

ZBA Case No.: 956A Address 5 Forest



### APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41, and the Littleton Zoning Bylaws

#### TOWN USE ONLY Received by the Town Clerk Office

received

9/10/2021 8:30 AM

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 405 Check # 127

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

  
Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

- Appeal of Decision of Building Inspector or other administrative official (see page 2)
- Special Permit (40A) (see page 2)
- Variance (see page 3)
- Comprehensive Permit (40B) Complete additional application (see page 2)

PETITIONER: Signature Marian M. Bartholomy Date: 8/31/21  
Print Name MARIAN M. BARTHOLOMY Phone # (781) 648-0698  
Address 5 FOREST RD Email Address screamingmimi@outlook.com  
Town, State, Zip LITTLETON, MA 01460 Deed Reference: Bk \_\_\_\_\_ Page \_\_\_\_\_

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned  
Signature Daniel J. Dunn Date: 8/31/21  
Print Name (if different from petitioner) Daniel J. Dunn Phone # (781) 648-0698  
Address (if different from petitioner) 5 Forest Rd, Littleton, MA 01460 Email dandunn68@gmail.com

#### ASSESSOR MAP & PARCEL NUMBER

ZONING DISTRICT: R VC B IA IB (Circle all that apply)

Check box if  AQUIFER DISTRICT  
applicable

WATER RESOURCE DISTRICT

**FEES**  
Residential Property \$200 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$ 405  
Commercial Property \$350 filing + \$105 recording fee + \$25 abutter list + \$75 public hearing notice = \$ 405  
Comprehensive Permit \$1000 + \$100/unit over 10 units  
Please make check payable to Town of Littleton

## Appeal

Under MGL c. 40A § 8

The undersigned hereby appeals a written order or decision of the Building Commissioner / Zoning Officer or other administrative official alleged to be in violation of the provisions of MGL c. 40A or the Zoning By-laws to the Board of Appeals for the Town of Littleton.

1. From what Town Official or Board is the appeal being sought?  
*Mandatory: Attach copies of written order or decision under appeal*

Administrative Official \_\_\_\_\_

Date of order / decision \_\_\_\_\_

2. Which statute or Zoning Bylaw do you rely for your appeal?

MGL c.40A § \_\_\_\_\_ Zoning Bylaw § \_\_\_\_\_ Code of Littleton § \_\_\_\_\_  
*You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.*

3. I hereby certify that I have read the Board of Appeals Instructions for Appellants and that the statements within my appeal and attachments are true and accurate to the best of my knowledge and belief.

Signature \_\_\_\_\_

Print name \_\_\_\_\_

## Special Permit 40A

Under MGL c. 40A § 9

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to grant a Special Permit for the reasons hereinafter set forth and in accordance with the applicable provisions of the Zoning By-law.

1. Special Permits are expressly permitted in the Zoning Bylaws. Which Zoning Bylaw section do you rely for your appeal?  
*Zoning Bylaw § \_\_\_\_\_*

2. Why are you applying for a Special Permit? Attach a written statement that specifically describes existing conditions and your objectives, along with necessary exhibits as listed in the filing instructions. *You may also consider whether you qualify for relief under any other authority of the Board to grant a variance.*

3. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under

## Special Permit 40B

Under MGL c. 40B

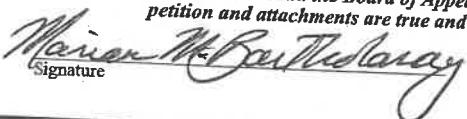
M.G.L.c40B

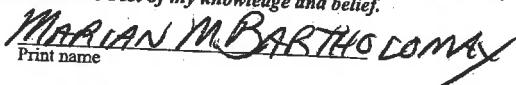
## Variance

Under MGL c. 40A §. 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173-192 Intensity of Use Schedule (p.77)
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?  
*Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.*
3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning Bylaws.  
*Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.*
4. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

  
Signature

  
Print name

## Filing Instructions

1. **IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION.** He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.
2. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.
3. Necessary Exhibits— provide 3 copies and an electronic copy of the following with the completed application:
  1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show:
    - A) metes and bounds of the subject land
    - B) adjacent streets and other names and readily identifiable landmarks and fixed objects
    - C) dimensional layout of all buildings
    - D) distances and setbacks from the various boundaries
    - E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
    - F) direction of North
    - G) the name of each abutting property owner
  2. Copy of the latest recorded deed
  3. A written statement which details the basis for your petition
  4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem
  5. In cases pertaining to signs, a scale print of the sign lettering and colors
  6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
  7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
  8. The date of the building construction and the history of ownership are useful in finding facts about the case

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month. The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules.

