

**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

**received**

11/15/2018

12:45 pm

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ \_\_\_\_\_ Check # \_\_\_\_\_

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

B. E. Badger

Date:

11/15/18

Warren's Mill Realty, LLC

978-264-0044

Print Name

45 Powers Road

Phone #

dsloan@nashobacorp.com, bbadger007@verizon.net

Address

Westford, MA 01886

Email Address

Town, State, Zip

Deed Reference: Bk 70311 Page 7

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

B. E. Badger

11/14/18

Signature

Date

978-857-9321

Phone #

bbadger007@verizon.net

Email

Print Name (if different from petitioner)

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER Map U35, Parcel 31

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

Check box if applicable ☒ **AQUIFER DISTRICT**

☐ **WATER RESOURCE DISTRICT**

**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

ZBA Case 913A

# 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 § 173-73

**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 B. S. Badger

Print Name Brian S. Badger

## Special Permit 40B

Under MGL c. 40B

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under 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? \_\_\_\_\_
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. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed)
3. 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 14 copies 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 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 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 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.**

# **DAVID E. ROSS ASSOCIATES, INC.**

*Civil Engineers, Land Surveyors, Environmental Consultants*

November 15, 2018

Zoning Board of Appeals  
Town of Littleton  
Municipal Building  
37 Shattuck Street  
Littleton, MA 01460

Re: Special Permit 40A Application  
Site: 97 Mill Road, Littleton, MA  
D.E.R.A. Project No. 31999

Dear Zoning Board of Appeals Members and Staff:

On behalf of our client, Warren's Mill Realty, LLC, we hereby request a Special Permit 40A for the proposed redevelopment of the 4.5 acre property located within the Industrial B District and within the Aquifer District. The project proposes to redevelop the former lumber yard/mill into an office and warehouse for the Nashoba Corporation. The petition to the Zoning Board of Appeals is in regards to the Zoning Bylaw Article XVI Wetlands and Floodplain Regulations §173.73, Uses permitted, because the project proposes a new structure.

The site currently has 16 roofed structures, many of which are located within the floodplain. All but four structures will be removed; two buildings equaling approximately 2,800 S.F. will remain in the floodplain and two smaller structures will be relocated. A new structure consisting of office and warehouse space is proposed further from the wetlands and Beaver Brook than the existing structures being removed. The total area of the existing buildings being removed from the floodplain equals 7,947 S.F. The proposed building will have only 2,569 S.F. of area within the floodplain providing a net removal of building area within the floodplain of 5,378 S.F.

It is our understanding that the Littleton Conservation Commission is aware of the proposed project and is planning on waiting to respond until after a peer review has been performed. It is our opinion the proposed redevelopment will not pose any hazard to health and safety.

Please note the project is also being reviewed by the Planning Board regarding the request for a Special Permit for the proposed redevelopment within the Aquifer District. The Planning Board has opened the public hearing and is currently waiting for the ZBA decision for the proposed work within the floodplain.



The attached Site Plan, Plan No. L-13639, Sheet No. 5 of 7, demonstrates the proposed redevelopment project as it relates to the existing 100 year floodplain elevation (elevation 214.0'). A copy of the presentation package of information (Project Summary, Pictures, and a reduced copy of sheet 5 of 7 of the Site Plan with color) provided to the Planning Board at their November 1, 2018 hearing is included with this application to introduce the project more concisely. Additional calculations will be submitted shortly to demonstrate that the proposed construction will not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

Thank you in advance for your attention to this request. We look forward to discussing this project with you at a future Zoning Board of Appeals hearing.

Very truly yours,  
DAVID E ROSS ASSOCIATES, INC.

By:



Neil T. Gorman, Project Manager

DAVID E. ROSS ASSOCIATES, INC.

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6 Lancaster County Road P.O. Box 795 Harvard, Massachusetts 01451  
978-772-6232 FAX 978-772-6258 [davidross.com](http://davidross.com)





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	: 194129
Document Type	: DEED
Recorded Date	: November 30, 2017
Recorded Time	: 11:39:58 AM
Recorded Book and Page	: 70311 / 7
Number of Pages(including cover sheet)	: 3
Receipt Number	: 2155766
Recording Fee (including excise)	: \$4,685.00

\*\*\*\*\*  
MASSACHUSETTS EXCISE TAX  
Southern Middlesex District ROD # 001  
Date: 11/30/2017 11:39 AM  
Ctrl# 274003 26887 Doc# 00194129  
Fee: \$4,560.00 Cons: \$1,000,000.00  
\*\*\*\*\*

