



Arlington Zoning Board of Appeals

Date: Tuesday, June 22, 2021
Time: 7:30 PM
Location: Conducted by remote participation
Additional Details:

Agenda Items

Administrative Items

1. Remote Participation Details

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency, the Arlington Zoning Board of Appeals meetings shall be physically closed to the public to avoid group congregation until further notice. The meeting shall instead be held virtually using Zoom.

Please read Governor Baker's Executive Order Suspending Certain Provision of Open Meeting Law for more information regarding virtual public hearings and meetings: <https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

You are invited to a Zoom meeting.

When: Jun 22, 2021 07:30 PM Eastern Time (US and Canada)

Register in advance for this meeting:

https://town-arlington-ma-us.zoom.us/meeting/register/tZMrc-mppj8iGNEJOHMgCqJOz_Z19Jsuy8kn

After registering, you will receive a confirmation email containing information about joining the meeting.

Meeting ID: 876 4018 4825

Find your local number: <https://town-arlington-ma-us.zoom.us/j/adNWeNXzLr>

Dial by Location: 1-646-876-9923 US (New York)

Hearings

2. Docket # 3658: 83 Palmer Street (continuance of May 25, 2021 hearing)

In accordance with the provisions of Section 3.2.3A of the Zoning Bylaws that there has been filed by Carney General Contracting of Arlington, Massachusetts on April 10, 2021, a petition seeking permission to alter their property

located at 83 Palmer Street - Block Plan 042.0-0003-0009.A Said petition would require an "Appeal from the Building Inspector" of the Zoning Bylaw for the Town of Arlington.

Comprehensive Permits

3. **1165R Massachusetts Avenue**

Meeting Adjourn



Town of Arlington, Massachusetts

Docket # 3658: 83 Palmer Street (continuance of May 25, 2021 hearing)

Summary:

In accordance with the provisions of Section 3.2.3A of the Zoning Bylaws that there has been filed by Carney General Contracting of Arlington, Massachusetts on April 10, 2021, a petition seeking permission to alter their property located at 83 Palmer Street - Block Plan 042.0-0003-0009.A Said petition would require an "Appeal from the Building Inspector" of the Zoning Bylaw for the Town of Arlington.

ATTACHMENTS:

Type	File Name	Description
Reference Material	ZBA_PACKAGE_83_PALMER_STREET_PART_1.pdf	ZBA PACKAGE 83 PALMER STREET PART 1
Reference Material	ZBA_PACKAGE_83_PALMER_STREET_PART_2.pdf	ZBA PACKAGE 83 PALMER STREET PART 2
Reference Material	Revised_request_for_Special_Permit__Docket_#3658__83_Palmer_Street.pdf	Revised request for Special Permit, Docket #3658, 83 Palmer Street
Reference Material	1955_Decision_from_ZBA.pdf	1955 Decision from ZBA
Reference Material	Memorandum_of_Fact_and_Law_by_Robert_J_Annese__Esq..pdf	Memorandum of Fact and Law by Robert J Annese, Esq.
Reference Material	Block_Plan_No_42.pdf	Block Plan No 42



Town of Arlington
Zoning Board of Appeals
51 Grove Street
Arlington, Massachusetts 02476
781-316-3396
www.arlingtonma.gov

LEGAL NOTICE

Notice is herewith given in accordance with the provisions of Section 3.2.3A of the Zoning Bylaws that there has been filed by **Carney General Contracting** of Arlington, Massachusetts on April 10, 2021, a petition seeking permission to alter their property located at **83 Palmer Street - Block Plan 042.0-0003-0009.A** Said petition would require an **"Appeal from the Building Inspector"** of the Zoning Bylaw. The appeal addresses the issue of whether the existing structure could be razed and re-built.

A hearing in regards to the petition will be conducted remotely via "Zoom" **Tuesday evening May 25, 2021 at 7:30 P.M or as soon thereafter as the petitioner may be heard. To join the meeting, please register using the following URL:**

<https://town-arlington-ma-us.zoom.us/join/tJArcuGoqj0tGdOAZh3RophsZAhpup5bDJzi>

After registering, you will receive a confirmation email containing information about joining the meeting. **For documentation relating to this petition, visit the ZBA website at: www.arlington.gov/zba.**

DOCKET NO 3658

Zoning Board of Appeals
Christian Klein, RA, Chair

Please direct any questions to: **ZBA@town.arlington.ma.us**

INFORMATION FOR BOARD OF APPEALS RECORD

To be completed by OWNER, signed, and returned to Secretary of the Board of Appeals:

Matthew Ghofrani and Deborah A Ghofrani
(Owner or Petitioner)

Address: 83 Palmer Street

City or Town: Arlington

Premises: 83 Palmer Street, Arlington, MA
(Street & Number) (Identify Land Affected) (City)

the record title standing in the name of Matthew Ghofrani and Deborah A Ghofrani

whose address is: 83 Palmer Street, Arlington, MA
(Street) (City or Town) (State)

by deed duly recorded in the Middlesex Registry of Deeds, Book 24538, Page 152

By Their Attorney:


Robert J. Annese, Esquire
1171 Massachusetts Avenue
Arlington, Massachusetts 02476
(781) 646-4911
(781) 646-4910 – facsimile
law@robertannese.com

REQUEST FOR SPECIAL PERMIT AND/OR VARIANCE
TOWN OF ARLINGTON

In the matter of the Application of **Matthew Ghofrani and Deborah A Ghofrani** to the Zoning Board of Appeals for the Town of Arlington: **concerning real estate located at 83 Palmer Street, Arlington, Massachusetts**

Application for a Special Permit is herewith made, in accordance with Section 3.3 of the Zoning Bylaw for the Town of Arlington, Massachusetts, seeking relief from the following specific provisions of the Zoning Bylaw, and as described fully in the attached form, *Special Permit Criteria*:

The Applicant seeks a determination from the Zoning Board of Appeals as to whether Lot 9, also shown as Lot B containing 5,507 square feet on the attached plan of Jay Sullivan is a two-family lot as determined by the Zoning Board of Appeals at the time of their Zoning Decision dated March 11, 1955, allowing a subdivision.

The Applicant states he/she/they is/are the owner -occupant of the land in Arlington located at 83 Palmer Street, Arlington, Massachusetts with respect to such relief is sought; that no unfavorable action has been taken by the Zoning Board of Appeals upon a similar petition regarding this property within the two (2) years next immediately prior to the filing hereof. The Applicant expressly agrees to full compliance with any and all conditions and qualifications imposed upon this permission, whether by the Zoning Bylaw or by the Zoning Board of Appeals, should the same be granted. The Applicant represents that the grounds for the relief sought are as follows:

Applicant seeks a determination from the Zoning Board of Appeals as to whether a Zoning Board of Appeals' Decision dated March 11, 1955, a copy of which is affixed this Request for Special Permit and incorporated into its terms by reference, which allowed a subdivision with respect to two lots, i.e. Lot B and Lot 9 as shown on a certain subdivision plan affixed to the Zoning Decision with Lot 9 originally containing 7,821 square feet to be combined with Lot B containing 2,269 square feet resulting in two separate lots, one containing 5,507 square feet and the other containing 4,583 square feet all as shown on the subject subdivision plan resulted in the lot containing 5,507 square feet being deemed a two-family residential lot, i.e.

Lot B.

The real estate is and was at the time of the Zoning Decision located in an R2 Zone as defined within the Zoning Bylaw and the question presented for interpretation by the Members of the Zoning Board is whether it was the intent on the part of the Members of the Zoning Board at the time of the Zoning Decision in 1955, when granting the zoning relief, determined that the lot containing 5,507 square feet resulted in a two-family lot designation for Lot B as the property was located in a R2 Zone and vacant.

The lot containing 4,583 square feet contained a single-family home at the time of the Decision as did Lot B.

Most of the other properties located in the neighborhood of the subject property are two-family homes and not single-family homes.

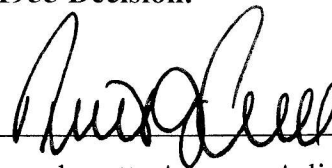
The assessing records for the Town currently show the lot containing 5,507 square feet being classified as a two-family lot and the lot containing 4,582 square feet is classified as a single-family lot. See assessing records affixed to this Petition and incorporated into its terms by reference.

The Applicant proposes to modify the existing building into a two-family residential structure on the lot as shown on the plan identified as "Proposed Duplex Palmer Street" affixed to this Application and incorporated into its terms by reference.

Since the Decision of the Zoning Board on March 11, 1995 does not designate the relief being granted as to whether Variance or Special Permit relief, the Applicant is filing a Special Permit Application rather than a Variance Application in connection with this request and asking that the Members of the Zoning Board determine the intent of the Zoning Board Members in granting the zoning relief in the 1955 Decision.

E-Mail: law@robertannese.com

Signed:



Date:

4/5/21

Telephone: 781-646-4911

Address: 1171 Massachusetts Avenue, Arlington, MA 02476

Special Permit Criteria: Per Section 3.3.3 of the Zoning Bylaw, a Special Permit shall only be granted upon the Board's determination that the benefits of the proposed project will outweigh its adverse effects. The responses provided below will inform the Board as to whether the standards for approval have been met.

A.) Indicate where the use requested is listed in the Table of Use Regulations as allowed by Special Permit in the district for which the application is made or is so designated elsewhere in the Arlington Zoning Bylaw.

See Zoning Decision of March 11, 1955, affixed to this Special Permit Criteria incorporated into its terms by reference.

B.) Explain why the *requested use is essential or desirable to the public convenience or welfare.*

If Applicant is allowed to modify the existing building into a two-family residential duplex at the property it will add an additional needed residential unit to the Town residential base and will of course be located in a R2 Zone as defined in the Zoning Bylaw.

C.) Explain *why the requested use will not create undue traffic congestion, or unduly impair pedestrian safety.*

There would be no significant increase in traffic congestion, or any undue impairment of pedestrian safety if the requested zoning relief is granted.

D.) Explain why *the requested use will not overload any public water, drainage or sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.*

There will be no overload of any public water, drainage or sewer system, or any other municipal system because the relief requested consists of permission to construct only a two-family residential building on the subdivision lot.

E.) Describe how any special regulations for the use, as may be provided in the Zoning Bylaw, including but not limited to the provision of Section 8 are fulfilled.

There are no special regulations pertaining to this lot.

F) Explain why the requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health, morals, or welfare.

The modification of the building and Lot B into a two-family duplex residential building will be in keeping with other two-family homes constructed over the years in the neighborhood, many of which have less lot square feet than does the Applicant's lot. Consequently,

construction of the two-family duplex residential dwelling on the lot will be in keeping with the integrity and character of the neighborhood and will not be detrimental to the health or welfare of inhabitants of the Town or inhabitants of the neighborhood of the property.

G.) Explain why *the requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.*

The proposed two-family duplex residential dwelling will be in keeping other two-family homes located in the neighborhood of the property and there will not be an excess of the use which could be detrimental to the character of the neighborhood.

TOWN OF ARLINGTON
Dimensional and Parking Information
For application to The Zoning Board of Appeals

1. Property Location: **83 Palmer Street, Arlington, Massachusetts 02474**
Zoning District: **R2**
2. Present Use/Occupancy: **One** No. of dwelling units (if residential) _____
3. Existing Gross Floor Area (see definition of Gross Floor Area (GFA) in Article 2 of the Town of Arlington Zoning Bylaw and provide supporting documentation (worksheet) showing dimensions of GFA by floor: _____
4. Proposed Use/Occupancy: **two residential dwellings** No. of dwelling units (if residential) **2**
5. Proposed Gross Floor Area (see definition of Gross Floor Area in Article 2 of the Town of Arlington Zoning Bylaw and provide supporting documentation (worksheet) showing dimensions of GFA by floor): _____
6. _____

	Present Conditions	Proposed Conditions	Min. or max Required by Zoning
6. Lot size (sq. ft.)	5,512 sq ft	5,512 sq ft	min. 6,000 sq ft
7. Frontage (ft.)	60.14	60.14	min. 60 ft
8. Floor area ratio	N/A	N/A	max.
9. Lot Coverage (%)	21.4%	29.2%	max 35%
10. Lot Area per Dwelling Unit (Sq. ft.)	N/A	N/A	min.
11. Front Yard Depth (ft.)	16.5 ft	25.0 ft	min. 20 ft
12. Left Side Yard Depth (ft.)	7.5 ft	10.5 ft	min. 10 ft
13. Right Side Yard Depth (ft.)	7.6 ft	10.6 ft	min. 10 ft
14. Rear Side Yard Depth (ft.)	37.3 ft	25.7 ft	min. 18.34 ft
15. Height (stories)	2.5	2.5	max. 2.5
16. Height (ft.)	26.1 ft	34.5 ft	max. 35.0 ft.
17. Landscaped Open Space (% of GFA) Sq. ft. _____	3549/2150 = 165%	3073/3884 = 79.1%	min. 10%
18. Usable Open Space (% of GFA) Sq. ft. _____	2238/2150 = 104%	1542/3884 = 39.7%	min. 30%
19. Parking Spaces (number)	2	4	min. 2 (ex) 4 (prop)
20. Parking area setbacks	N/A	N/A	min.
21. Loading Spaces (if applicable)	N/A	N/A	min. n/a
22. Type of construction	Wood	Wood	Wood

OPEN SPACE/GROSS FLOOR AREA

Refer to Zoning Bylaw Article 2, Definitions and Article 6, Dimensional Regulations

Address: **83 Palmer Street, Arlington, MA**

Zoning District: **R2**

<u>OPEN SPACE</u>	EXISTING	PROPOSED
Total lot area	5,512 sq ft	5,512 sq ft
Open Space (Usable)*	2238 sq ft	1542 sq ft
Open Space (Landscaped)	3549 sq ft	3073 sq ft

*Usable Open Space must be at least 75% open to the sky, free of automotive, traffic and parking, and readily accessible. Open space shall be deemed usable only if: 1) at least 75% of the area has a grade of less than 8% and no horizontal dimension less than 25 feet.

<u>GROSS FLOOR AREA (GFA)</u>		
Accessory building	N/A	N/A
Basement or cellar (>5' excluding mechanical area)	592 sq ft	0
1 st Floor	870 sq ft	1,560 sq ft
2 nd Floor	662 sq ft	1,560 sq ft
3 rd Floor	N/A	764
4 th Floor	N/A	N/A
5 th Floor	N/A	N/A
Attic (>7'3" in height, excluding elevator, mechanical)	0	0
Parking garages (except as used for accessory Parking garages or off street loading purposes)	0	0
All weather habitable porches and balconies	26 sq ft	0
Total Gross Floor Area (GFA)	2,150 sq ft	3,884 sq ft

REQUIRED MINIMUM OPEN SPACE AREA

Proposed Usable Open Space Percent of GFA 39.7%

Proposed Landscaped Open Space Percent of GFA 79.1%

This worksheet applies to plans dated 3/29/21 designed by Plot Plan by D & A Survey Associates, Inc

Reviewed by Inspectional Services _____ Date: _____

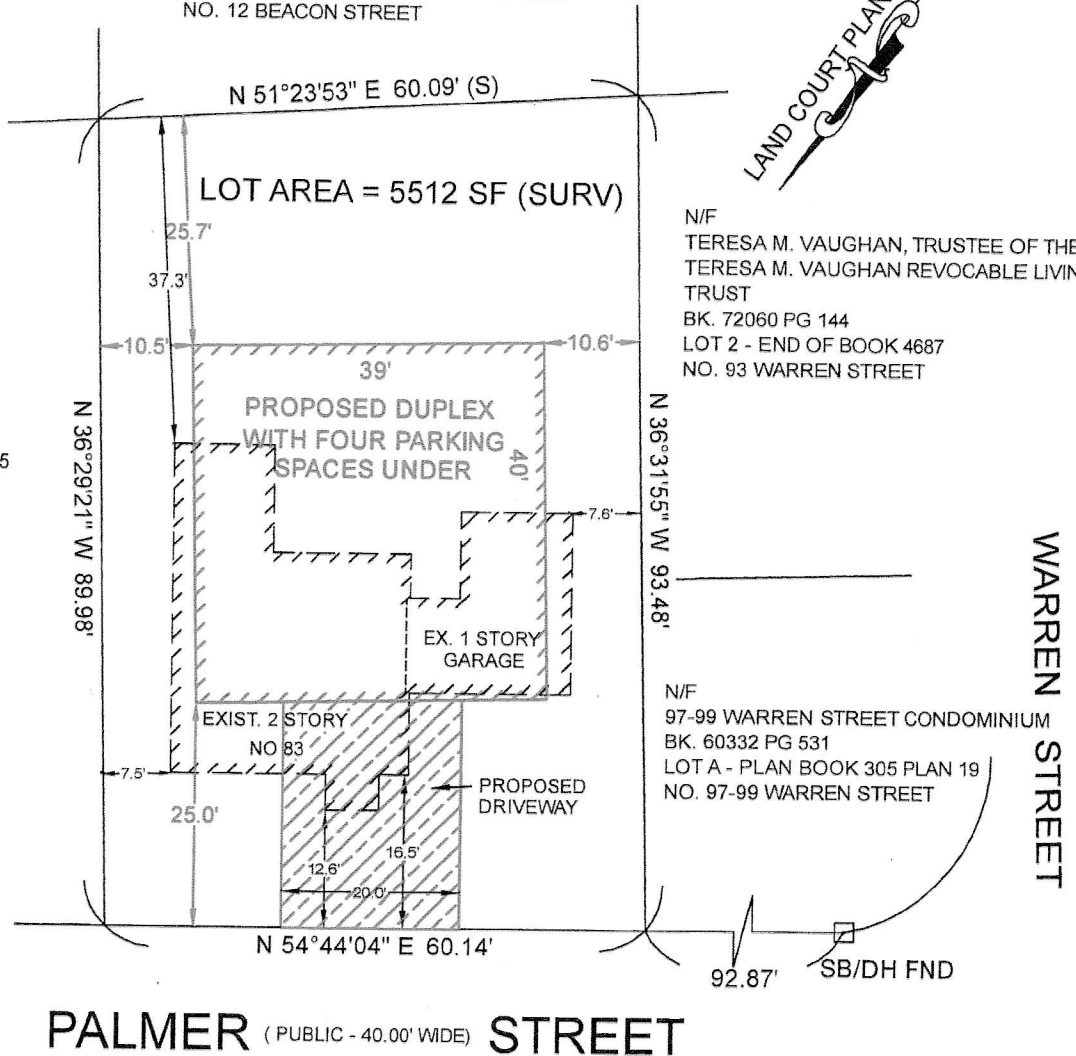
N/F
CHRISTINE MALOY &
WENDY HORI
BK. 50961 PG 502
PART OF LOT 9 - PLAN NO. 490 OF 1955
NO. 12 BEACON STREET

