

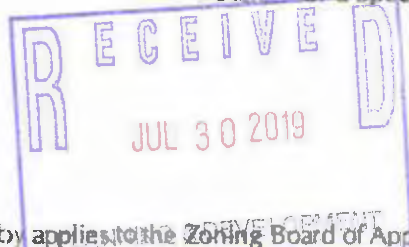
19 JUL 30 P2:50



**Town of Barnstable  
Zoning Board of Appeals**

**Petition for a Special Permit**

Date Received  
Town Clerk's Office:



For office use only:  
Appeal # 2019-050  
Hearing Date 09-25-19  
Days Extended \_\_\_\_\_  
Decision Due 11-20-19

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name: 1000 Main, LLC Phone: (508) 360-6859  
Petitioner's Address: Box 125 / 164 Beale Way Barnstable, MA 02630

Property Location: 1000 Main Street (off 6A) West Barnstable  
Property Owner: 1000 Main, LLC Phone: (508) 360-6859  
Address of Owner: \_\_\_\_\_

*If applicant differs from owner, state nature of interest:*

Registry of Deeds/Land Court References: Deed 27876/218 Plan \_\_\_\_\_

Assessor's Map/Parcel Number: 179 Zoning District: WBVBD

Number of Years Owned: 5 1/2 (12/2013) Groundwater Overlay District: \_\_\_\_\_

Special Permit Requested: To allow storage of small traditional sail boats  
Cite Section & Title from the Zoning Ordinance

and to continue pre-existing use of residential units in house.  
Description of Activity/Reason for Request:

WBVBD - 240 - 20B sections (3) and (4)

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit ..... No [ ] Yes [X]

Permit# 1987-35

1 The Petitioner's Name will be the entity to whom the special permit will be issued to.  
2 If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): None

Attach additional sheet if necessary

Existing Level of Development of the Property- Number of Buildings: Three buildings

Present Use(s): House - Residential Garage - Storage Barn - Small Sailboat Storage

Existing Gross Floor Area: 4,019 sq. ft. Proposed New Gross Floor Area: 0 sq. ft.

Site Plan Review Number: C56-18 Date Approved: 8/29/18 (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes  No
- Is this proposal subject to the jurisdiction of the Conservation Commission ..... Yes  No
- Is this proposal subject to approval by the Board of Health ..... Yes  No
- Is the building a designated Historic Landmark?..... Yes  No
- Have you applied for a building permit?..... Yes  No
- Have you been refused a building permit?..... Yes  No

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

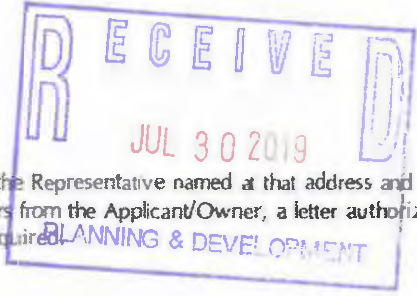
Signature: [Signature] Date: 7/29/19  
Applicant's or Representative's Signature

Print Name: Peter C. Eastman

Address: Bc x 125 Phone: (508) 360-6859

Barnstable, MA 02630 Fax No.: (508) 362-6859

e-mail Address: p.eastman@aol.com



All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

**LEGEND**

- 99 — EXISTING CONTOUR
- X 99.7 EXIST. SPOT ELEV.
- [99] — PROPOSED CONTOUR
- [98.4] PROPOSED SPOT EL.
- TH1 TEST HOLE
- 2% SLOPE OF GROUND
- UTILITY POLE
- FIRE HYDRANT
- NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING
- PINE OR SPRUCE
- CEDAR
- DECIDUOUS

- NOTES**
1. DATUM IS NAVD\_88
  2. MUNICIPAL WATER IS NOT AVAILABLE
  3. THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
  4. CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.



**LOCUS MAP**  
SCALE 1"=2000' ±  
ASSESSORS MAP 179 PARCEL 2

**ZONING SUMMARY**  
ZONING DISTRICT: RF RESIDENTIAL DISTRICT  
MIN. LOT SIZE 43,560 S.F.  
MIN. LOT FRONTAGE 150'  
MIN. FRONT SETBACK 30'  
MIN. SIDE SETBACK 15'  
MIN. REAR SETBACK 15'  
MAX. BUILDING HEIGHT 30'

**ZONING SUMMARY**  
ZONING DISTRICT: WBVBD BUSINESS DISTRICT  
MIN. LOT SIZE 43,560 S.F.  
MIN. LOT FRONTAGE 160'  
MIN. FRONT SETBACK 30'  
MIN. SIDE SETBACK 30'  
MIN. REAR SETBACK 30'  
MAX. BUILDING HEIGHT 30'  
MAX. LOT COVERAGE 10%

**REFERENCES**  
DEED BOOK 27876 PAGE 218  
PLAN BOOK 177 PAGE 43

**SITE PLAN**  
OF

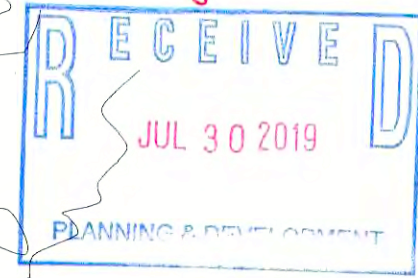
**1000 ROUTE 6A  
WEST BARNSTABLE, MA**

PREPARED FOR  
**PETER EASTMAN**

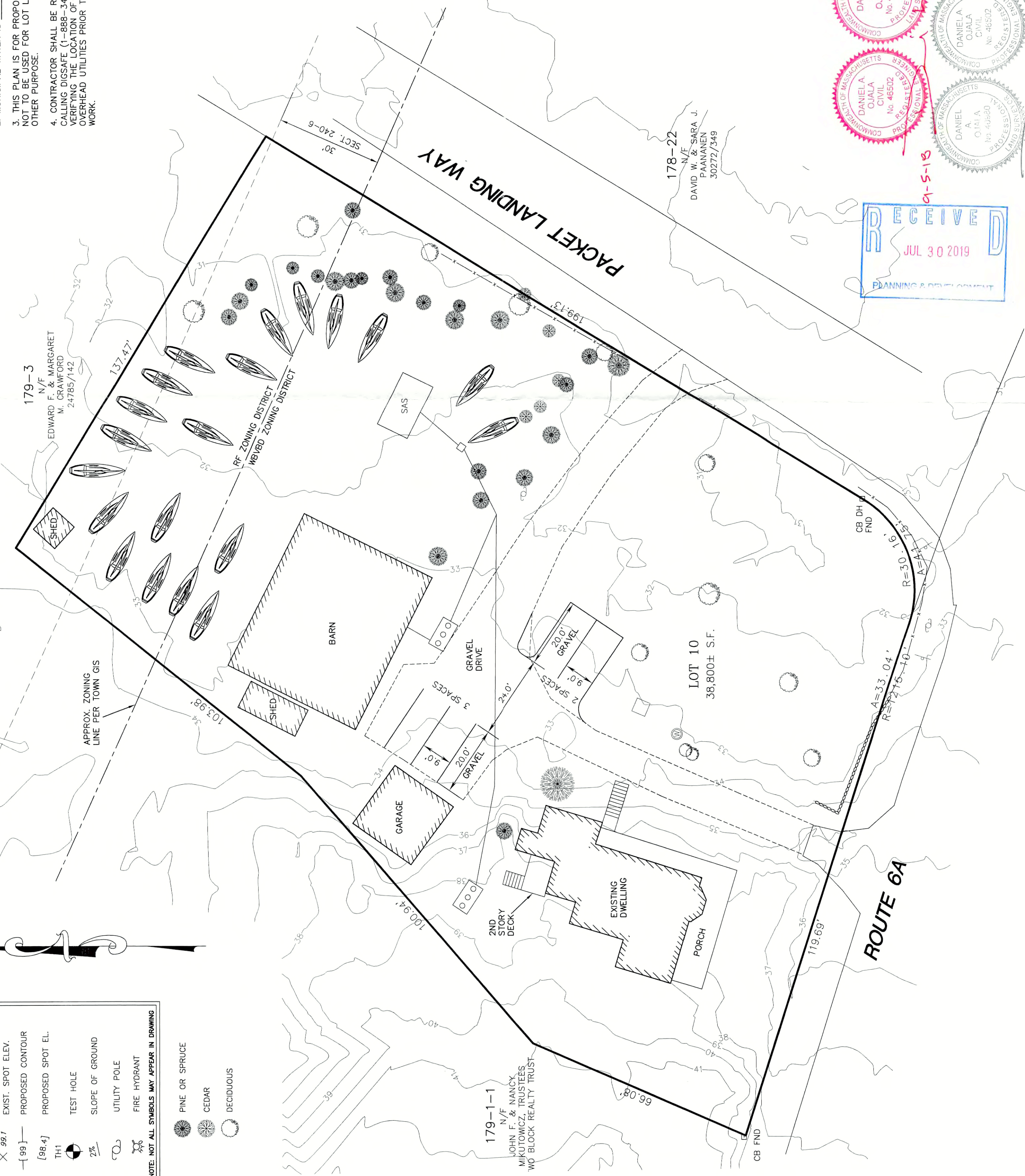
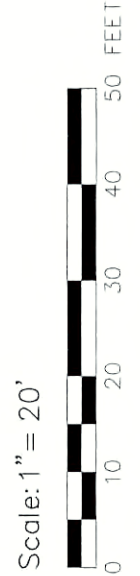
DATE: APRIL 10, 2018  
REV.: SEPTEMBER 5, 2018

**down cape engineering, inc.**  
civil engineers  
land surveyors

939 Main Street (Rte 6A)  
YARMOUTHPORT MA 02675  
18-078 EASTMAN.DWG



DATE 9-5-18  
DANIEL A. OJALA, P.E., P.L.S.



TOWN OF BARNSTABLE  
ZONING BOARD OF APPEALS

\*\*\*\*\*

IN RE:  
Special Permit Number 2019-050

1000 Main Street  
West Barnstable, MA

\*\*\*\*\*

ABUTTER'S MEMORANDUM OF LAW IN  
OPPOSITION TO APPLICATION FOR SPECIAL PERMIT

Now comes Peter Sundelin, abutter to subject property, and submits the following Memorandum of Law in Opposition to Application for Special Permit Number 2019-050

ISSUE PRESENTED:

Petitioner seeks "to continue pre-existing use of residential units in house". The real issue is whether or not any lawful pre-existing non-conforming multi-family use actually exists.

THE PRE-EXISTING NON-CONFORMING MULTI-FAMILY USE WAS ELIMINATED  
BY ISSUANCE OF THE 1987 SPECIAL PERMIT:

The main house had multiple apartments in it prior to the advent of zoning. This multi-family use later became a pre-existing non-conforming use due to the Use Regulations in the VB-B.<sup>1</sup>

The Use Regulation (Section K - 7 (b) ) sets forth the allowed uses:

- a. Detached one family dwelling
- b. Retail store, professional or business office, bank, personal service store or shop.

On March 27, 1987, the prospective new owner (Charles Birdsey) made application to the Board of Appeals for a Special Permit.

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<sup>1</sup> References are to the 1986 Zoning Ordinance in effect as of March 27, 1987. That, and the other documents mentioned herein, are attached as Exhibits.

The Zoning Section invoked by the Petition was P. A. - 14. This says:

*"A. The Board of Appeals may grant a special permit for the following exceptions to the zoning by-law: ..... 14. In Village Business District A and B, any use permitted in a business district, except hotels and motels."*

Mr. Birdsey's 1987 Petition for Special Permit (paragraph 8) stated that the proposed use of the premises was to be: "Apartment Upstairs, Office Downstairs, boat repair in barn"

The Public Hearing was held on April 30, 1987. Petitioner's lawyer told the Board:

*"There are several apartments that have been in the building since the 1930's - intend to use one apartment, but not all of them."*

The ZBA decided to allow a boat operation in the barn. The Decision says:

*"There are several apartments in the main building since the 1930's. The petitioner intends to use one apartment in the main house, and there is going to be one office used by the petitioner's wife, who runs an adoption agency."*

The Birdsey Petition for Special Permit did not seek to expand a lawful pre-existing non-conforming use of multiple apartments to add a boatbuilding business. This is significant.

An attempt to change the pre-existing non-conforming multi-family use to add a non-conforming boatbuilding business would have run afoul of Zoning Section G - B. That section prohibits: *"the creation of two or more non-conforming uses differing in use"*

This is made clear by the discussion between Mr. Jansson and Attorney. Burling on page 7 of the ZBA Minutes:

*"Ron [Jansson] questions if [the property] has the benefit of a pre-existing non-conforming use. Attorney Burling responded "yes", - Ron Jansson commented his question then is why the petitioner is not before the Board on that particular basis - Mr. Burling commented that he wanted to go under the additional business allowed under [Section P. A. - 14 of ] the zoning by law." (bolded words added for clarity)*

Mr. Jansson further alludes to this issue in the ZBA minutes:

*"now [I] understand if you look at Section G (B) why you probably would not want to come before the board with the pre-existing non-conforming use - because you are talking about two or more [non-conforming] uses." (bolded words added for clarity)*

Eastman, the current petitioner, seeks to resurrect the pre-existing non-conforming multi-family use. Nothing of this sort exists to be resurrected

Had the 1987 petitioner attempted to keep in place the pre-existing non-conforming multi-family use **and** add to it a non-conforming boatbuilding business, the petition would have required denial under Section G (B).

Instead, the 1987 Special Permit had the following results:

Single family dwelling, allowed as of right; and  
Office, allowed as of right; and  
Boat building, allowed by the special permit.

This put the property into full compliance with the ordinance.

The old pre-existing non-conforming multi-family use was eliminated . It did not remain, somehow lurking in the shadows, so that the owner could resurrect it at his or her pleasure. Had the 1987 Petitioner wished for such a result, certainly it would have been appropriate for him to bring it to the Board's attention. This did not occur.

ASSUMING - JUST FOR THE SAKE OF ARGUMENT - THAT THE PRE-EXISTING NON-CONFORMING MULTI-FAMILY USE **WAS NOT** ELIMINATED BY ISSUANCE OF THE 1987 SPECIAL PERMIT: THAT USE WAS ABANDONED AND IS NOT IN THE PICTURE

In the filing, there is an Affidavit of Christopher Birdsey. This gentleman is the son of the 1987 Petitioner. The property was owned by the 1987 Petitioner from April of 1987 until August of 2007. At that time, the property was gifted to Christopher Birdsey.

The Christopher Birdsey Affidavit fails to establish that a multi-family use was continued between April of 1987 and August of 2007.

The affidavit is artfully and ambiguously phrased so as to obscure the point as to multi-family use during the period of ownership by the 1987 Petitioner. It says:

*“During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space”*

Why is this important?

Assuming, arguendo, that the pre-existing non-conforming multi-family use somehow survived the 1987 grant of special permit, the present petitioner bears the burden of proof that this use was never abandoned. That burden has not been met.

The applicable period for abandonment ended five years after the grant of the 1987 special permit. That was April of 1992.(References: Section P. A. - 5, 1986 Zoning; and Article 8, Annual Town Meeting, November 7, 1987).

There is no proof as to any multi-family use during the period from April of 1987 until April of 1992. It is, however, perfectly clear that Mr. Charles Birdsey discontinued the multi-family use.

In July of 1990, Mr. Birdsey made application to the Board of Health for a Disposal Works Construction Permit. The building is described as a two-bedroom dwelling with an office, two persons. In addition, there is the Affidavit of Marge Keary as to the uses during the Charles Birdsey ownership period. Together, these documents remove any question that the former multi-family use was abandoned.

It does appear from the file that Christopher Birdsey - and later Mr. Eastman - freely indulged themselves in multi-family use from and after 2007.

From a zoning perspective, this avails Petitioner of nothing, except proof of an extended period of unlawful multi-family use.

#### KNOWLEDGE OF UNLAWFUL USE

Both Mr. Christopher Birdsey and Mr. Eastman actually knew that the multi-family use was unlawful, but went ahead and did it anyway.

Mr. Eastman Submitted a "History of 1000 Main Street" to the Site Plan Review Committee. He states: *"When I bought the property in 2013, I was told that ..... there were apartments allowed in the house."*

The information about apartments (plural) is not correct. Moreover, Mr. Eastman knew, or reasonably should have known, that this information was not correct. And he knew it prior to making the purchase.

Ms. Tara Schiffman was both listing broker and selling broker when Mr. Eastman bought the property in December of 2013.

The MLS listing sheet which was current at that time is attached.

