

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.

Page 4

ZBA Case No.: 926A Address 93 Matawanache Tr.

TOWN OF LITTLETON BOARD OF APPEALS

37 Shattuck Street
P.O. Box 1305
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

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 300 - Check # 2206

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.

Debra 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 Paul Souza Date: 5-10-19
Address 33 MATAWANACHE TRAIL Phone # 508-380-3492
Littleton, MA 01460 Email Address SKRSOU2A@YAHOO.COM
Town, State, Zip Deed Reference: BL11743 Page 5-46

PROPERTY OWNER: Sharon Gault Signature of Owner for Petitioner to represent Owner, if unsigned
Date 5-10-19 Phone # 508-380-3492
Print Name (if different from petitioner) Email SKRSOU2A@YAHOO.COM
Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER U47 25

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

Check box if applicable ☐ AQUIFER DISTRICT

☐ WATER RESOURCE DISTRICT

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 §

You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.

Code of Littleton §

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? 173-10.B(2)

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 plat 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. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed) 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 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

Page 3

Request to extend deck

We would like to extend our current 5x15 foot deck to be a 12x15 foot deck that would be contiguous space with an adjacent stone patio that is in the back of the house. The stone patio has three columns placed about 1/3 of the way out from the patio by the back of the house. These columns support an 2nd floor porch. These columns take away usable area from the patio so it is difficult to setup a picnic table with adjacent seating and play areas for grandchildren when entertaining.

Building a deck that adjoins the stone patio would enable us to setup a picnic table with adjacent seating and play areas for grandchildren.

We cannot extend the patio to the left side because there is a terraced wall on that side.

The right side of the house is on a slope with about 30ft to a fence. A deck placed on that slope would:

- a. Block the entrance to water with water toys (kayaks, paddleboards, etc)
- b. Be on a higher level than the current deck because of the slope that exists

MASSACHUSETTS QUITCLAIM DEED

We, Phillip C. Souza and Susan K. Paul-Souza, married to each other, of 93 Matawankee Trail, Littleton, Massachusetts,

for consideration paid, and in full consideration of ONE AND 00/100 Dollars (U.S. \$1.00)

grant to SUSAN K. PAUL-SOUZA, TRUSTEE OF THE SUSAN K. PAUL-SOUZA REVOCABLE TRUST U/D/T DATED JANUARY 23, 2007, A TRUSTEE CERTIFICATE PURSUANT TO MGL CH. 134 SS 35 FOR WHICH IS RECORDED HERewith, OF LITTLETON, MASSACHUSETTS

with *quitclaim covenants* the following property in Littleton, Middlesex County, Massachusetts.

A certain parcel of land with the buildings thereon, situated on the Northerly side of Matawanakee Trail, Littleton, Middlesex County, MA., being Lot 47 on a plan entitled, "Plan of Lake Matawanakee Shores, Littleton, Mass., owned by Lake Properties, Inc., H.R. Anderson, Surveyor, June 1945" recorded with Middlesex South District Deeds in Book 6878, Page End and bounded and described as follows:

SOUTHWESTERLY: by Matawanakee Trail, as shown on said plan, seventy-five (75) feet;

NORTHERLY: by Lot 48 as shown on said plan, one hundred twelve and 7/10 (112.7) feet;

NORTHERLY,
NORTHEASTERLY
and EASTERLY:

by the Shore Line of Lake Matawanakee, as shown on said plan, one hundred sixty-one and (161) feet, more or less;

GRANTEE AND PROPERTY ADDRESS: 93 MATAWANAKEE TRAIL, LITTLETON, MA

SOUTHERLY: by Lot 46 as shown on said plan, one hundred fifty-two and 1/10 (152.1) feet.

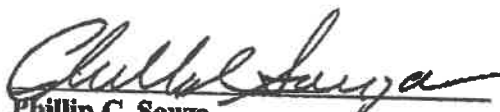
Being Lot 47 as shown on said plan however otherwise bounded, measured or described.

Said Lot 47 is conveyed subject to restrictions of record, insofar as the same are now in force and applicable.

Subject to easements, rights, 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.

For title see deed of SCOTT LEWIS AND JOAN SWEENEY dated MAY 25, 2016 and recorded with Middlesex County Registry of Deeds in Book 67396, Page 450.

Signed under the pains and penalties of perjury this 15 day of October 2018.