LAND COURT PLAN NO. 40217-A

N/F
WILLIAM F. AND RUTH BLAKE
BK. 13321 PG 535
LOT A - PLAN NO. 1542 OF 1955
NO. 87-89 PALMER STREET

N/F
TERESA M. VAUGHAN, TRUSTEE OF THE
TERESA M. VAUGHAN REVOCABLE LIVING
TRUST
BK. 72060 PG 144
LOT 2 - END OF BOOK 4687
NO. 93 WARREN STREET

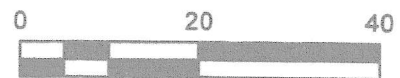
N/F
97-99 WARREN STREET CONDOMINIUM
BK. 60332 PG 531
LOT A - PLAN BOOK 305 PLAN 19
NO. 97-99 WARREN STREET



NOTES:

- 1.) This plan was prepared from an instrument survey
- 2.) Record owners: Masoud & Deborah A. Ghofrani
- 3.) Deed Reference: Book 24538 Page 152
- 4.) Plan Reference: Plan No. 490 of 1955
- 4.) Zoning District: R2

**PLOT PLAN
IN
ARLINGTON, MA
83 PALMER STREET**



SCALE: 1" = 20'-0"

MARCH 29, 2021

D & A SURVEY ASSOCIATES, INC.
P.O. BOX 621 MEDFORD, MA 02155
(781) 324 - 9566 12 of 75

ARLINGTON

35

USER DEFINED

Prior Id # 3:	28972
Prior Id # 1:	

Prior Id # 2:	
Prior Id # 3:	

Prior Id # 1:	
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Prior Id # 2:	
Prior Id # 3:	

0	Prior Id # 1:	
	Prior Id # 2:	

ASR Map:	
East Dist:	

Fac. Disl.	
Reval Dist:	

Year:	
Land Reason:	

BidReason:	
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[illegible]

--	--

By	Name
S	Hanna S

033 PATRIOT

Helen Chinal

PAIRIOI

11

_____ / _____ / _____

Notes	se Value
	446,000

4,446,000

BOARDS OF APPEALS



TELEPHONE
ARLINGTON 5-6700

LEGAL NOTICE

Notice is herewith given in accordance with the provisions of Section 4, Paragraph 5 of the Zoning By-Law that there has been filed by Carmine A. and Anna A. Lionetti of Arlington, Massachusetts a petition seeking permission to subdivide two lots located in back of number 12 Beacon Street, Arlington, Massachusetts. Said subdivision would create two lots with less than the square foot area required by Section 14-B of the Zoning By-Law.

Hearing in regard to the said petition will be held in the Town Manager's Office, located on the second floor of the Robbins Town Hall, Arlington, Massachusetts on Monday evening, February 21, 1955 at 9:00 O'Clock P.M.

ZONING BOARD OF APPEALS

Clifford E. Lansil
Secretary

2/10/55

Notice published in the Arlington News

Notice sent to the following:

Thomas A. Dewire, 85 Warren St.
Thomas J. Green & Alice K. Sliney, 93 Warren St.
Rosalie Woodside, 97 Warren St.
Patrick F. Brennan, et ux, 86 Palmer St.
Thomas D. & Catherine M. Kenna, 90 Palmer St.
John J. Sullivan, 94 Palmer St.
Rosina M. Lionetta, 98 Palmer St.
John J. & Dorothy A. Downing, 102 Palmer St.
Ciriaco & Lizzi Guanci, 16 Beacon St.
Cornelius J. Crowely, et al, 18 Beacon St.
Daniel Ahern, 213 Broadway (20 Beacon St.)
Antonio & Letitia Lionetto, 24 Beacon St.
Antoni & Carmine Guange, 28 Beacon St.
Eileen Welch, 11 Beacon St.
Joseph W. & Gladys R. Perry, 15 Beacon St.
Agnes G. Ahern, 17 Beacon St.
Michelangelo & Carmela Carella, 20 Sutherland Rd. (21 Beacon St.)
Rosario Carella, 25 Beacon St.
Wm. F. Canty, et ux, 29 Beacon St.
Mary A. Hennessy, 71 Warren St.
Adrienne H. Cunha, 75 Warren St.
Margaret B. Murphy, 77 Warren St.
Salvatore Caterino, 65 Palmer St. Owns 81 Palmer & 3 Beacon St.

TOWN OF ARLINGTON

In the Matter)
)
 of the)
)
 Petition of)
)
Carmine A. Lionetti and)
Anna A. Lionetti)

No. 411

To the Zoning Board of Appeals for the Town of Arlington: Respectfully represents Carmine A. Lionetti and Anna A. Lionetti of Arlington that ^{they are} ~~xx~~ the owner of certain land in Arlington, located Palmer St. & Beacon Street; that they made application of the Inspector of Buildings for a permit or license with respect thereto, to wit: to divide and sell a portion of that lot on Beacon Street, known as number 12, to the prospective purchasers of lot directly in the rear of said Beacon Street and facing Palmer Street. Said subdivision would create two lots with less than the square foot ^{have} ~~area~~ required by Section 14-B of the Zoning By-Law. that they ~~xxx~~ been aggrieved by the refusal of the Inspector of Buildings to issue the permit or license on the grounds of noncompliance with the Zoning By-Law; that no unfavorable action has been taken by the Zoning Board of Appeals or its predecessors upon a similar appeal regarding this property within the two (2) years next immediately prior to the filing hereof.

Wherefore appeal is claimed from the decision of the Inspector of Buildings in accordance with the provisions of Section 4, Paragraph 3 of the Zoning By-Law for the Town of Arlington and as grounds therefor, your appellant states as follows: It is respectfully called to your attention the fact that on said Palmer Street there are at least three lots upon which buildings have been recently erected with a square foot area of the same or less area than the present lot on Palmer Street. The owners will sell a portion of the rear of their lot so as to increase the area of the Palmer Street lot.

Signed _____

19 of 75

Arlington, Massachusetts

Address _____

TOWN OF ARLINGTON

ZONING

BOARD OF APPEALS

PETITION NO. 411

of Carmine A. & Anna A. Lionetti

Statement of Facts.

The Zoning Board of Appeals, hereinafter called the "Board" conducted a public hearing on the Petition of Carmine A. & Anna A. Lionetti for permission to subdivide a parcel of land at 12 Beacon Street.

The Petition was filed in the office of the Inspector of Buildings on January 26, 1955. The hearing was held at the Town Hall on Monday evening, February 21, 1955 after due notice had been given by publication in the Arlington News on February 10, 1955 and by mail, postage prepaid, to owners of real estate opposite to and abutting on the property in question, and to other parties in interest, whose names and addresses are recorded on a separate list which forms a part of the official record of these proceedings, and by posting the property.

The members of the Board present were:

Philibert Pelligrini, Chairman
Clifford E. Lansil, Secretary
Robert W. Blaisdell

The Petitioner was represented by Michael A. Fredo, Attorney.

The property involved in this appeal is shown on Plot plan #42 as Lots 9 & B extending from Beacon Street to Palmer Street. The series of lots lettered A, B, C. etc. are formed from a triangular strip which resulted from a relocation of Palmer Street. These lots, at the end near Warren Street, are of considerable size, lot B having an area of 2,269 sq. ft. However, it is too small to build upon. Lot 9 has an area of 7,821 sq. ft., and is larger than necessary for a house. It is proposed to subdivide lot 9 so that the back part, together with lot B, will comprise 5,507 sq. ft., while the residual of lot 9 will be 4,583 sq. ft. Thus, another lot will be created which will be large enough for practical utilization.

The proposal is quite in keeping with several others already submitted to the Board which pertain to lots in the blocks between Palmer Street and Beacon Street. The resulting lots would be as large as or larger than the average lots in the vicinity.

The Board believes that, in this case as in the others, the interests of all parties and the neighborhood will be best served by allowing the subdivision. Both lots will be conforming in width.

It is the unanimous decision of the Board to permit the subdivision as specified on the plan submitted with the Petition.

Philibert Pelligrini
Chairman

Clifford E. Lansil
Secretary

TOWN OF ARLINGTON
ZONING BOARD OF APPEALS

Notice of Decision

March 11, 1955

In accordance with the provisions of Section 4 of the Zoning By-Law, you are herewith notified that, after the hearing held February 21, 1955 in the matter of the Petition of Carmine A. & Anna A. Lionetti, the Zoning Board of Appeals has reached its decision.

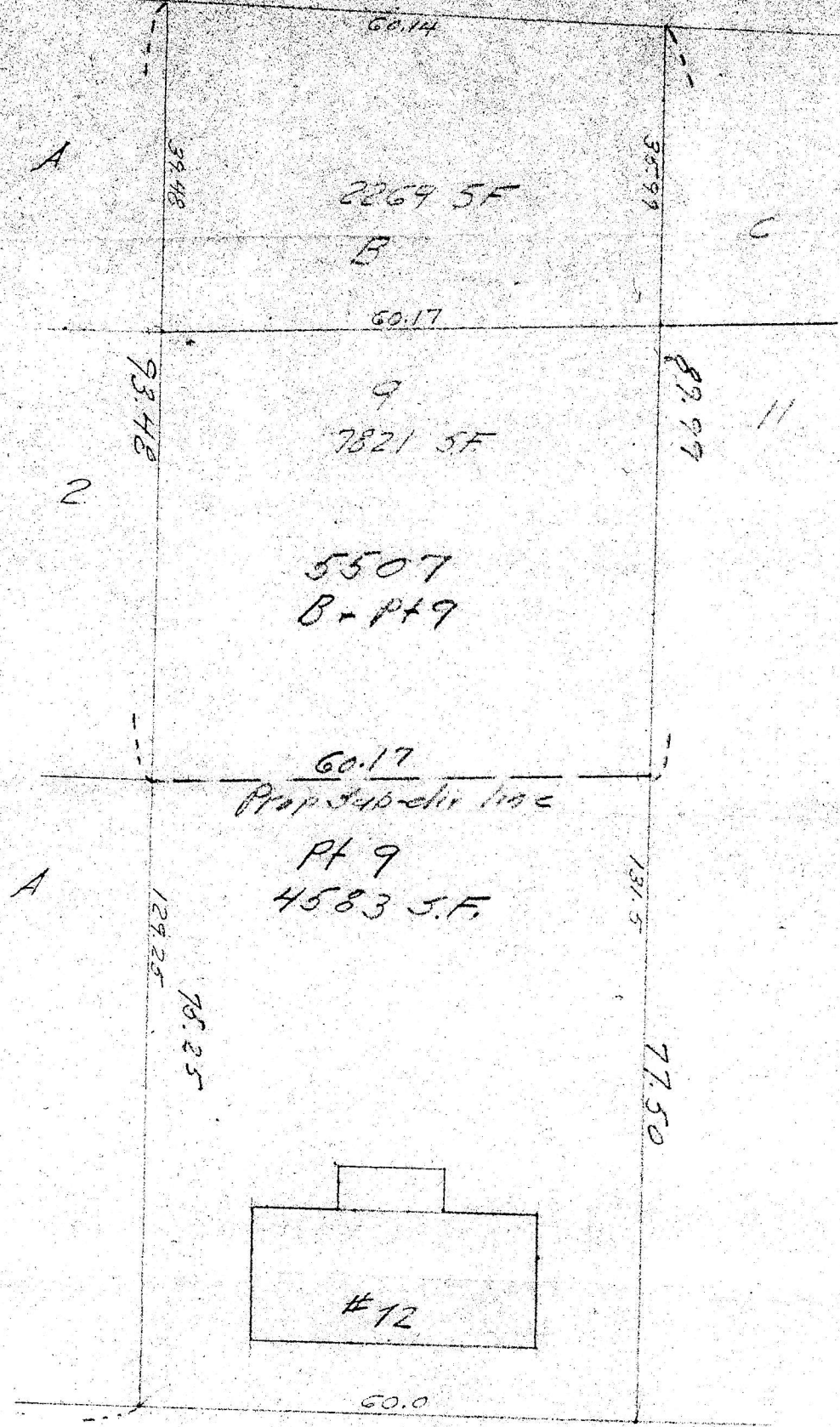
It is the unanimous decision of the Board to allow the Petition.

ZONING BOARD OF APPEALS

Clifford E. Lansil
Secretary

To R. Warren
9287

Palmer St



145.10
To R. Warren

Beacon St

Plan showing
Prop Sub-division of Land
in
Arlington Mass
Scale 1"=20' J. Sullivan CE

to wit: to subdivide two lots. Said subdivision would create two lots with less than the square foot area required by section 14-B of the Zoning By Law.

3 MITCHELL RD.

BEACON ST.

14 & 16 ✓

15 ✓

20 ✓

24 ✓

25 ✓

3 ✓

11 ✓

15 ✓

17 ✓

21 ✓

25 ✓

29 ✓

Lenatti

PALMER ST.

84 & 86 ✓

88 & 90 ✓

92 & 94 ✓

96 & 98 ✓

100 & 102 ✓

WARREN ST.

69 - 71 ✓

75 ✓

77 ✓

81 ✓

85 - 91 ✓

93 ✓

99 - 99 ✓

Block Plan

42

CUO

QUITCLAIM DEED

I, JEFFREY MARSHALL, of Arlington, Middlesex County, Massachusetts, for consideration paid and in full consideration of One Hundred Ninety Thousand and 00/100 (\$190,000.00) Dollars

grant to MASOUD GHOFrani and DEBORAH A. GHOFrani, husband and wife, as tenants by the entirety, both of 83 Palmer Street, Arlington, Middlesex County, Massachusetts,

WITH QUITCLAIM COVENANTS

A certain parcel of land with the buildings thereon situated in Arlington, being now numbered 83 Palmer Street and being shown as Lot B & Pt. 9 on a plan entitled "Sub-Division of Land in Arlington - Mass.", dated March 1955, by Joseph J. Sullivan, Civil Engineer, recorded with Middlesex South District Deeds, Record Book 8435, Page 466, being bounded and described as follows:

NORTHWESTERLY by said Palmer Street, sixty and 14/100 (60.14) feet;
 NORTHEASTERLY by Lots C and 11 on said plan, eighty-nine and 99/100 (89.99) feet;
 SOUTHEASTERLY by another lot shown as Lot Pt. 9 on said plan, sixty and 04/100 (60.04) feet;
 SOUTHWESTERLY by Lots A and 2 on said plan, ninety-three and 48/100 (93.48) feet.

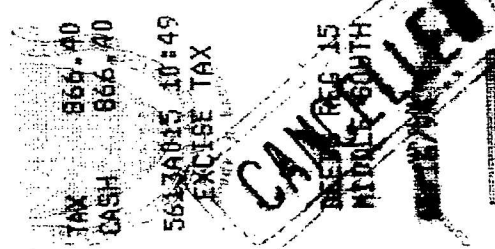
Containing 5504 square feet of land.

A portion of said premises is also shown as Lot B on a plan entitled "Plan of House Lots - in - Arlington, Mass. owned by Estate of W.H. Allen", dated March 15, 1920, by C.H. Gannet, Civil Engineer, recorded with said Deeds, Plan Book 305, Plan 19, and a portion of said premises is also shown as a portion of Lot No. 9 on a plan entitled "Plan of 100 House Lots in West Cambridge & Arlington belonging to Nahum Packard", dated May 1854, by W.A. Mason, Surveyor, recorded with said Deeds, Plan Book 6, Plan 9.

For my title see deed of John A. Casassa, et al, dated June 30, 1983 and recorded with Middlesex South District Registry of Deeds in Book 15092, Page 394.

WITNESS my hand and seal this 16th day of May, 1994.


 Jeffrey Marshall



866.40 ***

25.00 *** MASS. EXCISE TAX: 457
 MSD 05/16/94 11:39:20 Address of Property: 83 Palmer St., Arlington, MA 02174

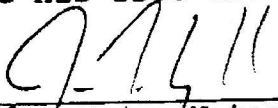
BK 24538PG153

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

May 16, 1994

Then personally appeared the above-named Jeffrey Marshall and acknowledged the foregoing instrument to be his free act and deed, before me,



James F. Cousin Notary Public
My Commission Expires: 7/22/94

REQUEST FOR SPECIAL PERMIT AND/OR VARIANCE
TOWN OF ARLINGTON

In the matter of the Application of **Matthew Ghofrani and Deborah A Ghofrani** to the Zoning Board of Appeals for the Town of Arlington: **concerning real estate located at 83 Palmer Street, Arlington, Massachusetts**

Application for a Special Permit is herewith made, in accordance with Section 3.3 of the Zoning Bylaw for the Town of Arlington, Massachusetts, seeking relief from the following specific provisions of the Zoning Bylaw, and as described fully in the attached form, *Special Permit Criteria*:

The Applicants seek a determination from the Zoning Board of Appeals as to whether Lot 9, also shown as Lot B containing 5,507 square feet on the attached plan of Jay Sullivan is a two-family lot as determined by the Zoning Board of Appeals at the time of the Zoning Decision dated March 11, 1955, allowing a subdivision.