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

Prepared by:  
Attorney Annmarie Roark  
ROARK LAW OFFICE P.C.  
229 Billerica Road  
Chelmsford, MA 01824  
#1063-1416

## QUITCLAIM DEED

**PARLEE LUMBER & BOX COMPANY, INC.**, of Littleton, Middlesex County, Massachusetts

for consideration paid and in full consideration of One Million and 00/100 Dollars  
(\$1,000,000.00)

*grants to WARREN'S MILL REALTY LLC*, a Massachusetts limited liability company, having its usual place of business at 45 Power Road in Westford, in said county,

with QUITCLAIM COVENANTS

the land in said Littleton, with the buildings thereon used in the sawmill on the granted premises about three-fourths of a mile from Littleton Center, containing about one and one-quarter acres, bounded as follows:

Beginning on Mill Road at the westerly abutment of the bridge about 135 feet southeasterly from said sawmill; thence South 67° west about one hundred and eighty-five feet to an angle in the stone wall; thence southwesterly by the wall and land formerly of Curtis W. Drew about three hundred and thirteen feet to a corner of wall at the end of the mill yard; thence northerly by the wall about two hundred feet to the mill pond; thence easterly by the mill pond about one hundred and thirty-two feet; thence northeasterly across the pond about one hundred and sixty-five feet to a hole drilled in the ledge at Mill Road near the corner of the pond; thence southeasterly on said road about two hundred and seven feet to the point of beginning.

Also the land in said Littleton containing about 3 acres, bounded and described as follows: Beginning at the northeasterly corner thereof at a point in the southerly line of Mill Road; said point being 168 feet westerly from a wall at land formerly of Curtis W. Drew; thence running southerly, southwesterly and northwesterly up the center of brook about 845 feet to a natural stone in the brook east of a private road; thence along the easterly line of said private way North 11° 27' East 192 feet to a wall at the first parcel above described; thence by land now or formerly of Hartwell North 68° 15' East 117 feet, North 38° East 195 feet and North 69° East 175 feet to said Mill Road; thence southeasterly along said Mill Road 137 feet to the point of beginning.

This conveyance does constitute a sale of all or substantially all of the assets of the Corporation located in the Commonwealth of Massachusetts.

Property Address: 97 Mill Road, Littleton, MA 01460

Intending hereby to convey and hereby conveying all and the same premises conveyed to the Grantor by deed dated June 1, 1978, recorded with Middlesex South District Registry of Deeds, Book 13484, Page 699.

PROPERTY ADDRESS: 97 Mill Road, Littleton, MA 01460 & corner of Warren Street and King Street


Witness my hand and seal this 30<sup>th</sup> day of November, 2017.

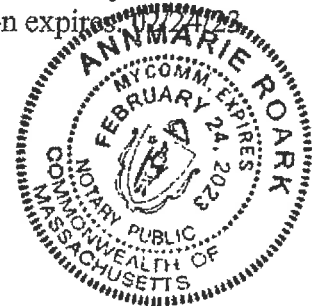
  
HENRY G. PARLEE,  
President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 30<sup>th</sup> day of November, 2017, before me appeared HENRY G. PARLEE, to me personally known, who, being by me duly sworn, did say that he is the President and Treasurer of PARLEE LUMBER & BOX COMPANY, INC., and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said HENRY G. PARLEE acknowledged said instrument to be the free act and deed of said corporation.

