Corridor Improvement Study**

The Consultant Team has mapped existing conditions. Town staff are reviewing and will subsequently share with other Boards and Committees for further review. Consultant Team will look to present draft recommendations following full municipal review.

## **Evergreen Farm – Ash Street**

Essex County Greenbelt's offer to the owner of Evergreen Farm has been accepted and work on the Conservation Restriction, lot division and other elements of the sale are under way.

## **River Road Climate Change Resiliency**

Sue Brown, Town Planner  
9/27/2023

## Town Planner Report

October 3, 2023

The Town has been awarded a \$150,000 Municipal Vulnerability Preparedness grant to study vulnerabilities and potential solutions to flood risk from the Merrimack River for the years 2030, 2050, and 2070. This study will allow Town officials and residents to better understand the anticipated timeline and locations of future flooding and explore both interim and long-term climate adaptation strategies. It will also inform planning and consideration of alternatives to foster resiliency. There will be a public engagement element for this planning project that is anticipated to be complete by June 30, 2024. Christine Wallace is the Project Manager.

More information is available: [Climate Change Resiliency Committee | Town of West Newbury MA \(wnewbury.org\)](https://www.wnewbury.org/ClimateChangeResiliencyCommittee)



**Town of West Newbury  
Planning Board  
Tuesday September 5, 2023  
381 Main Street, Town Office Building  
[www.wnewbury.org](http://www.wnewbury.org)  
**DRAFT Minutes of Meeting****

**Open Session:** 7:00 PM by remote participation (see below)

**Addendum to Meeting Notice regarding Remote Participation:**

As is permissible by State Law the Planning Board conducted its meeting via remote participation. The meeting agenda included instructions for the public about how to participate remotely. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that it has been unable to do so, despite best efforts, the Board will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.

Chairperson Brian Murphey called the meeting to order at 7:00 P.M. Members in attendance were Ann Bardeen, Ray Cook, Tim Cronin, Deb Hamilton and Brian Murphey. Town Planner, Sue Brown, was also in attendance. All participated via Zoom Conference.

- 1. Housing Opportunities Initiative Forum – Review and Discussion of Potential Scenarios for Housing Development and Alternative Zoning Approaches (Dodson & Flinker)**  
Dillon Sussman, of Dodson & Flinker, presented a brief overview of the work to date on the project. Peter Flinker presented scenarios for development on potential sites. Flinker showed two concept plans for an approximately 6-acre portion of each site that would hold approximately 90 units. Due to wastewater constraints in West Newbury, housing is unlikely to be built at this density. A more likely scenario included a 90-bedroom build out, which is permitted under Title V septic requirements. After the presentation, members of the Planning Board and the general public asked questions to staff from Dodson & Flinker, made comments, and engaged in a discussion. Ray Cook stated that whatever is proposed has to be at will of the Town and will need to go before Town Meeting. Cook stated that although he is in favor of more housing, he can see how the Town is likely to vote down affordable housing and unsure how solid feedback will be provided before Town Meeting. Tim Cronin questioned the Mullen property and the RFP. Sussman explained that the Town has to be well underway in converting a town-owned property to private ownership for the zoning to meet the MBTA Communities Law requirement. Sussman also stated that since the Town has long-expressed an interest in affordable housing on the Mullen property, it may be best to not include this parcel in MBTA Communities. Planning Board members agreed with Sussman and removed this parcel from further consideration. The forum was opened up to the public for comments and discussion.
- 2. 8:15 PM – Public Hearing – Continued from August 15, 2023 – 87 Crane Neck Street – Special Permit for Reduced Frontage Lot**  
*See below motions.*
- 3. 8:15 PM – Public Hearing – Continued from August 15, 2023 – 87 Crane Neck Street – Special Permit for a Common Driveway**



**Murphey made a motion to open the special permit hearing for 87 Crane Neck Street for the reduced frontage lot and the common driveway. Seconded by Cook. Roll call vote was taken and the motion passed 5-0.**

**Murphey made a motion to continue the public hearing to September 19, 2023 at 7:30 P.M. Seconded by Cook. Roll call vote was taken and the motion passed 5-0.**

**4. Proposed Accessory Dwelling Units and Nonconforming Uses Bylaws Discussion**

Planning Board members reviewed the recommended changes by Town Counsel for the Accessory Dwelling Units and Nonconforming Uses Bylaws.

