

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 152 will also be heard 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 Enforcement 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 or 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 requires 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 under exceptional circumstances that relaxation of the general restrictions established by the Zoning By-laws are permitted. A Variance 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.

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TOWN OF LITTLETON BOARD OF APPEALS

37 Shattuck Street
Littleton, MA 01460
Tel: 978-540-2420



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
4/30/2007 1:40pm

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 30.00 Check # 1904

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.

Deborah A. Richards
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

David and Jenny Outman

Print Name

75 Harvard Road

Address

Littleton

Town, State, Zip

Date:

(978) 486-4196

Phone #

dfontman@hotmail.com

Email Address

Deed Reference: Bk 50409 Page 371

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned

David Outman
Signature

Phone #

Email

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER U44 15 A

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

Check box if applicable ☐ AQUICFER DISTRICT

☐ WATER RESOURCE DISTRICT

Page 1

Adopted 4-17-14

ZBA Case No.: 924A Address 75 Harvard Rd

FEES

Residential Property \$200 filing fee + \$75 recording fee + \$25 abutter list = \$ 300 to Town of Littleton
Commercial Property \$350 filing fee + \$75 recording fee + \$25 abutter list = \$ 450.00 to Town of Littleton
Comprehensive Permit \$1000 + \$100/unit over 10 units

ADDITIONAL FEES: ALL APPLICATIONS:

Legal Notice publication fee to be paid prior to opening the hearing (applicant will be notified of amount once notice has been submitted to newspaper)

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. c.40B

Page 2

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? S.173-54 and S.173-53

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.

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
- 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

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

In cases pertaining to signs, a scale print of the sign lettering and colors

In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor

8. 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

Page 3

THIS PLAN IS NOT TO BE USED
FOR THE ESTABLISHMENT OF
PROPERTY LINES, ERECTION
OF FENCES, LANDSCAPING

Certified Plot Plan

75 HARVARD ROAD LITTLETON, MASS.

STREET

TOWN

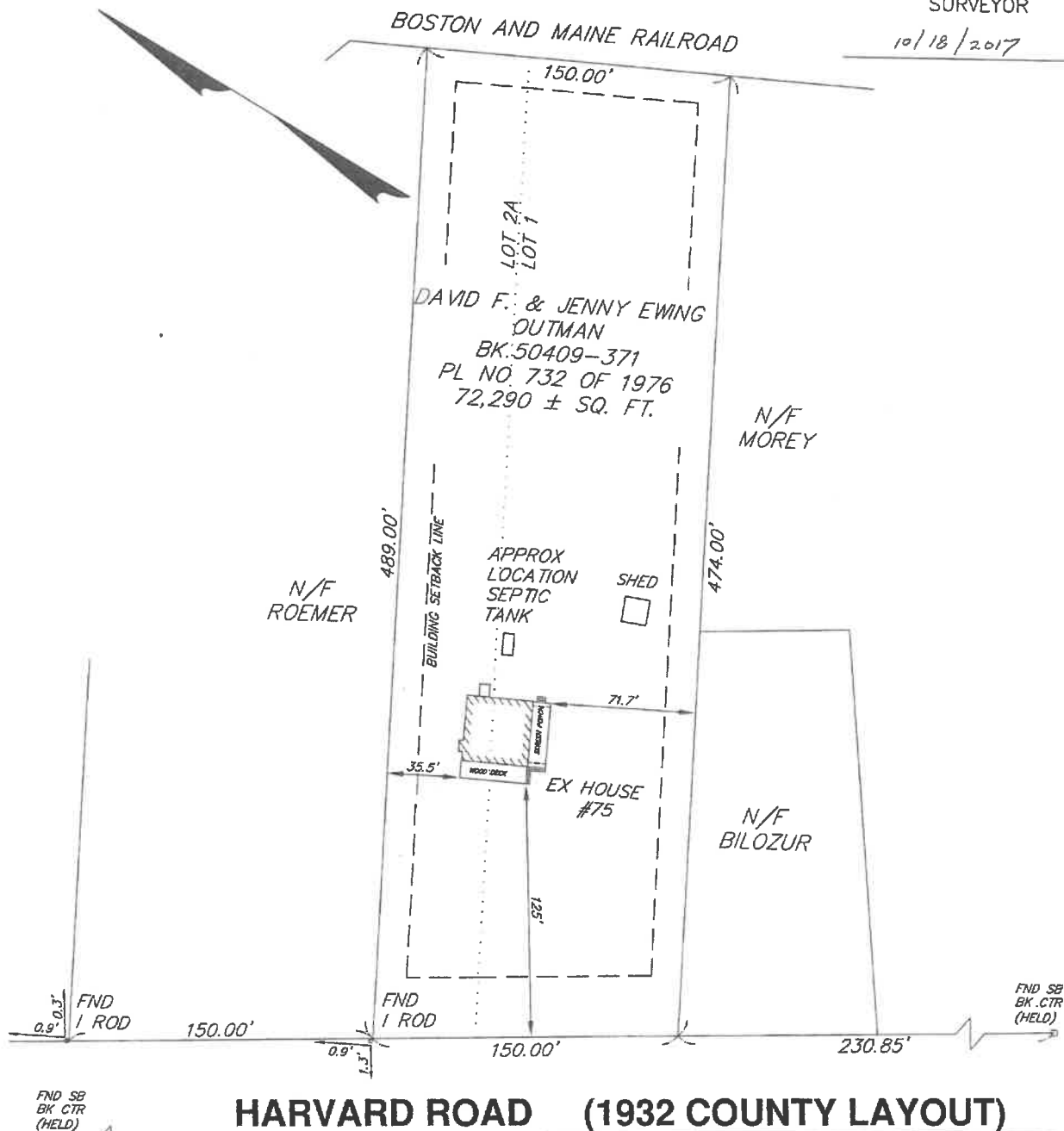
David E. Ross Associates, Inc.