This listing sheet states:

*“Permitted uses for the property include residential, Village Business B, AND, according to a Special Permit: offices on the first floor, an apartment on the 2nd and a boat building business in the barn... Buyer to verify all zoning and uses.”*

It is difficult to believe that Mr. Eastman was unaware of the information on the listing sheet. It is even more difficult to believe that Mr. Eastman knew nothing beyond *“there were apartments allowed in the house.”*

Further, Mr. Christopher Birdsey was well aware of the facts. Mr. Birdsey first listed the property with Ms. Schiffman in May of 2010. He claimed that it had “a main building with three separate units”

In order to correct this misinformation, Peter Sundelin wrote a lengthy and detailed letter dated June 10, 2010 to the building inspector. A copy was provided to Mr. Birdsey, and then to Ms. Schiffman.

Ms. Schiffman conferred with Barnstable’s Principal Planner, Mr. Art Tradzyk. As a result, the listing was corrected. Ms. Schiffman’s letter about this matter, dated June 15, 2010, is also attached



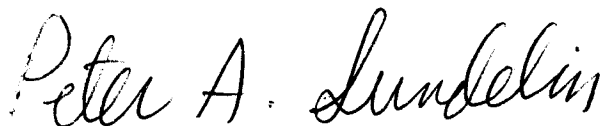
CONCLUSION:

The pre-existing non-conforming multi-family use ceased to exist when the `1987 Special Permit was issued.

Assuming - just for the sake of argument - that the pre-existing non-conforming multi-family use somehow remained in place after issuance of the 1987 Special Permit, that use was abandoned and ceased to exist in April of 1992.

In either event, the Board is respectfully urged to find that there is no pre-existing non-conforming multi-family use available for the Petitioner to "continue".

Respectfully Submitted,



---

Peter A. Sundelin, Attorney-At-Law and an Abutter to 1000 Main Street  
999 Main Street  
West Barnstable, MA 02668  
508-362-6873  
BBO # : 488520

DATED: September 25, 2019

## LIST OF EXHIBITS

- 1) 1986 Zoning
- 2) 1987 Petition for Special Permit
- 3) Minutes of ZBA Public Hearing held on 4/30/1987
- 4) 1987 Special Permit Decision
- 5) Affidavit of Christopher Birdsey dated 8/30/18
- 6) BOH Disposal Works Construction Permit dated July, 1990
- 7) Affidavit of Keary
- 8) MLS Listing Sheet dated December, 2013
- 9) Tara Schiffman Letter dated June 15, 2010

EXHIBIT ONE

# ZONING BY-LAWS



February 1986

TOWN OF BARNSTABLE  
MASSACHUSETTS

PRINTED ON CAPE COD AT THE PATRIOT PRESS, HYANNIS, MASS.

which the trailer is located under a temporary permit from the Building Inspector.

Sub-paragraph (c) amended by 1969 October 23, Sp. 20, approved by the Atty. Gen. Dec. 17, 1969.

#### B. Tents

1. Maintaining or occupying a tent for living or business purposes is prohibited in all zoning districts of the town.

#### C. Noxious or Offensive Uses.

1. Uses which are injurious, noxious or offensive by reason of the emission of odor, fumes, dust smoke, vibration, noise, lighting or other cause are prohibited.

Paragraph C.1 amended 1983 Fall An. B-18, approved by Atty. Gen. Feb. 4, 1984, by adding "noise, lighting."

D. The construction of a new building for, or the conversion of any existing building, whether or not a condominium under Chapter 183A of the general laws to any use known as time-sharing, interval ownership, or otherwise, whereby unit owners are entitled by deed or other recorded instrument to occupancy of the units for only specified, recurring periods of less than a year during the course of a year, is prohibited until June 1, 1984 in all districts. This paragraph D. shall cease to be effective on June 1, 1984. (Unanimous)

Paragraph D added 1982 An A-1, approved by the Atty. Gen. Feb. 16, 1983.

### G. NON-CONFORMING USES

A. Any lawful building, or any lawful use of a building or premises, or part thereof, existing at the time the zoning by-law was originally adopted in the area in which such building or use is located, may be continued, although such building or use does not conform to the provisions hereof.

B. Any change of a non-conforming use, any alteration, relocation or increase in size of an existing non-conforming building or structure to extend the non-conforming use on the same lot, or use of existing or construction of a new building or structure, shall be allowed only by Special Permit of the Board of Appeals. Any of the foregoing shall not result in the creation of any use or structure more objectionable or substantially detrimental to the neighborhood or the creation of two or more non-conforming uses differing in use.

Prior paragraph (B) deleted and new paragraph (B) inserted by 1974 An 112, approved by the Atty. Gen. July 16, 1974.

C. Any such non-conforming building which has been damaged by fire or other cause to any extent, may be repaired or rebuilt, providing the owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe.

D. See Special Exceptions Section.

E. Any lot lawfully laid out by a plan or deed duly recorded, as defined in section eighty-one L. of chapter forty-one, or any lot shown on a plan endorsed with the words "approval under the subdivision control law not required" or words of similar import, pursuant to section eighty-one of chapter forty-one, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum

area, frontage, width, and depth requirements, if any, of the zoning ordinances or by-laws in effect in the Town of Barnstable, notwithstanding the adoption or amendment of provisions of a zoning ordinance or by-law in the town imposing minimum area, frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement (1) may thereafter be built upon for residential use if, at the time of the adoption of such requirements or increased requirements or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district, or (2) may be built upon for residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjoining land located in the same residential district; and further provided, in either instance, at the time of building (a) such lot has an area of 7,500 (seventy five hundred) square feet or more and a frontage of twenty feet or more, is in a district zoned for residential use, and conforms except as to area, frontage, width and depth with the applicable provisions of the zoning ordinance or by-law in effect in the town and (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side and rear setbacks, if any, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

Paragraph E added 1977 An 21, approved by Atty. Gen. Jan. 12, 1978.

### H. ACCESSORY USES

1. Accessory buildings or uses including the keeping, stabling, and maintenance of horses as specified in Section I located on the same lot as the building to which it is accessory and customarily incidental to any of the uses permitted in a particular residence district and not detrimental to a residential neighborhood, shall be permitted in that particular residence district.

Paragraph 1 amended by adding "including the keeping, stabling, and maintenance of horses as specified in Section I" 1974 An 102, approved by the Atty. Gen. July 16, 1974.

2. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

Paragraph 2 added by 1977 An 21, approved by the Atty. Gen. Jan. 12, 1978.

### I. USE REGULATIONS — RESIDENCE DISTRICTS

A. No building shall be erected or altered and no building or premises shall be used for any purpose in the following specified districts other than provided for in this section or in Section P and the maximum height of any building shall be not more than two & one-half (2½) stories, or thirty (30) feet from the ground level to the plate, whichever

**APPENDIX A**

	Area in Sq.Ft.	Frontage in feet	Width in feet	Front Yard Setback in feet	Side Yard in feet	Rear Yard in feet
RESIDENCE B	43,560	20	100	20	10	10
RESIDENCE B-1	43,560	20	100	20	10	10
RESIDENCE C	43,560	20	100	20	10	10
RESIDENCE C-1	43,560	125		30	15	15
RESIDENCE C-2	43,560	20	100	20	10	10
RESIDENCE D	43,560	20	125	30	15	15
RESIDENCE D-1	43,560	20	125	30	10	10
RESIDENCE F	43,560	150		30	15	15
RESIDENCE F-1	43,560	20	125	30	15	15
RESIDENCE F-2	43,560	20	150	30	15	15
RESIDENCE G	65,000	20	200	30	15	15

Residence B-1 area added by An. 1977 25, approved by the Atty. Gen. Jan. 12, 1978.  
 Residence F-2 added by 1977 An 36, approved by Atty. Gen. Jan. 12, 1978.  
 Residence A and Residence A1 deleted by 1973 An 140, approved by the Atty. Gen. June 15, 1973.  
 Appendix A amended by adding the words "Front Yard" and by deleting figures shown as "50 (30)" and inserting therein the figure "30" 1974 An 145, approved by the Atty. Gen. July 16, 1974.  
 Residence C-2 added by 1974, July 30, Sp. 12, approved by the Atty. Gen. September 5, 1974.  
 Residence G added by 1979 An 7, approved by the Atty. Gen. June 20, 1979.  
 Residence D-2, Residence D-3, Residence E, Residence E-1 deleted 1979 An 9, approved by Atty. Gen. Feb. 26, 1980.  
 Frontage in feet "20" added by Jan. 21, 1982 Sp. 4, approved by Atty. Gen. May 20, 1982.  
 Area in sq. ft. "43,560", where less, by Feb. 28, 1985 Sp 1, approved by Atty. Gen. May 31, 1985.

Front yard setback distances shown above mean from sideline of the street. Where a lot abuts on one or more than one street, front yard setback shall be applicable from all streets. Front yard setback in Residence Districts along Route 28 and along Route 132 shall be 100 feet.

Prior Paragraph deleted and new paragraph inserted by 1974 An. 146, approved by the Atty. Gen. July 16, 1974.  
 Paragraph amended 1983 Fall An. B-14, approved by Atty. Gen. Feb. 4, 1984 by adding "Front yard...Route 28....."

Hotels and motels shall not be allowed in Precincts 1, 2, 4, 6 and 7 as existing on the date of adoption of this bylaw. Nothing in this paragraph shall affect the Industrial or Industrial Limited Districts.  
 Paragraph amended 1983 Fall An. B-13, approved by Atty. Gen. Feb. 4, 1984 by adding "Hotels and motels....."

Wetlands as defined in Section C-Definitions shall not be included in the area square foot requirement for zoning compliance, as shown in Appendix A.

Paragraph inserted by 1983 Fall An. B-8, approved by the Atty. Gen. Feb. 4, 1984.

**K. USE REGULATIONS — NON-RESIDENCE DISTRICTS**

A. No building shall be erected or altered, and no building or premises shall be used, for any purpose in the following specified districts other than provided in this section. The maximum height of any building shall be not more than two (2) stories, or thirty (30) feet

from ground level to the plate, whichever is lesser, except that in a Professional Residential District hospitals are excluded from this height limitation.

Paragraph A. amended by 1974 An 108, approved by the Atty. Gen. July 16, 1974 by adding, "The maximum height... from this height limitation."

**1. Business District.**

- a. Wholesale or retail stores or salesrooms.
- b. Retail trade service or shop.
- c. Offices and banks.
- d. Restaurants and other food establishments.
- e. Place of business of baker, barber, blacksmith, builder, carpenter, caterer, clothes cleaner or presser, confectioner, contractor, decorator, dressmaker, dyer, electrician, florist, furrier, hairdresser, hand laundry, manicurist, mason, milliner, newsdealer, optician, painter, paper hanger, photographer, plumber, printer, publisher, roofer, shoemaker, shoe repairer, shoe shiner, tailor, tinsmith, telephone exchange, telegraph office, undertaker, upholsterer, wheelwright.

f. Gasoline and oil filling stations and garages.

g. Apartment houses, subject to Section M.

h. Hotel or motel, subject to Section N.

i. The above listed types of business uses are not intended to be all inclusive and any other ordinary business use of a similar nature may be carried on in a Business District.

**2. Business District A.**

a. The same uses as permitted in the Business District, except that hotels and motels and multi-unit dwellings are excluded and the conversion of any existing multi-unit dwelling, whether or not a condominium under Chapter 183A of the general laws, to any use, known as time-sharing, interval ownership or otherwise, whereby unit owners are entitled by deed or other recorded instrument to occupancy of the units for only a specified period of less than a year during the course of a year, is prohibited.

Prior sub-paragraph 2 deleted by 1982 An A-11 and new sub-paragraph added, approved by Atty. Gen. Feb. 16, 1983.

**3. Business Limited District B.**

- a. Motel, hotel or lodging house.
- b. Building, sale, rental, storage and repair of boats.
- c. Retail sale of marine fishing and boating supplies.
- d. Retail sale of fishing bait, fish and shellfish.
- e. Operation of a commercial fishing business excluding canning or processing of fish.
- f. Restaurants.
- g. Retail stores.
- h. Operation of charter fishing and marine sightseeing and excursion facilities.

a. & f. required to connect to the Town sewer system and subject to Special Permit under Section P.

Prior paragraph deleted and new paragraph added by 1978 Fall An 16, approved by Atty. Gen. Feb. 6, 1979.

#### 4. Business Limited District C.

- a. Professional or home occupation use. See Section I for definition.
- b. Small retail businesses common to a residence district.
- c. Detached one family dwelling.
- d. a. and b: above subject to the grant of a special permit under Section P.

Sub-paragraph (c) added by 1970 An 108, approved by the Atty. Gen. June 19, 1970.

Sub-paragraph (d) inserted by Jan. 21, 1982 Sp. 9, approved by the Atty. Gen. May 20, 1982.

#### 5. Marine Business District A.

- a. Building, sale, rental, storage and repair of boats.
- b. Retail sale of marine fishing and boating supplies.

#### 6. Marine Business District B.

- a. Building, sale, rental, storage and repair of boats.
- b. Retail sale of marine fishing and boating supplies.
- c. Retail sale of fishing bait, fish and shellfish.
- d. Operation of a commercial fishing business excluding commercial canning or processing of fish.
- e. Operation of whale watching facilities.

Sub-paragraph (e) added 1982 An A-4, approved by Atty. Gen. Feb. 16, 1983.

#### 7. Village Business Districts A & B.

- a. Detached one family dwelling.

Prior sub-paragraph (a) deleted and the words "Detached one family dwelling" inserted therein by 1973 An 141, approved by the Atty. Gen. June 15, 1973.

- b. Retail store, professional or business offices, bank, personal service store or shop.

#### 8. Highway Business District.

- a. The same uses as specified in a Business District are allowed by special permit in accordance with Section P.

Prior sub-paragraph 8 deleted by 1983 Fall An. B-1(a) and new sub-paragraph 8 inserted, approved by Atty. Gen. Feb. 8, 1984.

#### 9. Urban Business District.

- a. Same uses specified in a Business District. Except that in Osterville Urban Business District, Hotels and Motels are excluded.

#### 10. Industrial District.

- a. Same uses specified in a Business District.
- b. Lumber, fuel, feed and ice establishments.
- c. Contractors yards.
- d. Manufacturing and industrial uses except as noted in Section P. Special Exceptions.
- e. Same uses specified in a Service and Distribution District.
- f. Specifically prohibited shall be petroleum refineries, land fills, resource recovery facilities, sewerage treatment facilities which process and discharge less than tertiary-treated effluent, and any other use which involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, except as allowed by special permit under Section P.

Sub-paragraph (e) added by 1973 An 135, approved by the Atty. Gen. June 15, 1973. Old Sub-paragraph (d) deleted, new sub-paragraph (d) added by Jan. 22, 1982, Sp. 18, approved by Atty. Gen. May 20, 1982.

Sub-paragraph (f) inserted by Jan. 22, 1982, Sp. 18, approved by Atty. Gen. May 20, 1982.

#### 11. Industrial Limited District.

- a. Warehousing and wholesale distribution facilities of non-toxic and non-hazardous materials;
- b. Light manufacturing and assembly facilities;
- c. Research and development facilities;
- d. Professional or business offices, banks, architectural, engineering and drafting firms, computer operations centers, recreation facilities, and such sewerage treatment facilities as may have been allowed by previous zoning bylaw;
- e. Specifically prohibited shall be petroleum refineries, land fills, resource recovery facilities, hotels, motels, restaurants, manufacturing and processing uses, any use involved in the manufacture, storage, transportation, disposal or use of toxic or hazardous materials and any residential use.

Previous paragraph 11 deleted, new paragraph 11 inserted by Dec. 4, 1985 Sp. 17, approved by Atty. Gen. Jan. 24, 1986.

#### 12. Service and Distribution.

- a. Warehousing and distribution facilities.
- b. Servicing, storing and processing of goods in transit.
- c. Facilities for service type trades, including shops and storage yards.
- d. Offices, garages and related facilities for all such enterprises.
- e. Retail store, professional or business offices, bank, personal service stores or shops; by special permit, full service restaurants and delicatessens may be permitted.

Sub-paragraph (e) added by 1974 An 127, approved by the Atty. Gen. July 16, 1974.

#### 13. Professional Residential District.

- a. Detached one or two family dwellings.
- b. Apartments - Subject to provisions of Section M and subject to the modification allowed by Section P.
- c. Renting of rooms to not more than ten persons by a family resident in the dwelling.
- d. Professional Offices and Licensed Real Estate Broker's Offices.
- e. Nursing Homes and Rest Homes.
- f. Medical and Dental clinic, pharmaceutical and therapeutic uses.
- g. Hospitals - (non-veterinarian).

This district added by 1970 An. 105, approved by the Atty. Gen. June 19, 1970.

Sub-paragraph (b-Apartments) amended by adding "and subject to the modification allowed by Section P" An 127, approved by the Atty. Gen. June 22, 1971.

Sub-paragraph 13-d amended by adding "and Licensed..." Fall An 8, November 13, 1984, approved by the Atty. Gen. February 28, 1985.

ture before improvement, or if damaged, before damage occurred) of residential structures shall have the lowest floor (including basement) elevated to not less than base flood elevations. New construction or substantial improvement of nonresidential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities, be flood-proofed to not less than base flood elevations.