## General Information

### What authority does the Board of Appeals have?

The Board of Appeals obtains its authority under the Massachusetts General Laws Chapter 40A §14 and the Town of Littleton's Zoning By-law 173-6 to hear and decide *appeals*, to hear and decide applications for *Chapter 40A special permits*, and to hear and decide petitions for *variances*. The Board of Appeals also hears and decides applications for *special permits for low and moderate income housing* under Massachusetts General Laws Chapter 40B Sections 20, 21, 22, and 23.

### What is an Appeal?

Pursuant to Massachusetts General Laws Chapter 40A §8 and Littleton Zoning By-law 173-6 B(3) and 173-6 B(5) the Board of Appeals hears and decides appeals by any person aggrieved by any *written* order or decision of the Zoning Enforcement Officer or other administrative official in violation of any provision of Massachusetts General Laws Chapter 40A or the Littleton Zoning By-laws. Building permits withheld by the Building Commissioner acting under MGL C. 41, §81Y as a means of enforcing the Subdivision Control Law may also be issued by the Board of Appeals. Action taken by the Building Commissioner acting under the Code of Littleton Chapter 152 will also be heard by the Board of Appeals. If the Zoning Enforcing Officer or other administrative official does not issue a written order or decision, the Board of Appeals will not hear the appeal. Appeals from the written decisions of the Zoning Enforcement Officer or other administrative official must be filed with the Office of the Town Clerk pursuant to Massachusetts General Laws Chapter 40A Section 15 within thirty (30) days from the date of the written order or decision which is being appealed. Failure to file a timely appeal is fatal.

### What is a Chapter 40A Special Permit?

Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-laws provide that other uses are not allowed in certain zoning districts, and that specific types of uses shall only be permitted in specified zoning districts upon the issuance of a Special Permit from the Board of Appeals pursuant to Massachusetts General Laws Chapter 40A § 9, 9A, and 9B. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the By-law, and may be subject to general or specific provisions set forth therein, and such permits may also impose conditions, safeguards and limitations on time of use. A Special Permit, unlike a Variance, may be conditioned by limiting its duration to the term of ownership or use by the Applicant. When a Special Permit application is accompanied by plans or specifications detailing the work to be undertaken, the plans and specifications become conditions of the issuance of the permit. Therefore, once a Special Permit is granted, modification of the plans or specifications require as a prerequisite, modification of the Special Permit through the filing of a successive Special Permit application. No building permit may be issued by the Building Commissioner for a use or structure that requires a Special Permit until 1) a Special Permit has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Special Permit has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. No party is entitled "as a matter of right" to a Special Permit. The Board of Appeals, in the proper exercise of its discretion, is free to deny a Special Permit even if the facts show that such a permit could be lawfully granted. Special Permits 40A shall lapse 24 months following the granting unless substantial use or construction has commenced.

### What is a Chapter 40B Special Permit?

Chapter 40B is a state statute, which enables local Boards of Appeals to approve affordable housing developments under flexible rules if at least 25% of the units have long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by local approval processes, local zoning, and other restrictions. Its goal is to encourage the production of affordable housing in all communities throughout the Commonwealth. Special Permits 40B shall lapse 3 years from the date the permit becomes final unless construction authorized by a comprehensive permit has begun, or unless specifically noted otherwise in the permit by the Board of Appeals.

### What is a Variance?

A Variance is a waiver of the zoning rules adopted by the Citizens of Littleton at Town Meeting. A Variance may be granted pursuant to the Littleton Zoning By-laws and Massachusetts General Laws Chapter 40A Section 10. Accordingly, it is only in rare instances and is distinguished from a Special Permit. The Variance is used to authorize an otherwise prohibited use or to loosen dimensional requirements otherwise applicable to a structure. No person has a right to a Variance. Variance of "use" is almost never granted by the Board of Appeals. Variance of "dimensional" requirements is granted in rare occasions. The Board of Appeals has no discretion to grant a Variance unless the petitioner provides evidence, and that the Board of Appeals determines that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. Even if the Board of Appeals find that such hardship exists, it may exercise its discretion and not grant a Variance. No building permit may be issued by the Building Commissioner for a use or structure that requires a Variance until 1) a Variance has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Variance has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. Rights authorized by a Variance must be exercised within 1 year of granting, or said variance shall lapse.