**5. Planners Report**

Town Planner, Sue Brown, reviewed her Planners Report with the board members. The Housing Production Plan and MVPC will be hosting a sub-regional meeting that will include full group discussions as well as breakout groups for individual committees. B2Q submitted their report on August 7 for the Solar Site Feasibility Screening Study. The Consultant Team has mapped existing conditions for the 113 Corridor Improvement Study. The Town is working with Essex County Greenbelt to purchase a Conservation Restriction on approximately 14 acres of active farmland on Ash Street.

**6. General Business:**

- **Minutes – July 18, 2023; August 1, 2023; Others, if any**  
**Cook moved to approve the minutes of July 18, 2023, as amended. Seconded by Tim Cronin. Roll call vote was taken and the motion passed 5-0.**  
**Cook moved to approve the minutes of August 1, 2023, as amended. Seconded by Cronin. Roll call vote was taken and the motion passed 5-0.**
- **Correspondence**
- **Administrative Details**
- **Placement of Items for Future Planning Board Agendas:**
- **Items not Reasonably Anticipated by the Chair 48 Hours in Advance of a Meeting:**

**Adjournment:**

**Murphey moved to adjourn the meeting at 9:59 P.M. Seconded by Hamilton. Roll call vote was taken, and the motion passed 5-0.**

Respectfully submitted,

Katelyn Bradstreet, *Administrative Assistant to the Planning Board*

## CITY OF NEWBURYPORT



### NOTICE OF JOINT PUBLIC HEARING PLANNING BOARD AND CITY COUNCIL PLANNING & DEVELOPMENT COMMITTEE

Notice is hereby given pursuant to Massachusetts General Laws Chapter 40A, Section 5 (The Zoning Act) and the Newburyport Zoning Ordinance, Section XXII-B (Adoption and Amendment), that the Newburyport Planning Board and City Council (acting through its Planning & Development Committee) will hold a Joint Public Hearing on Wednesday, October 4, 2023 at 7:00 p.m. Said hearing will be located in the function hall at the Senior/Community Center, 331 High Street, Newburyport, MA 01950 and with "remote" online access via Zoom (*a.k.a. a "hybrid" public meeting*). All interested parties should look to the City Website meetings calendar ([www.cityofnewburyport.com/calendar](http://www.cityofnewburyport.com/calendar)) as the hearing date approaches for confirmation of location and access details.

The purpose of this Public Hearing is to present, and hear testimony and comment from interested persons relative to, proposed amendments and additions to the Zoning Ordinance for the City of Newburyport, said amendments being submitted to the City Council for consideration on August 28, 2023. After the Public Hearing the Planning Board will, as required by law, vote its recommendations on each proposal and report them back to the full City Council.

There is one (1) proposed zoning ordinance amendment. A summary is provided below. Copies of the full text of such ordinances and maps thereof are available for review by interested parties on the City website and in the Offices of the City Clerk and Office of Planning & Development (City Hall, 60 Pleasant Street, Newburyport, MA 01950) during regular business hours. Questions regarding these ordinances may be directed to the Director of Planning & Development, Andrew R. Port, at (978) 465-4400.

#### Summary of Proposed Zoning Ordinance Amendments:

1. ODNC00160\_08\_28\_2023 Zoning Amendment Business Park Indoor Outdoor Rec – *amend the Table of use regulations in Section V-D to allow both indoor and outdoor recreational facilities within a limited portion of the Newburyport Business Park (zoning Districts I-1 and I-1B) by Special Permit from the Planning Board, and update the dimensional and parking requirements for said uses.*

NEWBURYPORT PLANNING BOARD

Rick Taintor, Chair

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