2. Where floodproofing is utilized in accordance with Section 1, a registered engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

3. Any new construction or substantial improvement to be undertaken within said district shall be in accordance with the Massachusetts Uniform Building Code, Section 748.0. The Building Inspector shall (a) review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. 1334. (b) obtain and maintain records of elevation and floodproofing levels for new construction or substantial improvement within the flood district.

4. Any new construction, alteration of structures or other development which is removed from the A. or V. zones by subsequent flood insurance map amendments shall only have to meet the requirements of its new zone designation.

5. All subdivision proposals and other proposed new developments greater than 50 or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.

6. Assure that subdivision proposals and proposals for other developments, including their utilities and drainage, are located and designed to be consistent with the need to minimize flood damage.

7. No land within areas designated as V. (velocity) zones on the F.I.A. Flood Insurance Rate Maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. All new construction and substantial improvement within the V. zones shall be (a) elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation; and (b) certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash. The following shall be prohibited with

a. Any man-made alteration of sand dunes and salt marshes which might increase the potential for flood damage.

b. Use of fill.

c. Mobile homes.

8. The Zoning Board of Appeals may authorize exceptions from flood regulations by Special Permit within the flood areas in accor-

dance with Section Q, as in any other zoning district within the Town of Barnstable, and may grant Special Permit from these requirements in the case of new structures or substantial improvement to be erected on a lot contiguous to and surrounded by lots with existing structures and constructed below the base flood elevation, provided the following are met:

a. A showing of good and sufficient cause.

b. A determination that failure to grant the Special Permit would result in exceptional hardship to the applicant.

c. A determination that the Special Permit will not result in increased flood heights, additional threats to public safety, or environment, extraordinary public expense, or any conflict with requirements in accordance with Chapter 40A, of the Massachusetts General Laws, and

d. The Zoning Board of Appeals has notified the applicant for the Special Permit, in writing, that the actuarial rates will increase as the first floor elevation decreases, and that such construction below base flood elevation level increases risks to life and property.

e. Favorable recommendation from the Board of Health on all structures requiring sewerage disposal and/or water supply.

9. Upon the granting of such a Special Permit or permits, from Section Q, the Zoning Board of Appeals, shall maintain a record of all such special permits granted by the Board, including justification for their issuance, and report such special permits in its annual report to the Flood Insurance Administrator in accordance with the Department of Housing and Urban Development Guidelines.

10. The Zoning Board of Appeals may grant a Special Permit for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places or the Old King's Highway Regional Historic District, without regard to the procedures set forth in Section 7 above.

11. Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable by-laws or regulations, the more restrictive shall apply.

12. The invalidity of any section or provision of this by-law shall not invalidate any other section or provision hereof.

Prior Section O deleted, New Section O inserted by 1977 An 23, approved by Atty. Gen. Jan. 12, 1978.

## **P. SPECIAL EXCEPTIONS**

**A. The Board of Appeals may grant a special permit for the following exceptions to the zoning by-law:**

1. Temporary occupancy of a trailer during construction of a permanent home.

2. Maintenance and occupancy of tents in an organized and supervised recreational camp, subject to compliance with the rules of the Board of Health.

3. Increase in the total floor area of a non-conforming building damaged by fire or other cause.

4. Any change, alteration, relocation or increase in size of an existing non-conforming building or structure on the same lot, or use of



existing or construction of a new building or structure to extend the non-conforming use on the same lot, subject to Section G. Paragraph B.

Prior paragraph 4 deleted and new paragraph 4 inserted by 1974 An 113, approved by the Atty. Gen. July 16, 1974.

5. Re-establishment of a non-conforming use which has been discontinued for two (2) years.

Paragraph 5 amended by deleting the word and figure "one (1) year." and inserting therein the words and figure "two (2) years." 1978 Fall An 1, approved by Atty. Gen. Feb. 6, 1979.

6. Change of a non-conforming use to any specified use not more detrimental to a neighborhood.

7. Accessory use as defined in Section H, on a lot adjacent to the lot having thereon the principal building to which it is accessory.

Prior sub-paragraph deleted by 1973 An 145, and new sub-paragraph inserted therein, approved by the Atty. Gen. June 15, 1973.

8. In a Business District, a yard for storage of coal, oil, junk or lumber, or any business requiring use of a railroad siding.

9. In a Business District a building or place for recreation or amusement, provided that no such special permit shall be granted for a use which is principally the operation of coin operated amusement devices.

Prior paragraph deleted and new paragraph added by 1979 An 11, approved by Atty. Gen. Feb. 26, 1980.

10. In a Business Limited District C, professional or home occupation use as defined in Section I., and small retail businesses common to a residence district.

Recission of old Paragraph 10, new Paragraph 10 inserted by Jan. 21, 1982 Sp. 9. Approved by Atty. Gen. May 20, 1982.

11. In a Business Limited District B, motel, hotel or lodging house and restaurants.

Prior paragraph deleted and new paragraph added by 1978 Fall An 16, approved by Atty. Gen. Feb. 6, 1979.

12. In all districts where renting of rooms is permitted, the same total number of lodgers specified, may be permitted in one (1) multiple unit dwelling.

13. In a Marine Business District B, a restaurant.

14. In Village Business District A and B, any use permitted in a Business District, except motels and hotels.

Former Paragraphs 8 and 17 deleted 1979 An. 9, approved by Atty. Gen. Feb. 26, 1980. Remaining paragraphs renumbered in proper sequence.

15. In a business district, any manufacturing use.

Sub-paragraph added by 1969 October 23, Sp. 19, approved by the Atty. Gen. Dec. 17, 1969.

16. In a Professional Residential District, the area requirements of Section M Apartments, may be modified so that apartment buildings shall cover not more than 50% of the gross land area of the lot or combination of lots.

Sub-paragraph added by 1971 An 127, approved by the Atty. Gen. June 22, 1971.

17. In a Residence C-1 District and Residence F District, professional or home occupation use.

Sub-paragraph added by 1972 An 136, approved by the Atty. Gen. Aug. 3, 1972.

Sub-paragraph amended by deleting the words "Residence D-3 District" at 1972 August 14, Sp. 21, approved by the Atty. Gen. Sept. 20, 1972.

Residence D-2, Residence E deleted from prior paragraph 1979 An 9, approved by Atty. Gen. Feb. 2, 1980.

Prior sub-paragraph 19 deleted by 1984 An 1 and remaining sub-paragraphs renumbered, approved by Atty. Gen. July 31, 1984.

18. On all zoning districts, public or private regulation golf course of a minimum length of 1,000 yards for a 9-hole course, 2,000 yards for an 18-hole course, together with accessory buildings for storage of golf course maintenance equipment and materials including golf carts, a pro shop for the sale of golf related articles, rest room and shower facilities and locker rooms. No other accessory buildings shall be permitted.

Sub-paragraph added by 1973 July 11, Sp. 6, approved by the Atty. Gen. August 24, 1973.

19. The keeping, stabling, and maintenance of horses in excess of the density requirement of Section I and subject to the conditions herein set forth on the same lot as the building to which it is accessory or on a lot adjacent to the lot having thereon the principal building to which such use is accessory.

Sub-paragraph added by 1974 An 103, approved by the Atty. Gen. July 16, 1974.

20. In a Residence C-2 District, Nursing Homes and/or Retirement Homes must meet the following criteria.

(1) The lot area must be at least five (5) acres.

(2) The capacity of the facility shall be limited to ten (10) beds per acre of upland.

Subparagraph amended by An 26 approved by Atty. Gen. Jan. 12, 1978, the words "of upland," added.

(3) Adequate off-street parking shall be provided in compliance with Section S of the Zoning By-Laws.

(4) No building shall be located nearer than 150 feet from an existing public way.

(5) The applicant must be in possession of a Certificate of Need from the Massachusetts Division of Medical Care, Department of Public Health.

(6) The use shall specifically exclude hospitals, sanitoriums, convalescent homes or detached infirmaries or clinics.

(7) Plans required:

(a) Perimeter survey showing entire tract ownership as well as abutting owners, and any existing ways or easements.

(b) A topographic plan of the entire site at five (5) foot contour intervals showing all existing structure locations as well as vegetative cover masses. This plan shall be prepared by a registered land surveyor by means of an on-site survey or by an approved aerial photographic method.

(c) Sketch plan of the proposed development showing the following:

1) Density and disbursement of structures over the parcel.

EXHIBIT TWO



BARNSTABLE, MASS.

APPEAL NO. 1987-35

'87 APR 15 AM 11 26

*Handwritten initials/signature*

TOWN OF BARNSTABLE

PETITION FOR SPECIAL PERMIT UNDER THE ZONING BYLAW

To the Board of Appeals,

Town Hall, Hyannis, MA 02601

Date March 27 19 87

The undersigned petitions the Board of Appeals to vary, in the manner and for the reasons hereinafter set forth, the application of the provisions of the zoning bylaw to the following described premises.

Applicant: CHARLES J. BIRDSEY 362-3142  
(Full Name) (Telephone Number)

Address: 185 Meadow Lane, W. Barnstable, Ma. 02668

Owner: Richard Auclair 362-3076  
(Full Name) (Telephone Number)

Address: 1 Harvard Avenue, Alston, Ma. 02134

Prior Owner of record Robert E. Kennedy, Joseph A. Kennedy, Edward J. Kennedy <sup>E.J. Schank</sup>

Tenant (if any): None  
(Full Name) (Telephone Number)

If Applicant other than Owner of property - state nature of interest Prospective Purchaser.

1. Assessors map and lot number Map 179, Lot 2

2. Location of Premises 1000 Main St. Village W. Barnstable  
(Name of Street) (What section of Town)

3. Dimensions of lot 160 200 38,800  
(Frontage) (Depth) (Square Feet)

4. Zoning district in which premises are located Village B.

5. How long has owner had title to the above premises? since 12/27/85

6. How many buildings are now on the lot? 3

7. Give size of existing buildings \_\_\_\_\_  
Proposed buildings \_\_\_\_\_

8. State present use of premises Apartment Rentals in main house, Antique Shop in Barn.

9. State proposed use of premises Apartment upstairs, office downstairs, boat repair shop

10. Give extent of proposed construction or alterations: None other than upgrading present <sup>in Barn.</sup>  
buildings.

11. Number of living units for which building is to be arranged no change

12. Have you submitted plans for above to the Building Inspector? no

13. Has he refused a permit? no

14. What section of zoning bylaw do you ask to be varied? The USE Regulations  
Section K 7b

15. State reasons for variance or special permit: Applicant wants to renovate the existing structure on the property and operate a small boat repair and construction business in the barn. A similar business was approved in 1983 (Appeal No. 1983-86) for James Kittredge. Mr. Birdsey would operate the same type of business and the operation would be complimentary to Mr. Kittridge's.

(over)

*Handwritten notes and signatures at bottom right*

The following are the names and mailing addresses of the abutting owners of property and the names and addresses of the owners of property abutting the abutting owners of property and the names and addresses of the owners across the street all with their corresponding map and lot numbers according to the records in the Assessor's Office at the date of this application:

Please type or print only.

Map	Lot #	Name	Address	Zip Code
-----	-------	------	---------	----------

see attached list.

Use additional separate sheet and so note if necessary

There must be submitted with the application at the time of filing, a plan of the land, (Five [5] Copies) showing:

1. The dimensions of the land.
2. The location of existing buildings on the land.
3. The exact location of the improvements sought to be placed on the land.

(All three of the above drawn to scale)

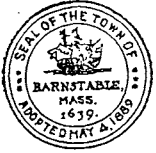
Applications filed without such plans will be returned without action by the Board of Appeals.

Respectfully submitted,  
RICHARD S. BURLING (Signature) Richard S. Burling  
(Address) 3217 MAIN ST. BARNSTABLE  
Tel. No. 362-4584

\* Please submit 5 copies of petition form.

\* Filing fee of \_\_\_\_\_ required with this petition

EXHIBIT THREE



## ZONING BOARD OF APPEALS

MINUTES OF OPEN/PUBLIC HEARINGS - APRIL 30, 1987

MEMBERS PRESIDING:

RICHARD L. BOY, CHAIRMAN  
GAIL NIGHTINGALE, VICE-CHAIRMAN  
RONALD JANSSON, CLERK  
LUKE P. LALLY  
DEXTER BLISS  
JAMES MCGRATH, ALTERNATE

CALENDAR:

1987-32 JACK J. FURMAN  
1987-26 FOX RUN REALTY TRUST  
1987-33 EDWARD & RITA MEUSE  
1987-34 MARSHALL & MARY ANN FARLEY  
1987-35 CHARLES J. BIRDSEY  
1987-36 FIRST FEDERAL SAVINGS & LOAN ASSOCIATION  
1987-37 ROBERT SHIELDS, ET AL  
1987-21 NICHOLAS FRANCO

cc: Board of Selectmen  
Planning & Development

A TRUE COPY ATTEST

*Lucia C. Hildebrand*

Town Clerk  
BARNSTABLE

1987-34 MARSHALL & MARY ANN FARLEY

the character of the house which was a converted garage built during the 1930-40s period merely trying to add bathroom/bedroom on the second floor and to enlarge the kitchen - other end will add a small study. Ron Jansson asks the square footage of the house: 22' x 60 - two story - existing about 2400 square feet with garage - adding two separate wings - 16' x 14 and 27' x 22' - when completed talking of 3200 - 3300 square foot in size - that is correct. Gail Nightingale questions why they do not put the additions elsewhere - preserving the character of the house (architectural). Right hand addition is to be two-story, while the other is single story only. Where the house sits on the back lot line there is a large hill behind - no house behind - no one can actually see the house - not like we are jumping into someones front yard. The Board voted unanimously to grant the variance relief as sought based on the fact that variance conditions do exist at the site - the topography of the land - relief granted per the Plans presented - the motion seconded by Dexter Bliss.

1987-35 CHARLES J. BIRDSEY

Attorney Richard Burling represented the petitioner who has a purchase and sale agreement to purchase the property from Mr. Auclair who has an antique business in the barn located on the property at Lot 10, 1000 Main Street, West Barnstable in a Village Business B zoning district for a parcel containing 38,800 square feet and three structures. The petitioner desires to renovate the existing/barn structure and operate a small boat repair/restoration and sale of same with retail sale of supplies related thereto. The petitioner intends no change in the footprint of the building - this is not a business that is currently allowed under Village Business B without a special permit - it is felt that will not be more detrimental to the neighborhood - would be less so because the nature of the business will not mean additional people coming in and out as has been in the past with the antique business - type of work to be done will be no more involved or noisy than an average home handy man. There are several apartments that have been in the building since the 1930s - intend to use one apartment, but not all of them. Ron Jansson questions whether this is the property that was "Packet Landing & Gift Shop" - that is correct and is currently the "White Elephant" - propose to use large barn - Ron questions if that has the benefit of a pre-existing non-conforming use - Attorney Burling responded "yes", - Ron Jansson commented his question then is why the petitioner is not before the Board on that particular basis - Mr. Burling commented that he wanted to go under the additional business allowed under the zoning by-laws. Additional argument is that it was a pre-existing non-conforming business, but it is also allowable by Special Permit under provision of P, 14. Again, the proposed uses for these three buildings is: main house used for residential purposes, Mr. Burling - that is not totally correct - there is going to be an office - the petitioner's wife operates an adoption agency - the office use allowed in Village Business District - office and residential use and also have a two-car garage - to be only used to store vehicles - now understand if you look at Section G, 1 why you probably would not want to come before the Board with the pre-existing non-conforming use - because you are talking about two or more uses. Mr. Birdsey described to the Board what he would like to do - landscaping, etc. Dexter Bliss questions whether the petitioner would have a boat outside during the summer months - one during the summer time only - otherwise boats will be in the barn - to be no additional employees. Ron Jansson questioned would this be just a repair facility rather than service of other equipment that relates to boating - Mr. Birdsey commented that he would be a dealer but he would be selling antique hardware. Attorney Burling addressed the fact that the Board is in receipt of a letter from Mr. & Mrs. Caton who are

Minutes of Open/Public Hearings - April 30, 1987

1987-35 CHARLES J. BIRDSEY

abutters to the property - they are in opposition to the petition - the letter addressed a deed restriction - second restriction does restrict usage through that entire development which runs down Packet Landing to non-business uses with the exception of an antique shop - Paragraph six further on allows the trustee of the Barnstable Realty Trust to amend those restrictions - the current trustee of this trust is the current owner Mr. Auclair, who has agreed to sign an amendment to be recorded in the Registry of Deeds for Lot 10 only - this will not be a detrimental use in the neighborhood. Several abutters spoke in support of the petition, namely, James Kittridge, D. Ciberowski, Mr. & Mrs. Fisk and Mr. & Mrs. Byrnes and Carey - no objections. Ron Jansson made a motion to grant the special permit on the basis that the proposed renovation would not constitute a use that would be substantially more detrimental than what currently exists - the motion was seconded by James McGrath. The Board voted unanimously to grant a special permit with the restriction that there be no more than one boat to be on display at any one time outside.