6 LANCASTER COUNTY ROAD—P.O. BOX 795—HARVARD, MASS. 01451
(978) 772-6232 FAX 772-6258



SURVEYOR

10/18/2017



Zoning Classification: Residential

Front Yard=30-feet

Side & Rear Yard=15-feet

REFERENCES: **Job #32131, NB788-9**

PLAN NO. **S-14616**



Bk: 50409 Pg: 371 Doc: DEED
Page: 1 of 2 11/30/2007 11:33 AM

QUITCLAIM DEED

We, James J. Dempsey and Heidi Pitcher Dempsey, of the Town of Littleton, Middlesex County, Commonwealth of Massachusetts, for consideration paid, and in full consideration of Three Hundred Seventy Five Thousand And 00/100 Dollars (U.S. \$375,000.00) grant to David F. Outman and Jenny Ewing Outman, Husband and Wife, *Tenants By the Entirety* with QUITCLAIM COVENANTS: the following property at 75 Harvard Road, Littleton, Massachusetts 01460

SEE EXHIBIT "A" ATTACHED HERETO
AND INCORPORATED HEREIN

Witness my/our hands this 30th day of November, 2007.

[Signature]
Witness
[Signature]
James J. Dempsey

[Signature]
Heidi Pitcher Dempsey

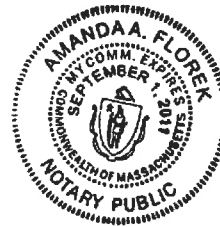
Commonwealth/State of Massachusetts
County of Middlesex

On this 30th day of November, 20 07 before me, the undersigned notary public, personally appeared James J. Dempsey and Heidi Pitcher Dempsey proved to me through satisfactory evidence of identification, which were Driver's License to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

[Signature]
Notary Public
My Comm Exp: 9/1/14

Return to:

Grantee's Address: 75 Harvard Road, Littleton, MA 01460



MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 11/30/2007 11:33 AM
Ctrl# 102606 20231 Doc# 60213741
Fee: \$1,710.00 Cons: \$375,000.00

75 Harvard Rd. Littleton

Exhibit A - Property Description

The land in Littleton, Middlesex County, Massachusetts, with the buildings thereon being Lot 1 and 2A as shown on a plan entitled "Plan of Land in Littleton, Ma. owned by John H. Kimball, Jr." dated June 2, 1976, by Harlan E. Tuttle, Surveyor, recorded with Middlesex South District Deeds in Book 13011 Page 292. Said Lots 1 and 2A being bounded and described as follows;

SOUTHEASTERLY by land now or formerly of William A. Shumway et ux 474 feet;

SOUTHWESTERLY by Harvard Road as shown on said plan 150 feet;

NORTHWESTERLY by Lot 2B as shown on said plan 489 feet; and

NORTHEASTERLY by Boston and Maine Railroad, as shown on said plan 150 feet.

