

MINUTES

Zoning Board of Appeals Meeting – January 18, 2022. 6.30PM
115 Pleasant Street,
Gardner, MA 01440

Sitting in on Hearing:

Raymond LaFond	Rachel Taylor
Randall Heglin	
Michael Gerry	GETV

In Attendance:

Steve Rockwood.	Mary Shaffer	Elizabeth Kazinskas
Joanne Travano	Robert Shaffer	Scott Cordeiro
Anthony Travano	Gerald Poirier	Cassandra Cordeiro
Lee Bradley	Christine Tree	Jon Bombaci
Dana Heath	Mike Dameri	Scott J Graves
Robert Chicoine	Peter CampoBasso	Ronald Koivin
Aaron Holms	Laurel Adams	

Meeting Called to Order by Chairman Raymond LaFond at **6:31 PM**. Mr. LaFond then went over the ground rules and the requirements that must be addressed for a Variance or Special Permit. He then noted that the meeting was being video, and audio taped and requested if anyone objected. There were no objections.

Mr. LaFond reviewed the agenda for this meeting.

<u>Case #</u>	<u>Type</u>	<u>Address / Request</u>
Case #2021-08-03:	<u>V</u> Harbor Classic Homes. (Con)	0 Clark St. Open Space Development. PID# <u>M32-6-10</u>
Case #2021-08-04:	<u>V</u> Harbor Classic Homes. (Con)	0 Century Way. OSD. PID# <u>M37-21-42</u> .
Case #2021-08-01:	<u>V</u> Joanne Tavano (Con)	0 W Broadway. Open Space Development. PID# <u>H17-7-1</u>
Case #2021-11-02:	<u>SP</u> Florida Mass Properties (Con)	120 Grant St. Multi Family Loss of Zoning.
Case#2021-12-01:	<u>V</u> BBC Development, LLC	247 High St. Foundation lacks Setback.

Mr. LaFond stated that this evening's agenda would be heard out of the order that it was published.

Case #2022-01-01 SP Gardner Holding Group, 163-165 Pine St. Multi Family Home.

Application to operate a multi-Family Dwelling at 163-165 Pine St, Gardner, MA Parcel ID #R22-6-8, located in the General residential 3 zoning district (GR3) is denied as it does not comply with Chapter 675- Attachment 1:1 "#5 Multifamily dwelling" of City Code of Gardner. Due to the building being vacant for longer than two years, this property has lost the status of multifamily by right. The "Table of Uses" states that your use requested, #5 requires a "Special Permit" (SP) issued by the Gardner Zoning Board of Appeals

Mr. Jon Bombaci – Applicant and Rep of Gardner Holding Group.

Mr. Bombaci explained he was the rep for Gardner Holding Group seeking a Special Permit to rehab 163-165 Pine St. the company owns over 300 units in Lowell and approx. 49 here in Gardner. They pride themselves in taking ugly run-down property and making it livable again. 163 Pine has been vacant for many years after a fire about 10 years ago. It is an 8-family unit all of which are two bedrooms, one bathroom, 750sqft. Floor plan Shown *Attachment 1. There will be no changes to the unit's layout but there will be completely remodeled, including a sprinkler system and fire suppression. All work will be permitted and bought up to and above city code. They hope that if the SP is granted all work would be complete within 4 months. Contractors are already available and ready to start work as soon as possible. The only problem moving forward is the need for parking, The Code states that each unit requires two parking spaces. Unfortunately, the lot only allows for 10/11 spots. A costly site plan review was conducted, and the plan was to have 10 full size parking spaces (9x18) and two compact lots (8x18). The spaces would be assigned first come first served and some units could be one parking space only. As shown of the parking plan layout *Attachment 2 there are areas planned for snow storage as well as the location of the trash receptacles. As stated, Gardner Holding Group has a few properties in Gardner and currently has a couple of tenants looking to move to this location who will be needing a ground floor unit. Coincidentally these tenants are elderly and only have one car per unit. Thus, solving some of the parking already. Any questions?

Mr. Heglin asked if there was any plan yet for Lighting of the property.

Mr. Bombaci responded that all their properties will be supplied with motion sensing lighting in the stair ways and porches, the parking area would be lit at night to comply with safety standards.

Mr. Heglin asked about the snow storage areas, especially the area to the rear of the parking as there appears to be a retaining wall and fence. Would the snow be pushed towards this wall and is a topography change or gradient problem there?

Mr. Bombaci clarified that there is a plan for some leveling in that area but the snow being stored back there would be pushed over the wall and out of the way of the parking lot. Should the snow build up to a problem then the company would arrange for the snow to be removed completely to another location.

Mr. Heglin asked what the process would be for snow removal, how would the lot get cleared of snow with car parked there.

Mr. Bombaci stated that as with there other buildings the tenants would be given a time frame to move their cars so the lot could be cleared, they could then return to the parking as before.

Mr. Heglin asked about the Trash? Was there plans for a dumpster or will the units use City Trash cans on the roadside.

Mr. Bombaci regular trash barrels would be used for each unit as there is ample space for the Trash trucks to both collect and turn around.

Mr. Heglin asked if there was any plan for additional parking should tenants need more places to park.

Mr. Bombaci explained that the company had investigated this and tried to come up with a better solution, including buying another property across the street and asking neighbors if spaces could be leased for their driveways.

Mr. Heglin explained that tandem parking and movement of vehicles for snow removal can become complicated for tenants, so he is hesitant to allow this parking plan without seeing it first. Should the abutters agree to allow your tenants to use his space what kind of agreement would be put in place.

Mr. Bombaci said that he would have a legal agreement in place for approx. 10years should the abutters parking be needed.

Mr. LaFond asked the applicant to review the 9 questions of a Special Permit.

- 1) The Proposal is suitably located and compatible with neighborhood character, existing uses, and other permitted uses.
- 2) The Proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets, property, and improvements.
- 3) The Proposal provides adequate space for off street parking and loading and unloading of vehicles incidental to the normal operation and established use.
- 4) The proposal provides adequate and appropriate facilities and utilities for the proper operation of the proposed use and disposal of refuse and methods of drainage and surface water.
- 5) The proposal does not constitute a nuisance due to any pollution, erosion, flood, noise, odor, dust, vibration, lights, or anything visually offensive.
- 6) The proposal does not create an inconvenience or hazard to abutters, vehicles, or pedestrians.
- 7) The Proposal is in harmony with the general purpose and intent of this chapter.
- 8) The proposal should not have a decremental impact on the City Service, tax base or employment opportunities. New tenants will be good for the city.
- 9) The proposal is consistent with the City's community development plan.
- 10) The proposal may be on a property subject to a zoning map amendment and is accompanied by a engineered site plan.

Mr. LaFond asked to look at the map showing which properties the company owns. (*Attachment 3).

Mr. LaFond asked if any of the properties were in code violation of any kind.

Mr. Bombaci stated that his company takes pride in their properties so should there be any violations they are taken care of immediately.

Mr. Heglin asked if there was a plan for lighting as there was not one present in the application.

Mr. Bombaci stated that all the company properties has motion sensing lighting on the stairways and porches with flood lights in the parking areas for safety.

Mr. LaFond requested a lighting plan be draw up and submitted to the case for the next meeting. A site visit will be needed so this case will be heard again in February.

Mr. Bombaci stated he would be happy to accommodate this request, adding that light wash would be considered in this plan to avoid disruption to abutters or passing traffic.