1987-36 FIRST FEDERAL SAVINGS & LOAN ASSOCIATION

Attorney Philip Boudreau represented the petitioner who is requesting a Special Permit and Varinace for a proposed addition to the existing bank building located at Route 28, Hyannis in a Highway Business zoning district for a parcel containing 59,575 square feet. The proposed addition to be 3,303 square feet on first floor and 3,421 square feet in basement is to be additional space in which to conduct banking operation - per the <sup>Improved</sup> Plans submitted at the hearing by Attorney Boudreau to replace plans originally submitted with the filing. The upstairs of the existing building is divided with temporary dividers affording little privacy for the employees - in addition people are working in a windowless basement, etc., due to lack of space. This is a narrow lot that opens up at the back. Mr. Boudreau feels that it is necessary to apply for two dimensional variances as well as a special permit under setback requirements in a Highway Business district. The entire property is zoned 300 feet back for business; the petitioner has adequate parking and seeks no relief for parking. When the building was constructed at 45 feet back from Route 28 it was conforming - current setback requirement is 100 feet - a portion of the building to the rear is not quite 100 foot back - in addition the area requirements in the Highway Business zone require 60,000 square foot lot - Mr. Boudreau feels that he cannot build a separate building without coming to the Board for a variance - has to do this by way of an addition - with one acre requirement of a minimum the petitioner would need two acres in order to have a separate free-standing building - where we propose to build we do not have 100 foot setback - Ron Jansson does not understand Mr. Boudreau's rationale - building is going to be occupied by the same tenant and will comply with the setback - there followed a discussion - already have a building that occupies a portion of the locus - consider the locus as one lot - think that to put two buildings up petitioner would need two acres - perhaps Mr. Boudreau is not correct - if that is the case he would be delighted to have the Board rule that all of this is unnecessary, but in any event afraid there is a problem anyway because where they propose to put addition, they would violate the 100 foot setback - due to the curvature southwest of Falmout Road - shape of the lot at that point and the fact that the building was put on at a 90 degree angle - Mr. Boudreau also feels that another variance relief is needed from the width requirement of 160 feet - it is true, that we have 181 feet from point to point, but at the place where we are building we have slightly less than the required 160 width



## EXHIBIT FOUR

TOWN OF BARNSTABLE

TOWN CLERK  
BARNSTABLE, MASS.

Zoning Board of Appeals

MAY 13 PM 3 51

L. Richard Auclair  
Property Owner

Deed duly recorded in the BARNSTABLE

County Registry of Deeds in Book 4759

Charles S. Birdsey  
Petitioner

Page 238 Registry

District of the Land Court Certificate No.

Book Page

Appeal No. 1987-35

MARCH 27 1987

FACTS and DECISION

Petitioner Charles S. Birdsey filed petition on \_\_\_\_\_ 19\_\_\_\_  
requesting a variance-permit for premises at 1000 Main Street  
(Sheet) \_\_\_\_\_, in the village  
of West Barnstable, adjoining premises of \_\_\_\_\_ (see attached list)

Locus under consideration: Barnstable Assessor's Map no. 179 lot no. 2

Petition for Special Permit:

Application for Variance:  made under Sec. K of the Town of Barnstable  
Zoning by-laws and Sec. \_\_\_\_\_ Chapter 40A, Mass. Gen. Laws  
for the purpose of to allow the maintenance, repair and sale of small boats with  
retail sale of supplies related thereto.

Locus is presently zoned in Village Business B

Notice of this hearing was given by mail, postage prepaid, to all persons deemed affected and  
by publishing in Barnstable Patriot newspaper published in Town of Barnstable a copy of  
which is attached to the record of these proceedings filed with Town Clerk.

A public hearing by the Board of Appeals of the Town of Barnstable was held at the Town  
Office Building, Hyannis, Mass., at 8:00 ~~PM~~ P.M. April 30, 1987,  
upon said petition under zoning by-laws.

Present at the hearing were the following members:

Richard L. Boy  
Chairman

Gail Nightingale

Ronald Jansson

Luke P. Lally

Dexter Bliss

At the conclusion of the hearing, the Board took said petition under advisement. A view of the locus was made by the Board.

Appeal No. 1987-35

Page 2 of 2

On April 30, 1987, The Board of Appeals found

Attorney Richard Burling represented the petitioner, Charles J. Birdsey who has a purchase and sale agreement for the property located at Lot 10, 1000 Main St., W. Barnstable in a Village Business zoning district.

Mr. Auclair who is the current owner has an antique business on the locus which contains 38,800 square feet and three structures. The petitioner desires to renovate an existing barn and operate a small boat repair and restoration business with sale of supplies related thereto. There is to be no change in the footprint of the building.

main

There are several apartments in the building since the 1930s; the petitioner intends to use one apartment in the main house and there is going to be one office use by the petitioner's wife who runs an adoption agency. There is an existing two car garage which will be used only for the storage of vehicles.

At the present time, there is a deed restriction. The current owner is the trustee of Barnstable Rlty. Trust and is agreed to sign an amendment to be recorded in the Registry of Deeds for Lot 10, to amend the restriction of non-business use with the exception of an antique shop

Ronald Jansson made a motion to grant the Special Permit under P (14) of the Zoning By-Law on the basis that the proposed renovation would not constitute a use that would be substantially more detrimental than what currently exists - the motion was seconded by James McGrath.

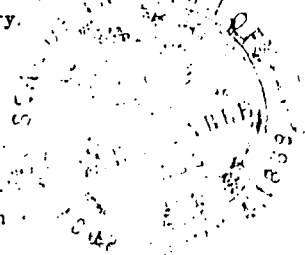
The Board voted unanimously to grant a Special Permit with the restriction that there be no more than one boat on display outside at any one time.

I, AUNE CAHON, Ass't Clerk of the Town of Barnstable, Barnstable County, Massachusetts, hereby certify that twenty (20) days have elapsed since the Board of Appeals rendered its decision in the above entitled petition and that no appeal of said decision has been filed in the office of the Town Clerk.

Signed and Sealed this 30th day of JUNE 1987 under the pains and penalties of perjury.

Aune Cahon

- Distribution:—
- Property Owner
- Town Clerk
- Applicant
- Persons interested
- Building Inspector
- Public Information
- Board of Appeals



Board of Appeals  
Town of Barnstable

By [Signature] Chairman

RECORDED JUN 4 87

EXHIBIT FIVE

**AFFIDAVIT OF CHRISTOPHER BIRDSEY**

I, Christopher Birdsey, hereby depose and state as follows:

1. I reside in East Dennis, Massachusetts;
2. My family and I owned the property located at 1000 Main Street, West Barnstable from 1987 through December, 2013.
3. During that period of time we ran Speedwell Boatworks out of the barn on the property, building, restoring, and repairing wooden powerboats. We also stored some boats adjacent to the barn.
4. Around 2007-2008, we curtailed some of the boatbuilding activity because my father was sick, but we soon resumed that activity and continued to build boats on the property until we sold it in 2013. At that time I was repairing a Crosby Striper and was building a small powerboat in the barn.
4. During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space.
5. From 2007 through 2013 we kept the three apartments occupied the majority of time with the exception of occasional tenant-changeover vacancies.

Subscribed and sworn to under the penalties of perjury this 30<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
Christopher Birdsey

## EXHIBIT SIX

No. 90-308

FEE 300

THE COMMONWEALTH OF MASSACHUSETTS  
BOARD OF HEALTH

Town OF Barnstable

Application for Disposal Works Construction Permit

Application is hereby made for a Permit to Construct ( ) or Repair (  ) an Individual Sewage Disposal System at:

1000 RT-6A Location - Address West Barnstable or Lot No.  
Charles Birdsey Address  
Canco Forest Canals Owner  
Canco Installer

Type of Building  
Dwelling - No. of Bedrooms 2 Expansion Attic ( ) Garbage Grinder ( )  
Other - Type of Building office No. of persons 2 Showers ( ) - Cafeteria ( )  
Other fixtures 1.7 x 2.0

Design Flow \_\_\_\_\_ gallons per person per day, Total daily flow \_\_\_\_\_ gallons.  
Septic Tank - Liquid capacity 150 gallons Length \_\_\_\_\_ Width \_\_\_\_\_ Diameter \_\_\_\_\_ Depth \_\_\_\_\_  
Disposal Trench 30 x 40 ( 30 x 40 ) Total Length \_\_\_\_\_ Total leaching area 1200 sq. ft.  
Seepage Pit No. \_\_\_\_\_ Diameter \_\_\_\_\_ Depth below inlet \_\_\_\_\_ Total leaching area \_\_\_\_\_ sq. ft.  
Other Distribution box (  ) Dosing tank ( ) 4x12' w/3' Stone 211 Sides  
Percolation Test Results Performed by \_\_\_\_\_ Date \_\_\_\_\_  
Test Pit No. 1 \_\_\_\_\_ minutes per inch Depth of Test Pit \_\_\_\_\_ Depth to ground water \_\_\_\_\_  
Test Pit No. 2 \_\_\_\_\_ minutes per inch Depth of Test Pit \_\_\_\_\_ Depth to ground water \_\_\_\_\_

Description of Soil D.19 out 30x40 - w/ Bank Gravel Refill

Nature of Repairs or Alterations - Answer when applicable, 1000 gal. Septic - 7' x 10' gal head pit 3 gallons + 2.5' of stone

The undersigned agrees to install the aforescribed Individual Sewage Disposal System in accordance with the provisions of TITLE 5 of the State Sanitary Code - The undersigned further agrees not to place the system in operation until a Certificate of Compliance has been issued by the board of health.

Signed [Signature] Date 7/9/90  
Application Approved By [Signature] Date 7/10/90  
Application Disapproved for the following reasons: \_\_\_\_\_

Permit No. 90 308 Issued 7/10/90 Date

THE COMMONWEALTH OF MASSACHUSETTS  
BOARD OF HEALTH

OF  
Certificate of Compliance

THIS IS TO CERTIFY, That the Individual Sewage Disposal System constructed ( )  
by \_\_\_\_\_ Installer  
at \_\_\_\_\_  
has been installed in accordance with the provisions of TITLE 5 of The State Sanitary Code as amended  
application for Disposal Works Construction Permit No. \_\_\_\_\_ dated \_\_\_\_\_

THE ISSUANCE OF THIS CERTIFICATE SHALL NOT BE CONSTRUED AS A GUARANTEE THAT THE SYSTEM WILL FUNCTION SATISFACTORY.

DATE 7-12-90 Inspector [Signature]

Attest this is a  
copy of the Public  
Health Division Record  
Signed Sharon Croder  
Public Health Division  
Town of Barnstable  
200 Main St.  
Hyannis, MA 02601  
4/27/10

THE COMMONWEALTH OF MASSACHUSETTS  
BOARD OF HEALTH

No. \_\_\_\_\_ OF \_\_\_\_\_ FEE \_\_\_\_\_

Disposal Works Construction Permit

Permission is hereby granted \_\_\_\_\_  
to Construct ( ) or Repair ( \ ) an Individual Sewage Disposal System  
at No. \_\_\_\_\_

as shown on the application for Disposal Works Construction Permit No. \_\_\_\_\_ Dated \_\_\_\_\_

DATE \_\_\_\_\_ Board of Health

CHECK OR FILL IN WHERE APPLICABLE

# EXHIBIT 7



26 Packet Landing Way  
West Barnstable, MA 02668

May 24, 2010

To whom it may concern:

I live next door to the property located at 1000 Main Street. I have resided there since 1980.

I made the following observations during the period of time that Dave and Barbara Birdsey owned the property at 1000 Main Street:

There were offices on the first floor. There appeared to be only one apartment, which was located on the second floor. It was occupied by a woman in the employ of the Birdseys and her husband. Dave Birdsey operated a boat shop from the barn.

Sincerely,



Marjorie Keary

*P.S. The Birdseys have always been great neighbors*

# EXHIBIT 8



<b>Prop Type</b>	Residential	<b>Subdivision</b>	
<b>County</b>	Barnstable	<b>Town</b>	Barnstable
<b>Zoning</b>	Village Business D and Partial	<b>Sq. Ft./Source</b>	2,296 / Assessors Records
<b>Rooms</b>		<b>Lot Size/Source</b>	38,768sf / (Assessors Records)
<b>Beds</b>	3	<b>Style/Desc</b>	Victorian /
<b>Baths F/H</b>	2 / 1	<b>Levels</b>	
<b>Year Built</b>	1900 / Approximate	<b>Tax ID</b>	179-2-0-0-BARN

**Remarks:** Wonderful Opportunity to own this unique 1900's Victorian home & Barn on the historic Old King's Highway. This property consists of a main building, one of the largest barns on historic Route 6A, a two car garage, a shed & front and back yards. Located on a prominent corner in the village of West Barnstable, this property offers great flexibility: use the main building as a home or office and use the barn for your workshop or shop. Zoned Village Business D & partial RF (Residential) with quick access to Rte. 6: **Permitted uses for the property include residential, Village Business B, AND according to a Special Permit: offices on the 1st flr., an apartment on the 2nd & a boat building business in the barn.** Both home and barn are in great shape and have had many recent renovations and upgrades. **Buyers to verify all zoning and uses.**

**Directions:** Rte. 149 North to East on 6A, property is on the right on the corner of Packet Landing and Route 6A  
**Showing Instr.:** Appointment Req., Call Listing Office, Tenant, Yard Sign

**General Information**

<b>Garage/#Cars</b>	Yes / 2	<b>Gar Desc</b>	Detached
<b>Basement/Basement Desc</b>	Yes / Cape Cod	<b>Wing Width/Wing Depth</b>	16 / 16
<b>Foundation</b>	37 / 32 / Crawl Space, Stone	<b>Parking</b>	Stone/Gravel
<b>Street Description</b>	Public		

**Interior Amenities**

<b>Interior Features</b>			
<b>Floors</b>	Laminate, Other, Carpet, Wood		
<b>Equipment/Appliances</b>			
<b>Living/Dining Room Combo</b>	<b>Kitchen/Dining Room Combo</b>	<b>Fireplaces/#Fireplaces</b>	No /

**Exterior Amenities**

<b>Pool/Pool Description</b>	No /	<b>Dock/Dock Description</b>	No /
<b>Exterior Features</b>	Outbuilding, Porch, Yard	<b>Roof</b>	Asphalt, Pitched
<b>Siding</b>	Shingle	<b>Assoc/Membership Required</b>	No /
<b>Assoc Fee/Fee Year</b>	/	<b>Waterview/Waterview Desc</b>	No /
<b>Amenities</b>		<b>Water Acc</b>	Salt, Other-See Remarks
<b>Waterfront/Waterfront Desc</b>	No /	<b>Beach Desc</b>	
<b>Miles to Beach</b>	1 to 2		
<b>Beach Own</b>	Public		
<b>Beach/Lake/Pond Name</b>	Sandy Neck Beach		
<b>Convenient to</b>	Conservation Area, Golf Course, Horse Trail, In Town Location, Major Highway, Medical Facility, School, Shopping		

**School District**

**Neighborhood Amenities**

**Mechanical Amenities**

<b>Heating/Cooling</b>			
<b>Water/Sewer/Util</b>			
<b>Hot Water</b>			

**Legal/Tax Information**

<b>Improvement Asmt</b>	\$272,900	<b>Land Asmt</b>	\$199,900	<b>Other Asmt</b>	0	<b>Total Asmt</b>	\$472,800
<b>Annual Taxes/Tax Year</b>	\$5,613 / 2013	<b>Annual Betterment</b>	0	<b>Unpaid Betterment</b>	0		
<b>Title Ref-Book/Page/Cert</b>	22277 / 102 / 0	<b>Plan</b>		<b>To Be Assessed</b>		<b>Spec Assessment</b>	
<b>Mass Use Code/Definition</b>	101-Single Family			<b>Lead Paint</b>	Unknown	<b>Flood Zone</b>	Unknown
<b>Undergrnd Fuel</b>	Unknown	<b>Asbestos</b>					

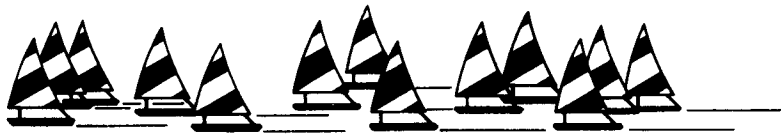
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U.S. Patent 6,910,045 (Residential Client One Page View)

# EXHIBIT 9



# BAYVIEW REAL ESTATE

*"On a clear day you can see forever."*

June 15, 2010

Mr. Peter A. Sundelin, Esq.  
999 Main Street  
P. O. Box 771  
West Barnstable, MA 02668

Dear Attorney Sundelin:

Mr. Christopher Birdsey called me and also provided me with copies of your letter to him, dated June 3, 2010, along with your letter and corresponding exhibits addressed to Mr. Tom Perry, Building Inspector of the Town of Barnstable, dated June 1, 2010 regarding the property located at 1000 Main Street in West Barnstable and its permitted uses. After reviewing them and talking with clerks at the town regarding the permitted uses for the property I have amended the property's listing accordingly to fully reflect its permitted uses which include: Residential, Village Business B, and according to the Special Permit: offices on the first floor, an apartment on the second and a boat building business in the barn. Please find attached a copy of the amended listing which provides full disclosure to prospective buyers of the property.