  
Annmarie Roark, Notary Public  
My commission expires 02/24/23





PROPERTY MAP  
**LITTLETON**  
MASSACHUSETTS



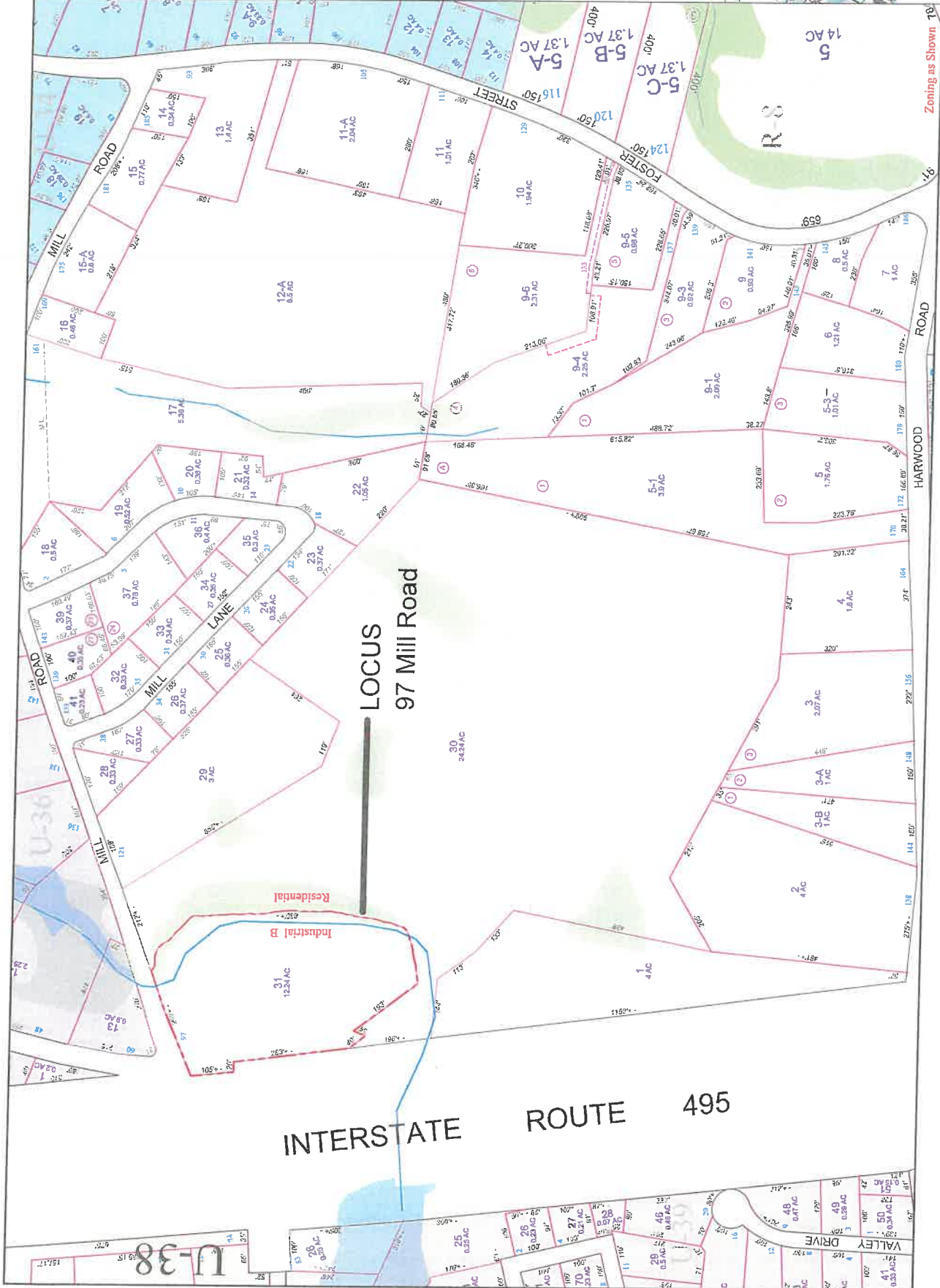
LEGEND	
ABUTTING MAP	17
PANEL NUMBER	1-28
STREET ADDRESS NO.	133
LOT DIMENSION (FEET)	244.78
CONVAY CHANDLER	10
DEVELOPMENT	10
ESSENCY	10
PRIVATE	10
WATER BODY	10
STREAM	10

REVISOR TO JANUARY 1, 2016  
FOR REVISION OF PROPERTY OR  
NOT FOR PROPERTY CONVEYANCE  
OR EASEMENT A/C CERTIFICATE

John L. O'Donnell & Associates  
100 State St., 10th Floor  
New Bedford, MA 01950  
www.jlo-donnell.com



**U-35**  
Zoning as Shown







# National Flood Hazard Layer FIRMette



## Legend

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

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE)  
Zone A, V, A99
- With BFE or Depth  
Zone AE, AO, AH, VE, AR
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone X)
- Future Conditions 1% Annual Chance Flood Hazard (Zone X)
- Area with Reduced Flood Risk due to Levee. See Notes. (Zone X)
- Area with Flood Risk due to Levee (Zone D)

**OTHER AREAS**

- Area of Minimal Flood Hazard (Zone X)
- Effective LOMRS
- Area of Undetermined Flood Hazard (Zone X)