Mr. LaFond asked about the drainage from the roof of the building and where this would be directed.

Mr. Bombaci explained that there are gutters present which then directs the water from the roof to a drain in the rear. There will be a gravel buffer at the end of the driveway to aid with the drainage of the property.

Any Abutters to speak against this case.

Mr. Aaron Holm – 157 Pine St.

Mr. Holm voiced that he was concerned with the open stair way on his side of the property as tenants can see into his home and even throw objects onto his roof. Would there be any option to enclose the stairs to avoid such problems.

Mr. Heglin asked the applicant if there was a policy for grills on porches? Should tenants want to use a grill is it allowed on the porch/stair well.

Mr. Bombaci stated that isn't the space on the stairs for a grill and that tenants will be told in the lease agreement that grills were not allowed. The question of enclosing the stairway is manageable. There is a plan in place to redo the siding of the property so adding the stairs to the siding plan should be a simple fix.

Mr. LaFond asked if there was an area where tenants could set up a grill outside for the summer evening.

Mr. Bombaci said that space was limited hence the parking problem, but tenants would be able to use the snow storage area in the summer for such things. Grills would need to be moved come winter for the snow though.

Mr. LaFond requested a site visit for an upcoming Saturday morning.

Site Visit scheduled for Saturday January 29th. Time to be arranged.

Motion to continue case to February 15.

Unanimous vote to continue.

Case # 2021-08-03 & 2021-08-04. Variance. Harbor Classic Homes, Century Way & Clark St, Open Space Development. Continued from December.

Application to construct an access for the proposed Open Space Residential Development (PID M32-6-10 – Clark St. Entrance), located in the General Residential 3 zoning district (GR3) and Single Family 1 Residential zoning district (SFR1) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 – Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "GR3" and "SFR1" zoning districts.

Application to construct an access for the proposed Open Space Residential Development (PID M37-21-42 Century Way Entrance), located in the General Residential 3 zoning district (GR3) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "GR3" zoning district.

Mr. LaFond explained that this case has been continued a few times now so only new information should be subject for conversation. All question and concerns regarding the building project itself for the judgement of the Planning Board. The Zoning Board is being asked to grant the applicant a variance for the access road only. The Board understands that this project has emotions running high for abutters, but all their concerns will be addressed by the Planning Board.

Floor was opened the Harbor Classic Homes, LLC or representative.

Attorney Peter CampoBasso – Legal Representative for Harbor Classic Homes, LLC.

Atty CampoBasso informed the Board that some changes had been made to the planes for the roadway, plans were handed out to both the Board and people present. (*Attachment 4, 5 and 6). In regard to the road width, which was questioned at the last meeting, the plans show that the road is now set to the 28ft which is required by the city code. To reiterate what Chairman LaFond said about the need for a variance in the case, it is for the sole purpose of granting access to the RR2 zone at the rear of the properties on Century Way and Clark St. The purposed roads are in zones SFR1 and G3 which need relief from the Zoning Board to be constructed as it will cross two zones in both areas. The development itself is planned for the RR2 zoned area. Open Space Development is allowed in this zone with a special permit from the Planning Board. Site plan review by the Planning Board is the next step in this project and all questions and concerns of abutters will be addressed at that point. The project would not be detrimental to the area as the homes currently in the vicinity are similar.

Mr. LaFond stated that a letter had been submitted to this case from City lawyer John Flick in response to the question of if a variance was needed. (*Attachment 7).

Any Questions from the Board.

Mr. Heglin asked how many homes were allowed in Open Space development in comparison to regular developments.

Atty CampoBasso stated that the company had their engineers look into this and found that with the limitations of the lot due to wetlands and conservation, the open space development was a more financially stable choice as regular lot size would allow 26 to 30 homes whereas the Open Space Development would grant them 60-80 units.

Any Questions from Abutters.

Mr. LaFond reiterated that only this new information should be the issue of concern tonight. All other issues, such as traffic and conservation have already been noted and will be the concern of the Planning Board.

Mr. Lee Bradley – 105 Brookside Drive. Direct Abutter is Century Way site.

Mr. Bradley asked how close to his property the first unit would be built on the plan handed out.

Atty CampoBasso confirmed that no units will be built close to the abutters as they are in Zone G3 or SFR1. All development will be solely in the RR2 zone in the rear of these lots. The area

off Century Way has quite a gradient to the topography, approx. 8-10ft which would push the build out to a more manageable area. Again, all construction is to be located in RR2, zoning lines can be seen in the plans of Attachment 4&5.

Mr. Bradley questioned the gradient of that land stating he believes it is much steeper the 10ft.

Mr. LaFond stated that this is also the purview of the Planning Board, along with any traffic studies.

Atty CampoBasso addressed all the abutters present to clarify that the granting of this variance does not allow the project to go through yet. The next step with the Planning Board is the place where all their questions and concerns will be heard and addressed. The applicant is open to make some changes to the plan to please as best they can. Changes can be made to lot size and number of units as well vegetation buffers and drainage issue. All the applicant is asking from the Zoning Board to be granted access to the development site.

Mr. Bradley asked for clarification that as the road is now the required 28ft would the roads be the responsibility of the City once completed.

Atty CampoBasso confirmed that was correct.

Mr. LaFond made a motion to close this case and arrange a Decision meeting within the next two weeks.

Mr. Robert Chicoine- 100 Clark St.

Mr. Chicoine asked what the time limitation was for a Variance, in regard to when it will run out and if it can be re applied for.

Mr. LaFond stated that a Variance will stand for one year and can be extended for another 6 months if there is significant need. To clarify if movement is made on the project in that year the variance will stand. Movement on the case includes but not limited to site plan review all the way to breaking ground on the build. If nothing is done in the period of one year and no extension is granted, then the variance becomes void and the applicant not re apply for two years.

Motion to close case and schedule a Decision meeting at a later date.

Unanimous vote to close.

It was stated for the record that the decision meeting would be advertised on the City Website and clothesline at City Hall but would not be sent to abutters or the newspaper.

Decision meeting to be arranged within the next two weeks.

Case# 2021-08-01: Variance for Private Oversight LLC, 0 W Broadway. Open Space Dev.

Application to construct 32 Multi-Family Units at 0 West Broadway, Gardner, MA Parcel ID # H17-7-1, located in the Commercial 2 zoning district (C2) is denied as it does not comply with Chapter 675, Article 1:1, #5 - Multifamily Dwelling of City Code of

Gardner. The zoning code states that your use requested is a "not permitted" use in the "C2" zoning district.

Attorney Tree explained that this case was continued from a previous meeting, and that she had researched the questions regarding the questions of an easement/ right of way, from the last meeting. Narrative Supplied. (*Attachment 8).

Mr. LaFond stated that as with the last case this is an on going hearing and all questions and concerns regard the construction of the units will be for the purview of the Planning Board.

Any question from the Board.

No Questions.

Any questions from abutters.

Mr. Shaffer – 1 Oakwood Lane, Templeton.

Mr. Shaffer asked if there was a more definite number of units proposed.

Atty Tree confirmed that there was for 26 units in total, 8 of which will be in Templeton.

Mr. Shaffer asked if Templeton had agreed to this plan yet and should this be granted will Templeton override if they refuse.

Mr. Heglin stated that this Board has no authority over Templeton.

Atty Tree confirmed that this appeal will still have to go through Templeton Planning Board for review so similar to the last case heard, granting this variance will only be the first step in this long process.