Thank you!

Sincerely,

Tara Schiffmann Brown  
Listing Agent for 1000 Main Street, West Barnstable  
Bayview Real Estate  
3220 Main Street, PO Box 165  
Barnstable, MA 02630

Cc: Mr. Tom Perry, Building Inspector, Town of Barnstable  
Town of Barnstable, 200 Main Street, Hyannis, MA 02601

Cc: Mr. Chris Birdsey, c/o Packet Landing LLC  
218 Main Street, 3W, Hyannis, MA 02601

**AFFIDAVIT OF CHRISTOPHER BIRDSEY**

I, Christopher Birdsey, hereby depose and state as follows:

1. I reside in East Dennis, Massachusetts;
2. My family and I owned the property located at 1000 Main Street, West Barnstable from 1987 through December, 2013.
3. During that period of time we ran Speedwell Boatworks out of the barn on the property, building, restoring, and repairing wooden powerboats. We also stored some boats adjacent to the barn.
4. Around 2007-2008, we curtailed some of the boatbuilding activity because my father was sick, but we soon resumed that activity and continued to build boats on the property until we sold it in 2013. At that time I was repairing a Crosby Striper and was building a small powerboat in the barn.
4. During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space.
5. From 2007 through 2013 we kept the three apartments occupied the majority of time with the exception of occasional tenant-changeover vacancies.

Subscribed and sworn to under the penalties of perjury this 30<sup>th</sup> day of August, 2018.

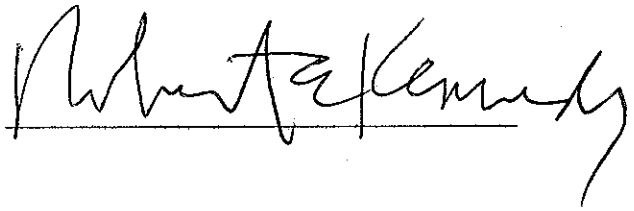
  
\_\_\_\_\_  
Christopher Birdsey

**AFFIDAVIT OF ROBERT KENNEDY**

I, Robert Kennedy, hereby depose and state as follows:

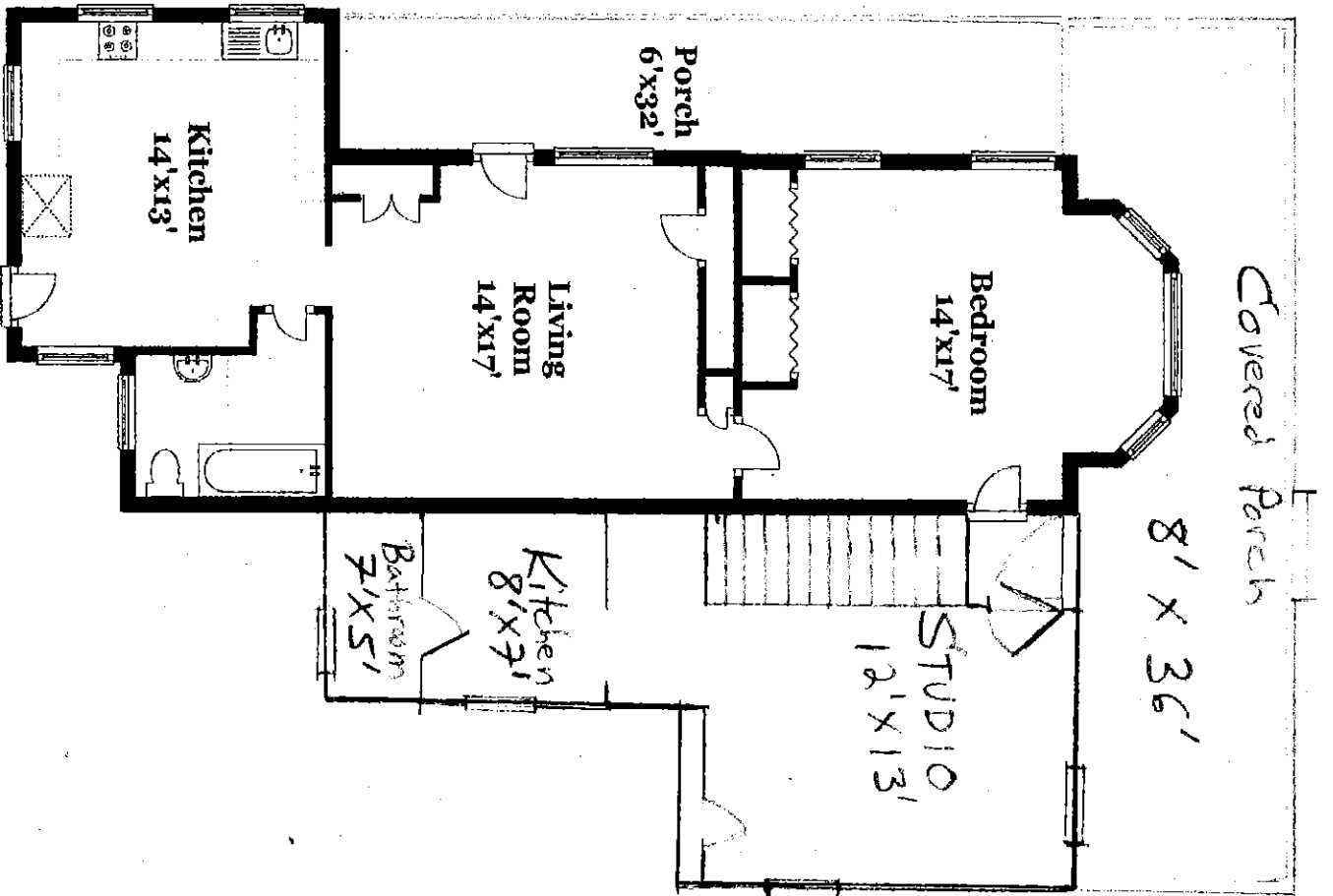
1. I reside in Barnstable, Massachusetts;
2. My partners and I owned the property located at 1000 Main Street, West Barnstable from July 1980 through June 1987.
3. During that period of time an antique store was operated in the barn.
4. The house had been divided into three separate residential units sometime prior to our purchase of the property. During that period of time we would use the apartments to house employees of Kennedy Studios (my business) who would be on the Cape from our Boston store or other off-Cape stores when they filled in on the Cape during the summer months.

Subscribed and sworn to under penalties of perjury this 30<sup>th</sup> day of August, 2019.

  
\_\_\_\_\_

1000 MAIN STREET  
WEST BARNSTABLE  
(HOUSE)

(1ST FLOOR)

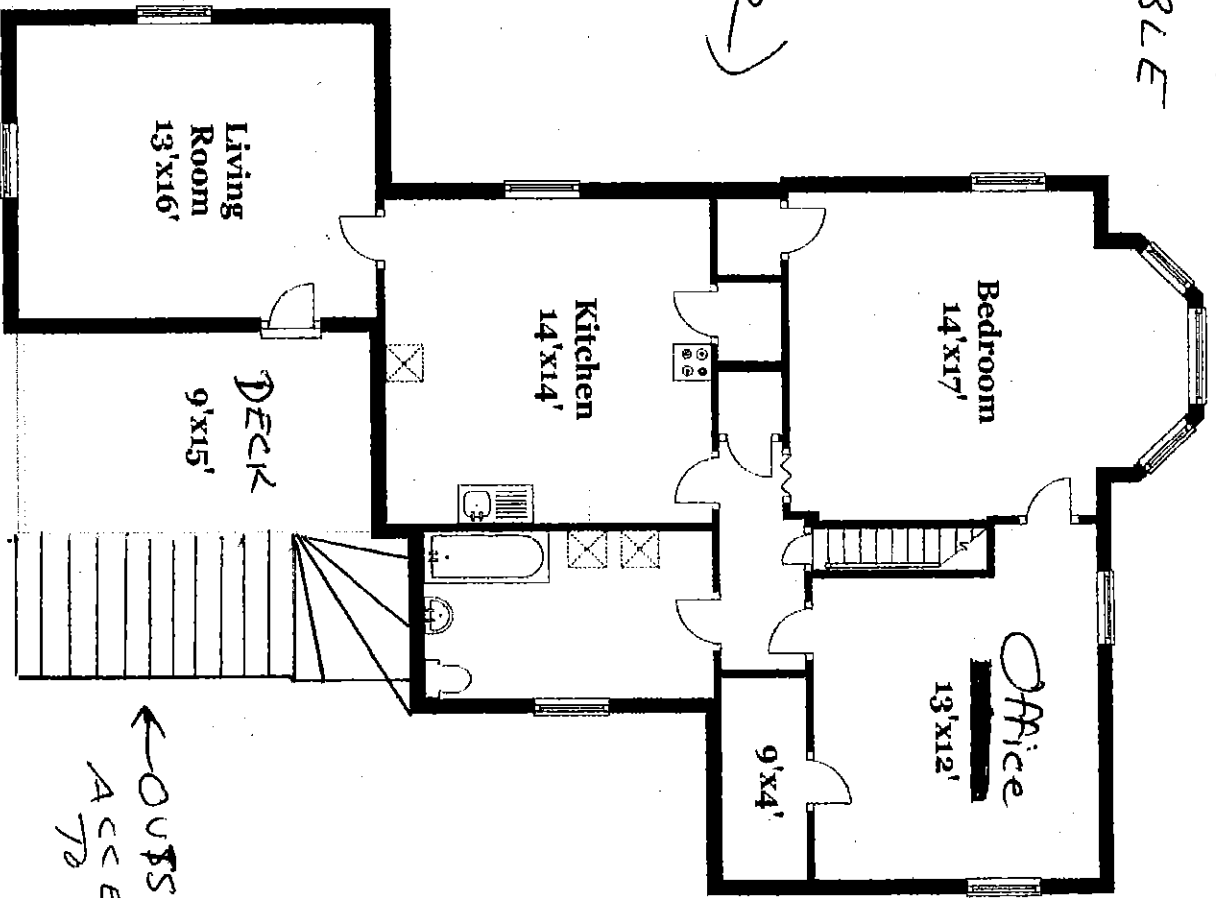


All measurements are approximate and not guaranteed. This illustration is provided for marketing and convenience only. All information should be verified independently. © PlanOmatic



1000 MAIN STREET  
WEST BARNSTABLE

(SECOND FLOOR)  
HOUSE

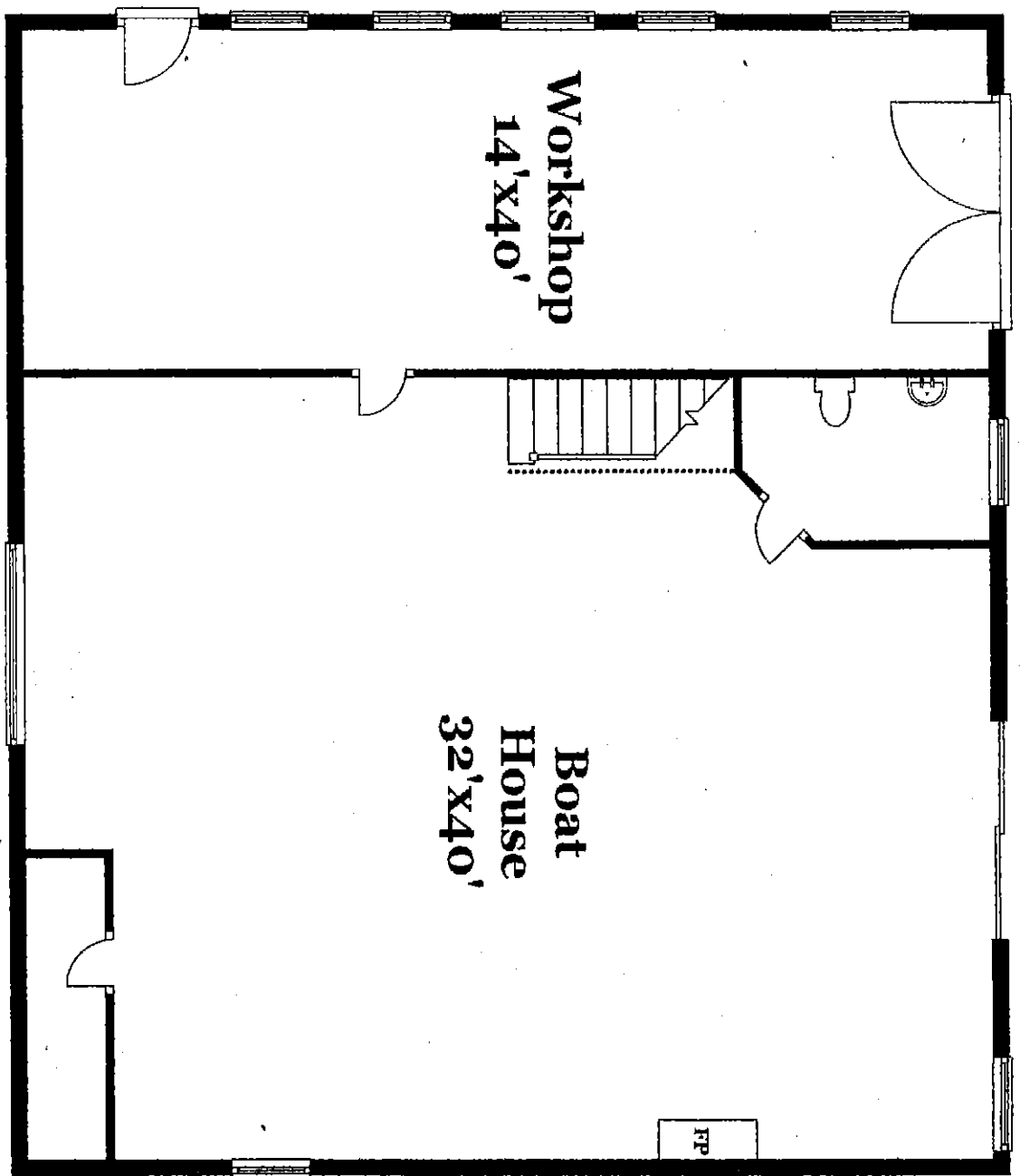


← OUTSIDE STAIR  
ACCESS TO SECOND FLOOR

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1000 MAIN STREET  
WEST BARNSTABLE

(BARN)



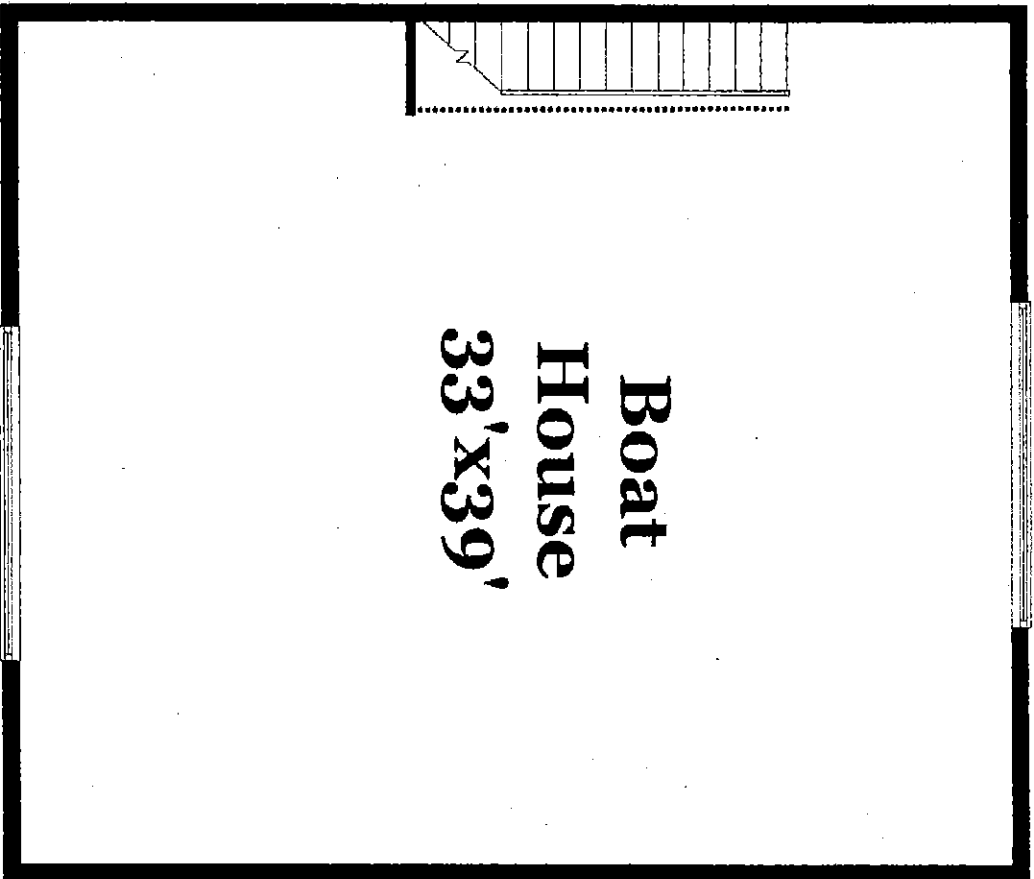
(FIRST FLOOR)

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1000 MAIN STREET

WEST BARNSTABLE

(BARN)



(2ND FLOOR)

All measurements are approximate and not guaranteed. This illustration is provided for marketing and convenience only. All information should be verified independently. © PlanOmatic

### History of 1000 Main Street

- 1640's - 1947 - Howland Family Homestead - John Howland, son of John Howland from the Mayflower was the original owner. When the King's Highway was built in the 1680's it separated the house from his sheep barn on the other side of the street.
- 1947 - 1987 - There were various owners. For most of this period of time there were three apartments in the house and an antique shop operated out of the barn.
- 1987 - 2013 - The Birdsey family operated Speedwell Boatworks out of the barn and had mixed use in the house.
  - When I looked at it in 2007 to buy, the studio and one bedroom on the first floor were being used for residential and the upstairs for offices.
  - When I looked at it and bought it in 2013, the upstairs and one-bedroom on the first floor were occupied residential and the studio vacant.
- 2013 - When I bought it I was told that the use of the barn went with the property and there were apartments allowed in the house.
- \*\*\*There were large powerboats stored inside the barn and in the back barnyard. There had been a long history of powerboats stored where we are storing Small (non-auxiliary) Sailboats.