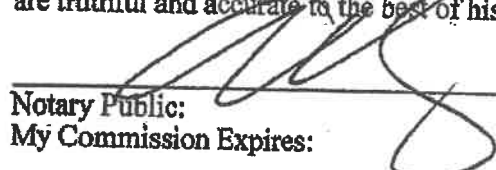

Phillip C. Souza


Susan K. Paul-Souza

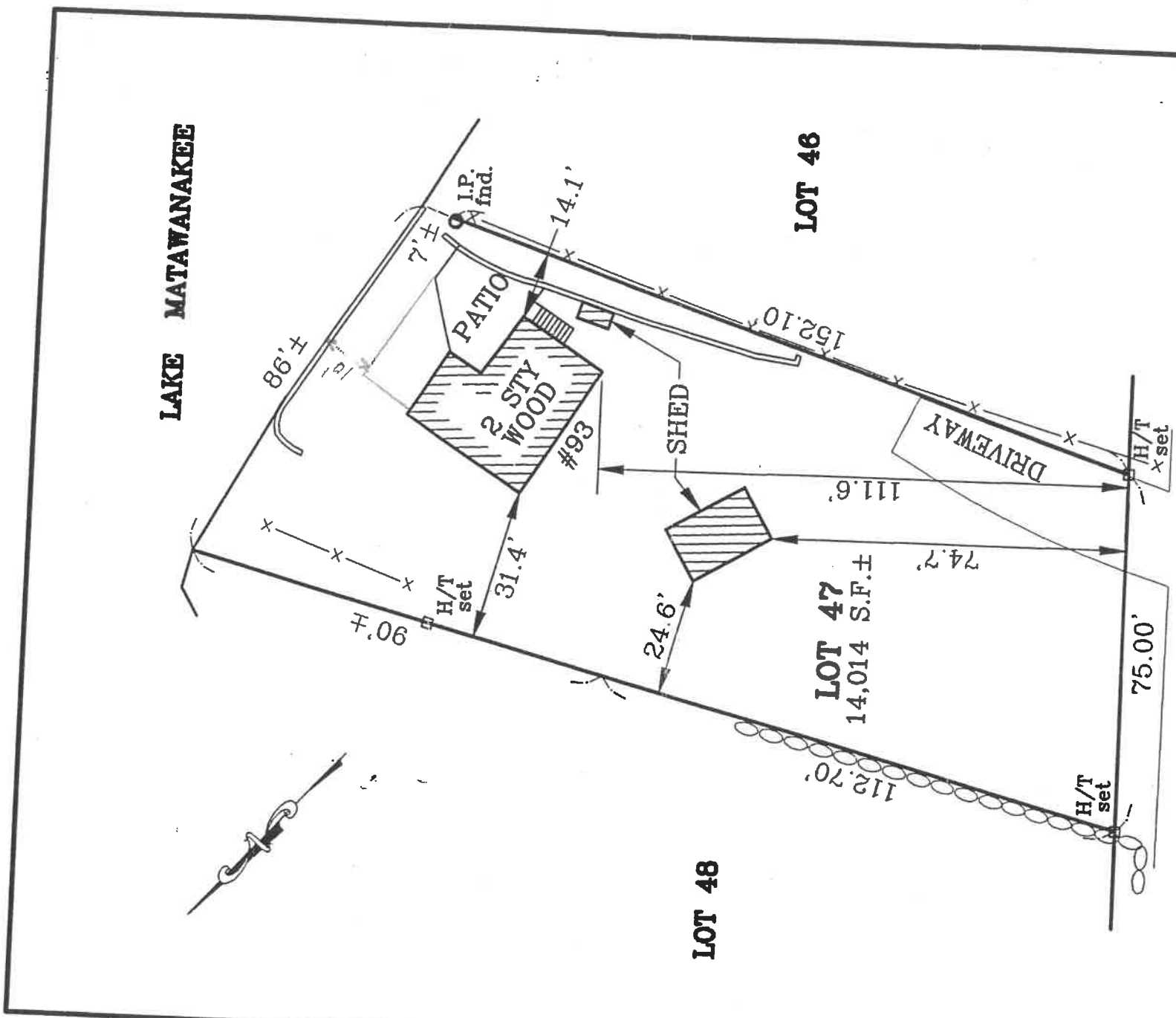
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 15 day of October 2015, before me, the undersigned notary public, personally appeared **Phillip C. Souza and Susan K. Paul-Souza** proved to me through satisfactory evidence of identification, which was/were ☒ Mass. driver's license(s) or [] _____, to be the person(s) who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.


Notary Public:
My Commission Expires:





SCALE: 1" = 30'



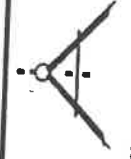
I CERTIFY THAT, WHEN CONSTRUCTED, THE STRUCTURES SHOWN ABOVE CONFORMED TO THE DIMENSIONAL REQUIREMENTS OF THE ZONING BYLAWS FOR THE TOWN OF LITTLETON, MA. AND IS NOT LOCATED WITHIN A FLOOD HAZARD AREA AS SHOWN ON FLOOD INSURANCE RATE MAPS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY. COMMUNITY PANEL NO. 250200 0002 B, ZONE C, DATED JUNE 15, 1983.