Mrs. Shaffer – 1 Oakwood Lane – Templeton.

Mrs. Shaffer asked if there had been a traffic study completed yet as she has great concern for the area as many accidents have occurred on W Broadway, some fatal.

Mr. LaFond once again informed the meeting that this was the job of the Planning Board, W Broadway is a state highway, and this would be considered a matter for DPW and highway department. Again, to be included in the site plan review of the Planning Board.

Any further questions

No further questions.

Motion to close case and schedule a decision meeting in the next two weeks.

Unanimous vote to close.

Decision meeting to be schedule at a later date, meeting will be posted on the city website and clothesline at City Hall.

5-minute Recess.

Case #2021-11-02 Wayne Brasco. 120 Grant St, Multi Family loss of Zoning.

*Application to operate a **Three Family Home** at, **120 Grant St, Gardner, MA.** Parcel ID #**R22-6-61**, located in the zoning district **General Residential 3 (GR3)** is denied as it does not comply with **Chapter 675-Atch 1:1 # 4** of City Code of Gardner. **This property has lost its zoning status by right.** The "Table of Uses" states that your use requested, requires a "**Special Permit**" (SP) issued by the Gardner Zoning Board of Appeals.*

Mr. LaFond informed the Board and all present that a letter had been received from Building Commissioner Roland Jean regarding this case and building permits and inspections needed at this property. Attachment 9

Mr. Brasco submitted a letter requesting his case be continued a second time to February, so he may take the time to get all permitting and work done correctly and to code. (Attachment 10)

Motion to continue the case to February.

Unanimous vote to continue.

Mr. LaFond noted for the record that a fee of \$150 is due for this second continuance, this will need to be cleared before the case will be heard again.

Motion to accept the request of continuance to February.

Acceptance of minutes.

Motion to accept the minutes from November 13, site visit, November 16, Meeting, November 26, Site visit and December 21st meeting.

Unanimous vote to accept all minutes submitted.

Any New Business.

Motion to adjourn meeting

Unanimous vote to adjourn

Meeting Adjourned at 8.04PM.



Raymond LaFond, Chairman

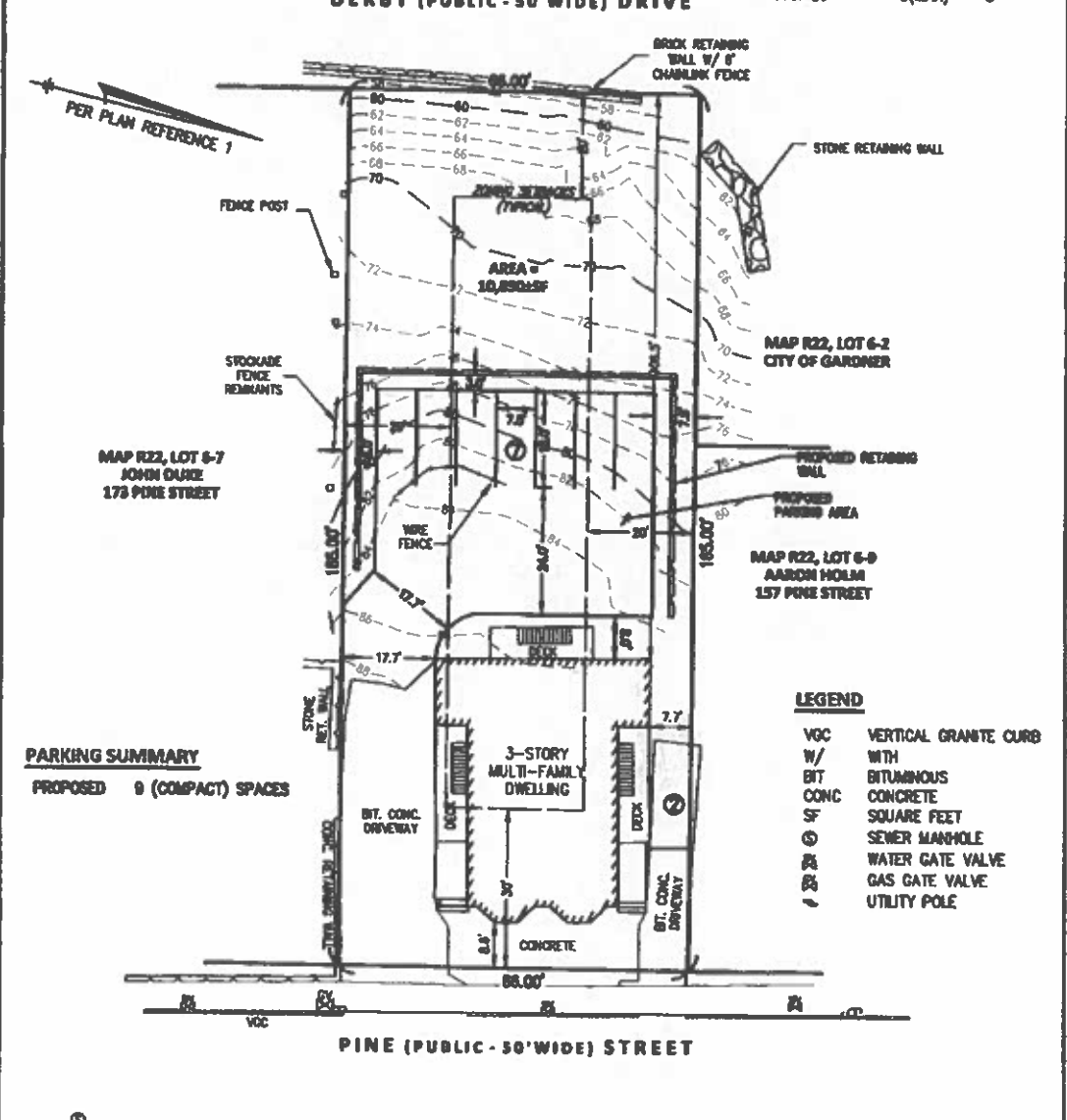


Michael Gerry, Clerk



Randall Heglin, Member.

ASSESSORS ID MAP R22, LOT 6-8	DEED REFERENCE BOOK B1512, PAGE 1	ZONING DISTRICT: GENERAL RESIDENTIAL 3
PROPERTY OWNERS CANDOR REALTY	PLAN REFERENCES WORCESTER COUNTY REGISTRY 1. THE STREET ACCEPTANCE PLAN FOR PINE STREET ON FILE WITH THE CITY ENGINEERING OFFICE TITLED 'CROSS ST. & PINE ST', DATED APRIL 21, 1871. 2. PLAN BOOK 485, PLAN 18. 3. PLAN BOOK 479, PLAN 57.	DESCRIPTION REQUIRED EXISTING
		LOT AREA 8,000±SF 10,890±SF
		FRONTAGE 75' 66.00'
		FRONT YARD 30' 8.6'
		SIDE YARD 20' 7.7'
		REAR YARD 20' 108.5'
		STORIES 3(MAX) 3

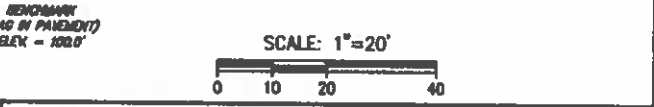


PARKING SUMMARY
PROPOSED 9 (COMPACT) SPACES

LEGEND

VGC	VERTICAL GRANITE CURB
W/	WITH
BIT	BITUMINOUS
CONC	CONCRETE
SF	SQUARE FEET
⊙	SEWER MANHOLE
⊕	WATER GATE VALVE
⊖	GAS GATE VALVE
⊙	UTILITY POLE