Marian M Bartholomay  
Daniel Dunn  
5 Forest Road  
Littleton, MA 01460

August 17, 2021

To the Town of Littleton Zoning Board of Appeals,

I would like to apply for a variance for a replacement shed that we need to build. When we bought the house in 2013, the home came with a pre-existing pre-fabricated shed. Last winter/early spring, the back of shed collapsed. We removed the shed for safety reasons, and the shed material was disposed of through Hunter waste disposal in Littleton. In the interim, we have had to store all of the yard maintenance supplies in our garage, thus rendering it unusable on one side. This has not been problematic during the good weather, but we want to place a replacement shed before the winter so our cars can be protected from the snow. We intend to erect the replacement shed on the same footprint as the pre-existing shed; using the same site prep as before. The proposed Reeds Ferry shed will be much sturdier and more attractive, and we consider it to be a great improvement to the look of the yard.

We have applied for a permit, and both Conservation and the Board of Health have signed off on the permit. [ The old shed did not interfere at all with our septic system, nor did it pose any issues to the environment. Since the new replacement shed will be in the same location, we do not expect this to change.] Unfortunately, the site does not meet the 10 foot set back guidelines in the 2015 town bylaws, so we were asked to apply for a variance. During this process, we were asked if there were other places on the property where we could build a shed. Unfortunately, this is literally the only location that we can place it. Regardless of the pre-existing site prep, there simply are no other places to put it. The front of our house contains the leach field, and there are wetlands beyond that. There is not enough room to accommodate a shed in the small strip of yard behind our house. The corner of our back yard is the only area we can place it. If we push it further into the yard, then it will overlap and possibly interfere with the septic system. Beyond the septic system is a tree and patio walkway, so we cannot place it there.

Not thinking there would be an issue replacing a pre-existing shed, we paid for half of the shed upfront as a deposit. We are begging you to grant us this variance so we can have our garage back, have a place to store all of our lawn equipment, and so that the significant deposit we made does not go down the drain.