#### My Rental History and Barn Usage -

2014 - 2015 - Tenants upstairs and one-bedroom with studio vacant. Used the back yard and barn for limited boat storage.

2015 - 2016 - Tenants in all three apartments. Limited to three cars maximum. Used the back yard and barn for limited boat storage.  
Same tenant in studio from 2016-2018.

2016 - 2019 -

**Second Floor Unit One-Bedroom** - Same married tenants upstairs (One Bedroom) since February 2015.

**Scott & Christine Lauterbach Jansson - Both Barnstable High School Grads**

**First Floor One-Bedroom** - Two different tenants during this time-period. Always Single Occupancy in the first floor one-bedroom at a time.  
**Chloe Starr - Grew up on Pilot's Way Barnstable Village. BHS and Tufts Grad**

**Studio Apartment - First Floor** - Rented to One person who is typically there about eight days per month. Travels for work. Wanted a local place.  
**Business owner with West Barnstable roots. Barnstable High School Grad**

Typically zero cars on any average week day. Maximum three cars on weekends. No parties. Hardly ever a sign of life there other than lights on inside.  
**Our immediate abutter to the West is a liquor store and busy commercial plaza at the end of Route 149. Our property is practically abandoned compared to that. 1000 Main Street is the best neighbor one could have.**

Howard Boats stores boats neatly and courteously inside and out without overburdening the property. (Note - Birdsey stored boats commercially in the barn yard from 1987 until 2013. One of their storage customers continued to keep his boat there with me and it never left the property until 2017.)

Property is quiet, professionally landscaped and maintained, with scheduled trash service.

#### **Other/Notes**

- Had inefficient and unreliable oil-fired boiler when purchased.
- Brought gas service in from street and converted to high-efficiency natural gas heat and hot water in 2014. \$8,000
- When I realized that my tenants' water pressure was low, I had a new modern well drilled in 2015, which eliminated the issue. \$6,000
- Professionally landscaped/mowed.
- Nauset Disposal trash service included.
- I pay the Utilities since it is single-metered.
- Apartments Registered with Town of Barnstable
- Happy long-term tenants.
- I intentionally keep the tenant count at the minimum in order to be a good and responsible neighbor.

Thank you very much for your time and attention.

### LEGEND

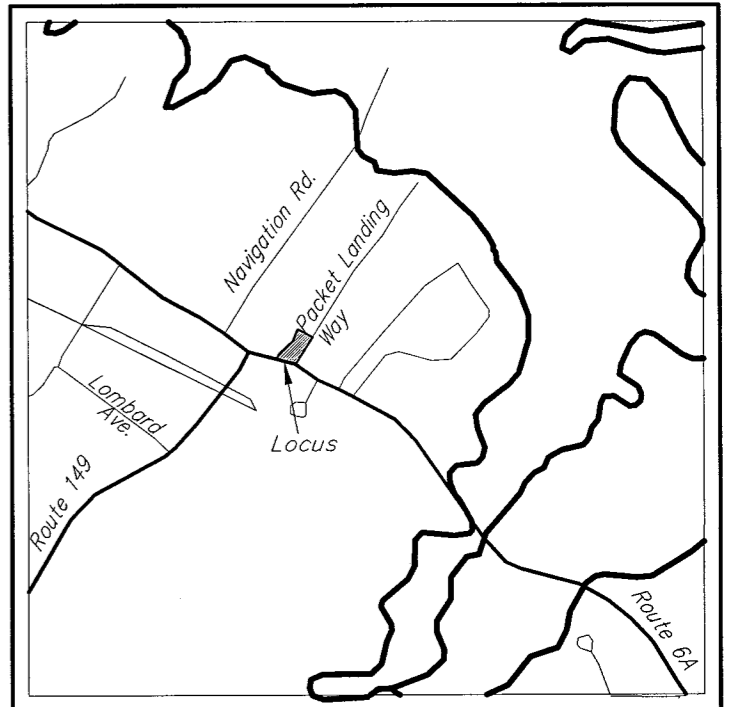
- 99 — EXISTING CONTOUR
- × 99.1 EXIST. SPOT ELEV.
- [ 99 ] - PROPOSED CONTOUR
- [ 98.4 ] PROPOSED SPOT EL.
- TH1 TEST HOLE
- 2% SLOPE OF GROUND
- UTILITY POLE
- FIRE HYDRANT

NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING

- PINE OR SPRUCE
- CEDAR
- DECIDUOUS

### NOTES

1. DATUM IS NAVD 88
2. MUNICIPAL WATER IS NOT AVAILABLE
3. THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.



### LOCUS MAP

SCALE 1"=2000'±  
ASSESSORS MAP 179 PARCEL 2

### ZONING SUMMARY

ZONING DISTRICT: RF RESIDENTIAL DISTRICT

MIN. LOT SIZE	43,560 S.F.
MIN. LOT FRONTAGE	150'
MIN. FRONT SETBACK	30'
MIN. SIDE SETBACK	15'
MIN. REAR SETBACK	15'
MAX. BUILDING HEIGHT	30'

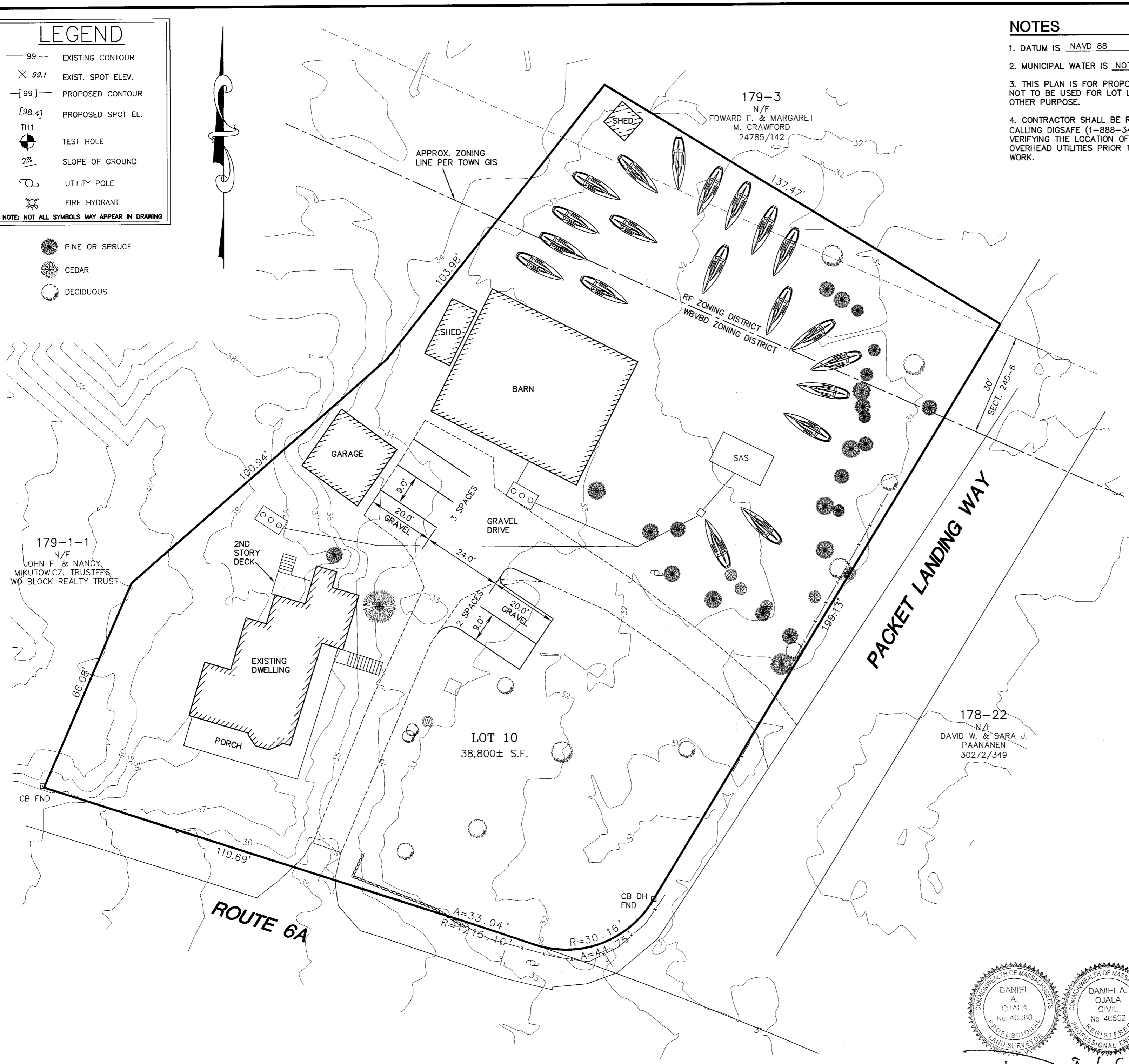
### ZONING SUMMARY

ZONING DISTRICT: WBVD BUSINESS DISTRICT

MIN. LOT SIZE	43,560 S.F.
MIN. LOT FRONTAGE	160'
MIN. FRONT SETBACK	30'
MIN. SIDE SETBACK	30'
MIN. REAR SETBACK	30'
MAX. BUILDING HEIGHT	30'
MAX. LOT COVERAGE	10%

### REFERENCES

DEED BOOK 27876 PAGE 218  
PLAN BOOK 177 PAGE 43



179-1-1  
N/F  
JOHN F. & NANCY  
MIKUTOWICZ, TRUSTEES  
WO BLOCK REALTY TRUST

179-3  
N/F  
EDWARD F. & MARGARET  
M. CRAWFORD  
24785/142

178-22  
N/F  
DAVID W. & SARA J.  
PAANANEN  
30272/349

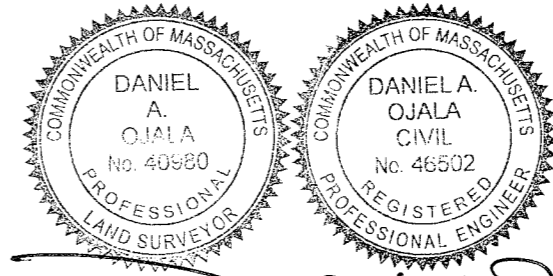
LOT 10  
38,800± S.F.

### SITE PLAN

OF  
**1000 ROUTE 6A  
WEST BARNSTABLE, MA**

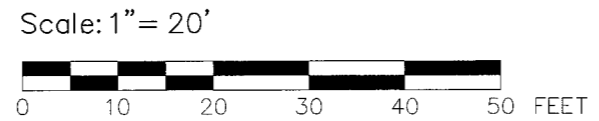
PREPARED FOR  
**PETER EASTMAN**

DATE: APRIL 10, 2018  
REV.: SEPTEMBER 5, 2018



9-5-18  
DATE DANIEL A. OJALA, P.E., P.L.S.

**down cape engineering, inc.**  
civil engineers  
land surveyors  
939 Main Street (Rte 6A)  
YARMOUTHPORT MA 02675  
18-078 EASTMAN.DWG



**June Daley**  
**11 Little Pond Road**  
**Marstons Mills, Massachusetts 02648**

September 24, 2019

Mr. Alex Rodolakis, Chairperson  
Town of Barnstable Zoning Board of Appeals  
367 Main Street  
Hyannis, Massachusetts 02601

Re: 1000 Main Street, West Barnstable, Massachusetts, (SP 2019-050)

Dear Mr. Rodolakis:

It was my pleasure to serve the Town of Barnstable as the Precinct 11 Town Councilor from 2011 through 2013.

During that period of time I worked closely with a group of residents that had been charged with updating the West Barnstable Village component of the Cape Cod Commission's Comprehensive Plan.

After completion of the plan, this group worked with then Director of the Town's Growth Management Department, Joanne Miller-Buntich on implementing zoning initiatives consistent with the Comprehensive Plan's goals and objectives.

These initiatives included a rewrite of the zoning in the West Barnstable Business District. The proposed zoning had a lengthy period of input and review at both Board and General Membership meetings of the West Barnstable Civic Association. Prior to the public hearing process through the Planning Board and Town Council, the zoning was presented and approved at a General Membership Meeting. It was unanimously approved by both the Planning Board and the Town Council on September 8, 2011. (TC 2011-138).

Critical to the new zoning change was to preserve and protect the traditional New England Village character. A driving force behind this zoning change was that a location appropriate scale and traditional mix of business, institutional and residential land uses would continue. The goal was also to support a harmonic co-existence of residential and business use.

To this end, the uses allowed by Special Permit include important performance standards. One of these standards under Section B. (4) (g) states that “All outdoor storage associated with artisan or craft use is prohibited “.

Ascribing that one performance standard alone, it is impossible to believe that the storage of twenty shrink wrapped boats in a yard, abutting property both residentially zoned or in residential use is an appropriate action.

Boat storage is best left to where it is allowed under zoning in either Marina Business or Service and Distribution Districts. Boat storage in the WBVBD is completely inconsistent with Section 240-20 A. Purpose and intent numbers 1-8.

The applicant would likely be welcomed in the district by applying for a Special Permit under the current zoning. By meeting the performance standards set forth in the ordinance, 1000 Main Street, LLC’s proposed use would be a welcome addition to the community.

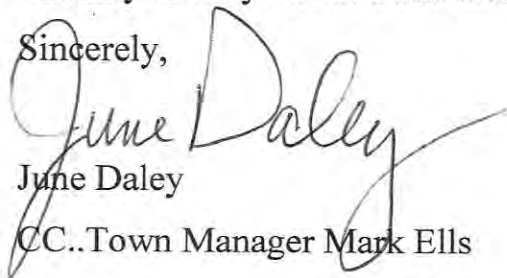
It is also important to note that the WBVBD zoning calls for only one residence to be contained in a structure (Section B. (1) (a).

The community felt so strongly about keeping the bulk of the existing zoning in place, that I along with then Precinct One Town Councilor Ann Canedy sponsored and legislated an ordinance which eliminated all use variances on the Old Kings Highway in the Town of Barnstable, (TC 2013-060).

The application for a special permit before your board for 1000 Main Street, LLC is inconsistent with the Villages Local Comprehensive Plan, West Barnstable Business District Zoning and the Town’s Zoning Ordinance, and Chapter 240, Article XII, Chapter 240 Sec. 240-125B (1) (e) – Use Variance within 300 feet along 6A Scenic Highway.

Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham



TOWN OF BARNSTABLE  
ZONING BOARD OF APPEALS

\*\*\*\*\*

IN RE:

Special Permit Number 2019-050

1000 Main Street  
West Barnstable, MA

\*\*\*\*\*



ABUTTER'S AFFIDAVIT IN OPPOSITION TO  
APPLICATION FOR SPECIAL PERMIT

Now comes Nancy Trafton, abutter to subject property, and submits the following Affidavit in Opposition to Application for Special Permit Number 2019-050

ABANDONMENT OF BOATBUILDING BUSINESS USE, CONSEQUENCES

- 1) Mr. Charles Birdsey was granted a Special Permit on April 30, 1987 *to allow the maintenance, repair and sale of small boats with retail sale of supplies related thereto.*
- 2) Application was pursuant to 1986 Zoning Section P.A. - 14.
- 3) This section was eliminated effective 12/3/1987 by a complete recodification of the zoning ordinance. The replacement section was numbered 3-3.5 (3 B) This new section limits special permit uses in the VB-B to windmills only. Boat building and repair were no longer allowed, neither as of right nor by special permit.
- 4) Charles Birdsey built small boats under the name Speedwell Boatworks, Inc. He held all offices of the corporation. He placed a sign in the front yard and often displayed one boat in the front yard.

5) Speedwell Boatworks, Inc. (04-2902663) filed Articles of Dissolution in the Secretary of State's office. on January 2, 2003.

6) My review of the business filings at the Barnstable Town Clerk's office shows no business certificate filings at all, under either Speedwell Boatworks or Charles Birdsey at 1000 Main Street.

7) There is no statement or offer of proof from Mr. Charles Birdsey that he continued to operate the business after he dissolved his corporation in 2003.

8) On October 21, 2008, Cynthia Martin of the Town of Barnstable Board of Health visited Speedwell Boatworks, 1000 Main St. Her report reads as follows:

*"This business filed a Toxic and Hazardous Materials on-Site Inventory on an unspecified date. An inspection of the facility on October 21, 2008 revealed that Speedwell Boat Works is no longer in business. The barn, garage and two sheds contained no hazardous material other than what Mr. Birdsey and his son use for their personnel use. Two boats owned by the Birdseys were stored in the barn.. There were several small boats being stored outdoors on the property but there was no evidence of any maintenance being performed."*

9) Charles and Barbara Birdsey conveyed the property to an LLC managed by their son Christopher Birdsey in August of 2007.

10) Given the dissolution of Speedwell Boatworks, Inc. in 2003, the conveyance of the property to an LLC managed by his son Christopher in 2007, and Mr. Charles Birdsey's statements to Cynthia Martin of the BOH in 2008, it follows that the boat operation at 1000 Main Street was abandoned by the time that Charles Birdsey conveyed the property to his son in 2007.

11) There is no evidence to demonstrate that boatbuilding - as a business - was revived over the course of Mr. Christopher Birdsey's ownership.

12) After Mr. Christopher Birdsey conveyed the property to an LLC managed by Peter Eastman on December 11, 2013, Mr. Eastman placed a sign entitled "Howard Boats West" on the barn and began to store both sail and power shrink wrapped boats in the yard.

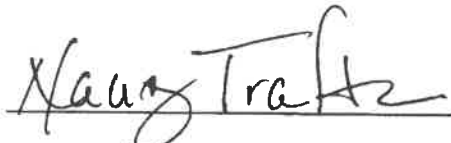
13) At this point in time the boat building operation run by Mr. Charles Birdsey had been abandoned for over five years.

14) Where the abandonment of the boatbuilding business exceeded the applicable period for its re-establishment by right; and where the boatbuilding was no longer an allowable use when that period had run, Mr. Eastman does not have the benefit of a lawful boatbuilding business use.

**BOAT STORAGE:**

- 15) Mr. Eastman's attorney told the Site Plan Review Committee that Eastman "thought that storage of boats would be incidental to the boat repair use permitted by the 1987 Special Permit."
- 16) It is difficult to understand how Mr. Eastman reached such a conclusion. The 1987 Special Permit is explicit that: "there be no more than one boat on display outside at any one time".
- 17) This application for a boat storage business does not fall within a category specifically accepted in the ordinance.
- 18) The storage of boats is not allowed in the WBVBD. Boat storage belongs in the more industrial type zoning districts in which it is allowed, such as Marina Business and Service and Distribution.
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SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 25th DAY OF SEPTEMBER, 2015

  
\_\_\_\_\_  
Nancy Trafton

# West Barnstable pushes zoning change

**Villagers want to preserve character while encouraging (some) growth**

By J. James Joiner  
jjoiner@barnstablepatriot.com

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**ZONE RANGERS** – Nancy Trafton and Town Councilor Hank Farnham hold up a map showing the proposed West Barnstable Village Business District.

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According to the most recent census, West Barnstable is one of the few villages to report growth, noted West Barnstable Town Councilor Hank Farn-

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## West Barnstable zoning change...

CONTINUED FROM PAGE B-6

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Among the recommendations there is also a corporate branding ordinance that won't allow formula businesses with more than eight locations, except for banks. Chain businesses that did make it in would have to blend aesthetically with the feel of the village. A similar ordinance was approved in Barnstable Village last year.

"People have fairly strong feelings about preservation," Farnham indicated.

While this has been a fairly long process, almost eight years, the road ahead looks short.

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By Susan Vaughn  
svaughn@wickedlocal.com

The Barnstable Town Council recently approved a new zoning district titled the West Barnstable Village Business District that eliminates the former Village Business District-B and specifies the type of commercial activity sought for the district.

Town Councilor Henry Farnham, who sponsored the zoning amendment and served on the village Local Comprehensive Planning Committee, said in recommending the amendment that it "promotes West Barnstable's and the town's planning objectives, protects the character and environment of West Barnstable and promotes locally focused economic development."

The boundaries of the district near the intersection of Meetinghouse Way, (Route 149) and Main Street (Route 6A) are the same, but some new and increased uses are allowed under the new regulations, Nancy Trafton, chairwoman of West Barnstable's Local Comprehensive Planning Committee said in a recent interview. The committee, a subcommittee of the West Barnstable Civic Association, had 50 meetings after getting the original charge to update the West Barnstable component of the town's Local Comprehensive Plan, she said.

Committee members also included former chairwoman Betty Nilsson and Audrey Loughnane, Wolfgang Fattler, Gay Black and the late Helen Wirtanen. Trafton presented the committee's report to the Town Council on Sept. 8, which unanimously ap-

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In developing the changes, the committee was intent on preserving the mixed use and historic component of the business district, while planning for a stable future, Trafton said. "We cleaned up ambiguities and attempted to bring our ordinance up to date by utilizing current planning tools, such as corporate branding regulations," she said. These changes came directly from the strategies outlined in the West Barnstable Local Comprehensive plan.

In addition to renaming the district, Trafton outlined the proposed changes to the VBD-B that included separating the VBD-B from the VBD-A in the zoning ordinance because each district has different uses.

The amendment makes it clear that a residence and a business may be located within the same building, maintains the requirement that only one principal permitted single-family residential dwelling can be contained in any one building and limits principal permitted single-family homes to one per acre of land.

In addition to single-family homes, principal permitted uses in the zone include a small scale retail store, professional, business or medical offices and banks, credit unions and other financial institutions. Allowed accessory uses include bed and breakfast operations, automated banking facilities within a principal building and accessory apartments.

The new zone also will allow for artisans and craftsmen as have historically existed in the district. These uses were eliminated from the district at some point and are being returned through the special permit process, Trafton said. "The intent is to assure the ongoing harmonious relationship between business and residential uses."

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The amendment creates a corporate branding ordinance to maintain the "sense of place" currently found in the historic business district. All structures and sites must be designed to be consistent with the business district's architectural composition, character and historic context.

Trafton reported that throughout the amendment process the committee sought direction and received unanimous approvals from the West Barnstable Civic Association. Jo Anne Miller Buntich, Department of Growth Management director, assisted the committee.

**June Daley  
11 Little Pond Road  
Marstons Mills, Massachusetts 02648**

September 24, 2019

Mr. Alex Rodolakis, Chairperson  
Town of Barnstable Zoning Board of Appeals  
367 Main Street  
Hyannis, Massachusetts 02601

Re: 1000 Main Street, West Barnstable, Massachusetts, (SP 2019-050)

Dear Mr. Rodolakis:

It was my pleasure to serve the Town of Barnstable as the Precinct 11 Town Councilor from 2011 through 2013.

During that period of time I worked closely with a group of residents that had been charged with updating the West Barnstable Village component of the Cape Cod Commission's Comprehensive Plan.

After completion of the plan, this group worked with then Director of the Town's Growth Management Department, Joanne Miller-Buntich on implementing zoning initiatives consistent with the Comprehensive Plan's goals and objectives.

These initiatives included a rewrite of the zoning in the West Barnstable Business District. The proposed zoning had a lengthy period of input and review at both Board and General Membership meetings of the West Barnstable Civic Association. Prior to the public hearing process through the Planning Board and Town Council, the zoning was presented and approved at a General Membership Meeting. It was unanimously approved by both the Planning Board and the Town Council on September 8, 2011. (TC 2011-138).

Critical to the new zoning change was to preserve and protect the traditional New England Village character. A driving force behind this zoning change was that a location appropriate scale and traditional mix of business, institutional and residential land uses would continue. The goal was also to support a harmonic co-existence of residential and business use.

To this end, the uses allowed by Special Permit include important performance standards. One of these standards under Section B. (4) (g) states that "All outdoor storage associated with artisan or craft use is prohibited".

Ascribing that one performance standard alone, it is impossible to believe that the storage of twenty shrink wrapped boats in a yard, abutting property both residentially zoned or in residential use is an appropriate action.

Boat storage is best left to where it is allowed under zoning in either Marina Business or Service and Distribution Districts. Boat storage in the WBVBD is completely inconsistent with Section 240-20 A. Purpose and intent numbers 1-8.

The applicant would likely be welcomed in the district by applying for a Special Permit under the current zoning. By meeting the performance standards set forth in the ordinance, 1000 Main Street, LLC's proposed use would be a welcome addition to the community.

It is also important to note that the WBVBD zoning calls for only one residence to be contained in a structure (Section B. (1) (a)).

The community felt so strongly about keeping the bulk of the existing zoning in place, that I along with then Precinct One Town Councilor Ann Canedy sponsored and legislated an ordinance which eliminated all use variances on the Old Kings Highway in the Town of Barnstable, (TC 2013-060).

The application for a special permit before your board for 1000 Main Street, LLC is inconsistent with the Villages Local Comprehensive Plan, West Barnstable Business District Zoning and the Town's Zoning Ordinance, and Chapter 240, Article XII, Chapter 240 Sec. 240-125B (1) (e) – Use Variance within 300 feet along 6A Scenic Highway.

Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham



**From:** eileen.elias@comcast.net  
**Sent:** Wednesday, December 11, 2019 7:23 PM  
**To:** Brigham, Anna  
**Cc:** selias001@gmail.com  
**Subject:** Town of Barnstable December 11, 2019 Hearing Regarding Property - 1000 Main Street, West Barnstable 02668

Dear Ms. Brigham,

My husband and I reside at 42 Packet Landing Way, West Barnstable. We are writing to you regarding the proposed intent by the owner of the property at 1000 Main Street, West Barnstable which is located on 6A and Packet Landing Way.

We are opposed to the owner's intent to store shrink-wrapped boats including sail boats on the grounds of his property. Know that the owner, without legal permission, is currently storing these boats on the outside of his property.

Our understanding is the owner intends to store 20 or more shrink-wrapped boats on the grounds of his property. This property is in a residential area. The currently visibly obvious stored boats are negatively affecting this residential area. The 1000 Main Street property's grounds have taken on a 'ship yard' and/or 'industrial' environment, rather than residential. Home values are at risk of diminished sale values. The residential area consists of single homes at values between \$350,000 - \$1.5 million.

The 1000 Main Street property's prior owner did store boats but inside, within the property's barn/large garage. We have no issue with such interior storage. Our concern is with storing boats outside of the barn, visible from both 6A and Packet Landing Way.

We look forward to knowing that the owner of the 1000 Main Street property complies with the legal requirements of owning residential property and that the outside boat storage is stopped/discontinued.

My best,  
Stanley and Eileen Elias  
42 Packet Landing  
West Barnstable, MA  
240 380 0431

**CAUTION:** This email originated from outside of the Town of Barnstable! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

TOWN OF BARNSTABLE  
ZONING BOARD OF APPEALS

\*\*\*\*\*

IN RE:

Special Permit Number 2019-050

1000 Main Street

West Barnstable, MA

\*\*\*\*\*

ABUTTER'S AFFIDAVIT IN OPPOSITION TO  
APPLICATION FOR SPECIAL PERMIT

Now comes Nancy Trafton, abutter to subject property, and submits the following Affidavit in Opposition to Application for Special Permit Number 2019-050

ABANDONMENT OF BOATBUILDING BUSINESS USE, CONSEQUENCES

- 1) Mr. Charles Birdsey was granted a Special Permit on April 30, 1987 *to allow the maintenance, repair and sale of small boats with retail sale of supplies related thereto.*
- 2) Application was pursuant to 1986 Zoning Section P.A. - 14.
- 3) This section was eliminated effective 12/3/1987 by a complete recodification of the zoning ordinance. The replacement section was numbered 3-3.5 (3 B) This new section limits special permit uses in the VB-B to windmills only. Boat building and repair were no longer allowed, neither as of right nor by special permit.
- 4) Charles Birdsey built small boats under the name Speedwell Boatworks, Inc. He held all offices of the corporation. He placed a sign in the front yard and often displayed one boat in the front yard.

5) Speedwell Boatworks, Inc. (04-2902663) filed Articles of Dissolution in the Secretary of State's office. on January 2, 2003.

6) My review of the business filings at the Barnstable Town Clerk's office shows no business certificate filings at all, under either Speedwell Boatworks or Charles Birdsey at 1000 Main Street.

7) There is no statement or offer of proof from Mr. Charles Birdsey that he continued to operate the business after he dissolved his corporation in 2003.

8) On October 21, 2008, Cynthia Martin of the Town of Barnstable Board of Health visited Speedwell Boatworks, 1000 Main St. Her report reads as follows:

*"This business filed a Toxic and Hazardous Materials on-Site Inventory on an unspecified date. An inspection of the facility on October 21, 2008 revealed that Speedwell Boat Works is no longer in business. The barn, garage and two sheds contained no hazardous material other than what Mr. Birdsey and his son use for their personnel use. Two boats owned by the Birdseys were stored in the barn.. There were several small boats being stored outdoors on the property but there was no evidence of any maintenance being performed."*

9) Charles and Barbara Birdsey conveyed the property to an LLC managed by their son Christopher Birdsey in August of 2007.

10) Given the dissolution of Speedwell Boatworks, Inc. in 2003, the conveyance of the property to an LLC managed by his son Christopher in 2007, and Mr. Charles Birdsey's statements to Cynthia Martin of the BOH in 2008, it follows that the boat operation at 1000 Main Street was abandoned by the time that Charles Birdsey conveyed the property to his son in 2007.

11) There is no evidence to demonstrate that boatbuilding - as a business - was revived over the course of Mr. Christopher Birdsey's ownership.

12) After Mr. Christopher Birdsey conveyed the property to an LLC managed by Peter Eastman on December 11, 2013, Mr. Eastman placed a sign entitled "Howard Boats West" on the barn and began to store both sail and power shrink wrapped boats in the yard.

13) At this point in time the boat building operation run by Mr. Charles Birdsey had been abandoned for over five years.

14) Where the abandonment of the boatbuilding business exceeded the applicable period for its re-establishment by right; and where the boatbuilding was no longer an allowable use when that period had run, Mr. Eastman does not have the benefit of a lawful boatbuilding business use.

**BOAT STORAGE:**

15) Mr. Eastman's attorney told the Site Plan Review Committee that Eastman "thought that storage of boats would be incidental to the boat repair use permitted by the 1987 Special Permit."

16) It is difficult to understand how Mr. Eastman reached such a conclusion. The 1987 Special Permit is explicit that: "there be no more than one boat on display outside at any one time".

17) This application for a boat storage business does not fall within a category specifically accepted in the ordinance.

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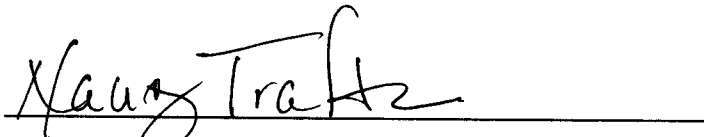
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# West Barnstable zoning change...