- NOTES**
- EXISTING CONDITIONS AND BOUNDARY LOCATION SHOWN HEREON FROM AN INSTRUMENT SURVEY IN NOVEMBER OF 2021. TOPOGRAPHY SHOWN HEREON REFERS TO AN ASSUMED DATUM.
 - NO PORTION OF THE PREMISES SHOWN HEREON IS LOCATED WITHIN A FLOOD HAZARD AREA AS SHOWN ON DEPARTMENT H.U.D. FEDERAL INSURANCE ADMINISTRATION MAPS, PER COMMUNITY PANEL 25030500088, EFFECTIVE DATE JULY 2ND, 1981.
 - UTILITIES OTHER THAN THOSE SHOWN MAY EXIST. CALL DIG-SAFE AT LEAST 72 HOURS PRIOR TO ANY EXCAVATION OR CONSTRUCTION.



ZONING BOARD OF APPEALS PLAN

165 PINE STREET
GARDNER, MASSACHUSETTS

PLAN PREPARED FOR: CANDOR REALTY 165 THORNDIKE ST LOWELL, MA	 CIVIL ENGINEERING - SURVEYING 10 George Street, Suite 208 Lowell, Massachusetts 01852 978-201-9380 - LandPlex.com
NOVEMBER 30, 2021	
SCALE: 1"=20'	