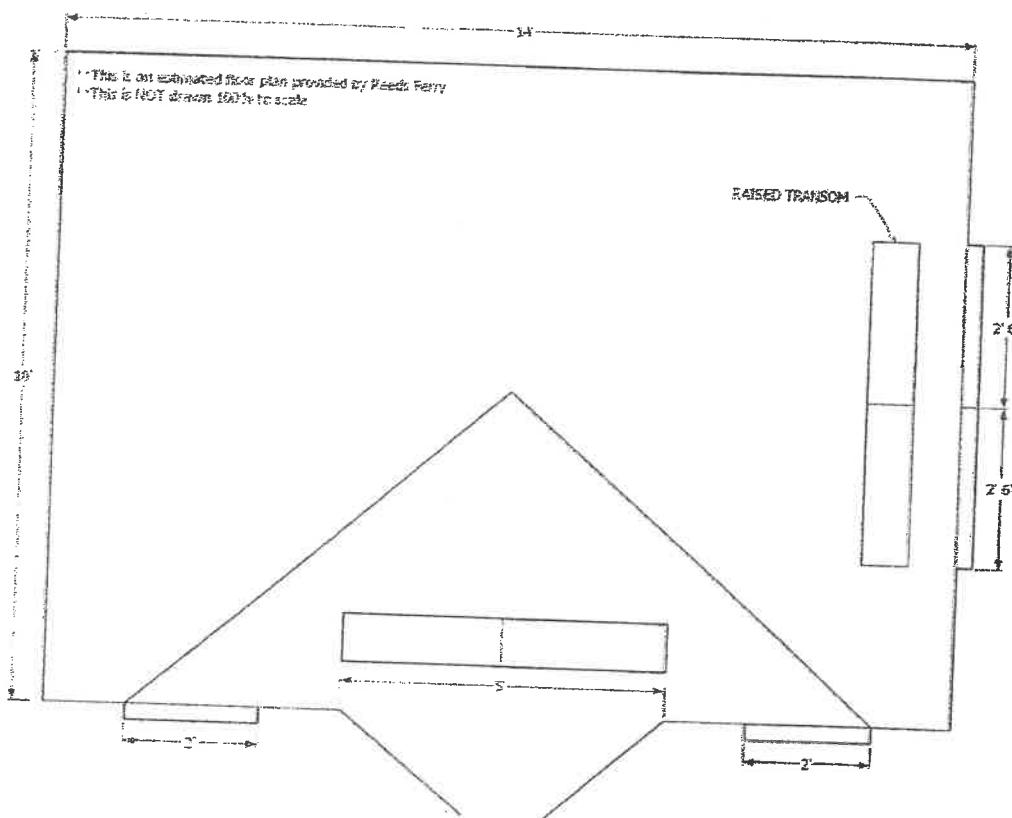
Respectfully,

Marian M. Bartholomay

*Marian Bartholomay 8/17/21*

Daniel J. Dunn

*Daniel J. Dunn*



# Middlesex South Registry of Deeds

## Electronically Recorded Document

This is the first page of the document - Do not remove

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### Recording Information

Document Number	:	111782
Document Type	:	DEED
Recorded Date	:	May 17, 2021
Recorded Time	:	01:45:13 PM
Recorded Book and Page	:	77791 / 173
Number of Pages (including cover sheet)	:	3
Receipt Number	:	2660607
Recording Fee (including excise)	:	\$155.00

\*\*\*\*\*  
MASSACHUSETTS EXCISE TAX  
Southern Middlesex District ROD # 001  
Date: 05/17/2021 01:45 PM  
Ctrl# Doc# 00111782  
Fee: \$0.00 Cons: \$100.00  
\*\*\*\*\*

Middlesex South Registry of Deeds  
Maria C. Curtatone, Register  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

Space Reserved for County Records Office

DEED

Marian M. Bartholomay a/k/a Marian Bartholomay, married, of Littleton, Massachusetts, in consideration of less than one hundred and 00/100 (US \$100) dollars and other good and valuable consideration, grant to Marian M. Bartholomay and Daniel J. Dunn, wife and husband, as tenants by the entirety, of 5 Forest Road, Littleton, MA 01460,

with *QUITCLAIM COVENANTS*

The land with the buildings thereon in Littleton, Middlesex County, Massachusetts being shown as Lots 1160 to 1165, inclusive, on a plan of land recorded with the Middlesex South District Registry of Deeds in Book of Plans 362, Plan 26.

Subject to deed restriction duly recorded with, the Middlesex South District Registry, of Deeds in Book 1 53712, Page 528 that the premises shall not contain in excess of two (2) bedroom spaces.

Subject to easements, restrictions and covenants of record if they affect the locus and are in full force and effect, expressly not intending nor meaning to extend the same in the event that they have expired by operation of law or otherwise.

Meaning and intending to convey the same premises conveyed to Grantor by deed from Glenn P. Nygard dated October 31, 2013 and recorded with the Middlesex South Registry of Deeds at Book 62867, Page 181.

[REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

The signatory herein, Marian M. Bartholomay, hereby reserves and affirms all rights of homestead in the within granted premises.

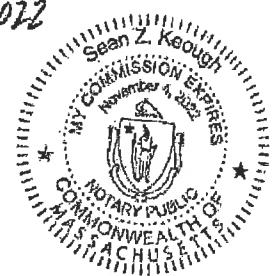
Witness my hand to this 12<sup>th</sup> day of May, 2021.