The Applicants state they are the owners of the land in Arlington located at 83 Palmer Street, Arlington, Massachusetts with respect to such relief is sought; that no unfavorable action has been taken by the Zoning Board of Appeals upon a similar petition regarding this property within the two (2) years next immediately prior to the filing hereof. The Applicants expressly agree to full compliance with any and all conditions and qualifications imposed upon this permission, whether by the Zoning Bylaw or by the Zoning Board of Appeals, should the same be granted. The Applicants represent that the grounds for the relief sought are as follows:

Applicants seek a determination from the Zoning Board of Appeals as to whether a Zoning Board of Appeals' Decision dated March 11, 1955, a copy of which is affixed this Request for Special Permit and incorporated into its terms by reference, which allowed a subdivision with respect to two lots, i.e. Lot B and Lot 9 as shown on a certain subdivision plan affixed to the Zoning Decision with Lot 9 originally containing 7,821 square feet to be combined with Lot B containing 2,269 square feet resulting in two separate lots, one containing 5,507 square

feet and the other containing 4,583 square feet all as shown on the subject subdivision plan with the lot containing 5,507 square feet being deemed a two-family residential lot, i.e. Lot B.

The real estate is and was at the time of the Zoning Decision located in an R2 Zone as defined within the Zoning Bylaw and the question presented for interpretation by the members of the Zoning Board is whether it was the intent on the part of the members of the Zoning Board at the time of the Zoning Decision in 1955, when granting the zoning relief, that the lot containing 5,507 square feet resulted in a two-family lot designation for Lot B as the property was located in a R2 Zone and vacant.

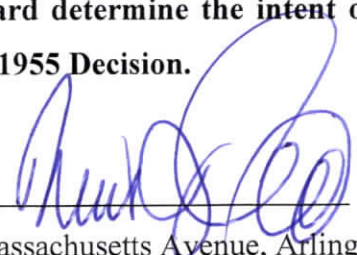
The lot containing 4,583 square feet contained a single-family home lot at the time of the Decision.

Most of the other properties located in the neighborhood of the subject property are two-family homes and not single-family homes and that was the case in 1955.

The Applicants propose to construct a two-family residential structure on the lot as shown on the plan identified as "Proposed Duplex Palmer Street" affixed to this Application and incorporated into its terms by reference.

Since the Decision of the Zoning Board on March 11, 1995 does not designate the relief being granted as to whether Variance or Special Permit relief, the Applicants are filing a Special Permit Application rather than a Variance Application in connection with this request and asking that the members of the Zoning Board determine the intent of the Zoning Board members in granting the zoning relief in the 1955 Decision.

E-Mail: law@robertannese.com

Signed: 

Date: 5/17/21

Telephone: 781-646-4911

Address: 1171 Massachusetts Avenue, Arlington, MA 02476

Special Permit Criteria: Per Section 3.3.3 of the Zoning Bylaw, a Special Permit shall only be granted upon the Board's determination that the benefits of the proposed project will outweigh its adverse effects. The responses provided below will inform the Board as to whether the standards for approval have been met.

A.) Indicate where the use requested is listed in the Table of Use Regulations as allowed by Special Permit in the district for which the application is made or is so designated elsewhere in the Arlington Zoning Bylaw.

See Zoning Decision of March 11, 1955, affixed to this Special Permit Criteria incorporated into its terms by reference.

B.) Explain why the *requested use is essential or desirable to the public convenience or welfare.*

If Applicants are allowed to construct a two-family residential duplex at the property it will add an additional needed residential unit to the Town residential base and will of course be located in a R2 Zone as defined in the Zoning Bylaw.

C.) Explain why the *requested use will not create undue traffic congestion, or unduly impair pedestrian safety.*

There would be no significant increase in traffic congestion, or any undue impairment of pedestrian safety if the requested zoning relief is granted.

D.) Explain why the *requested use will not overload any public water, drainage or sewer system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.*

There will be no overload of any public water, drainage or sewer system, or any other municipal system because the relief requested consists of permission to construct only a two-family residential building on the subdivision lot.

E.) Describe how any special regulations for the use, as may be provided in the Zoning Bylaw, including but not limited to the provision of Section 8 are fulfilled.

There are no special regulations pertaining to this lot.

F) Explain why the requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health, morals, or welfare.

The construction on Lot B of a two-family duplex residential building will be in keeping with other two-family homes constructed over the years in the neighborhood, many of which have less lot square feet than does the Applicants' lot. Consequently, construction of the two-family duplex residential dwelling on the lot will be in keeping with the integrity and character of the neighborhood and will not be detrimental to the health or welfare of inhabitants of the Town or inhabitants of the neighborhood of the property.

G.) Explain why *the requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.*

The proposed two-family duplex residential dwelling will be in keeping other two-family homes located in the neighborhood of the property and there will not be an excess of the use which could be detrimental to the character of the neighborhood.

TOWN OF ARLINGTON
 Dimensional and Parking Information
 For application to The Zoning Board of Appeals

1. Property Location: **83 Palmer Street, Arlington, Massachusetts 02474**
 Zoning District: **R2**
2. Present Use/Occupancy: **One** No. of dwelling units (if residential) _____
3. Existing Gross Floor Area (see definition of Gross Floor Area (GFA) in Article 2 of the Town of Arlington Zoning Bylaw and provide supporting documentation (worksheet) showing dimensions of GFA by floor: _____
4. Proposed Use/Occupancy: **two residential dwellings** No. of dwelling units (if residential) **2**
5. Proposed Gross Floor Area (see definition of Gross Floor Area in Article 2 of the Town of Arlington Zoning Bylaw and provide supporting documentation (worksheet) showing dimensions of GFA by floor): _____
6. _____

	Present Conditions	Proposed Conditions	Min. or max Required by Zoning
6. Lot size (sq. ft.)	5,512 sq ft	5,512 sq ft	min. 6,000 sq ft
7. Frontage (ft.)	60.14	60.14	min. 60 ft
8. Floor area ratio	N/A	N/A	max.
9. Lot Coverage (%)	21.4%	29.2%	max 35%
10. Lot Area per Dwelling Unit (Sq. ft.)	N/A	N/A	min.
11. Front Yard Depth (ft.)	16.5 ft	25.0 ft	min. 20 ft
12. Left Side Yard Depth (ft.)	7.5 ft	10.5 ft	min. 10 ft
13. Right Side Yard Depth (ft.)	7.6 ft	10.6 ft	min. 10 ft
14. Rear Side Yard Depth (ft.)	37.3 ft	25.7 ft	min. 18.34 ft
15. Height (stories)	2.5	2.5	max. 2.5
16. Height (ft.)	26.1 ft	34.5 ft	max. 35.0 ft.
17. Landscaped Open Space (% of GFA) Sq. ft. _____	3549/2150 = 165%	3073/3884 = 79.1%	min. 10%
18. Usable Open Space (% of GFA) Sq. ft. _____	2238/2150 = 104%	1542/3884 = 39.7%	min. 30%
19. Parking Spaces (number)	2	4	min. 2 (ex) 4 (prop)
20. Parking area setbacks	N/A	N/A	min.
21. Loading Spaces (if applicable)	N/A	N/A	min. n/a
22. Type of construction	Wood	Wood	Wood

OPEN SPACE/GROSS FLOOR AREA

Refer to Zoning Bylaw Article 2, Definitions and Article 6, Dimensional Regulations

Address: **83 Palmer Street, Arlington, MA**

Zoning District: **R2**

<u>OPEN SPACE</u>	EXISTING	PROPOSED
Total lot area	5,512 sq ft	5,512 sq ft
Open Space (Usable)*	2238 sq ft	1542 sq ft
Open Space (Landscaped)	3549 sq ft	3073 sq ft

*Usable Open Space must be at least 75% open to the sky, free of automotive, traffic and parking, and readily accessible. Open space shall be deemed usable only if: 1) at least 75% of the area has a grade of less than 8% and no horizontal dimension less than 25 feet.

<u>GROSS FLOOR AREA (GFA)</u>		
Accessory building	N/A	N/A
Basement or cellar (>5' excluding mechanical area)	592 sq ft	0
1 st Floor	870 sq ft	1,560 sq ft
2 nd Floor	662 sq ft	1,560 sq ft
3 rd Floor	N/A	764
4 th Floor	N/A	N/A
5 th Floor	N/A	N/A
Attic (>7'3" in height, excluding elevator, mechanical)	0	0
Parking garages (except as used for accessory Parking garages or off street loading purposes)	0	0
All weather habitable porches and balconies	26 sq ft	0
Total Gross Floor Area (GFA)	2,150 sq ft	3,884 sq ft

REQUIRED MINIMUM OPEN SPACE AREA

Proposed Usable Open Space Percent of GFA 39.7%

Proposed Landscaped Open Space Percent of GFA 79.1%

This worksheet applies to plans dated 3/29/21 designed by Plot Plan by D & A Survey Associates, Inc

Reviewed by Inspectional Services _____ Date: _____

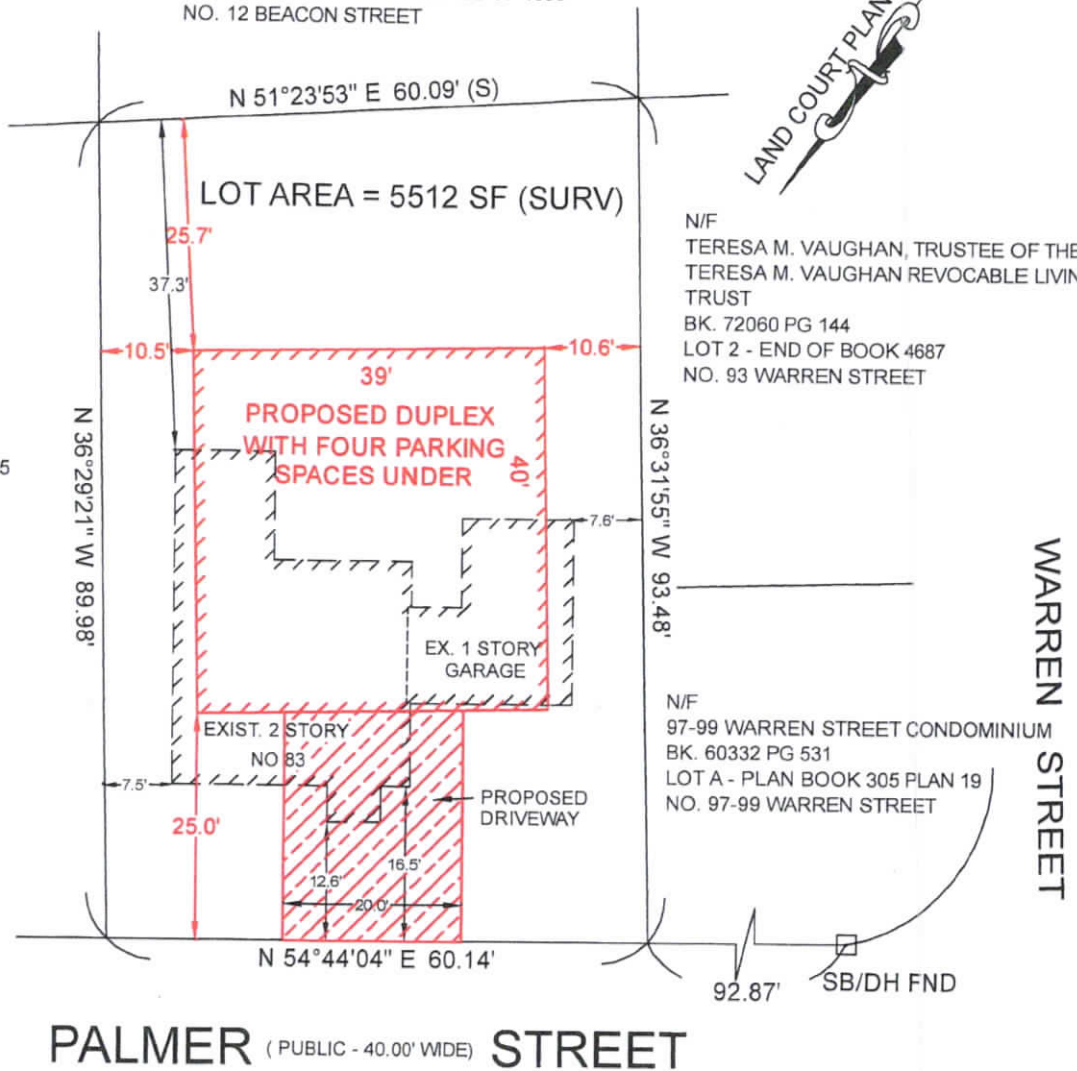
N/F
CHRISTINE MALOY &
WENDY HORI
BK. 50961 PG 502
PART OF LOT 9 - PLAN NO. 490 OF 1955
NO. 12 BEACON STREET

LAND COURT PLAN NO. 40217-A

N/F
WILLIAM F. AND RUTH BLAKE
BK. 13321 PG 535
LOT A - PLAN NO. 1542 OF 1955
NO. 87-89 PALMER STREET

N/F
TERESA M. VAUGHAN, TRUSTEE OF THE
TERESA M. VAUGHAN REVOCABLE LIVING
TRUST
BK. 72060 PG 144
LOT 2 - END OF BOOK 4687
NO. 93 WARREN STREET

N/F
97-99 WARREN STREET CONDOMINIUM
BK. 60332 PG 531
LOT A - PLAN BOOK 305 PLAN 19
NO. 97-99 WARREN STREET



NOTES:

- 1.) This plan was prepared from an instrument survey
- 2.) Record owners: Masoud & Deborah A. Ghofrani
- 3.) Deed Reference: Book 24538 Page 152
- 4.) Plan Reference: Plan No. 490 of 1955
- 4.) Zoning District: R2

PLOT PLAN IN ARLINGTON, MA 83 PALMER STREET

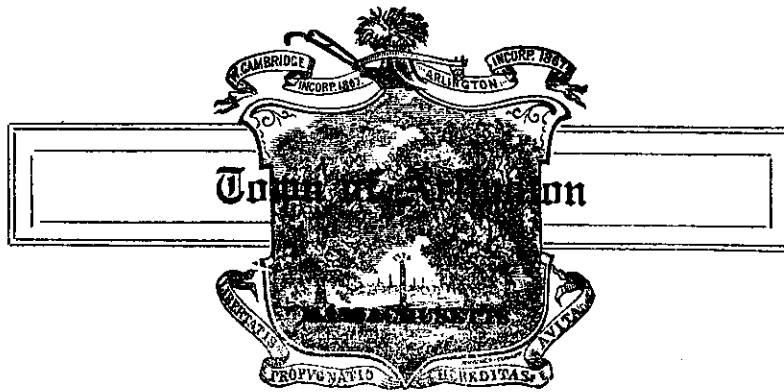


SCALE: 1" = 20'-0"

MARCH 29, 2021

D & A SURVEY ASSOCIATES, INC.
P.O. BOX 621 MEDFORD, MA 02155
(781) 324 - 9566

BOARDS OF APPEALS



TELEPHONE
ARLINGTON 5-6700

LEGAL NOTICE

Notice is herewith given in accordance with the provisions of Section 4, Paragraph 5 of the Zoning By-Law that there has been filed by Carmine A. and Anna A. Lionetti of Arlington, Massachusetts a petition seeking permission to subdivide two lots located in back of number 12 Beacon Street, Arlington, Massachusetts. Said subdivision would create two lots with less than the square foot area required by Section 14-B of the Zoning By-Law.

Hearing in regard to the said petition will be held in the Town Manager's Office, located on the second floor of the Robbins Town Hall, Arlington, Massachusetts on Monday evening, February 21, 1955 at 9:00 O'Clock P.M.

ZONING BOARD OF APPEALS

Clifford E. Lansil
Secretary

2/10/55 Notice published in the Arlington News
Notice sent to the following:

Thomas A. Dewire, 85 Warren St.
Thomas J. Green & Alice K. Sliney, 93 Warren St.
Rosalie Woodside, 97 Warren St.
Patrick F. Brennan, et ux, 86 Palmer St.
Thomas D. & Catherine M. Kenna, 90 Palmer St.
John J. Sullivan, 94 Palmer St.
Rosina M. Lionetta, 98 Palmer St.
John J. & Dorothy A. Downing, 102 Palmer St.
Ciriaco & Lizzi Guanci, 16 Beacon St.
Cornelius J. Crowely, et al, 18 Beacon St.
Daniel Ahern, 213 Broadway (20 Beacon St.)
Antonio & Letitia Lionetto, 24 Beacon St.
Antoni & Carmine Guange, 28 Beacon St.
Eileen Welch, 11 Beacon St.
Joseph W. & Gladys R. Perry, 15 Beacon St.
Agnes G. Ahern, 17 Beacon St.
Michelangelo & Carmela Carella, 20 Sutherland Rd. (21 Beacon St.)
Rosario Carella, 25 Beacon St.
Wm. F. Canty, et ux, 29 Beacon St.
Mary A. Hennessy, 71 Warren St.
Adrienne H. Cunha, 75 Warren St.
Margaret B. Murphy, 77 Warren St.
Salvatore Caterino, 65 Palmer St. Owns 81 Palmer & 3 Beacon St.

TOWN OF ARLINGTON

In the Matter)
)
) of the
) No. 411
) Petition of
) Carmine A. Lionetti and
) Anna A. Lionetti

To the Zoning Board of Appeals for the Town of Arlington: Respectfully represents Carmine A. Lionetti and Anna A. Lionetti of Arlington that ^{they are} ~~xx~~ the owner of certain land in Arlington, located Palmer St. & Beacon Street; that they made application of the Inspector of Buildings for a permit or license with respect thereto, to wit: to divide and sell a portion of that lot on Beacon Street, known as number 12, to the prospective purchasers of lot directly in the rear of said Beacon Street and facing Palmer Street. Said subdivision would create two lots with less than the square foot ^{have} ~~xx~~ area required by Section 14-B of the Zoning By-Law. that they ~~xx~~ been aggrieved by the refusal of the Inspector of Buildings to issue the permit or license on the grounds of noncompliance with the Zoning By-Law; that no unfavorable action has been taken by the Zoning Board of Appeals or its predecessors upon a similar appeal regarding this property within the two (2) years next immediately prior to the filing hereof.