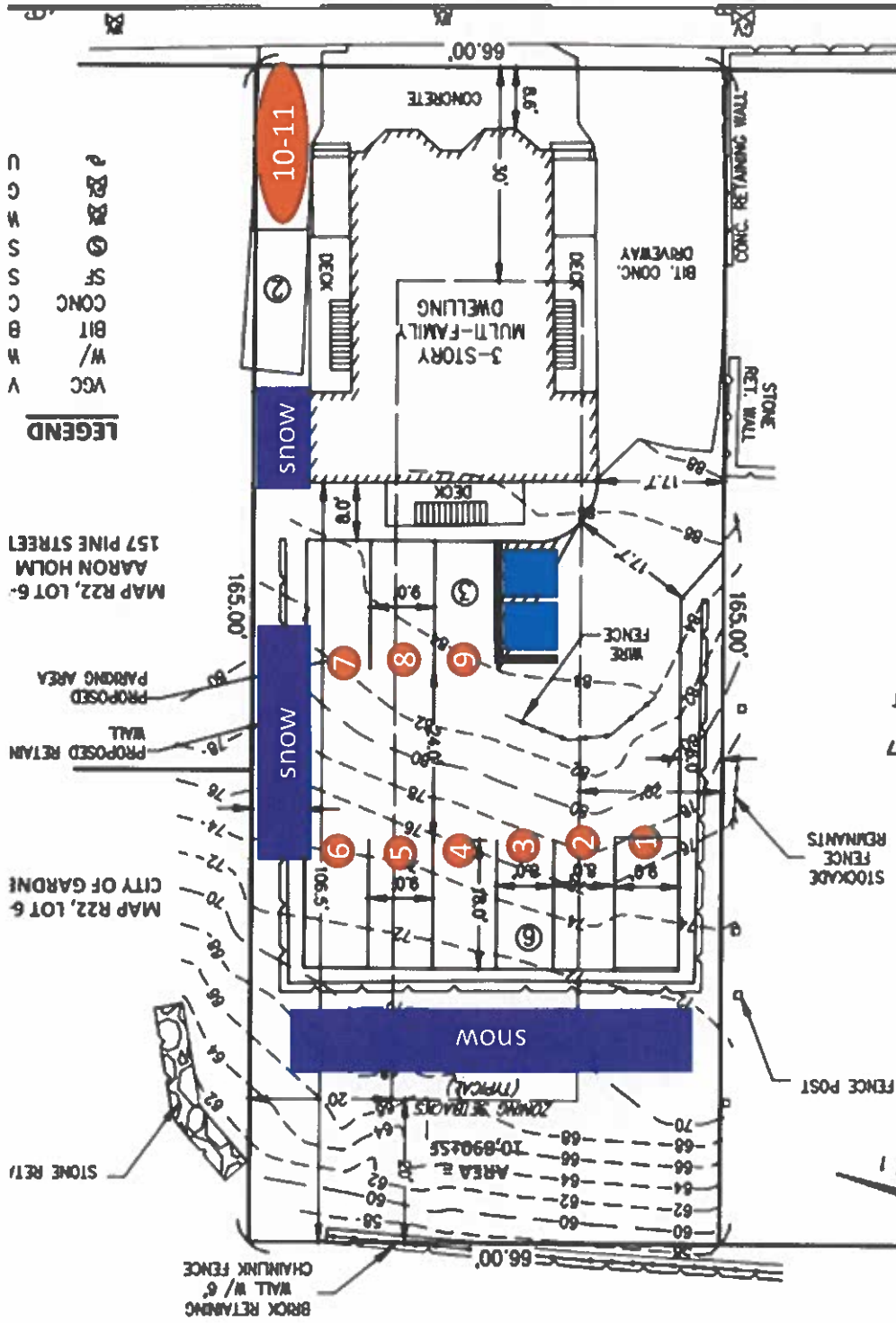


PHOTO 3

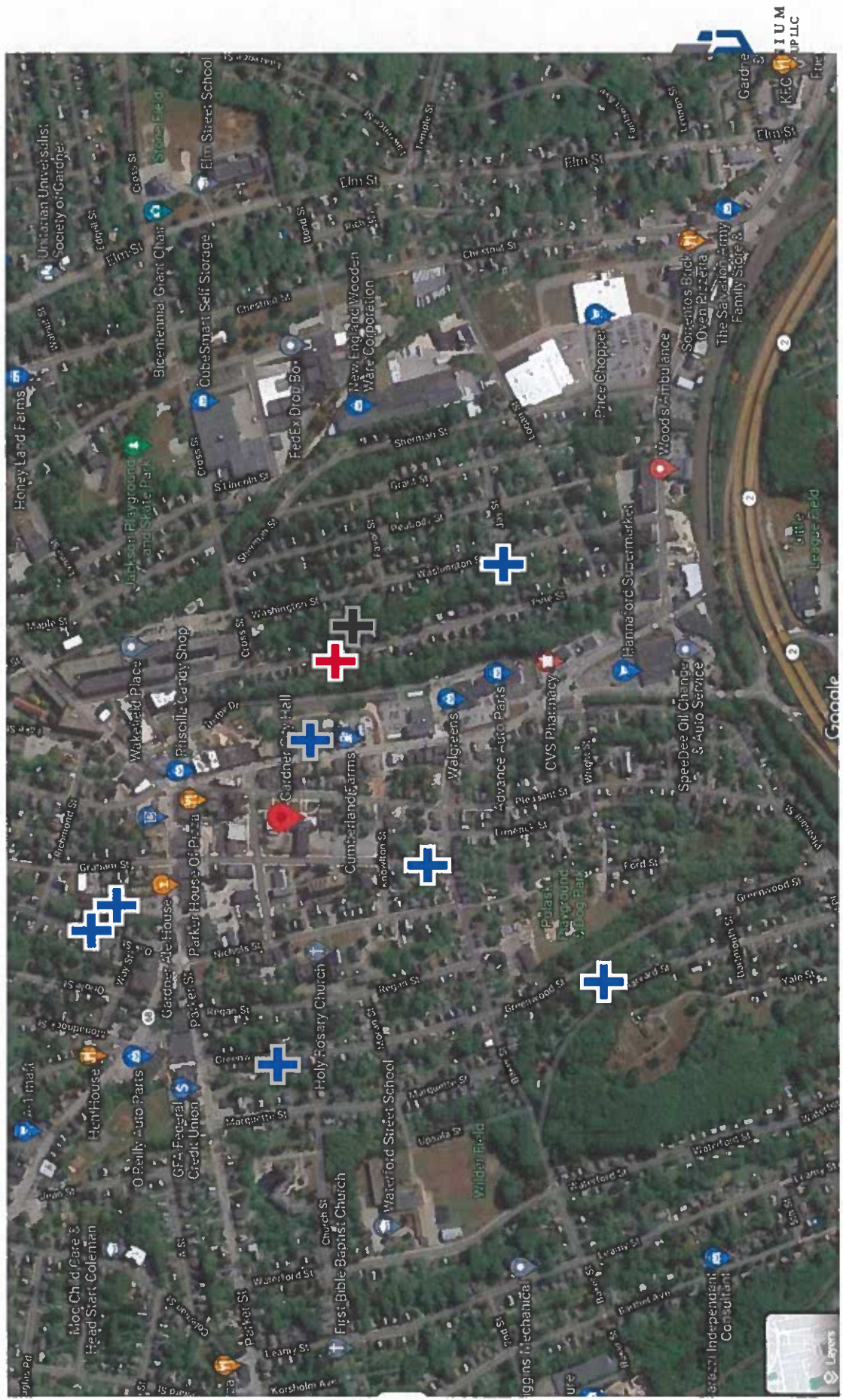


PHOTO 4

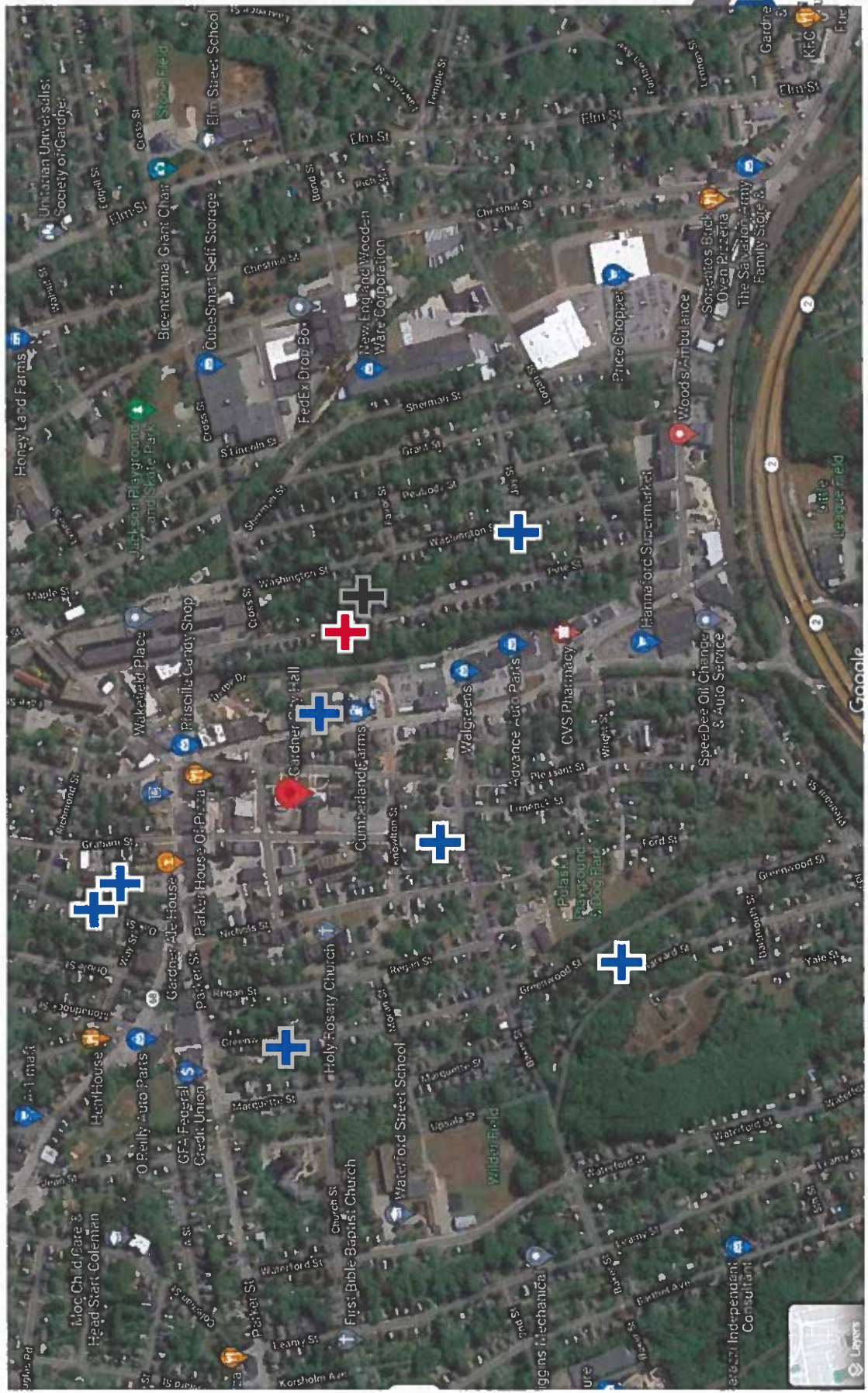
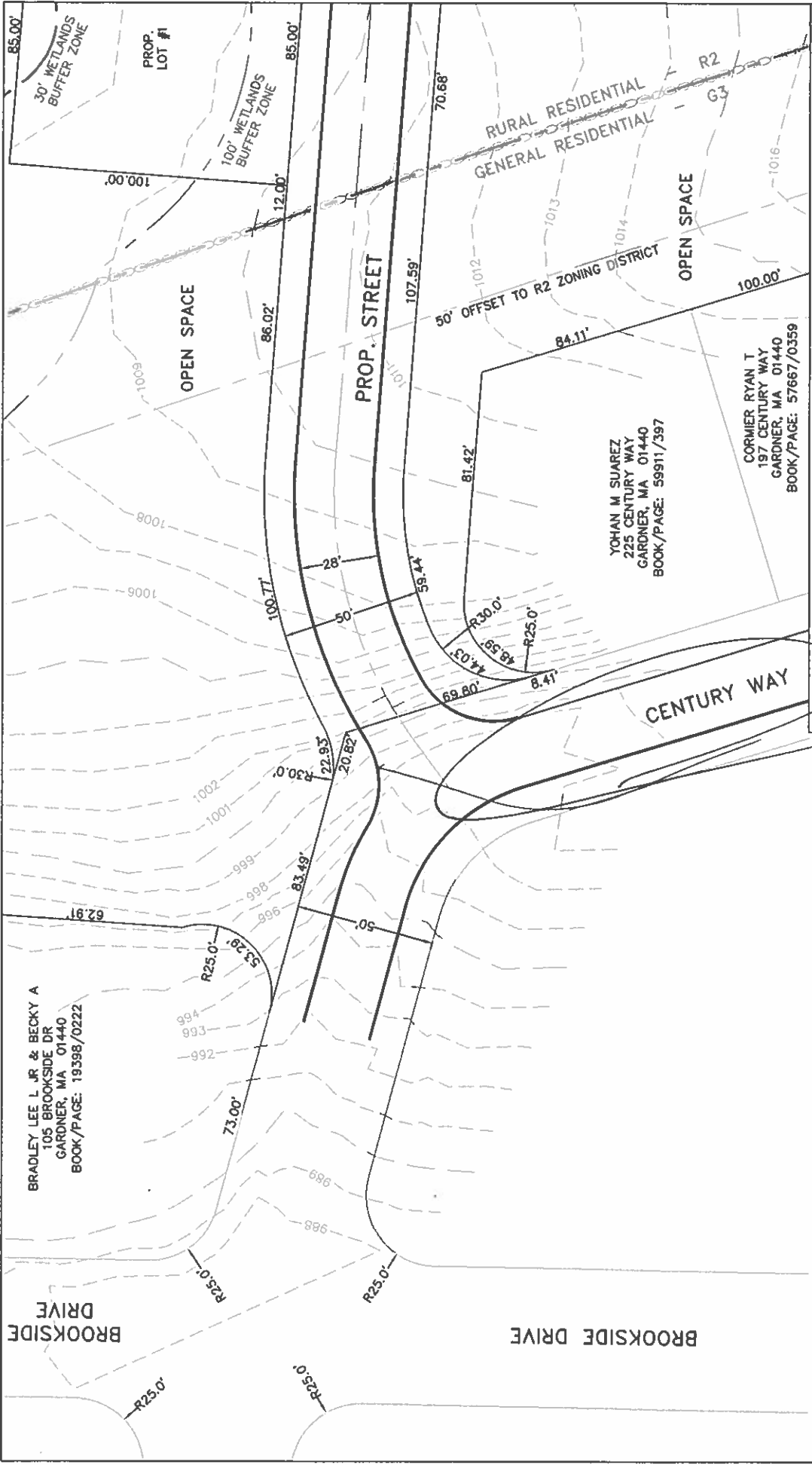