**GENERAL STRUCTURES**

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

**OTHER FEATURES**

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

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

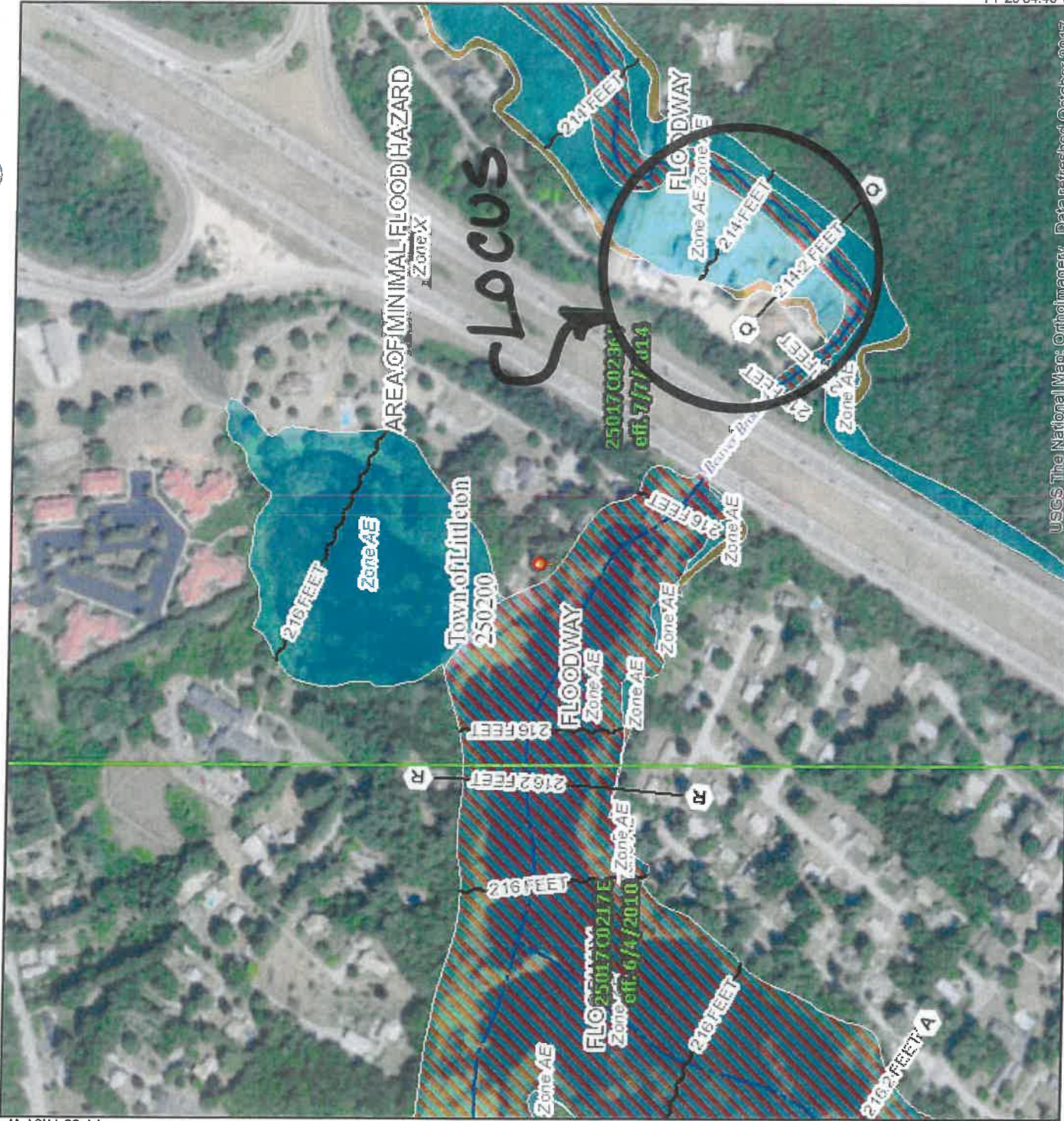
The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

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

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **10/11/2018 at 8:43:19 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

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

42°32'22.77"N



71°29'34.45"W

USGS The National Map: Orthoimagery. Data refreshed October 2017.

42°31'56.25"N

0 250 500 1,000 1,500 2,000 Feet





**Figure 1**  
**Town of Littleton Aquifer District and Water Resource District**