Wherefore appeal is claimed from the decision of the Inspector of Buildings in accordance with the provisions of Section 4, Paragraph 3 of the Zoning By-Law for the Town of Arlington and as grounds therefor, your appellant states as

follows: It is respectfully called to your attention the fact that on said Palmer Street there are at least three lots upon which buildings have been recently erected with a square foot area of the same or less area than the present lot on Palmer Street. The owners will sell a portion of the rear of their lot so as to increase the area of the Palmer Street lot.

Signed _____

Arlington, Massachusetts

Address _____

TOWN OF ARLINGTON

ZONING

BOARD OF APPEALS

PETITION NO. 411

of Carmine A. & Anna A. Lionetti

Statement of Facts.

The Zoning Board of Appeals, hereinafter called the "Board" conducted a public hearing on the Petition of Carmine A. & Anna A. Lionetti for permission to subdivide a parcel of land at 12 Beacon Street.

The Petition was filed in the office of the Inspector of Buildings on January 26, 1955. The hearing was held at the Town Hall on Monday evening, February 21, 1955 after due notice had been given by publication in the Arlington News on February 10, 1955 and by mail, postage prepaid, to owners of real estate opposite to and abutting on the property in question, and to other parties in interest, whose names and addresses are recorded on a separate list which forms a part of the official record of these proceedings, and by posting the property.

The members of the Board present were:

Philibert Pelligrini, Chairman
Clifford E. Lansil, Secretary
Robert W. Blaisdell

The Petitioner was represented by Michael A. Fredo, Attorney.

The property involved in this appeal is shown on Plot plan #42 as Lots 9 & B extending from Beacon Street to Palmer Street. The series of lots lettered A, B, C. etc. are formed from a triangular strip which resulted from a relocation of Palmer Street. These lots, at the end near Warren Street, are of considerable size, lot B having an area of 2,269 sq. ft. However, it is too small to build upon. Lot 9 has an area of 7,821 sq. ft., and is larger than necessary for a house. It is proposed to subdivide lot 9 so that the back part, together with lot B, will comprise 5,507 sq. ft., while the residual of lot 9 will be 4,583 sq. ft. Thus, another lot will be created which will be large enough for practical utilization.

The proposal is quite in keeping with several others already submitted to the Board which pertain to lots in the blocks between Palmer Street and Beacon Street. The resulting lots would be as large as or larger than the average lots in the vicinity.

The Board believes that, in this case as in the others, the interests of all parties and the neighborhood will be best served by allowing the subdivision. Both lots will be conforming in width.

It is the unanimous decision of the Board to permit the subdivision as specified on the plan submitted with the Petition.

Philibert Pelligrini
Chairman

Clifford E. Lansil 38 of 75

TOWN OF ARLINGTON
ZONING BOARD OF APPEALS

Notice of Decision

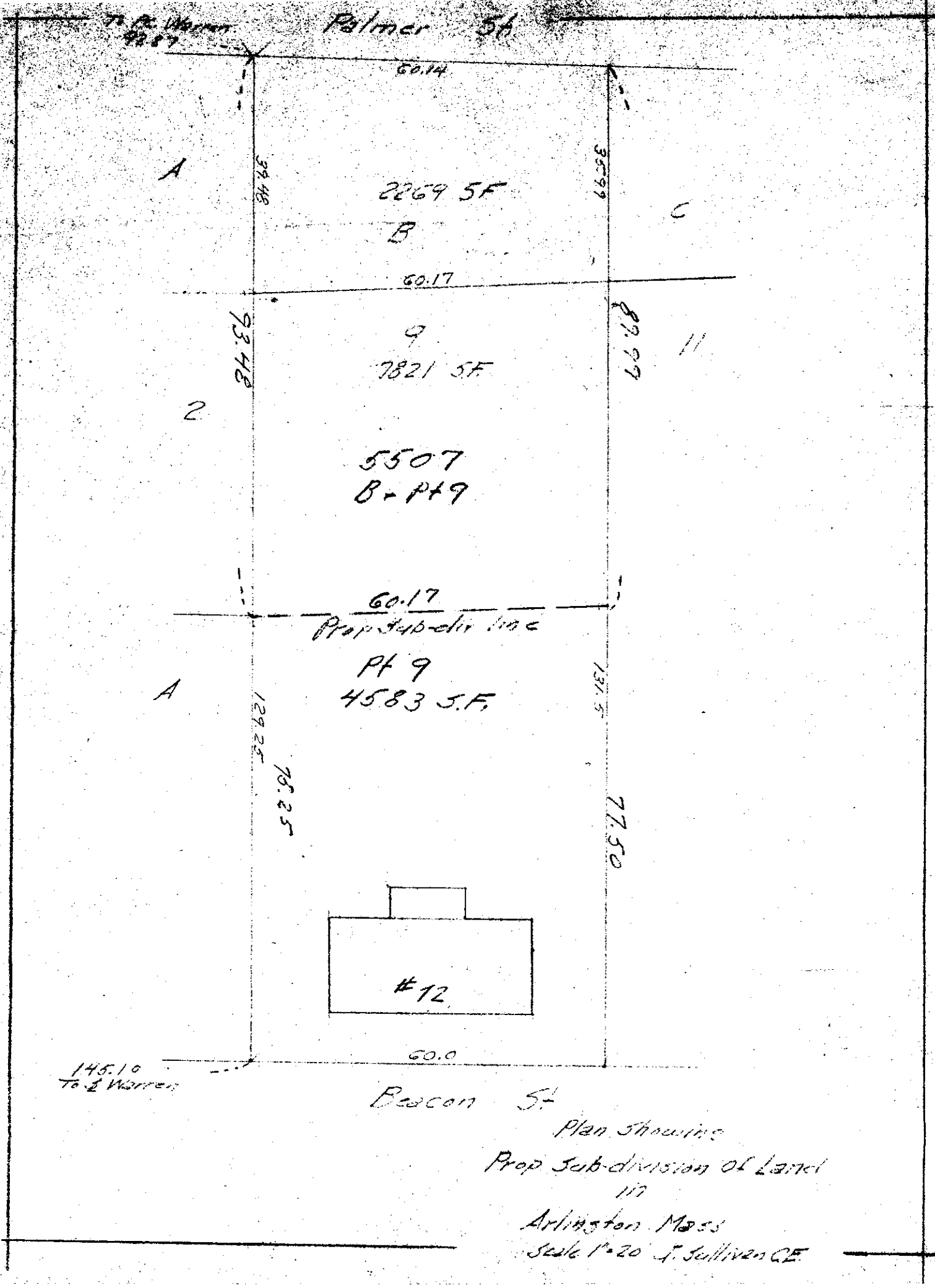
March 11, 1955

In accordance with the provisions of Section 4 of the Zoning By-Law, you are herewith notified that, after the hearing held February 21, 1955 in the matter of the Petition of Carmine A. & Anna A. Lionetti, the Zoning Board of Appeals has reached its decision.

It is the unanimous decision of the Board to allow the Petition.

ZONING BOARD OF APPEALS

Clifford E. Lansil
Secretary



to wit: to subdivide two lots. Said subdivision would create two lots with less than the square foot area required by Section 14-B of the Zoning By Law.

3 MICHIGAN RD.

BEACON ST.

14 & 16 ✓

15 ✓

20 ✓

24 ✓

25 ✓

3 ✓

11 ✓

15 ✓

17 ✓

21 ✓

25 ✓

29 ✓

Lenatti

PALMER ST.

84 & 86 ✓

88 & 90 ✓

92 & 94 ✓

96 & 98 ✓

100 & 102 ✓

WARREN ST.

69 - 71 ✓

75 ✓

77 ✓

81 ✓

85 - 91 ✓

93 ✓

99 - 99 ✓

Block Plan

42

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

ZONING BOARD OF APPEALS

ARLINGTON, MASSACHUSETTS

In the matter of)	
)	
83 Palmer Street)	
Arlington, Massachusetts)	Docket Number:
)	
Matthew Ghofrani and Deborah A.)	
Ghofrani, Applicants)	

ZONING MEMORANDUM OF FACT AND LAW
IN SUPPORT OF
REQUEST FOR SPECIAL PERMIT

Robert J. Annese, Esquire
1171 Massachusetts Avenue
Arlington, MA 02476
(781) 646-4911
law@robertannese.com

STATEMENT OF FACTS

Applicants seek a determination from the Zoning Board of Appeals as to whether a Zoning Board of Appeals' Decision dated March 11, 1955, which allowed a subdivision combining a lot containing 7,821 square feet with a lot containing 2,269 square feet resulting in two separate lots, one containing 5,507 square feet and the other containing 4,583 square feet resulted in the lot containing 5,507 square feet being deemed a two-family residential lot.

The real estate is and was at the time of the Zoning Decision located in an R2 Zone as defined within the Zoning Bylaw and the question presented for interpretation by the members of the Zoning Board is whether it was the intent on the part of the members of the Zoning Board at the time of the Zoning Decision in 1955, when granting the zoning relief, that the lot containing 5,507 square feet resulted in a two-family lot designation for Lot B as the property was located in a R2 Zone and vacant.

To quote from the Zoning Decision from March 11, 1955: **"The property involved in this appeal is shown on Plot plan #42 as Lots 9 & B extending from Beacon Street to Palmer Street. The series of lots lettered A, B C. etc. are formed from a triangular strip which resulted from a relocation of Palmer Street. These lots, at the end near Warren Street, are of considerable size, lot B having an area of 2,269 sq. ft. However, it is too small to build upon. Lot 9 has an area of 7,821 sq. ft. and is larger than necessary for a house. It is proposed to subdivide lot 9 so that the back part, together with lot B, will comprise 5,507 sq. ft., while the residual of lot 9 will be 4,583 sq. ft. Thus, another lot will be created which will be large enough for practical utilization."**

"The proposal is quite in keeping with several others already submitted to the Board which pertain to lots in the block between Palmer Street and Beacon Street. The resulting lots would be as large or larger than the average lots in the vicinity."

At the time of Zoning Decision, the newly created lot containing 4,582 square feet had an existing building on it while the newly created lot B containing 5,507 square feet did not.

It is clear that at the time of the Zoning Decision the zone in which the two lots were located was an R2 zone.

At the time of the Zoning Decision the Decision simply granted relief with respect to the subdivision without indicating whether lot B, the vacant lot, could have a two-family or single-family house built on it, once again, in a neighborhood even then containing mostly two-family homes.

A single-family home presently exists on lot B and it was constructed sometime after the 1955 Zoning Decision.

ARGUMENT OF FACT AND LAW

It is clear from a reading of the Zoning Decision that each of the lots created at the time of the approval of the subdivision plan by the Zoning Board of Appeals did not contain sufficient square feet to comply with the then requirements of the Zoning Bylaw.

Notwithstanding that fact, when the Zoning Board issued its Decision, it did not indicate that the grant of relief was limited to construction of a single-family home.

Indeed, a reading of the last page of the Zoning Decision **“to wit: to subdivide two lots. Said subdivision would create two lots with less than the square foot area required by the Section 14-B of the Zoning Bylaw”** indicates that the members of the Zoning Board were well aware that each of the newly created lots would not comply with the zoning requirements for either a single-family or a two-family home.

It is the Applicants' position that if it was the collective intent on the part of the members of the Zoning Board to limit construction of the new building to be built on lot B to a single-family home, the Decision would have stated that as a condition of the grant of zoning relief which of course it did not.

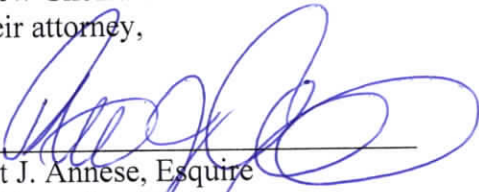
It is also the position of the Applicants that it can reasonably be inferred that the collective intent of the members of the Zoning Board was that the grant of relief did not limit the newly created lot B to a single-family home, but rather allowed construction of a two-family home even though ultimately a two-family home was not constructed on the lot subsequent to the 1955 Zoning Decision.

The Zoning Decision did not state the statutory reasons for the grant of relief for either a Special Permit or a Variance, but it is also clear that the time for an appeal being filed in connection with the Zoning Decision has long passed as the time for raising any defects

in a Notice of a Decision is limited to the 20-day appeal period set forth within the provisions of Chapter 40A. Cappuccio v. Zoning Board of Appeals of Spencer, 398 Mass. 304, 311, (1986).

For all of the above reasons the Applicants request that the Zoning Board issue a Special Permit interpreting the Decision of the Zoning Board dated March 11, 1955 that lot B is a two-family lot, and that the Applicants can proceed to construct a two-family house on lot B.

Applicant
Matthew Ghofrani and Deborah A. Ghofrani,
By their attorney,



Robert J. Annese, Esquire
1171 Massachusetts Avenue
Arlington, MA 02476
(781) 646-4911 - Telephone
(781) 646-4910 - Facsimile
Email: law@robertannese.com



Town of Arlington, Massachusetts

1165R Massachusetts Avenue

ATTACHMENTS:

Type	File Name	Description
Reference Material	TAC_1165R_Mass_Ave_Additional_comments_06-08-21_final.pdf	TAC 1165R Mass Ave Additional comments 06-08-21 final
Reference Material	ACC_Comment_Letter_to_ZBA_1165R_Mass_Ave_40B_08June2021.pdf	ACC_Comment Letter to ZBA_1165R Mass Ave 40B_08June2021
Reference Material	Revised_site_layout_plan_6-11-21.pdf	Revised site layout plan 6-11-21
Reference Material	A_Tee_Letter_Resident_of_2_Ryder_Street.pdf	A Tee Letter Resident of 2 Ryder Street
Reference Material	Construction_Access_Exhibit_A_WB-50_2021-06-08.pdf	Construction Access Exhibit A WB-50_2021-06-08
Reference Material	Construction_Access_Exhibit_B_WB-50_2021-06-08.pdf	Construction Access Exhibit B WB-50_2021-06-08
Reference Material	Construction_Access_Exhibit_Crane_2021-06-08.pdf	Construction Access Exhibit Crane_2021-06-08
Reference Material	Construction_Access_Exhibit_Dump_Truck_2021-06-08.pdf	Construction Access Exhibit Dump Truck_2021-06-08
Reference Material	Letter_to_Christian_Klein_re_6.2.21_Email_-_Spaulding.pdf	Letter to Christian Klein re 6.2.21 Email - Spaulding
Reference Material	R_Annese_letter_6-21-21.pdf	R Annese letter 6-21-21
Reference Material	Photographs_2021_06_09.pdf	Photographs 2021 06 09.pdf



Arlington Transportation Advisory Committee

Date: June 8, 2021.

To: Arlington Zoning Board of Appeal.

From: TAC Executive Committee.

Subject: Additional Comments on 1165R Mass Ave Apartments Based on Updated Site Plan and Traffic Impact Report.

Memorandum

At the request of the Department of Planning and Community Development, the TAC Executive Committee has reviewed updated information for the proposed 1165R Mass Ave Apartments development from May and June 2021. The comments presented below have not been reviewed or approved by the full TAC membership.

- 1) First, the TAC Executive Committee applauds the proponent for making several changes and upgrades to the site plan and proposed TDM measures in response to various Town and resident comments on the previous versions. These include exploring the feasibility of installing electric charging stations in the garages and proposing various improvements to Ryder Street – repaving the street, repairing sidewalks, curb ramps, and crosswalks, and installing a speed table at the driveway exit.
- 2) The TAC Executive Committee has additional comments as noted below:
 - a) The updated site layout plan by Bohler shows the Ryder Street driveway as egress only for automobiles but is two-way for bicyclists, with two-way shared-lane markings (“sharrows”) to indicate that bicycles may travel both directions. Given the narrow travel lane provided for this roadway, at only 13’ wide, we believe this sets up an unnecessarily dangerous situation where cyclists could end up in a head-on collision with a driver. A 13’ wide lane is generally only wide enough for one-way automobile traffic, shared with bicycles going the same direction. The proponent should revise the site layout plan to make this contraflow movement safe for cyclists by doing one of two alternatives:
 - i) Install a contraflow bike lane on the south side of the driveway which is separated from the main travel lane by a double yellow line. The width of the parking lane on the north side of the driveway should be reduced from 9’ to 7’ to accommodate the bike lane.
 - ii) Widen the sidewalk on the south side of the driveway by at least 5’ to make this a full-size trail width where people biking and walking can comfortably share the space, and direct contraflow bicycle traffic to use this space. The width of the parking lane and the travel lane would need to be reduced to accommodate this.
 - b) “Do Not Enter” and “Left Only” signage at the Ryder Street driveway exit onto Ryder Street should include the placard “Except Bikes” to legalize and make clear that this signage applies to automobiles only and not cyclists.

To: ZBA

Page 2.

Subject: Additional Comments on 1165R Mass Ave Apartments Based on Updated Site Plan and Traffic Impact Report.

Date: June 8, 2021.

- c) Clarify if bike traffic can use the West Driveway to access Mass Ave, as the site access diagram in the updated TIR appears to show two-way traffic for “local bicycle site access”. If this is the case, install “Except Bikes” placards on “Do Not Enter” or turn restriction signs, and recommend installation of sharrows or a contraflow bike lane to accommodate this movement (given the travel lane is 20’ wide, this condition is not as risky as the one shown for the Ryder Street driveway).
 - d) Clarify the location and number of interior bike parking spaces. The updated TIR states that the development will provide 100 interior bike parking spaces with repair and maintenance stations. However, these do not add up on the building plans. It appears all the bike parking is located in building #4 on the ground floor between two storage rooms. The larger room indicates there is parking for 44 bikes. The smaller room does not have a number of spaces indicated but appears to have 24 spaces assuming it shows two bikes parked on each rack, of which there are 12. This adds up to only 68 bike parking spaces.
- 3) In addition to the comments above, the Executive Committee reiterates the following points from our previous comments:
- a) There are two bike storage areas on the ground level garage. One of these areas can only be accessed through the garage. The proponent should consider modifying this to provide access from outside and to the building lobby without having to travel through the garage.
 - b) In addition to the measures referenced by Beta, the proponent should consider including the following as part of the TDM program:
 - i) Subsidized MBTA passes.
 - ii) Unbundling the lease and parking cost to provide a reduced incentive to automobile ownership and driving.
 - iii) Providing a continuous accessible sidewalk along the west driveway between the southwest corner of building 2 and Mass Ave, including shade trees to provide a comfortable walking, experience. The Executive Committee recognizes that the proponent has explored this option and found it to be infeasible. The Executive Committee recommends this be revisited if development of other adjacent parcels takes place in the future.