PHOTO 5





WHITMAN & BINGHAM
 ASSOCIATES
 A DIVISION OF HALEY WARD, INC.
 REGISTERED ENGINEERS & LAND SURVEYORS
 510 MECHANIC STREET
 LEOMINSTER, MA 01453
 978-537-5296

**"CONCORD CROSSING"
 CENTURY WAY ENTRANCE
 VARIANCE SKETCH PLAN**

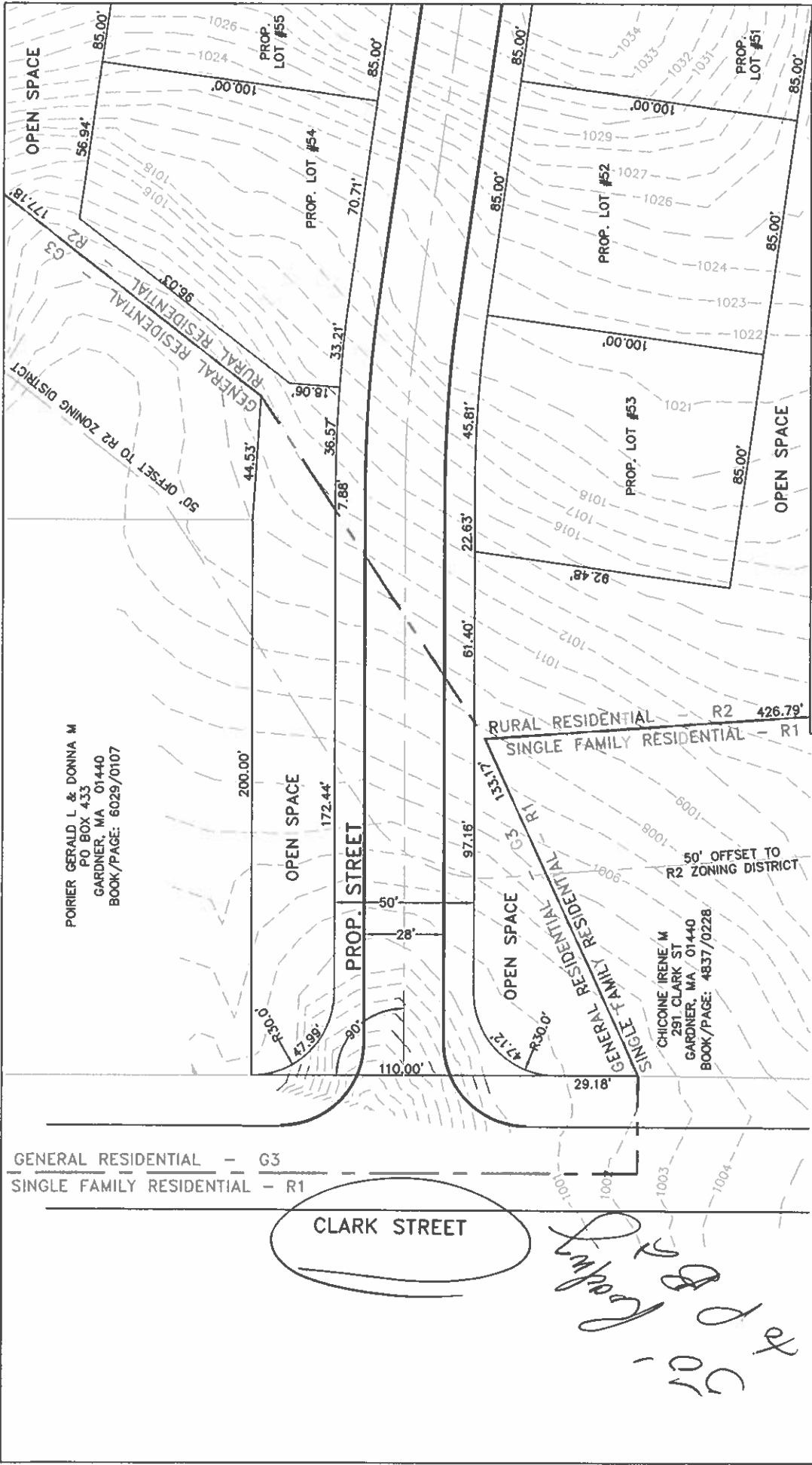
PREPARED FOR:
 HARBOR CLASSIC HOMES
 493 LANCASTER STREET - SUITE 1
 LANCASTER, MASSACHUSETTS 01453

DATED:
 OCTOBER 18, 2021
 REVISION JANUARY 14, 2022

REFERENCE:
 PLAN NO# G-2020-102 BY NEW
 ENGLAND ENGINEERING, LLC



SCALE: 1"=50'



POIRIER GERALD L & DONNA M
 PO BOX 433
 GARDNER, MA 01440
 BOOK/PAGE: 6029/0107

CHICOINE IRENE M
 291 CLARK ST
 GARDNER, MA 01440
 BOOK/PAGE: 4837/0228

WHITMAN & BINGHAM
 ASSOCIATES
 A DIVISION OF HALEY WARD, INC.
 REGISTERED ENGINEERS & LAND SURVEYORS
 510 MECHANIC STREET
 LEOMINSTER, MA 01453
 978-537-5296