Said Lots 1 and 2A together containing 72,290 square feet of land, more or less.

Property address

75 Harvard Road
Littleton, MA 01460

Tax ID U44 15A

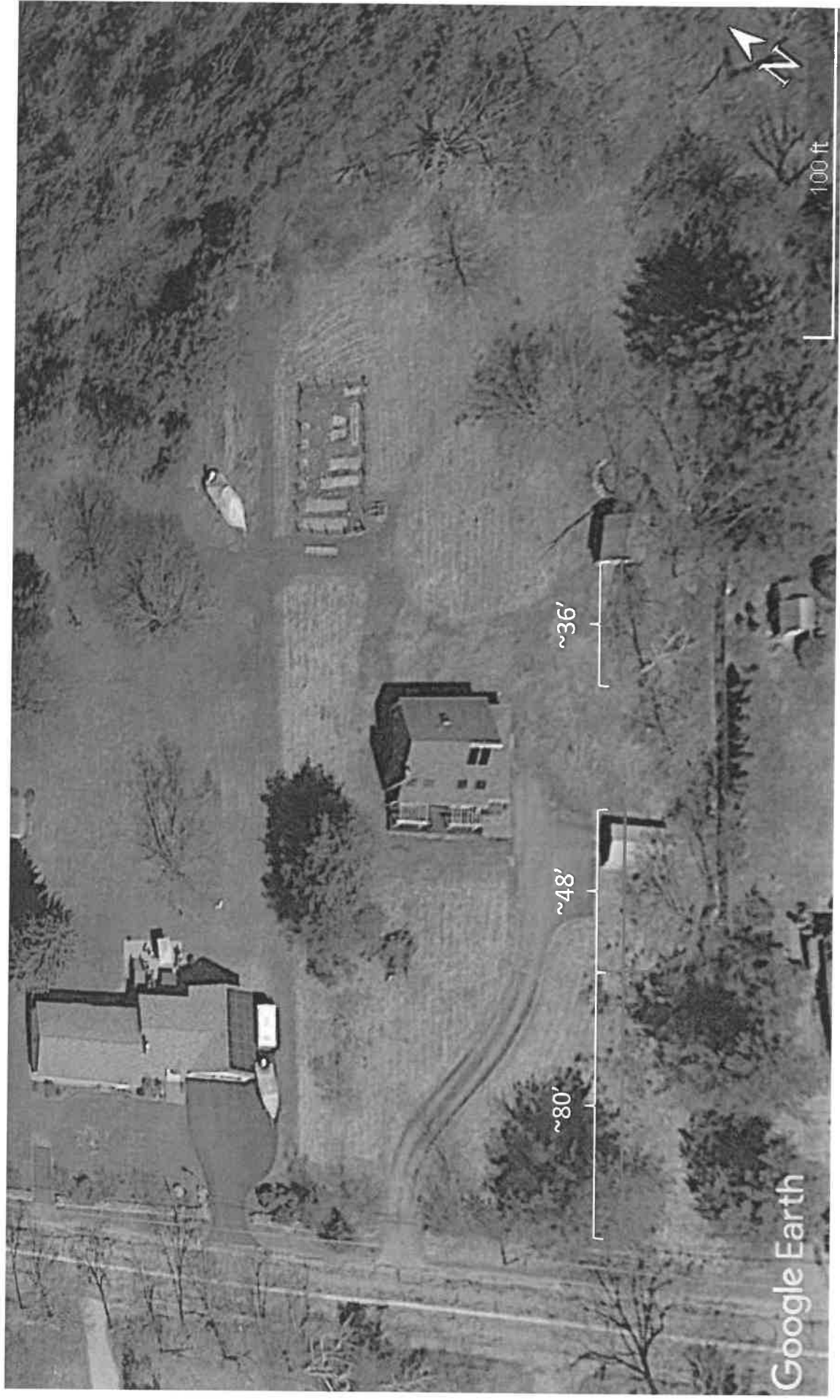
For title see Deed recorded in Bk 116443 Pg 001.