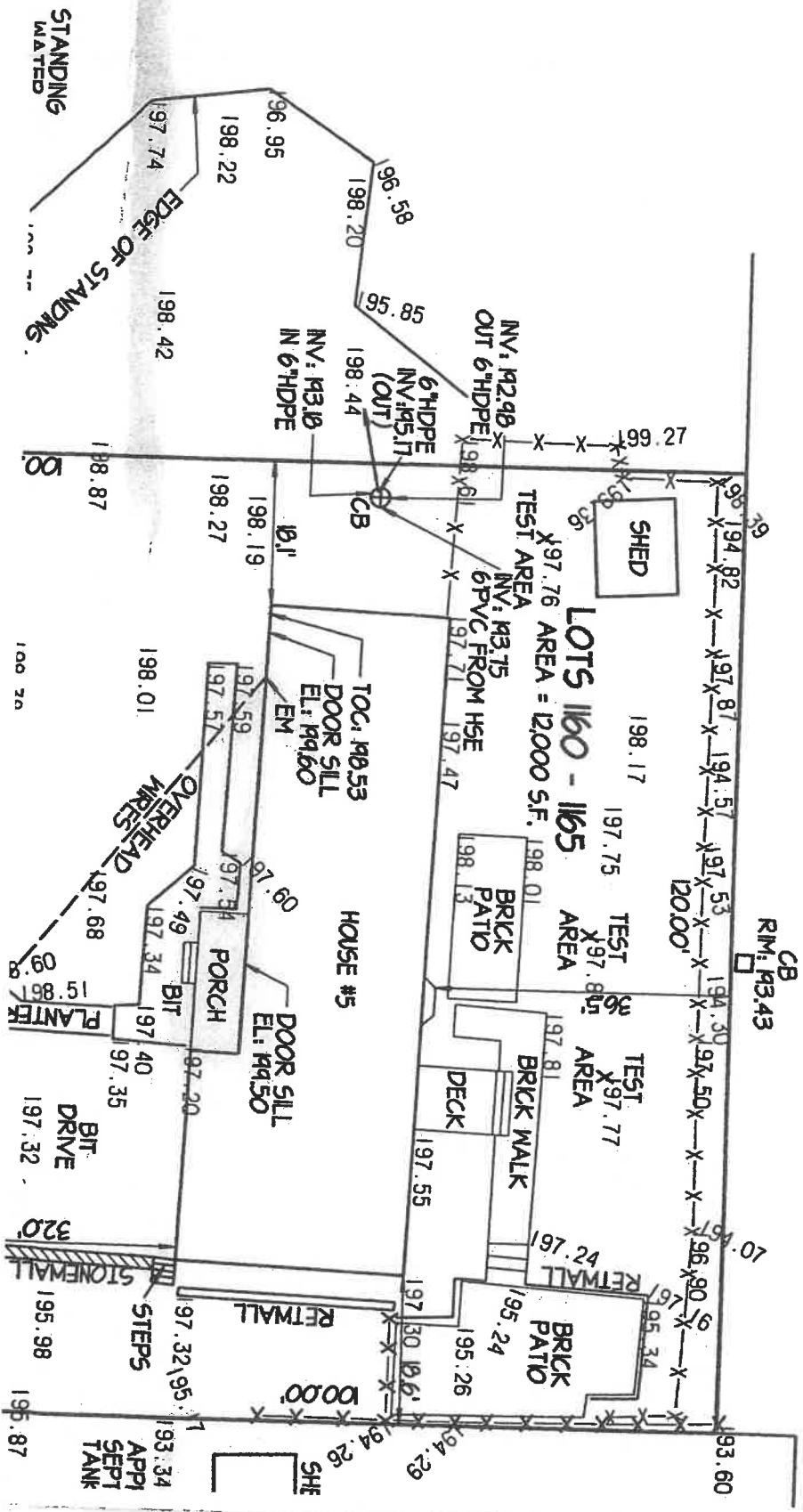
Marian M. Bartholomay  
Marian M. Bartholomay

Commonwealth of Massachusetts  
Middlesex County, ss

On this 12<sup>th</sup> day of May, 2021, before me, the undersigned notary public, personally appeared Marian M. Bartholomay, proved to me through satisfactory evidence of identification, which was/were a valid  State Driver's License  U.S. Passport or  Other Federal or State Governmental Identification Card, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Sean Z. Keough  
Notary Public  
My commission expires: 11/4/2022





DEED REF :  
BOOK 5R21 PAGE 454  
PLAN REF :  
PLAN BOOK 382 PLAN 26  
ASSESSORS REF :  
MAP UNIT PARCEL 201  
ZONE : RESIDENTIAL  
MIN. LOT AREA : 40,000 SQ.FT.  
MIN. LOT FRONTAGE : 50'  
MIN. DIMENSIONAL SETBACKS  
FRONT YARD : 30'  
SIDE YARD : 15'  
REAR YARD : 15'