TAC Executive Committee:

Howard Muise, Chair.

Jeff Maxtutis, Vice Chair.

Shoji Takahashi, Secretary.

Dan Amstutz, Senior Transportation Planner, DPCD.

June 8, 2021



TOWN OF ARLINGTON

MASSACHUSETTS

CONSERVATION COMMISSION

June 8, 2021

Zoning Board of Appeals
Town of Arlington
730 Massachusetts Avenue
Arlington, MA 02476

**RE: 1165R Mass Ave – Application for Comprehensive Permit
Third Set of Comments from Conservation Commission – Waiver Requests**

Dear Chairman Klein and Members of the Board:

The Arlington Conservation Commission (ACC) provides this third set of comments to the ZBA to consider the wetlands and stormwater components of the 1165R Mass Ave Comprehensive Permit Application. The Conservation Commission is providing this comment letter to assist the ZBA as it moves forward with its review of the permit application, including under the Town of Arlington Wetlands Protection Bylaw (the Bylaw) and local Wetlands Regulations, specifically in consideration of the Applicant's Waiver Requests.

At its June 3, 2021 public meeting, the ACC discussed the list of Waiver Requests submitted by the Applicant. The ACC evaluated the Waiver Requests as presented in the May 28, 2021 BETA comment letter (*Table 1 – Waiver Request Summary for Arlington's Wetland Bylaw and Regulations*), the most recent proposed plans as available on the ZBA website, and subsequent communications from the Applicant (see attachments) as the basis for our decisions and recommendations.

For ease of reference, the ACC has employed the same template as the BETA Table 1 for our decisions and recommendations. These are shown in the **ACC Table 1 – Waiver Request Evaluation for Arlington's Wetland Bylaw and Regulations**, included in this letter.

ACC Table 1 – Waiver Request Evaluation for Arlington’s Wetland Bylaw and Regulations

Proposed Waivers	Comments on Waiver Request
Regulations, Section 20C – Bank Performance Standards	<p>ACC agrees to approve this waiver. <u>Justification:</u> the proposed plan for relocating Ryder Brook provides enhanced resource area functions to the site, including habitat value, pollution prevention, storm damage prevention, and flood control.</p> <p>While ACC agrees with the waiver request, ACC has not reached consensus about the jurisdictional status of Ryder Brook after it is relocated. Therefore, any reference to the jurisdictional status of the relocated Brook should be removed from justifications and draft Conditions going forward.</p> <p>ACC Recommendation (consistent with BETA recommendation): Include a Condition stating the Bank of the relocated Brook shall be protected in perpetuity.</p>
Regulations, Section 22 – Land Under Water Bodies Performance Standards	<p>ACC agrees to approve this waiver. See above.</p> <p>ACC Recommendation (consistent with BETA recommendation): Include a Condition stating the Land Under the relocated Brook shall be protected in perpetuity.</p>
Regulations, Section 25D – 25’ No Disturbance in Adjacent Upland Resource Area (AURA) Performance Standards This Waiver request was withdrawn via Applicant’s Legal Counsel letter dated June 7, 2021.	<p>ACC disagreed with this waiver request and agrees it should be withdrawn. <u>Justification:</u> ACC maintains that the project as proposed is in compliance with Section 25D because the plan proposes mitigation to increase the pervious area in the 0-25’ AURA by 1,505 square feet, which is considered an enhancement of the resource area, as allowed with local approval. As shown in Attachment A of this letter, Mary Winstanley O’Connor, the Applicant’s Legal Counsel, provides a letter stating that the project as proposed complies with Section 25D and the Applicant withdraws this waiver request. Proof of compliance with Section 25D is detailed in Attachment B, Proposed AURA Exhibit, prepared by Bohler Engineering.</p> <p>ACC Recommendation: no further action required.</p>
Regulations, Section 25C – Alternatives Analysis for Work in 100-foot AURA This Waiver request was withdrawn via Applicant’s Legal Counsel letter dated June 7, 2021.	<p>ACC disagreed with this waiver request and agrees it should be withdrawn. <u>Justification:</u> ACC maintains that the project as proposed is in compliance with Section 25C because the Applicant submitted an Alternatives Analysis as shown in Attachment C of this letter, prepared by Bohler Engineering.</p> <p>ACC Recommendation: no further action required.</p>

ACC Table 1 – Waiver Request Evaluation - *continued*

Proposed Waivers	Comments on Waiver Request
<p>Bylaw, Section 4(b) paragraph 5 – 200-foot undisturbed vegetation in RA</p> <p>This Waiver request was withdrawn via Applicant's Legal Counsel letter dated June 7, 2021.</p>	<p>ACC disagreed with this waiver request and agrees it should be withdrawn.</p> <p><u>Justification:</u> ACC maintains that the project as proposed is in compliance with Section 4(b) because of the vegetative mitigation and resource area improvements, including improvements to habitat value, pollution prevention, storm damage prevention, and flood control. As shown in Attachment A, the Applicant withdraws this waiver request. Proof of compliance with Bylaw Section 4(b) is detailed in Attachment B, Proposed AURA Exhibit, prepared by Bohler Engineering, and proposed site plans as available on the ZBA website.</p> <p>ACC Recommendation: no further action required.</p>
<p>Bylaw, Section 16 and Regulations, Section 11 – Permitting and Consultant Fees</p>	<p>ACC disagrees with this waiver request.</p> <p>ACC proposes alternative % fee reduction.</p> <p><u>Justification:</u> The Applicant is requesting to reduce the Bylaw permitting fee by 50%, from \$15,000 to \$7,500. The ACC considered other Affordable Housing projects it has recently permitted, in particular 19R Park Ave – Downing Square. The Applicant of Downing Square, the Housing Corporation of Arlington, requested all Bylaw fees be waived. The Downing Square project proposed to construct a 3-bedroom house and a 28 unit building on the property, all of which was proposed as Affordable Housing for residents within 60% of the AMI (Area Median income), with most units for residents within 30% of the AMI. The Commission approved a 42% reduction in the Bylaw fee for this project, from \$3,600 to \$1,500.</p> <p>The 1165R Mass Ave project proposes to construct a 130 unit multi-family residential rental building with 33 units (25% of units) available for residents within 80% of the AMI. As this proposed project is providing fewer affordable housing units as a percentage of the total and at a higher AMI than Downing Square, ACC recommends reducing the Bylaw fee by 20%, not the requested 50%. Reducing the Bylaw fee by 20% will reduce the filing fee from \$15,000 to \$12,000.</p> <p>ACC Recommendation: Grant a 20% reduction in the Bylaw filing fee.</p>
<p>Bylaw, Sections 10 & 11 – Bond Requirements</p>	<p>ACC disagrees with this waiver request.</p> <p><u>Justification:</u> Given the proximity of the project to the onsite Resource Areas and the potential for the project to impact resource area values if proposed mitigation is not implemented as planned, the ACC agrees with BETA's recommendation to retain the right to require a performance bond, primarily related to the stream relocation portion of the Project.</p> <p>ACC Recommendation: Do not grant waiver.</p>

June 8, 2021

We hope the ZBA finds the above recommendations helpful in our common goal to protect the Wetland Resource Areas on this site while acknowledging the current site conditions. Please contact us should you have questions.

Enclosed:

- 1) Attachment A – *Letter to Susan Chapnick re 6.3.21 Hearing re 1165R Mass Ave – Spaulding_07June2021*: Letter from Mary Winstanley O'Connor dated June 7, 2021, clarifying waiver requests for Section 25D and 25C.
- 2) Attachment B – *1165R Mass Ave_Prop AURA Exhibit_submitted to ACC_07June2021*: Proposed AURA Exhibit Plan, prepared by Bohler Engineering, dated May 24, 2021.
- 3) Attachment C – *1165R Mass Ave_No Reasonable Alternatives Exhibit_submitted to ACC_07June2021*: Alternatives Analysis for work in the 100-ft AURA, prepared by Bohler Engineering, not dated.

Very truly yours,

Susan

Susan Chapnick, Chair
Arlington Conservation Commission

KRATTENMAKER O'CONNOR & INGBER P.C.

ATTORNEYS AT LAW

ONE MCKINLEY SQUARE
BOSTON, MASSACHUSETTS 02109
TELEPHONE (617) 523-1010
FAX (617) 523-1009

CHARLES G. KRATTENMAKER, JR.
MARY WINSTANLEY O'CONNOR
KENNETH INGBER

June 7, 2021

OF COUNSEL: RAYMOND SAYEG

VIA EMAIL

Susan Chapnick, Chairperson
Conservation Commission for the
Town of Arlington
730 Massachusetts Avenue
Arlington, MA 02476

Re: 1165R Massachusetts Avenue, Arlington, MA

Dear Susan:

Pursuant to the Commission's request at the June 3, 2021 hearing, I have consulted with Daniel Wells of Goddard Consulting and Randy Miron of Bohler Engineering and report as follows:

- Daniel Wells confirms that in his opinion, waivers for: (a) Section 25D of the Town's Wetlands Protection Regulations – 25-foot no disturbance in AURA performance standards; and (b) Title V, Article 8, Section 4(b) of the Town Bylaws – 200-foot undisturbed vegetation in the riverfront area are not required given the extensive mitigation performed on the site and the enhancement of the resource area. The attached plan shows that the amount of pervious area will be increased in the 0-25' AURA by 1,505 square feet. In view of the Commission's concurrence, we can forego the request for these waivers.
- You were correct, Bohler Engineering did file with the Commission a table showing that reasonable alternatives are not available or practicable for work in the 100-foot AURA. I enclose the table that was prepared.

On behalf of the applicant, I thank the Commission for its work on this project. Please contact me if your require additional information.

Very truly yours,

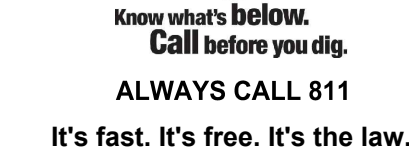
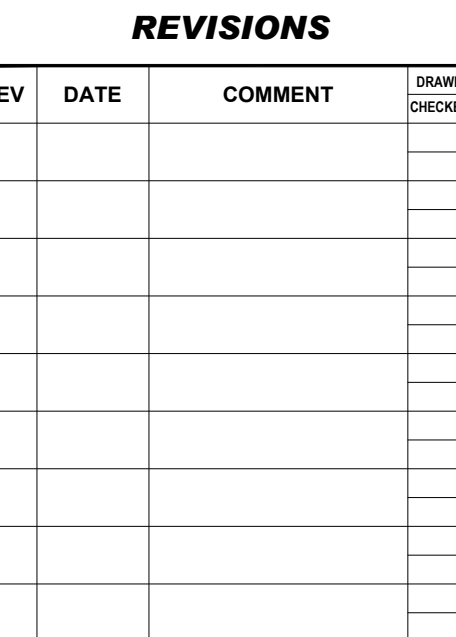
Mary Winstanley O'Connor

MWO/ccg
Enclosure
6926



20 10 5 0 20

1" = 20'



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PROJECT No.:	W191330-CVL
DRAWN BY:	AW
CHECKED BY:	LM
DATE:	05/24/2019
AD I.D.:	W191330-CVL

PROJECT:

**PROPOSED
EXHIBIT PLAN**

FC

**1165R MASS MA
PROPERTY LLC**

**PROPOSED
RESIDENTIAL DEVELOPMENT
1165R MASSACHUSETTS AVENUE
MIDDLESEX COUNTY
TOWN OF ARLINGTON, MASSACHUSETTS
MAP #57, BLOCK #2, LOT #10
AND PART OF LOT #15**

**352 TURNPIKE ROAD
SOUTHBOROUGH, MA 01772**
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RHODE ISLAND LICENSE No. 11425

HEET TITLE:

**PROPOSED
AURA
EXHIBIT**

HEET NUMBER:

1

ORG. DATE - 05/24/2021

ALTERNATIVE SCHEME – MAINTAIN EXISTING RYDER BROOK LOCATION

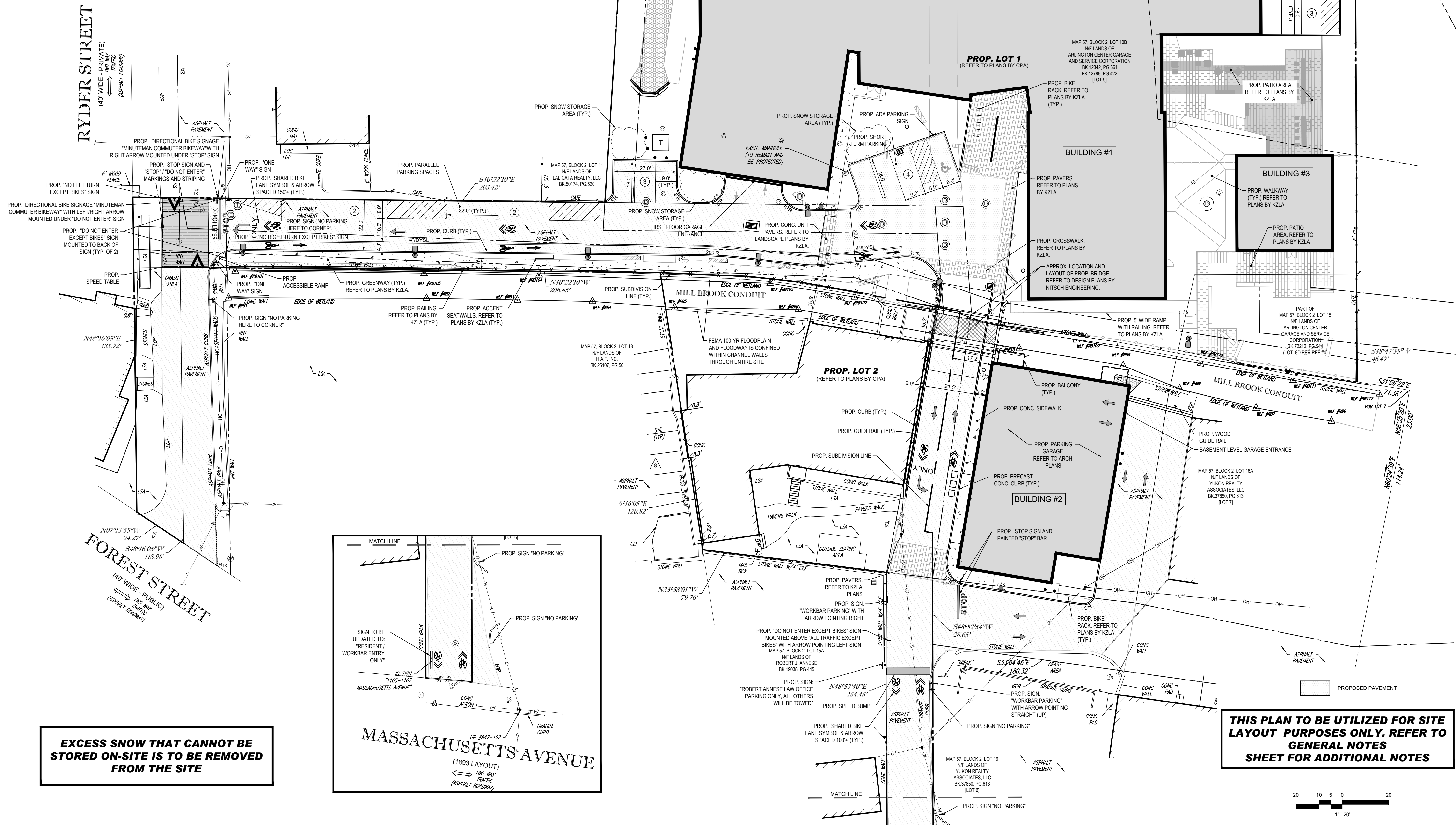
EXISTING
RYDER
BROOK
DRAINAGE
DITCH

EXISTING
24"
CULVERT

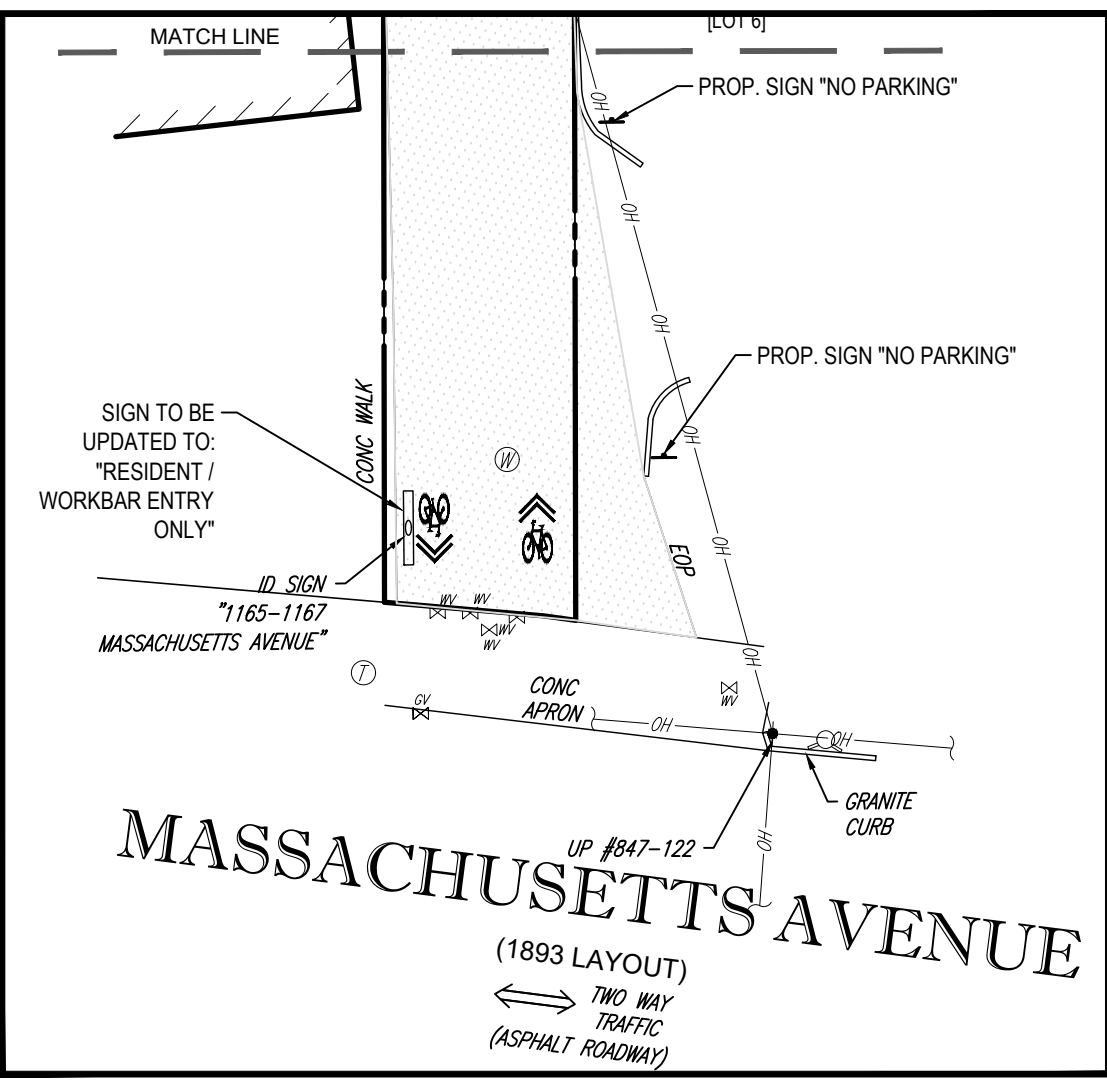
AMENITIES

Parking is the limiting factor:

- Workbar requires 40 spaces during peak time; new residential requires 0.65 spaces per dwelling unit.
- Parking in larger building of alternative scheme is 2 stories (38 spaces).
- Parking in smaller building of alternative scheme is 1 story (20 spaces).
- Parking at Bldg 2 remains unchanged (14 spaces).
- Site Parking – maintain 3 spaces at west side of site and 4 spaces at Ryder Street connector. Eliminate courtyard parking (4 spaces).
- Total Parking in alternative scheme = 79 spaces as compared to 135 in proposed scheme.
- Proposed development provides 135 spaces.
- 40 spaces meet weekday demand from Workbar and 84 meet weekday demand of new 130 residential units.
- Alternative scheme provides 79 spaces of which 40 must meet Workbar demand and balance of 39 for new residential tenants. Using the same parking ratio for new residential of 0.65, this would only allow 60 new residential units.
- Conclusion: The alternative scheme with 60 new residential units ***is economically infeasible.***



EXCESS SNOW THAT CANNOT BE STORED ON-SITE IS TO BE REMOVED FROM THE SITE



THIS PLAN TO BE UTILIZED FOR SITE LAYOUT PURPOSES ONLY. REFER TO GENERAL NOTES SHEET FOR ADDITIONAL NOTES

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SITE CIVIL AND CONSULTING ENGINEERING
PROGRAM MANAGEMENT
LANDSCAPE ARCHITECTURE
SUSTAINABLE DESIGN
PERMITTING SERVICES
TRANSPORTATION SERVICES

REVISIONS				
REV	DATE	COMMENT	DRAWN BY	
2	06/15/20	SITE PLAN & GRADING	AWP	JMJ
3	07/15/20	CONSERVATION COMMISSION	AWP	JMJ
4	08/21/20	CONSTRUCTION PHASING	AWP	JMJ
5	10/05/20	ZBA SUBMITTAL PROGRESS SET	AWP	JMJ
6	04/01/21	ZBA COMMENT RESPONSE	AWP	JMJ
7	04/13/21	UPDATED SIGNAGE	AWP	JMJ
8	05/13/21	WATER LINE AND SIGNAGE	AWP	JMJ
9	05/26/21	124 UNIT BUILDING	AWP	JMJ
10	06/11/21	REV. PER TOWN COMMENTS	AWP	JMJ

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DATE: 02/17/2020
CAD ID: W191330-CVL-10

PROPOSED SITE PLAN DOCUMENTS

FOR

1165R MASS MA PROPERTY LLC

PROPOSED RESIDENTIAL DEVELOPMENT
1165R MASSACHUSETTS AVE.
MIDDLESEX COUNTY
TOWN OF ARLINGTON, MA
MAP #57, BLOCK #2, LOT #10B
AND PART OF LOT #15

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SHEET TITLE:
SITE LAYOUT PLAN

SHEET NUMBER:
C-301

REVISION 10 - 06/11/21

Alexander Tee
2 Ryder Street
Arlington, MA 02476

Christian Klein, Chairperson
Arlington Zoning Board of Appeals
51 Grove Street
Arlington, MA 02476

Dear Chairperson Klein,

The 1165 project proposal has been well considered on many dimensions, but it is my opinion that the burden of parking has not been sufficiently addressed and that more can be done by the applicant to ensure an equitable outcome.

The applicant's proposed approach to build 30+ fewer parking spaces than is required by code introduces risk. While the applicant's parking studies suggest that current utilization of similar developments falls below code, my concern is that these studies were conducted in the midst of a pandemic when commuting behaviors were disrupted, and that the applicant's development is multi-use, requiring a great deal of synchronization to treat a subset of parking spaces as double occupancy.

Reliably managing these patterns will come down to the details, and until a detailed parking management plan is provided, it is impossible to assess how this can be managed and mitigated. As a neighborhood, we requested visibility to a detailed traffic management and parking plan on April 1st, but have only heard vague suggestions that the property manager will be responsible for making it work.

Avoiding the details required to make this work only elevates our anxiety as neighbors as it will not be the developer who bears this burden but the abutters and property manager downstream.

In the interest of finding a way to make this work here are some considerations that seem both reasonable and measured based on the potential permanent impact that this development may have.

- **Parking Monitoring:** The developer has at several times stated that it will be the burden of the neighboring residents to report vehicles to the property manager. While this is certainly not ideal, it is the responsibility of the property to make this both easy to do and transparent in order to have accountability. We request that a web-based application to intake, process and close-the-loop on off-site parking violations be sourced in order to make this as easy to fulfill as possible. This database of complaints shall also be visible to the public so that violations can be monitored over time and intervention efficacy evaluated, establishing a chain of accountability.
- **Public Resources:** The suggested procedure of parking overnight on Mass Ave sets a dangerous precedent as a permanent solution. Relying on public resources to cover a deficiency in planning is something that needs to be considered at the town level. With the Lexington Hotel breaking ground soon, and likely developments of 40 units to the west and several hundred units to the east of the 1165 development, will this same affordance be offered to those residents as well? If the community is going to accept increased housing density, then the town must revisit policies such as this to ensure equitable usage of public land.

- **Penalties:** If parking overflow does become a chronic problem, placing the burden on residents, with soft eviction/no lease renewal language is unethical. It is the developer's decision to propose a design that falls short of town code, and they need to own the risk associated with that decision. As a result, it would be **more appropriate for the property manager** to incur a fine, in line with current market rates which today stand at \$100 per occurrence for non-resident parking tickets. This would create a healthy incentive for the property manager to better optimize their procedures, instead of passing the buck and blame onto residents. These funds could then be reinvested into appropriate community investments.
- **Systemic Recourse:** If parking spill-over does become a chronic problem for the neighborhood then an escalation plan needs to be in place. We would like clarity over what that threshold of burden is, and what constitute reasonable means to address it post construction. Specifically, we feel that all of the following solutions shall be on the table in the instance that the developers parking assumptions don't hold true:
 - **Extend 2nd Floor Parking:** While this suggestion was dismissed out of hand by Mr. St. Claire, it is also clear that it has not been explored. The architects involved have repeatedly stated that the industrial mélange of varying styles is a nod to the historic significance of the building, and I have full confidence in their ability to design an inviting and appropriate aesthetic. One could even imagine that the added structure could provide an opportunity for a semi-private rooftop garden above the second-floor parking benefitting the residents. In terms of the viability, the notion of proposing a 124 unit building that cannot support the required number of parking spaces feels tone deaf, especially when the developer is asking the abutters to take on the burden of that long lasting responsibility.
 - **Auxiliary Parking:** It is also possible that the operator could find ways to accommodate additional parking demand beyond the site itself, whether this is leasing spots from Arlington at the Ed Burns rink, acquiring parking spaces from the land locked parcel behind the building or providing a shuttle service to a nearby parking garage.
 - **Reduce Occupancy:** Should parking spill-over become a recurring problem, reducing the number of rentable units to achieve the proper ratio, and not reinstating those units until an effective parking plan has been successfully established.

Much like their efforts to document adjacent properties before and after construction to assess any damage, a detailed plan needs to be put forth so that we know how to respond as a community if things don't go according to plan as I am not comfortable with Mr. St. Claire's suggestion that "Things will sort themselves out", as that's just a way to pass the buck onto less fortunate community members.

In an era where new inequities are being exposed on a daily basis, we need to expect more than the bare minimum. While we support the mission of 40B and welcome sharing our neighborhood with new residents, we cannot use that as an excuse to skate by issues that may

be a new flash-point for friction in our community. ***We need to expect more from our developers and ask them to think more deeply than quick answers and flashy renderings.***

I would also like to make a few quick points regarding construction as those details are brand new and have not been discussed in as much depth to date:

- **Vibration:** Our concerns regarding the shaking and vibrations were brought up on multiple meetings (March 16, June 1), and to clarify our concern is not with the annoyance, which will be temporary in nature, but rather permanent physical damage to our property. Our house at 2 Ryder and 23 Forest Street are historical homes, with delicate loose stone foundations and the vibrations from heavy tracked machinery going down Ryder Street could compromise the structural integrity of our home. We need assurances that this will be monitored with installed devices on our foundations which is common procedure in other projects, and that tracked vehicles will not transit on Ryder Street.
- **Rodents:** Our neighborhood already has a well-documented pest problem with a clean source of drinking water from the Mill Stream and organic materials on the DPW and landscaping sites. Construction tends to displace rodents and we are very concerned that these pests will find new residences in our yards and homes. We request that the developer provide abutters pest monitoring and extermination services for the duration of the construction.
- **Traffic Management:** As our neighborhood has mentioned several times in the past, Ryder Street today is a street without controls. Mixing heavy machinery with distracted middle schoolers is a recipe for disaster. We request that a full-time traffic flag person is stationed at that intersection during active working hours in order to ensure the safe passage of pedestrians amongst the constant flow of construction vehicles.

To round out our list of concerns here are a few specifics regarding the design of Ryder Street that need to be addressed as they translate the general schematics into detailed plans:

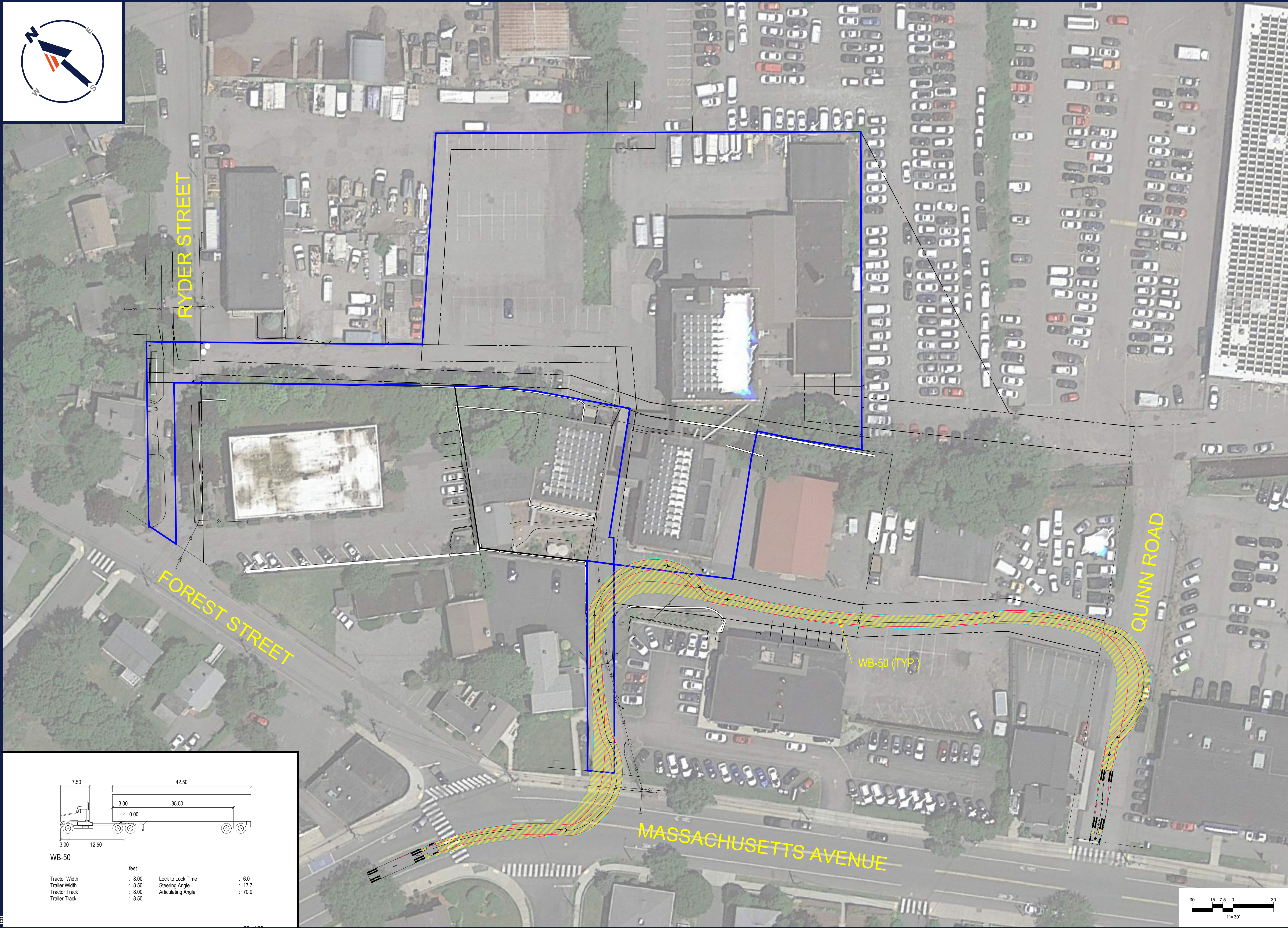
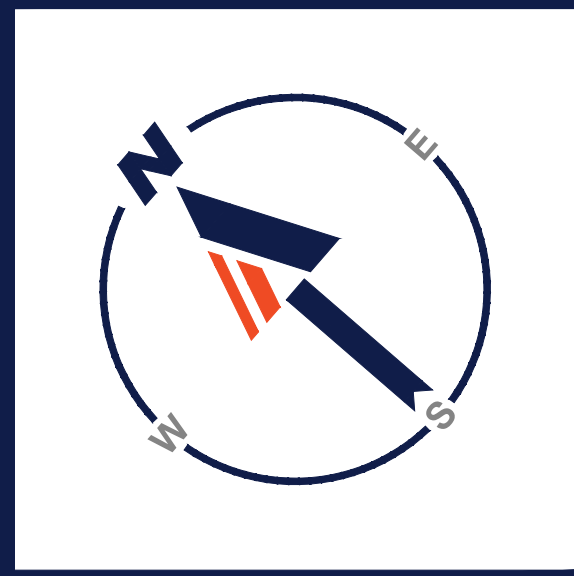
- **Grade:** We would like to ensure that when Ryder Street gets resurfaced, that the grade slopes down from the 2 Ryder Street side to the 9 Ryder Street side as it does today, to avoid flooding our entry way. We also want to confirm that sufficient drainage will be installed and maintained to ensure that the speed hump does not create a backup, as a great deal of water flows down from Forest Street onto Ryder Street today.
- **Driveway Access:** As parking on Ryder may become a chronic problem we want to ensure that the speed hump is designed in a manner that enables our residence to access our backyard at current grade. This will enable us to convert our backyard into two parking spaces.
- **Speed Hump Details:** We also request that the steepness of the speed hump be as aggressive as legally permitted to have the maximum traffic calming effect. We have experienced gradual speed humps in the past which do not slow traffic and want to ensure that we are mitigating speed as much as possible.

I would like to share my appreciation for all of the work that you and the board have invested. It is not lost on me that this is a tremendous burden to bear and that the open inclusive forum you

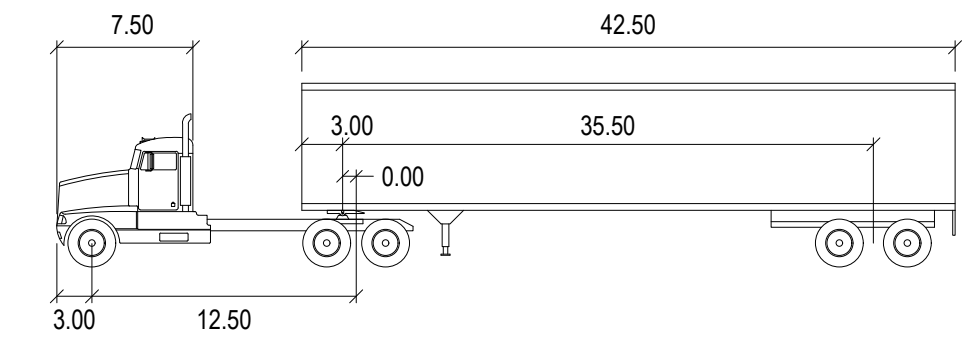
have created generates more issues than it has the capacity to resolve, but it also stands out to me as a great example of how civil engagement can look and gives me a great deal of hope in an era that seems more divisive than ever.