Eugene C. Puma
Attest Middlesex S. Register

Variance Application
Outman – 75 Harvard Road
April 2019

1. Seeking relief from §173-53 and §173-54
"Customary access uses are permitted as specified in § 173-26B. Uses shall not be considered accessory if they occupy more than 30% of the floor area or more than 50% of the land area of any lot."; and
"Customary home occupations, office of professional persons residing on the premises, handicrafts, hobbies or activities of a similar nature are allowed, provided that such activities are carried on by residents of the dwelling, plus not more than one (1) additional employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the building."
2. We are seeking relief from these sections of the bylaws to build a garage/office/studio that would be placed forward of the rear line of our house and exceed 30% of its 1,300 sq. ft. floor area. We are replacing an old "auto tent" and would like to site the new structure in roughly the same place, as this is the most cost-effective and common-sense location. Locating the structure behind the rear line of the house would require removal and rebuilding of a lawn and garden shed with a poured concrete foundation, as well as relocation of the drywell connected to the drainage system around the foundation of the house. The house and auto tent are set back approximately 120' from Harvard Road, which lies roughly 4' below grade of the lot, creating a natural screen between the structures and the road. The proposed garage/studio is designed so that the narrower profile of the building faces the road, thus minimizing the visual impact and sense of proportion between the primary dwelling the accessory structure. Though greater than 30% of the existing 1,300 sq. ft. of floor space, the modestly sized structure is less than 2% of the land area of the lot. The one car garage is 241 sq. ft.; the main floor of the studio/office is 483 sq. ft. with a small loft area of 271 sq. ft.; and the open air "car port" is 230 sq. ft. but will not have a poured concrete foundation. The studio/office will supplement the living space of the modestly sized house.
3. We meet the minimum requirements of §173-6.B.(2)
 - a. Literal enforcement of §173-53 and §173-54 would create a financial hardship because we would have to move the shed and drywell at an estimated cost of \$12,400.
 - b. The hardship, based on the existing property structures, does not generally affect the residential zoning district. The new structure will serve as a detached garage and studio/home office space that is consistent with the type of structures commonly found in the residential district.
 - c. The relief we are seeking will not cause substantial detriment to the public good. The natural grade of the land, the existing >100' setback, and the design of the proposed building all work to minimize visual impact of siting an accessory building of this size forward of the primary dwelling.
 - d. Owing to the circumstances relating to soil condition, shape and topography, locating the accessory building in the rear yard is not practical due to the location of the sewage disposal system, the shed on concrete foundation and drywell, and behind that the rear of the yard slopes down fairly significantly.

75 Harvard Road
Variance Application: site sketch
March 2019



Boston

&

Ma

(2B)

(2A)

(1)

Residential B
Industrial

14

1.5 AC

15

1.61 AC

15-A

1.66 AC

16

200.4 AC

17

2.33 AC

HARVARD

106'

523'

495'

489'

265

150'

246

41.95' 44.15'

132.76'

226

10'

87

74'

150' 75

229'

73 100'

200'

109'

67.63' 74

275

69

72 15'

49.57'

200'

364'

7.