**"CONCORD CROSSING"
 CLARK STREET ENTRANCE
 VARIANCE SKETCH PLAN**

PREPARED FOR:
 HARBOR CLASSIC HOMES
 493 LANCASTER STREET - SUITE 1
 LANCASTER, MASSACHUSETTS 01453

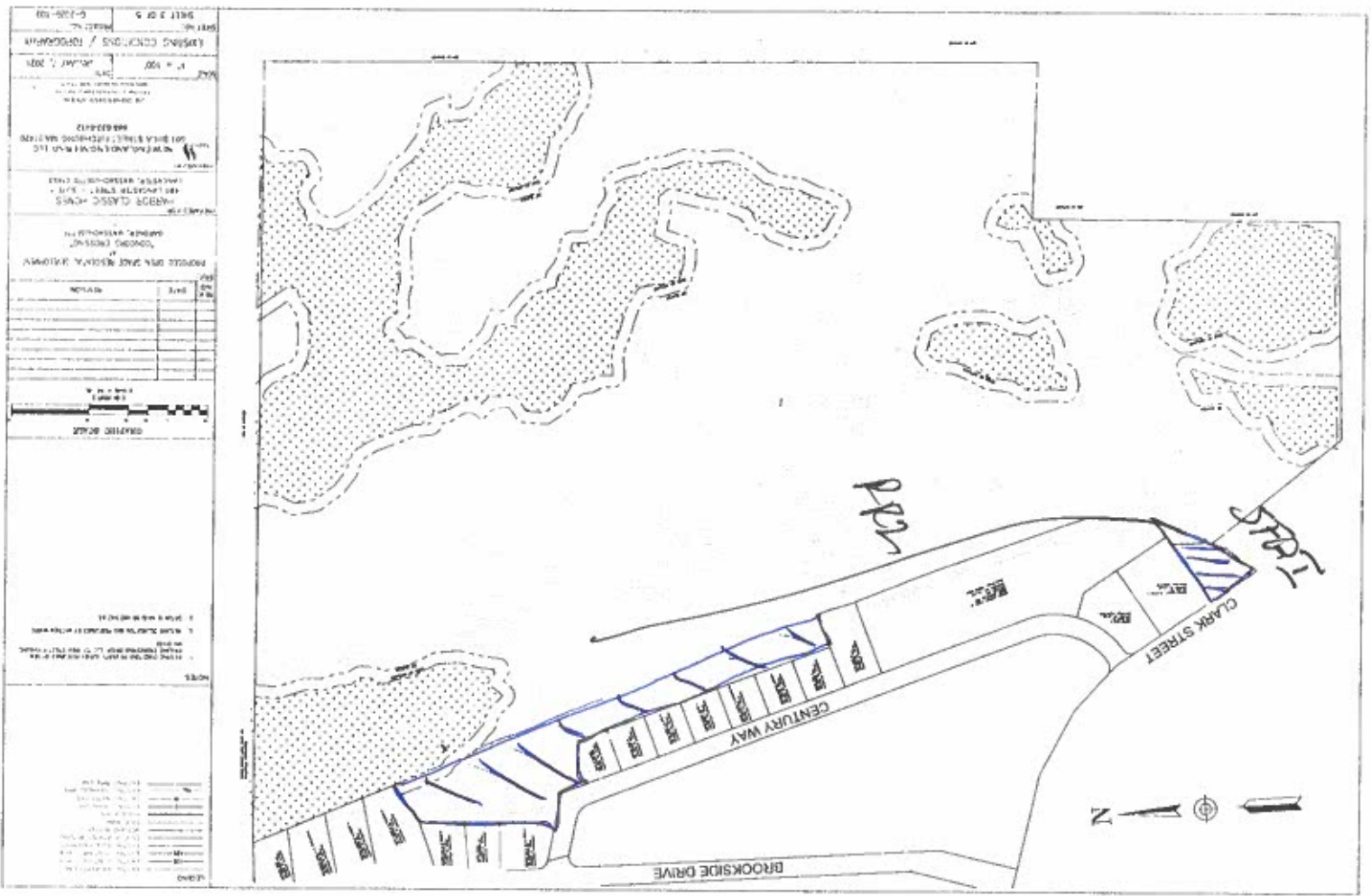
DATED:
 OCTOBER 18, 2021
 REVISION JANUARY 14, 2022

REFERENCE:
 PLAN NO# G-2020-102 BY NEW
 ENGLAND ENGINEERING, LLC



SCALE: 1"=50'

Handwritten signature: G. P. Bingham



attach 7

CITY OF GARDNER LAW DEPARTMENT

John M. Flick
City Solicitor

Ethan Kolodny
Assistant City Solicitor



144 Central Street, Suite 201
Gardner, MA 01440

Telephone (978) 632-7948
Fax (978) 630-3703

Writer's Email:

December 29, 2021

VIA ELECTRONIC MAIL

Ray Lafond, Chair
City of Gardner Zoning Board of Appeals
95 Pleasant Street
Gardner, M A01440



Re: Century Way & Clark Street Variance

Dear Chairman Lafond:

I am writing in response to your request that the Law Department review the submissions of the applicants for a variance being sought to develop land off of Century Way and Clark Street as an open space residential development. Currently the City of Gardner allows an open space residential development by Special Permit in RR2 zoned districts. The City of Gardner Planning Board is the special permit granting authority for open space residential developments.

The property in question is zoned RR2. However, the applicants own two additional parcels which are adjacent to the property on which the open space residential development is to be constructed (the "OSRD Parcel") and provide the access and public way frontage for the OSRD Parcel. These two parcels, M32-6-10, and M37-21-42 are zoned General Residential 3 ("G3"). An open space residential development is not permitted in districts zoned G3 and would require a variance from the ZBA.

The applicant has presented the argument that an open space residential development is by nature a residential development and therefore should be permitted in any zoned district which allows single family residential houses to be constructed. This argument, if substantiated would eliminate any need for a variance for parcels M32-6-10, and M37-21-42 as single-family homes are permitted as a matter of right in districts zoned G3. This is, in the Law Department's opinion, an oversimplification of the issues pertaining to open space residential developments and the applicability of the City of Gardner Zoning Ordinances.

Open space residential developments are creatures of statute. *See M.G.L. c. 40A, § 1A.* The creation of open space residential developments by the legislature essentially replaced the former cluster developments. The legislature specifically provided that:

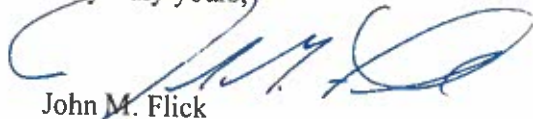
An open space residential development shall be permitted only on a plot of land of such minimum size as a zoning ordinance or by-law may specify which is divided into building lots with dimensional control, density and use restrictions for such building lots varying from those otherwise permitted by the ordinance or by-law and open land. *M.G.L. c. 40A, § 1A*

Therefore, it is clear that the legislature intended that municipalities could differentiate between typical residential construction and open space residential developments by way of zoning ordinances and by-laws.

The primary issue, therefore, is whether or not the applicant should proceed with the variance application for parcels M32-6-10, and M37-21-42 as the residential access roadways to the open space residential development will be over these two parcels. It is the Law Department's opinion that the variance application process is the appropriate means of seeking relief from City of Gardner Zoning Ordinances prohibition of developing an open space residential development in districts zoned G3.