PLOT PLAN  
5 FOREST ROAD  
LITTLETON, MA

PLAN FOR:  
BRIAN BOONE

SCALE 1" = 20'  
04/10/09

גנ-3



THIS PROPERTY IS NOT LOCATED IN ZONE "A"  
AREA OF SPECIAL FLOOD HAZARDS AS SCALDED  
FROM FIRM, COMMUNITY PANEL NO. 20200  
EFFECTIVE DATE: JUNE 15, 1983  
S. J. ALEXANDER, Surveyor  
PROFESSIONAL LAND SURVEYOR  
DATE: 4/10/85

120.00 FOREST ROAD



## Town of Littleton

DATE:

9/10/2021

## 176 - Appeals

## **Schedule of Departmental Payments to the Treasurer**

Source/From Whom	Account Name	Account Number	Amount
Case 956A/5 Forest Bartholomy	-- Board Receipts	00011763-432000	ZBAFEE \$200.00
	-- Town Clerk Recording	--	CLK FEE \$105.00
	-- Assessors - abutter	--	BOA FEE \$25.00
			\$75.00
<b>MARIAN M BARTHOLOMAY</b> <b>DANIEL J DUNN</b> 5 FOREST RD. LITTLETON, MA 01460-1813		5-7017/2110	<b>127</b>
		DATE <u>9/8/02</u>	
PAY TO THE ORDER OF	Town of Littleton	\$ 405.00	
	Four hundred & five 00/100	DOLLARS	<small>Security Features Details on Back</small>
<b>Citizens™</b>			
MEMO Variance			
1102110701750	14021070881	0127	

**TOTAL Turnover** **\$405.00**

Credit	\$	
Cash	\$	
Checks	\$	405
<b>TOTAL</b>	<b>\$</b>	<b>405.00</b>

**Must equal total above**

The above listed receipts, collected by the Committee/Department have been turned over to the Treasurer.

Janet Jauch  
Committee/Department Signature  
Committee/Department the total as listed above.

9/10/21

Committee/Department Signature

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**Treasurer's Office Signature**

Date

**Please make three copies and distribute:**

**Copy #1 - Treasurer  
Copy #2 - Accountant  
Copy #3 - Your Records**

TOWN OF LITTLETON

REQUEST FOR CERTIFIED LIST OF ABUTTERS

THE FEE FOR PREPARING THE LIST IS AS FOLLOWS:

Within 300 feet: \$25.00	updated list up to 6 mo.: \$10.00
Within 100 feet: \$10.00	- updated list up to 6 mo: \$5.00
Direct & across the street: \$5.00	- updated list up to 6 mo: no charge

THE FEE MUST BE PAID AT THE TIME THE REQUEST IS MADE - *Check #127*

Applicant: MARIAN BARTHOLOMY Name of Firm: N/A  
Address: 5 FOREST RD, LITTLETON, MA 01460  
Contact Phone #: (781) 678-0698

Request abutters list for:

Owner Name: MARIAN BARTHOLOMY & DANIEL Dunn  
Property Location: 5 FOREST RD, LITTLETON, MA 01460  
Parcel ID: LOTS 1160-1165  
Date you need the list by: 9/15/21

The Assessors' Office will generate & certify the requested **abutters list**, for the appropriate boards. Please check the appropriate departments.

Planning Board	<input type="checkbox"/>	Ch 40A Sec 11 (300 feet)
" "	<input type="checkbox"/>	Ch 41 Sec 81T (anr) (applicant & abutters)
Board of Appeals	<input checked="" type="checkbox"/>	RMD Special Permit 300 feet & 1500 feet
Conservation Comm	<input type="checkbox"/>	Ch 40A Sec 11 (300 feet)
Board of Selectmen	<input type="checkbox"/>	Ch 131 Sec 40 (100 feet) or (1000 feet)
Board of Health	<input type="checkbox"/>	Ch 138 Sec 12, 15A (abutters & 500 ft if Within school, church or hosp)
Other	<input type="checkbox"/>	310 CMR 15.000 (direct & across the street) Specify

Mailing labels can be provided for you at an additional charge of \$2.50 per sheet (14 labels per sheet)  Please check here if you would like the labels with this list.

*1 set of labels.*

*Thank you so much!*

*Janet*