1> COVER SHEET SITE PLAN

2> LOWER AND UPPER FLOOR PLANS

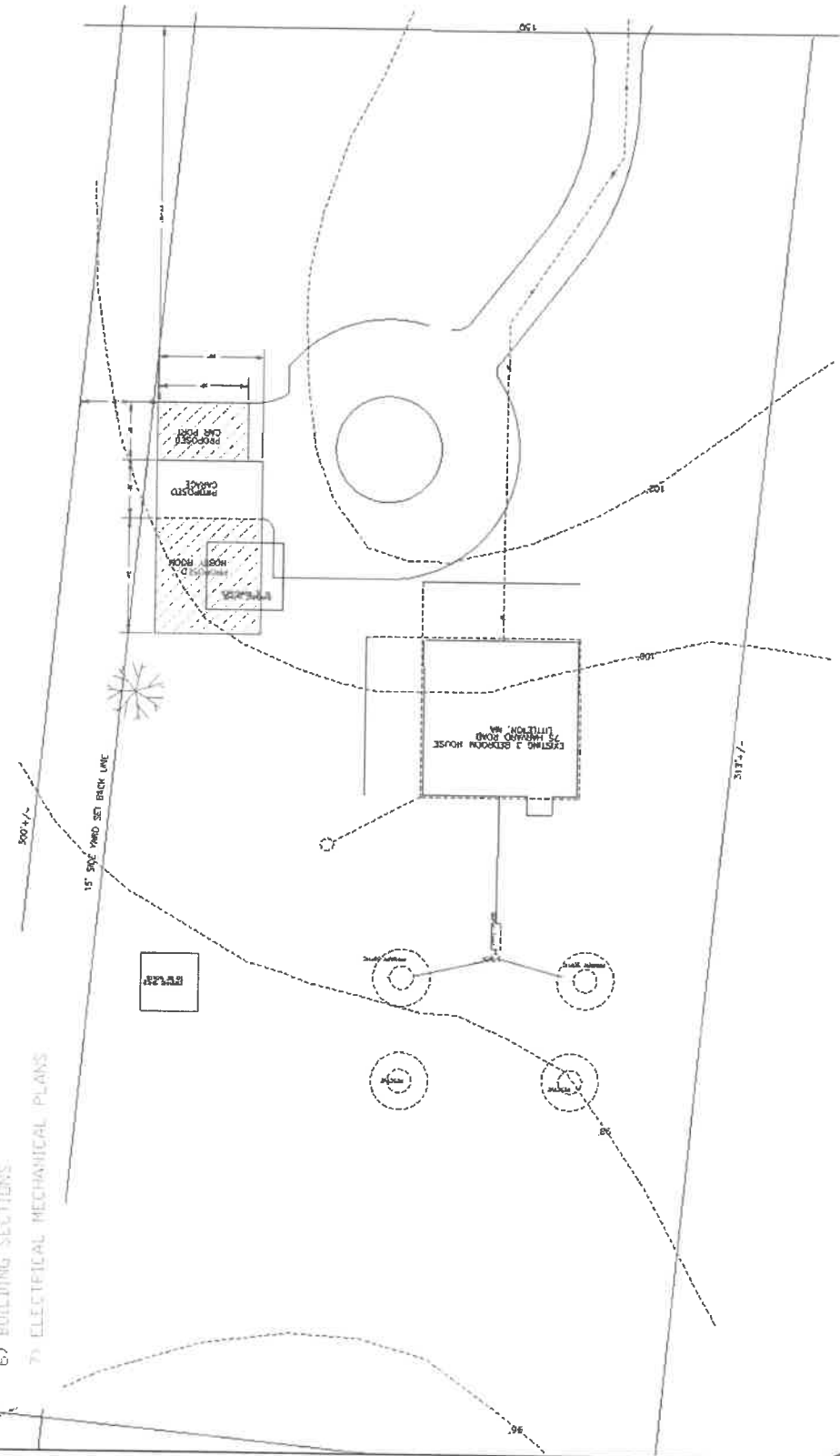
3> PROJECT ELEVATIONS

4> FOUNDATION AND LOWER FLOOR FRAME

5> LOFT AND ROOF FRAME

6> BUILDING SECTIONS

7> ELECTRICAL MECHANICAL PLANS



OUTMAN GARAGE

REV	DATE	BY	CHK

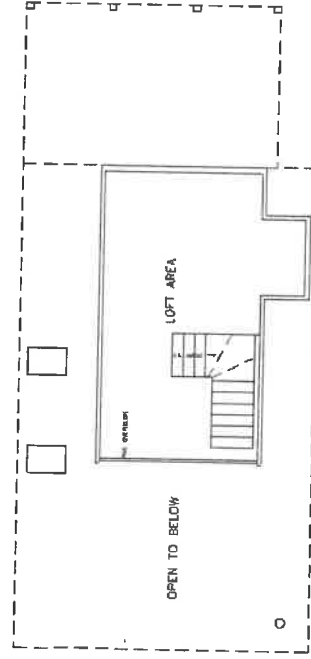
WARREN DESIGN BUILD
255 N. STREET
BOSTON, MA 02108
978-688-0052
carl@warrendesign.com