Please let me know if the Board has any additional questions or comments regarding this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John M. Flick", is written over the typed name.

John M. Flick

Cc: Building Department



Christine Tree Legal

Christine M. Tree
ctree@christinetreelegal.com
Anthony Zarrella, Of Counsel
azarrella@christinetreelegal.com

November 22, 2021

City of Gardner
Zoning Board of Appeals
City Hall Annex, Room 101
115 Pleasant Street
Gardner, MA 01440

Re: Case #2021-08-01, PrivateOversight, LLC, 0 West Broadway Open Space Development

Dear Ms. Taylor:

As you know, I represent PrivateOversight, LLC regarding their request for a Use Variance at 0 West Broadway for the development of multifamily residential units, case number 2021-08-01.

I am writing to attach the modified plan for the proposed use of the lot, which should be treated as an amendment to the owner's original petition for Use Variance. This plan is further updated from the plan submitted for the 11/13/21 Site Visit following feedback received. Please note the following major modifications from the originally submitted concept plan:

1. The total number of units has decreased from 32 units to 26 units (I note that the description at the top of the plan states 28 units, but this is a typographical error which will be corrected). Of these units, 18 are located in Gardner and the remaining 8 are located in Templeton. No building lies across the Gardner/Templeton municipal boundary.
2. All Gardner units are constructed to be sold as two-story townhouse style condominiums, at market rate, in the same style as the visual representation previously submitted. This will include a single car garage with parking space in front for each unit, thus providing two parking spaces per unit as required by ordinance.
3. The 18 units in Gardner will have a footprint of 26'x39', or 1,380 SF per unit, with 3 bedrooms and 2.5 baths per unit.
4. A drainage area has been marked on the plan outside of the vegetated buffer, between the street and buildings, to which runoff will be directed. Please note that retaining walls are marked on the plan.

5. The driveway contains a turnaround at the end, which will be submitted in an updated plan prior to hearing. Consideration is being given by the engineer as to the location of a fire access road if necessary upon site plan review. An existing path (likely an old cartwright, substantially clear of brush or trees) has been marked on the plan for this purpose.
6. All dumpsters will be screened by black fencing with black slats.
7. A 50' vegetated buffer would be provided between the subject development and any abutting property which is not held in common ownership. To make sure there is no misinterpretation, this buffer would extend along the boundary line, not along the municipal boundary, so that a portion of this buffer extends into Templeton as depicted on the plan. The buffer also lies between the street and the development.
8. Please note that the rear abutting property is under contract for purchase by the Petitioner at this time, and thus the 50' vegetated buffer is not portrayed as extended to the rear boundary line
9. Please note that although no building crosses the municipal boundary, the driveways for the Templeton units lie almost entirely in Gardner. We do not believe this presents any dimensional issues regarding setbacks as pursuant to Sec. 675-610(C) of the Zoning Ordinance "all minimum yard dimensions required in the following schedule are to be measured from the relevant lot line."
10. This request for a use variance is made only for the lot as it presently exists, for the number of units stated, as depicted on the submitted plan (or as revised and resubmitted to the Board after site plan review by the Planning Board). Petitioner will accept any condition imposed by the Board in order to properly safeguard its right to make a separate determination on development outside the scope of the present proposal.
11. A sign has been proposed in order to display the name of the condominium community and its location is marked to the left of the driveway on the current plan. The sign is proposed to be 36"x48" with flagstone underneath. The subject property lies on the COM2 District. Under Sec. 675-970, signs for "any principal use permitted in the commercial or industrial districts" are permitted provided they meet the listed criteria. We would ask that the Board confirm the interpretation of this Section that the term "any principal use permitted in the commercial or industrial districts" includes uses which have been approved by use variance. In the alternative, Petitioner requests that the Board grant a variance for the proposed sign as described and otherwise conforming to the criteria listed in Sec. 675-970.

We are happy to submit any additional information or respond to questions on the proposed amendment. It is Petitioner's hope that the project will be mutually beneficial and serve the needs of the City.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Christine M. Tree, Esq.

CMT/WMT

Enclosures



City of Gardner
Department of Inspectional Services
 115 Pleasant Street, Room 101
 Gardner, MA 01440
 Tel. (978) 630-4007 Fax: (978) 632-3313

January 14, 2022



RE: ZBA Case # 2021-11-02, Florida Mass Properties, 120 Grant St.

To Mr. Raymond LaFond, Chairman of the Zoning Board of Appeals.

Regarding the Zoning appeal for a special permit to run a three-family dwelling, at 120 Grant St.

I would like to inform you that at this current time we have only received one new application for an electrical permit. No further permits have been filed, and none of them completed or inspected for code and safety violation. As stated in a previous letter, Mr. Brasco has permits open for a roof, and repair work to Porches still open. Building permits for internal work, including kitchens, bathrooms and smoke detectors, have yet to be applied for even though the work is already completed. Photos are attached to this letter which were posted on realty.com in September 2021.

As no significant changes have occurred since the public hearing, I believe it would be in the best interest of all parties, at this time, that Mr. Brasco withdraw this application "without prejudice". This would give the applicant time to complete all work needed to the property and re-apply at a later date. We are also still waiting for the \$150 continuation fee from the last meeting, which would need to be received before the case is re heard.

Do not hesitate to contact me should you need any further assistance.

Roland Jean
 Building Commissioner/Zoning Enforcement Officer
 City Hall Annex
 115 Pleasant St. RM 101
 Gardner, MA 01440
 (978) 630 4007
rjean@gardner-ma.gov

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances







Florida Mass Properties, LLC
295 Waltham Street
Lexington, Massachusetts 02421
781.330.9941
Wfbir1972@gmail.com



January 14, 2022

Mrs. Rachel Taylor
Secretary of the Zoning Board of Appeals
c/o Gardner Building Department
115 Pleasant Street, Room 101
Gardner, MA 01440

Re: Zoning Board of Appeals Hearing – Request for Continuance

**Florida Mass Properties, LLC
295 Waltham Street
Lexington, Massachusetts 02421**

Good afternoon Mrs. Taylor:

I, Wayne F. Brasco, Jr., manager of the Limited Liability Company, Florida Mass Properties, LLC would respectfully request a continuance of our hearing originally schedule for the 21st of December 2021 and then cordially granted by the Board to be continued to the January 18, 2022 meeting with the Gardner Zoning Board of Appeals. I respectfully ask the Chairman of the Board and all Board members to grant us an additional hearing at their next meeting in February 2022.

The reason for such request is to continue to follow up with the building commissioner's office and correct any issues raised by the Building Department. We would like to satisfy every concern of the Commissioner prior to being heard at the hearing. Due to the scheduling of our third party contractors involved in the renovations at the location we have been delayed in our progress addressing all of the Building Commissioners concerns.

Please know the building is presently unoccupied and safety of the public or any residents is not a concern from this delay. This delay is only a third party scheduling conflict. I as well as one of our contractors contracted COVID which further delayed our progress. I have been insured by our third party contractors that we have been placed on their schedule to address any concerns of the commissioner. If we foresee any further scheduling delays we will withdraw without prejudice at the February hearing, if this continuance is so granted.

We respectfully request this additional time to insure the City is satisfied all concerns.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Wayne f. Brasco, Jr.', with a stylized flourish at the end.

Wayne f. Brasco, Jr., manager of the LLC
Florida Mass Properties LLC
Wfbjr1972@gmail.com
781.330.9941

Via: email