Sincerely,

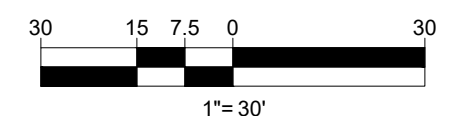
Alex



P:\191330\DRAWINGS\PLAN SETS\REV\W191330-CVL-9--LAYOUT- CONSTRUCTION ACCESS



WB-50			
	feet		
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Trailer Width	: 8.50	Steering Angle	: 17.7
Tractor Track	: 8.00	Articulating Angle	: 70.0
Trailer Track	: 8.50		



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PROJECT No.: W191330

DRAWN BY: CFD

CHECKED BY: AWP/RMM

DATE: 06/07/2021

CAD ID: W191330-CVL-9

PROJECT:

PROPOSED SITE
PLAN DOCUMENTS

FOR

1165R MASS MA
PROPERTY LLC

PROPOSED
RESIDENTIAL DEVELOPMENT

1165R MASSACHUSETTS AVE.
MIDDLESEX COUNTY
TOWN OF ARLINGTON, MA
MAP #57, BLOCK #2, LOT #10B
AND PART OF LOT #15

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MAINE LICENSE No. 13816
CONNECTICUT LICENSE No. 34116
RHODE ISLAND LICENSE No. 11425

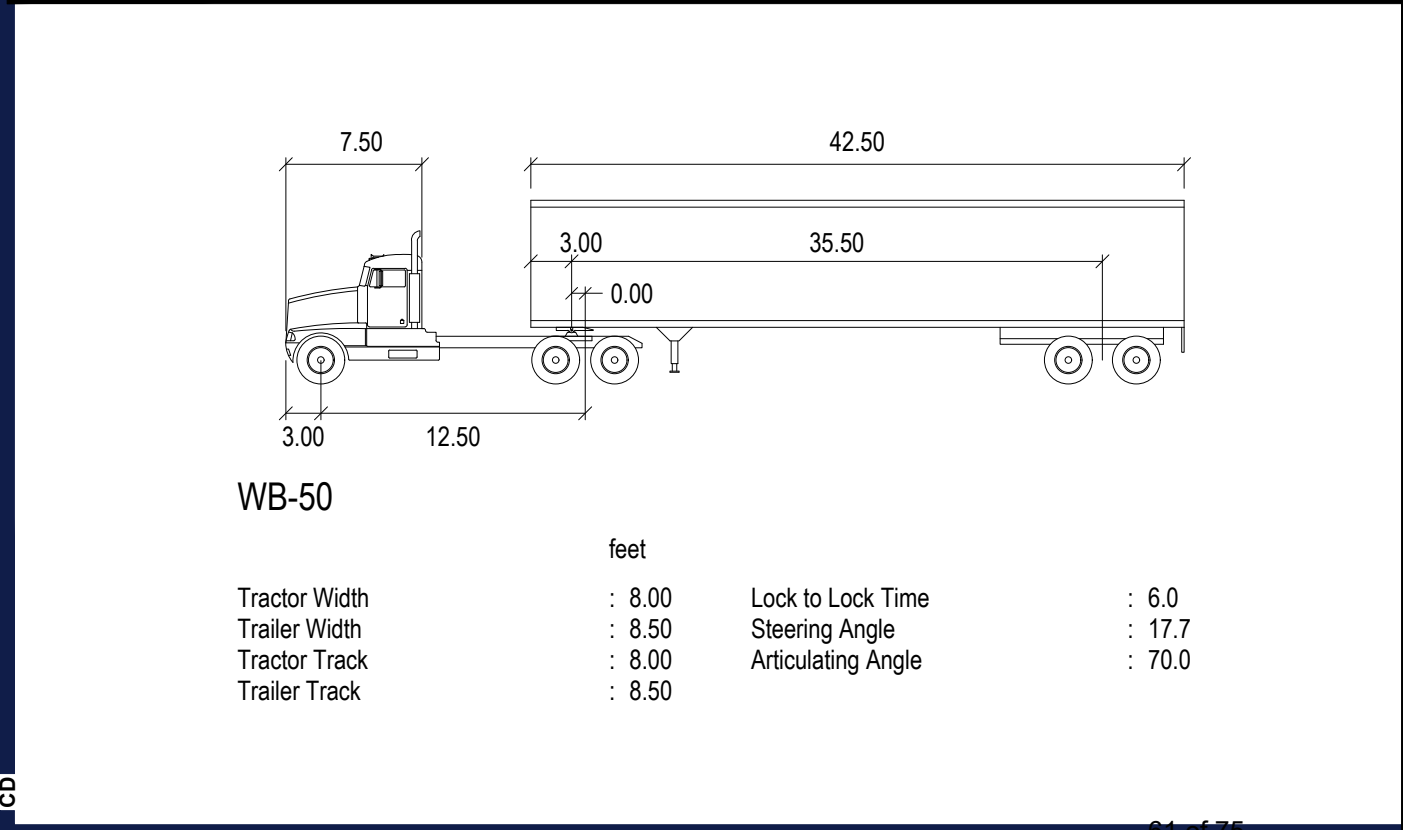
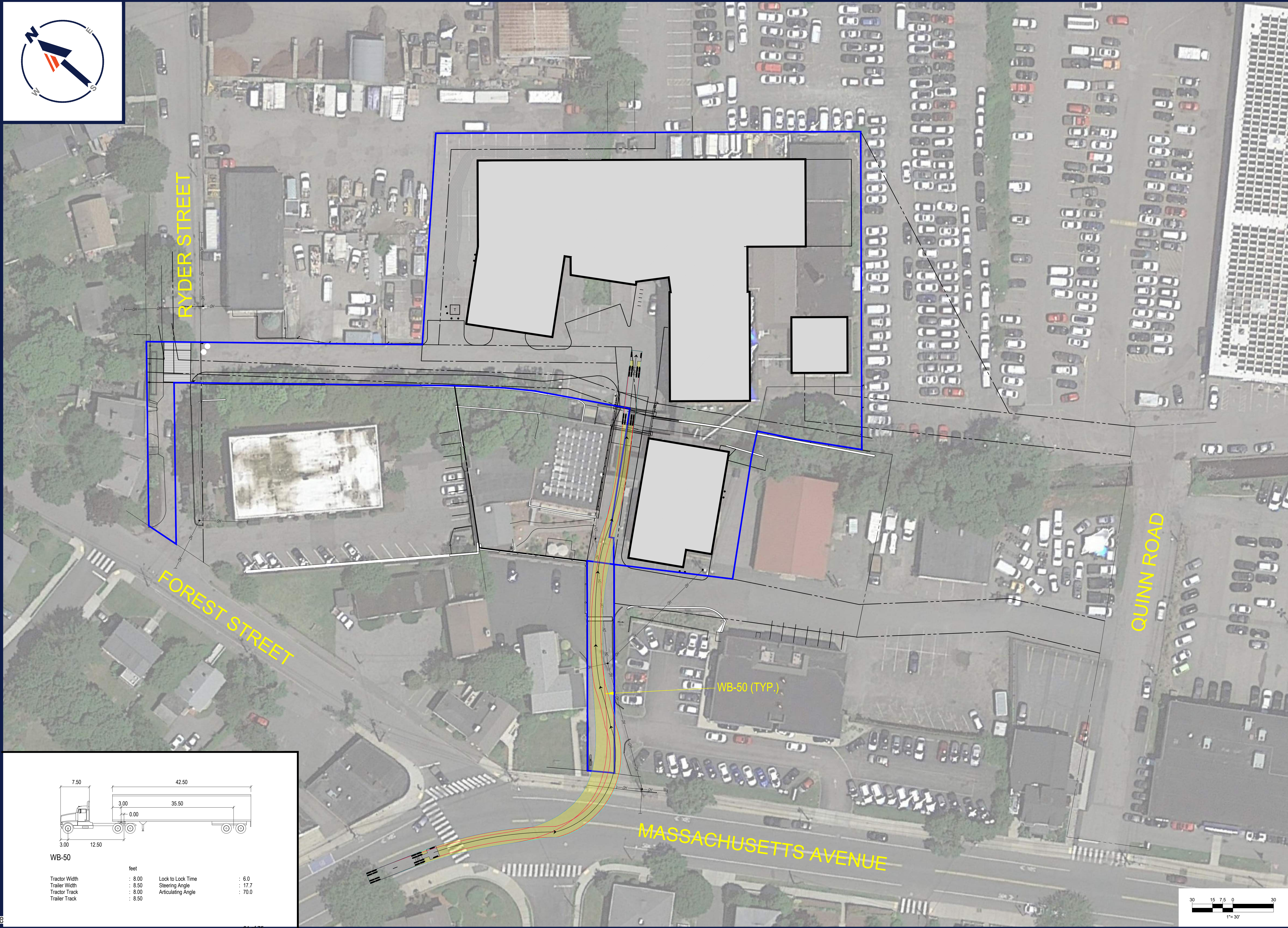
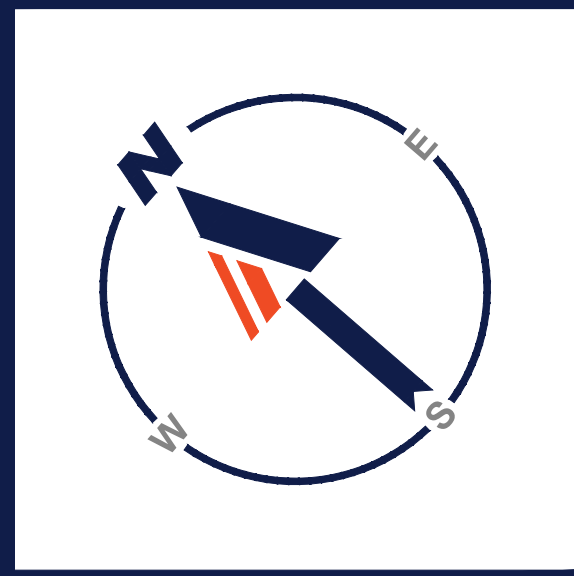
SHEET TITLE:

CONSTRUCTION
ACCESS
EXHIBIT

SHEET NUMBER:

1

ORG. DATE - 06/07/2021



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PROGRAM MANAGEMENT

LANDSCAPE ARCHITECTURE

SUSTAINABLE DESIGN

PERMITTING SERVICES

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W191330

DRAWN BY:

CFD

CHECKED BY:

AWP/RMM

DATE:

06/07/2021

CAD ID:

W191330-CVL-9

PROPOSED SITE
PLAN DOCUMENTS

FOR

1165R MASS MA
PROPERTY LLC

PROPOSED
RESIDENTIAL DEVELOPMENT

1165R MASSACHUSETTS AVE.
MIDDLESEX COUNTY
TOWN OF ARLINGTON, MA
MAP #57, BLOCK #2, LOT #10B
AND PART OF LOT #15

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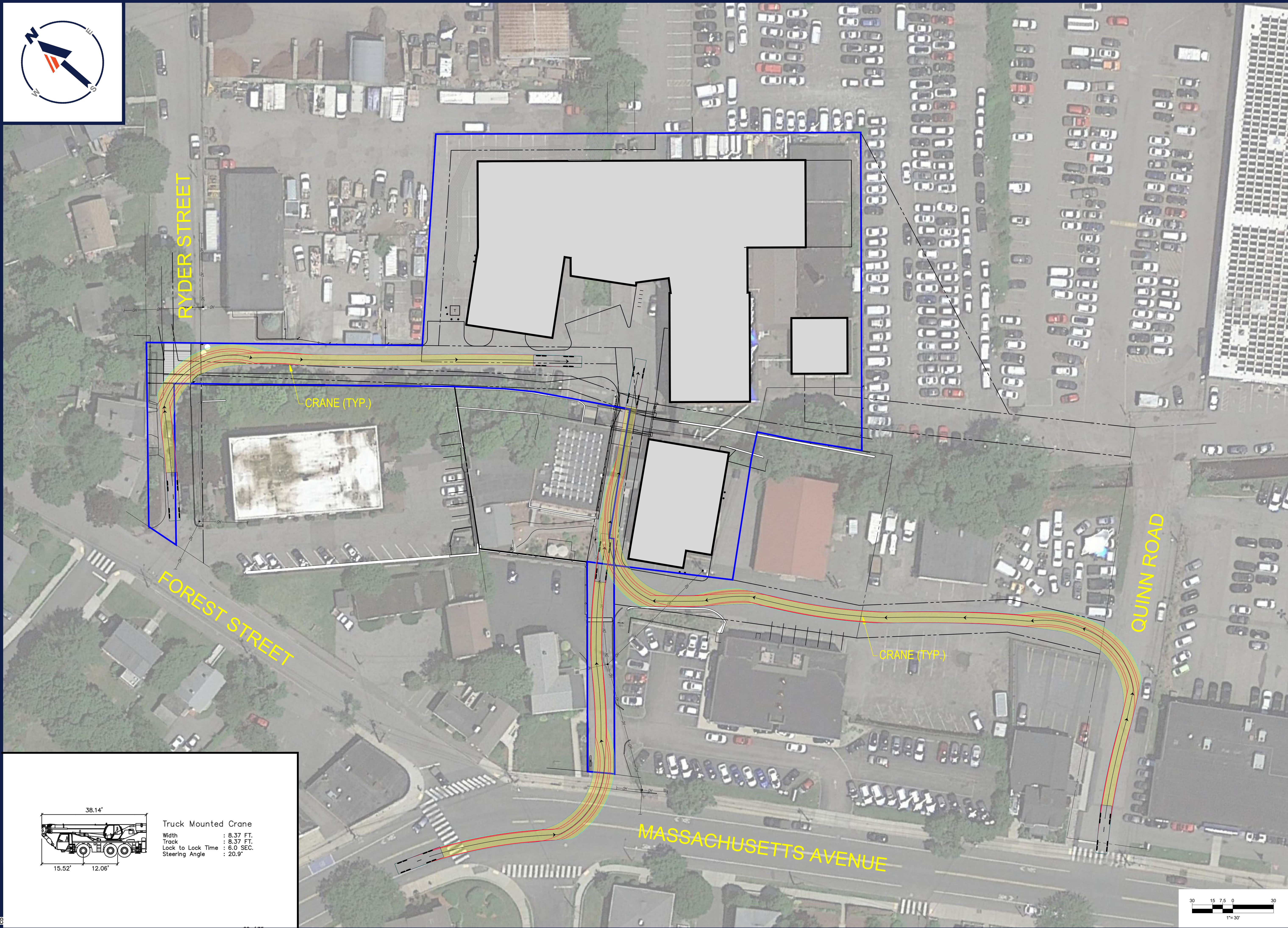
SHEET TITLE:

CONSTRUCTION
ACCESS
EXHIBIT

SHEET NUMBER:

1

ORG. DATE - 06/07/2021



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PROJECT No.:

W191330

DRAWN BY:

CFD

CHECKED BY:

AWP/RMM

DATE:

06/07/2021

CAD ID:

W191330-CVL-9

PROJECT:

PROPOSED SITE
PLAN DOCUMENTS

FOR

1165R MASS MA
PROPERTY LLC

PROPOSED
RESIDENTIAL DEVELOPMENT
1165R MASSACHUSETTS AVE.
MIDDLESEX COUNTY
TOWN OF ARLINGTON, MA
MAP #57, BLOCK #2, LOT #10B
AND PART OF LOT #15

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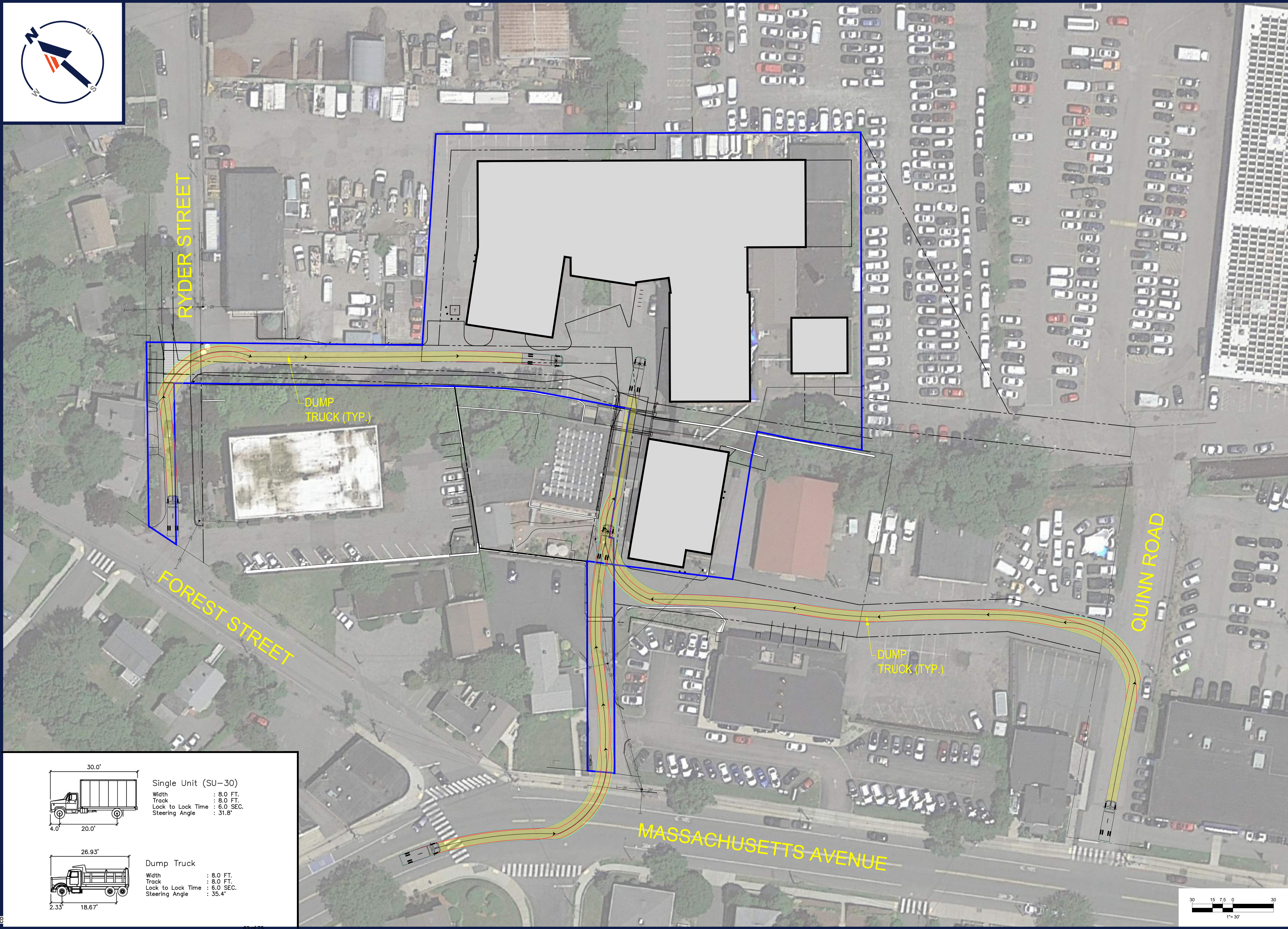
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PROJECT No.: W191330

DRAWN BY: CFD

CHECKED BY: AWP/RMM

DATE: 06/07/2021

CAD ID: W191330-CVL-9

PROJECT:

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FOR

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KRATTENMAKER O'CONNOR & INGBER P.C.