DAVID AND KEN OUTMAN
70 HAVANES ROAD
LITTLETON, MA

OUT2018	1
12/19/2018	1/10'-0"



LOWER FLOOR PLAN



UPPER FLOOR PLAN

OUTMAN GARAGE

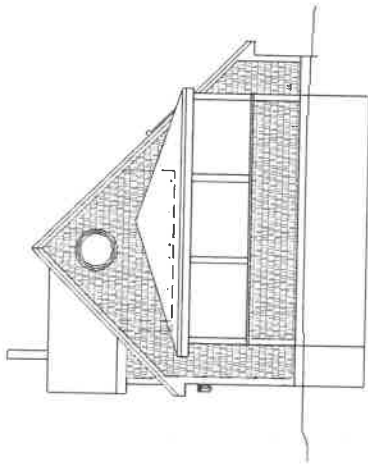
REV	DATE	BY

WARREN DESIGN BUILD
268 WEST STREET
BERLIN, MA 01830
TEL: 978.683.1111
WWW.WARRENDISIGN.COM

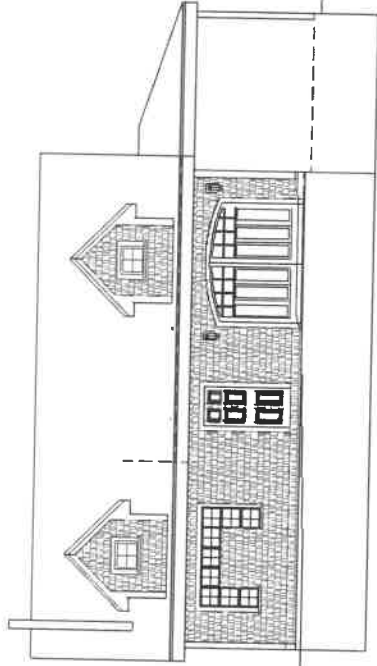
DAVID AND JEN OUTMAN
775 HARVARD ROAD
LITTLETON, MA

DATE: 12/19/2018
SCALE: 1/4"=1' 0"

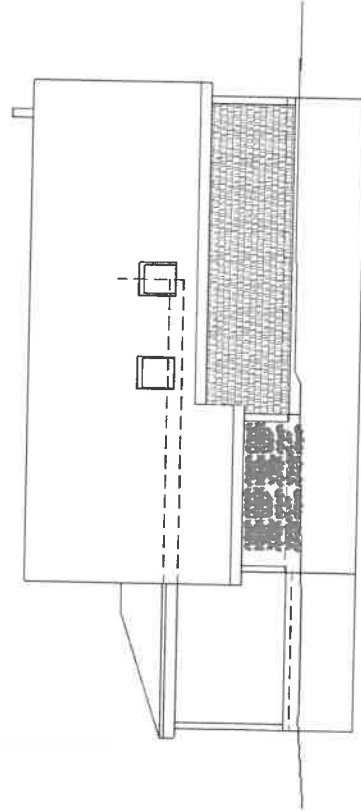
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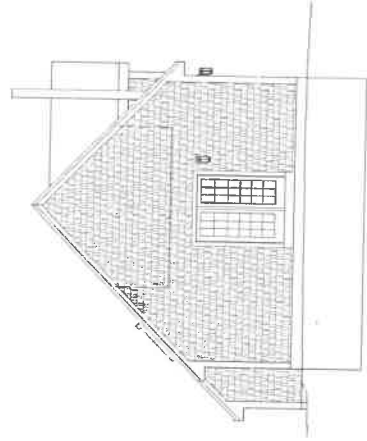
RIGHT (SOUTH) ELEVATION



FRONT (WEST) ELEVATION



BACK (EAST) ELEVATION



LEFT (NORTH) ELEVATION

OUTMAN GARAGE

REV	DATE	BY	CHK

WARREN DESIGN BUILD
255 WEST STREET
LITTLETON, CO 80120
978-638-1825
car@warrendesign.com

DAVID AND JEN OUTMAN
255 WEST STREET
LITTLETON, CO

OUT2018
12/19/2018
1/4"=1' 0"