Scott C. Lewis
PROFESSIONAL LAND SURVEYOR

1/13/99
DATED

CERTIFIED PLOT PLAN
93 MATAWANAKEE TRAIL
LITTLETON, MASSACHUSETTS

PREPARED FOR:
SCOTT C. LEWIS
DEED REF.: BOOK 26775, PAGE 109



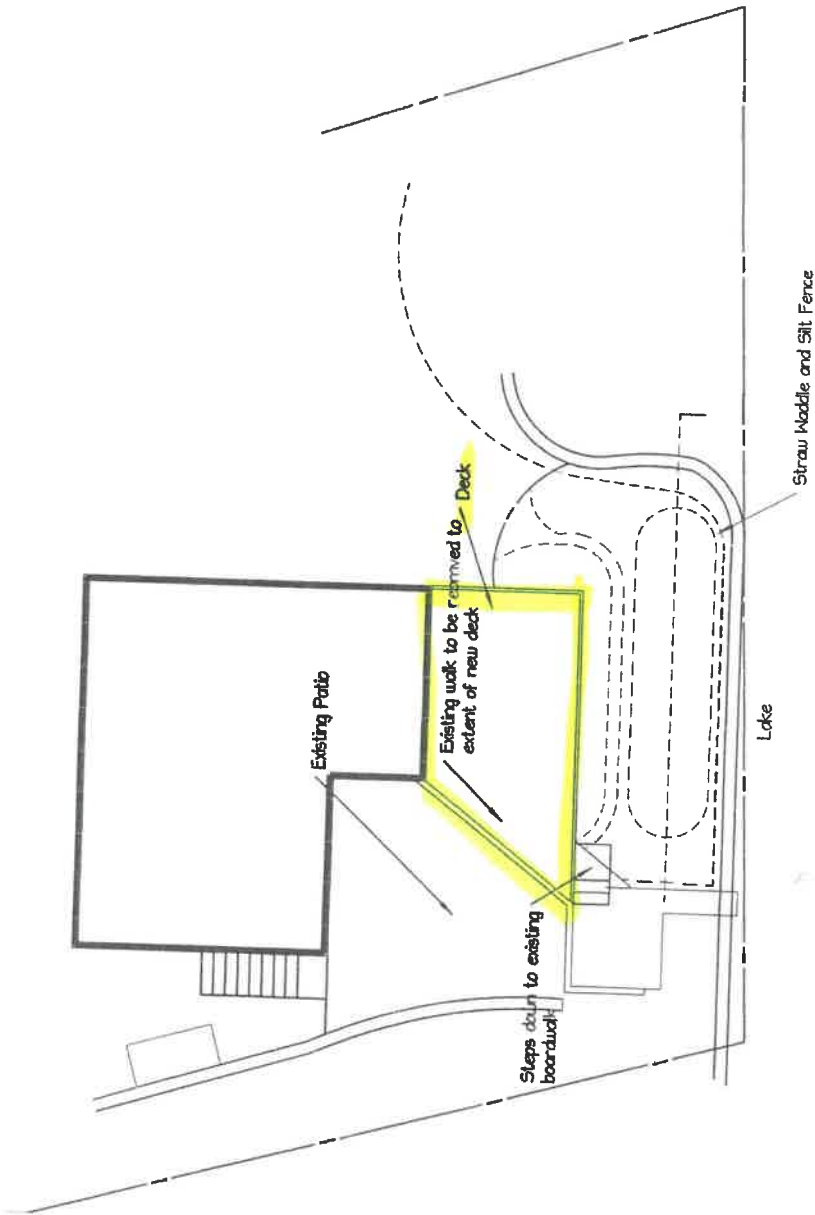
DIVERSIFIED CIVIL ENGINEERING
359 LITTLETON ROAD, WESTFORD, MA
P.O. BOX 880, METHUEN, MA

JANUARY 13, 1999 DWG. NO. 2585 98398

Sauza Residence Siltation Protection Plan

Drawn by Ed Coykendall
Landscape Artisans
8 Long Lake Road
Littleton, Ma 01460
781-983-0393
Scale 1"=10'

Received
APR 22 2019
Littleton ConCom



Sava Residence Deck and Rain Garden Layout Plan

Drawn by Ed Coykendall
Landscape Artisans
8 Long Lake Road
Littleton, MA 01460
781-983-0393
Scale 1"=10'

Received
APR 22 2019
Littleton ConCom