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CHARLES G. KRATTENMAKER, JR.
MARY WINSTANLEY O'CONNOR
KENNETH INGBER

OF COUNSEL: RAYMOND SAYEG

June 8, 2021

VIA EMAIL

Christian Klein, Chairperson
Arlington Zoning Board of Appeals
51 Grove Street
Arlington, MA 02476

Re: 1165R Massachusetts Avenue, Arlington, MA

Dear Chairperson Klein:

Thank you for your email of June 2, 2021.

I have consulted with my client and respond to the items as follows:

- Scheduling construction deliveries around those times children will be utilizing Ryder Street to walk to Ottoson Middle School.

Response: The applicant would agree that Ryder Street would not be used for deliveries on school days between the hours of 7:30 a.m. to 8:30 a.m. and 3:00 p.m. to 4:00 p.m.

- Communication with abutters and Ottoson administration concerning construction.

Response: The applicant will provide via email or a link to the project website information several weeks in advance regarding construction activities, a "look ahead", so-called.

- Protection of properties adjacent to the project on Ryder Street and the Massachusetts Avenue right-of-way during construction.

Response: The applicant will do a survey of adjacent properties on Ryder Street and the Massachusetts Avenue right-of-way, which will include photographs preconstruction and postconstruction. The applicant intends to utilize vibration monitoring devices, which will be routinely monitored to measure vibration.

- Can trucks making construction deliveries to the project site make the necessary turns for all three access points, Ryder Street, Quinn Road and the Massachusetts right-of-way?

KRATTENMAKER O'CONNOR & INGBER P.C.

Christian Klein, Chairperson
June 8, 2021
Page 2

Response: Please see the truck movements prepared by Bohler Engineering confirming access and turning radiuses from all three entry points.

- Are there paths through adjacent properties that would be available for utilization to avoid turns at Ryder Street and Quinn Road?

Response: No benefit would be achieved by accessing the project site via the Lalicatta or Town-owned sites as access is still via Ryder Street. There may perhaps be a benefit to accessing the project site from Mirak Chevrolet. The applicant had previously inquired as to this and was told that it will be permitted on an infrequent basis.

- Will the applicant monitor traffic exiting the property at Ryder Street to ensure that prospective residents do not take a right turn onto Ryder Street in violation of the no right turn sign to be installed?

Response: The applicant cannot monitor the situation. This is not feasible. The applicant has, however, committed to: (a) include in the transportation package provided to residents information which will include the restrictions discussed, specifically, no resident or guest parking on Ryder Street and no right turn onto Ryder Street; (b) promptly having the onsite property manager address with any resident any reported infractions, including providing written warnings to the resident; and (c) advising residents, who persist after warnings, that their lease will not be renewed when it terminates.

- How will guest parking be managed?

Response: Guest parking, as with all parking onsite, will be actively managed by the onsite property manager. All overnight guest parkers will be required to register their vehicles with the property manager in advance and will have an assigned parking space. Guest parking onsite will be on a first-come, first-serve basis. Residents will also avail themselves of the on-street parking permitted by the Town as confirmed by Officer Rateau.

There are four short-term parking spaces in the courtyard intended for short-term parking during weekdays by taxis, rideshare vehicles, delivery trucks and other visitors who intend to remain one hour or less.

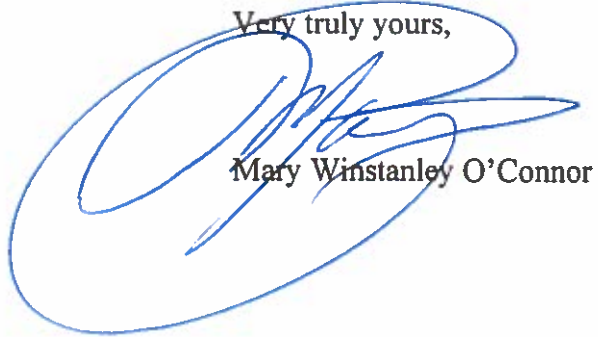
I believe this letter addresses the points raised in your email of June 2, 2021. Please do not hesitate to contact me if you require additional information.

KRATTENMAKER O'CONNOR & INGBER P.C.

Christian Klein, Chairperson
June 8, 2021
Page 3

I thank you.

Very truly yours,

A large, stylized handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

Mary Winstanley O'Connor

MWO/ccg
6926

cc: Patrick Hanlon, Vice Chairperson (via email)

Dear Chair Klein:

I received a copy of the Arlington Transportation Advisory Committee report to the Zoning Board dated June 8, 2021 and I direct the members of the Board's attention to paragraph 2(c) where the language appears "Clarify if bike traffic can use the West Driveway to access Mass Ave, as the site access diagram in the updated TIR appears to show two-way traffic for "local bicycle site access". If this is the case, install "Except Bikes" placards on "Do Not Enter" or turn restriction signs, and recommend installation of sharrows or a contraflow bike lane to accommodate this movement, (given the travel lane is 20' wide, this condition is not as risky as the one shown for the Ryder Street driveway)."

Evidently, the members of the Arlington Transportation Advisory Committee were not aware of the existence of the utility pole in the West Driveway (the right of way abutting my property at 1171 Massachusetts Avenue) directly across from the front door leading to my building because if they were aware of the existence of the pole at the time they wrote their report they would have mentioned the existence of the pole and not indicated that the width of the way was 20'.

The width of the private way abutting my property is more like 13 to 15' and I suggest to the members of the Zoning Board that the width of the way is determined not by what may show up on a plan indicating a 20' wide width but what is actually on the ground when one takes a view of the right of way and the location of the utility pole in the right of way.

Similarly, the report of the Town Engineer dated March 19, 2021 to Kelly Lynema, Senior Planner, makes no mention of the existence of the utility pole in the right of way and the restricted width of the way as a result of the existence of the pole and the impact of the lessened width of the way on traffic flow for in and out traffic for Mirak Hyundai, Yukon Realty and my limited traffic as well as the new traffic which would be generated by the development coming in off of Massachusetts Avenue through the way for the purpose of gaining access to the development which as I have indicated previously, is the most direct route to the development as compared and contrasted with the public way identified as Quinn Road.

Any traffic entering the development from Quinn Road will need to make a turn off of Mass Ave, traveling down Quinn Road and then make a left and then subsequent right turn before reaching the development.

Which route does one reasonably believe a motorist will take to gain access to the development, the West Driveway or through Quinn Road when access through the right of way requires no turns, but is a straight access?

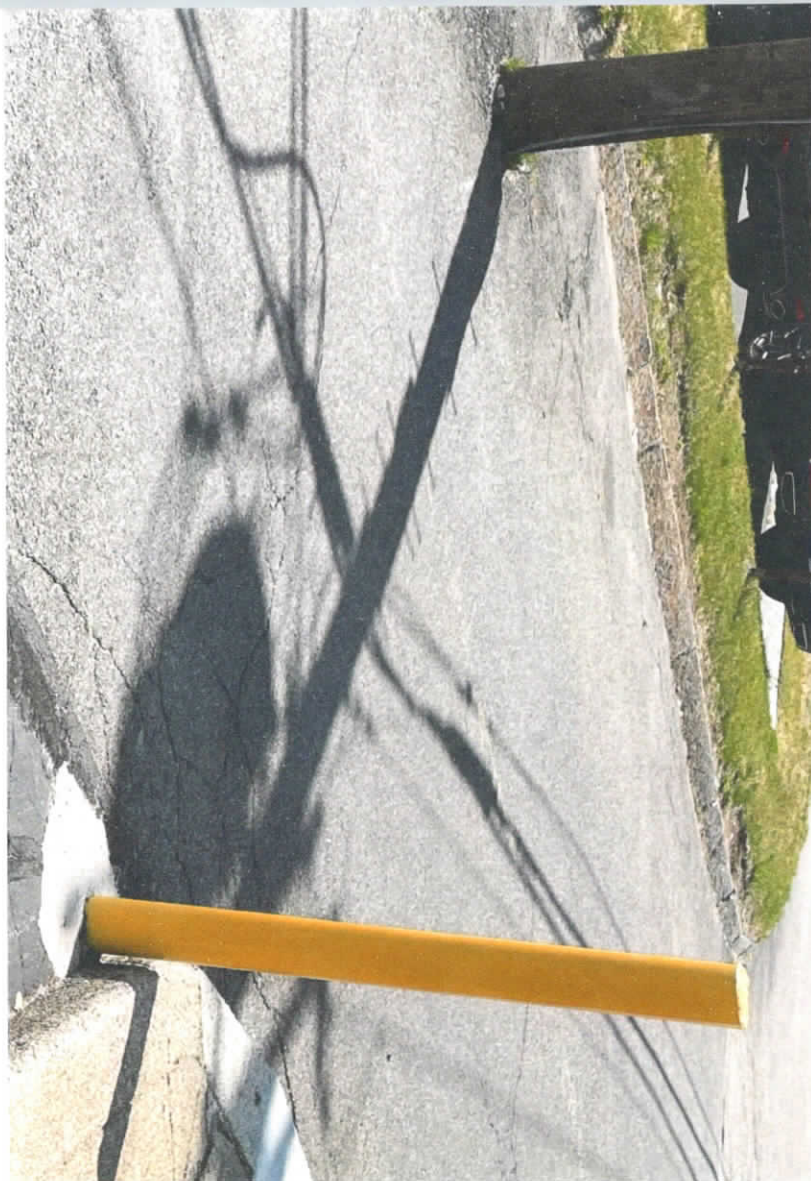
I am truly surprised that there have not been more comments by the members of the Arlington Transportation Advisory Committee and/or the Engineering Department with respect to the existence of the utility pole in the right of way particularly so with respect to pedestrian travel as well as motor vehicle traffic (whether trucks or cars) safety issues and the legal distinction between a private right of way and a public way (Quinn Road) with respect to what can be constructed and or included in a private right of way without the consent of the abutters to the way.

It is interesting to note that the very sidewalk abutting the right of way and my property is used mostly by individuals using the Work Bar premises which is of course owned by the Applicant in a different owner entity.

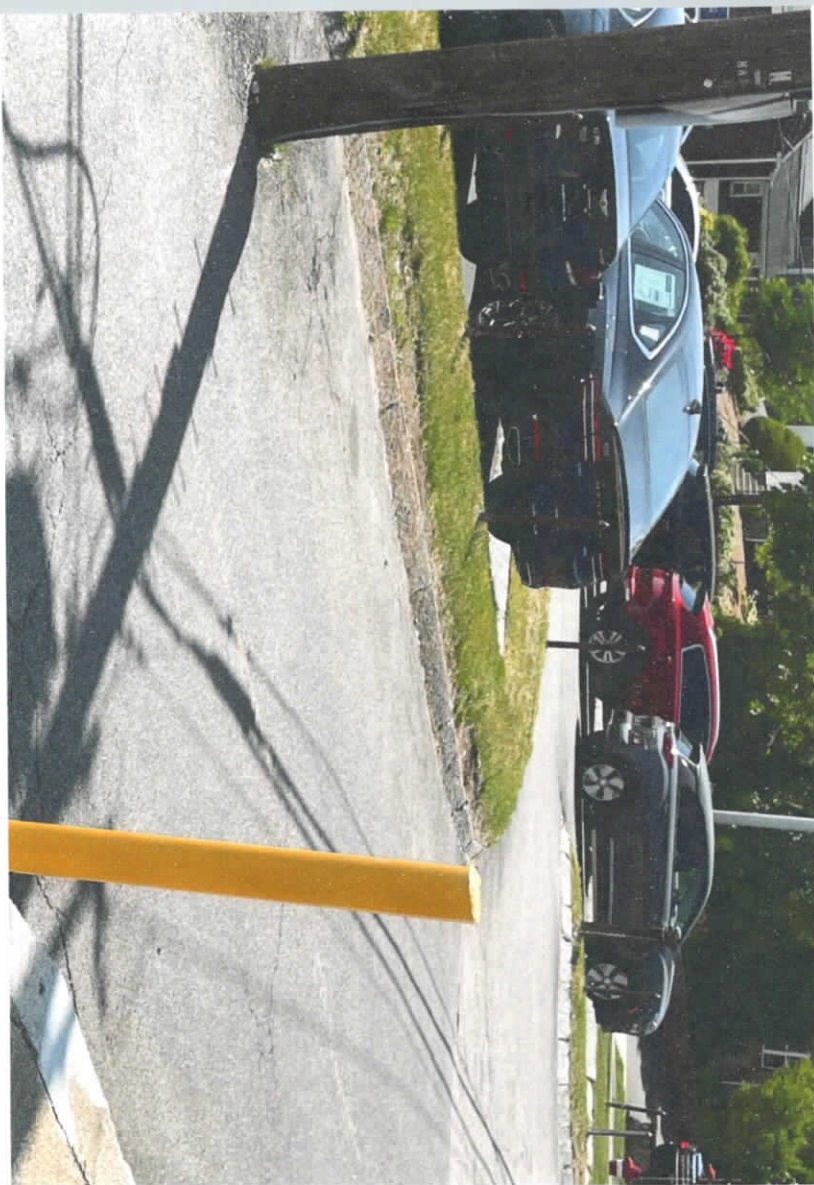
Lastly, the comment in the Arlington Transportation Advisory Committee report recommending installation of "sharrows or a contraflow bike lane" in the right of way would be an invitation to a safety disaster given the narrow width of the right of way and the proximity of the very busy entrance and exit opening to the Mirak Hyundai premises and the very busy flow of traffic traveling from behind the Mirak Hyundai property up into the right of way for access either to the Mirak Hyundai property or Massachusetts Avenue.

Thank you,

Robert J. Annese



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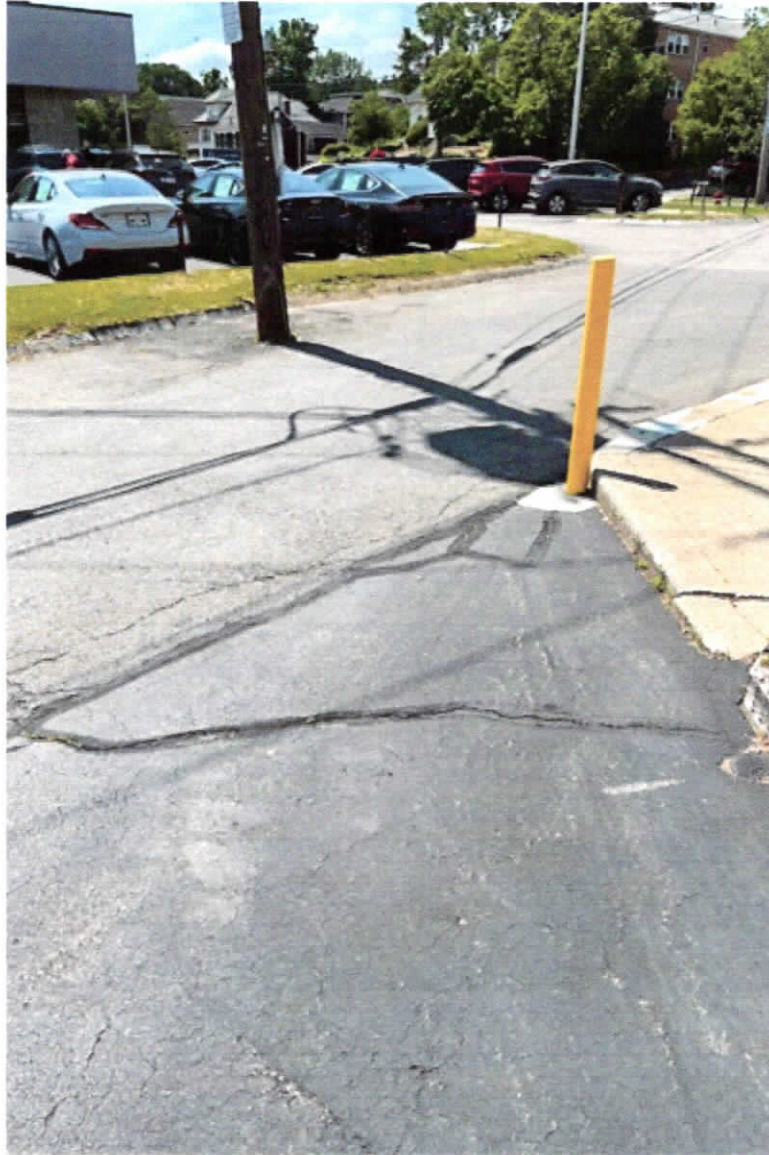


#2





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#6