CONTINUED FROM PAGE B:6

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**June Daley**  
**11 Little Pond Road**  
**Marstons Mills, Massachusetts 02648**

September 24, 2019

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Town of Barnstable Zoning Board of Appeals  
367 Main Street  
Hyannis, Massachusetts 02601

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Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham

**Town of Barnstable**  
Planning and Development Department  
Elizabeth Jenkins, Director

Staff Report



**Special Permit 2019-050 – 1000 Main LLC/Peter Eastman**  
**Section 240-20 B (3) and (4) – Special Permit for Boat Storage and use of 3 residential units in the WBVB District**

To allow the operation of a small boat storage business and to continue the use of three residential units in the main dwelling

**Date:** September 23, 2019 - **UPDATED**  
**To:** Zoning Board of Appeals  
**From:** Anna Brigham, Principal Planner

**Applicant:** **1000 Main LLC/Peter Eastman**  
Box 125, 124 Beale Way, Barnstable, MA 02630  
**Property Address:** 1000 Main Street (Rte 6A) West Barnstable, MA  
**Assessor's Map/Parcel:** 179/002  
**Zoning:** West Barnstable Village Business District (WBVBD) and Residence F (RF)

Filed: July 30, 2019

Hearing: September 25, 2019

Decision Due: November 20, 2019

**Copy of Public Notice**

1000 Main LLC has applied for a Special Permit pursuant to Section 240-20.B – West Barnstable Village Business District. The Applicant is seeking relief in order to store small traditional sailboats and to continue the pre-existing use of three residential units in the dwelling. The subject property is located at 1000 Main Street, West Barnstable, MA as shown on Assessor's Map 179 as Parcel 002. It is located in the West Barnstable Village Business District (WBVBD) and the Residence F (RF) Zoning Districts.

**Background**

The subject property is located on the corner of Main Street/Route 6A and Packet Landing Way in West Barnstable in the area zoned for business. The lot is 38,800 square feet and according to the Assessors Records contains a dwelling with 2,361 square feet of living area (4,256 gross square feet), 2 bedrooms, and constructed in 1900. There is also a large barn (approx. 3,000 sq.ft), two-car garage, and two sheds on the property. The property is served by a septic system. The main structure and barn are located within the West Barnstable Village Business District while the rear portion of the lot lies within the Residence F District.

In April 1987, Charles J. Birdsey applied to the Zoning Board for a Special Permit to change permitted uses on the property. The use of the property at that time was identified as "apartment rentals in the main house and an antique shop in the barn." (The application also references a 1983 special permit that allowed boat building uses.)

On June 3, 1987 Special Permit No. 1987-35 was granted to Charles Birdsey to allow the following uses:

- ) In the main house, one apartment unit upstairs and an office downstairs.
- ) In the barn, "maintenance, repair and sale of small boats with retail sale of supplies related thereto."

The Board granted the Special Permit subject to the condition that there be no more than one boat on display outside at any one time.

The property was transferred from Mr. Birdsey to an LLC in 2007. A note in the Health Division file dated October 21, 2008, stated that an inspection of the property revealed that the boat maintenance business, Speedwell Boat Works, was no longer in business. The note further states that Mr. Birdsey, who was on site when the inspection occurred, reported that he no longer works on boat building.

In 2013, the property was for sale and records show it was listed as a multi-family with three units, office on the first floor and a boat building business in the barn. A December 2013 fire department inspection shows the property had two units (one first floor, one second), as well as an upstairs office. No permits for the creation of additional residential dwelling units on the property were ever issued.

A Complaint was filed with the Building Division on January 11, 2018 complaining of boat storage in the front yard and using the dwelling as a rental. Two citations were issued on January 23, 2019 (one for boat storage and one for the multifamily use). The citations were paid. A Notice of Zoning Violation dated June 25, 2018 was sent to Mr. Eastman. The violations were for: the creation of a multifamily dwelling and for expansion of the boat repair and restoration use to include boat storage on and off season. Mr. Eastman was instructed to either return the property to modify the conditions of Special Permit No. 1987-35 or seek zoning relief. Mr. Eastman did not appeal the Building Commissioners determination.

In August 2018, the Applicant came before Site Plan Review to seek to modify Special Permit No. 1987-35 to allow the use of the property for boat storage. He also proposed to validate and continue the use of three preexisting nonconforming apartments in the main dwelling. The Application was found approvable subject to many conditions (see letter dated August 22, 2018), prime amongst them relief from the Zoning Board.

In September 2019, the Applicant returned to Site Plan Review, as required, for approval of a revised plan and submittal of septic information, floor plans, affidavits, and property history. There is a concern regarding the septic system and input from the Fire Department was needed but the Committee allowed the Applicant to seek a Special Permit with the condition that he return to Site Plan Review within 10 days of a positive vote to address the outstanding issues.

### **Proposal & Relief Requested**

1000 Main, LLC has applied for a Special Permit to “**store small traditional sailboats and to continue the pre-existing use of three residential units in the dwelling**” at 1000 Main Street, West Barnstable, MA. The Applicant cites that the Special Permit is sought pursuant to Section 240-20 – the **West Barnstable Village Business District, Sections (B)(3) and (B)(4)**, Special Permit Uses and Special Permit Performance Standards.

### **Uses Permitted and Permitted by Special Permit in the WBVBD**

The West Barnstable Village Business District (WBVBD), Section 240-20(B)(1), allows the following principal permitted uses (“by-right”):

- (a) Single-family residential dwelling. A single-family residential dwelling may be freestanding or attached to a building also used for nonresidential uses. More than one single-family residential dwelling per lot is permitted as long as there is a minimum of one acre per single-family dwelling, but in no case will more than one principal permitted single-family residential dwelling be contained in any one building.
- (b) Small-scale retail store.
- (c) Professional, business or medical office.
- (d) Office of a bank, credit union, savings and loan or other financial institution.

**Section B(3)** allows the following uses are permitted with approval of a **Special Permit** from the ZBA:

- (a) Artisans and craftspeople.

- (b) Personal service business.
- (c) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy subject to the provisions of § 240-44.1

**Section (B)(4)** provides specific **performance standards** that must be met for the Board to grant a Special Permit.

The WBVBD defines Artisans and Craftspeople as follows:

**ARTISAN OR CRAFTSPERSON USE** — A small-scale use that typically employs one or two people who practice craft or artisan activities. A key feature of works produced by artisans or craftspeople is the high degree of manual expertise involved. The use must be compatible with abutting and nearby residential and nonresidential uses. The following is included in the definition of "artisan or craftspeople use:"

**ARTISAN OR CRAFTSPERSON** — A person using manual skills to produce, in limited quantities, ornamental or functional works in ceramic, glass, metal, paper, wood or textiles. Examples include, without limitation, the following: drawing, painting, sculpture, pottery, photography, graphic design, interior design, fashion design, jewelry making, wood turning, glass blowing, furniture making, small wooden boat building, upholstering and weaving.

### Staff Comments

#### *Boat Storage*

To grant any Special Permit, the Board must first make a finding that “the application falls within a category specifically excepted in the ordinance for a grant of a special permit.”

The Board should consider if the proposed use by the Applicant, outdoor boat storage, can be shown to meet this first required finding. **Boat storage is not listed as a permitted use, or a special permit use, in the West Barnstable Village Business District.**

*The 1985 Special Permit allowed a boat repair business with the condition that no more than one boat on display outside at any one time. Accessory and incidental storage of one boat was allowed in connection with the boat building business, which appears to have been abandoned by 2008.*

#### *Apartments*

It appears the Applicant seeks three apartment units on the property. Again, the Board must find this request “falls within a category specifically excepted in the ordinance for a grant of a special permit.” **Multi-family residential is not allowed as a special permit use in the WBVBD.**

The 1985 Special Permit granted by the Board allowed for one apartment on the property. This is the last lawfully permitted residential use of the property, and the use (one dwelling unit) is in conformance with the WBVBD zoning. The Board should consider how the Applicant can substantiate that three units were lawfully permitted, as there is no record to show this special permit was modified to allow additional units. *(Prior rights to multiple units on the property would have been relinquished when the Board granted the 1985 Special Permit.)*

Further, the application cites no section of the Zoning Ordinance that would allow the non-conforming use to be reestablished. **The Barnstable Zoning Ordinance does not allow for reestablishment of nonconforming uses and the WBVBD does not allow for a change in a nonconforming use to another nonconforming use.**

Lastly, the Applicant did not appeal the Building Commissioner’s 2018 determination the uses were not permitted. No building permits for multi-family residential use was ever applied for or issued.

### **Additional Considerations**

The Fire Department would require that all boats be placed with a minimum of 3 feet of spacing between boats. All boats must be a minimum of 10 feet from any structure and vegetation. All vegetation within 10 feet will be removed from the area of storage such as grass, trees, shrubs, ext.. This includes the ground cover. Access will be provided to the boat storage area suitable for the access of a fire engine with a GVW of 45,000 pounds. The surface of the storage area will be free of obstructions including inoperable gates /fencing, or snow accumulation. The overhead will be clear of obstructions such as tree branches. No storage will be allowed under overhanging tree branches that would promote the vertical spread of fire. These provisions are being required because the property is immediately situated next to an area determined to be a wildland urban interface zone. All fuel and batteries will need to be removed from boats prior to storage. The use of rack storage would need to comply with the regulations for such. No shrink wrapping of boats on the property without proper hot work permit by a qualified operator meeting all of the requirements for hot work and hot work plan.

Further, the residential units would need to demonstrate compliance with Building, Health and Fire codes.

### **Special Permit Findings**

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit.
2. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
3. A Site Plan has been reviewed and found approvable with conditions. (*See letter dated August 22, 2018 and September 17, 2019*).

The Board would also have to make findings that the proposed use met the performance standards required by Section 240-20(B)(4).

### **Proposed Findings and Conditions**

No findings or conditions have been issued by staff at this time based on the need to hear from the Applicant, the public and the Board on this application.

Copies:	Applicant
Attachments:	Application
	Site plan
	Site Plan Review approval letters (2018 and 2019)
	Assessor's Record & Aerial Photo
	Copy of Special Permit No. 1987-35
	Affidavits
	Property History



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ZONING BOARD OF APPEALS

Town of Barnstable  
Zoning Board of Appeals  
Application for Other Powers

20 JUN -4 P 1:00

BARNSTABLE  
TOWN CLERK

Date Received  
Town Clerk's Office:

For office use only:

Appeal # 2020-024

Hearing Date

Decision Due 09-12-20

The undersigned Appellant hereby files an appeal to the Zoning Board of Appeals under M.G. L. Chapter 40A, Sections 8 & 15 for the reasons indicated:

Mark B. Elefante, Trustee of 25 East Avenue Realty Trust and Nancy B.

Appellant's Name: Gardiner, Trustee of 45 East Avenue Realty Trust

Appellant's Address: 1340 Main Street, Osterville, MA 02655

Address of Property that is the subject of this application: 8 East Avenue, Osterville, MA 02655

Assessor's Map/Parcel Number: 139/075 Zoning District: RF-1

Groundwater Overlay District: AP

Property Owner: Todd and Anne Beauregard, Phone: \_\_\_\_\_  
*If different from Appellant*

Address of Owner: 137 Fairmount Street, Lowell, MA 01852  
*If different from Appellant*

This is a request for:

- Enforcement Action
- Appeal of Administrative Official's Decision
- Other General Powers - Please Specify: \_\_\_\_\_

Which Section(s) of the Zoning Ordinance and/or MGL Chapter 40A are you appealing to the Zoning Board of Appeals? MGL 40A Sections 8,13,14 and 15. Town of Barnstable Code  
Section 240-123 and 125.

3 The Appellant is the person making the appeal.

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Nature of Appeal & Description of Request: See attached.

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Attach Additional Sheet if Necessary

Is the property subject to an existing Variance or Special Permit .....No [ ] Yes [X] - #. 2017-071

Existing Level of Development of the Property - Number of Buildings: 1

Present Use(s): single family residential

Existing Gross Floor Area: \_\_\_\_\_ sq. ft. Proposed New Gross Floor Area: \_\_\_\_\_ sq. ft.

Is the property located in a designated Historic District?..... Yes [ ] No [X]

Is this proposal subject to the jurisdiction of the Conservation Commission ..... Yes [ ] No [X]

Is this proposal subject to approval by the Board of Health ..... Yes [ ] No [X]

Is the building a designated Historic Landmark?..... Yes [ ] No [X]

Has a building permit been issued?..... Yes [X] No [ ]

Has a building permit been refused?..... Yes [ ] No [X]

The following information, as applicable, should be submitted with the application at the time of filing.

- Three (3) copies of the completed application form, each with original signatures accompanied by all supporting documentation related to the appeal
- Three (3) copies of a certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a site improvement plan and one (1) reduced copy (8 1/2" x 11" or 11" x 17").
- The applicant may submit any additional supporting documents to assist the Board in making its determination.

Signature: Michael F. Schulz Date: 6/4/2020  
Appellant's or Representative's Signature<sup>2</sup>

Print Name Michael F. Schulz

Address: 1340 Main Street Phone: 508-428-0950

Osterville, MA 02655 Fax No.: 508-420-1536

e-mail Address: mschulz@schulzlawoffices.com

<sup>2</sup> All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Appellant, a letter authorizing the Representative to act on behalf of the Appellant shall be required.

*Nancy B. Gardner,  
Trustee of 45 East  
Avenue Realty  
Trust  
and*

**Nature of Appeal**

This matter involves the appeal of the denial of a request for enforcement filed with the Town of Barnstable Building Commissioner dated April 23, 2020, by Michael F. Schulz on behalf of Mark B. Elefante, Trustee of 25 East Avenue Realty Trust (the "Trust") to suspend construction of a structure (foundation) by Todd and Anne Beauregard into East Avenue as it exceeds the scope of the building permit, which permit was premised upon Special Permit 2017-071. See Exhibit 1. The Building Commissioner denied the request based upon four reasons of denial. See Exhibit 2. This is an appeal of the denial pursuant to G.L. c. 40A §§ 8,13,14 and 15 and Town of Barnstable Code Section 240-123 and 125. The Trust respectfully requests that the Town of Barnstable Zoning Board of Appeals reverse the Building Commissioner.

**Description of Request and Grounds for Appeal**

According to the Building Commissioner's May 7, 2020 denial, four reasons were stated for the denial:

- 1. The structure that is referenced in the complaint is being erected to improve a patio that was approved on the site plan referenced in Special Permit 2017-071 which reference both a plan dated 1/6/16 and the conditions of East Avenue within the findings.**

As correctly stated by the Building Commissioner, the foundation is a structure pursuant to Section 240-128. However, there are issues with the remaining provisions of reason 1 of the Building Commissioner's denial. First, Special Permit 2017-071 is devoid of any reference that the structure (foundation) was being erected to improve a patio. Second, although there is a reference on the site plan to concrete pavers, there is absolutely no reference to a structure (foundation) extending from the dwelling past the property line and into East Avenue.<sup>1</sup> The special permit granted by the Board allows for the construction of an addition 4.4 feet from the front yard setback, not into East Avenue.<sup>2</sup> Third, the only reference to the conditions of East Avenue is that it "really functions like a driveway." The reference in the Decision of it functioning like a driveway came from Chair Rodolakis at the hearing who questioned Attorney Ford whether East Avenue was a misnomer since it looked like a driveway. Attorney Ford responded with clarification that East Avenue was unimproved Westerly of the Beauregards' house but that it was shown on a layout and that other people have rights in it.

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<sup>1</sup> Special Permit 2017-071 states "The dwelling and shed are also nonconforming as to front yard setbacks at 4.2 feet where 30 feet is required and as to southerly side yard setback at 10 feet where 15 feet is required."

<sup>2</sup> Condition 1 states "Special Permit 2017-071 is granted to Todd and Anne Beauregard to allow for the construction of an addition 4.4 feet from the front yard setback where 30 feet is required."



**2. Using photos provided by the property owner, assessors database and using historical GIS imaging it is apparent that the patio has existed in its current footprint since at a minimum 1990 and likely was established prior to the 1950s based upon less clear black and white imaging.**

The existence of the patio was not at issue in the April 23, 2020, correspondence to the Building Commissioner. In fact, the issue for the Building Commissioner was the erection of a structure (foundation) extending from the dwelling to the property line (closer than the permitted 4.4 feet) and then extending further into East Avenue. Notwithstanding the foregoing, the photographs provided by the Building Commissioner to support his denial letter of May 7, 2020 do not support of a determination of the existence of a structure (foundation) extending from the dwelling into East Avenue.

**3. Finally, your appeal is untimely. Your appeal would have needed to have been filed 20 days of the granting of the special permit for which your client was noticed; and in any event no later than within 30 days of the issuance of the building permit.**

The request for enforcement is not untimely. Upon discovering that the Beauregards' erection of a structure (foundation) closer to and then into East Avenue which exceeded the scope of work allowed under the building permit by Special Permit 2017-071, the Trust requested enforcement. The denial of the request for enforcement on May 7, 2020 acted to commence a 30 day window for a person aggrieved by the decision (my client, the Trust) to file an appeal to the Zoning Board of Appeals. This is a timely appeal.

**4. It is my further determination that the patio was pre-existing nonconforming due to the way East Avenue has historically been used and was subsequently improved by the current special permit and as long as there is no increase in the footprint of the approved patio, it is a preexisting nonconforming landscape feature.**

As an initial matter, the Building Commissioner states in reason 1, supra, that it is a "structure", not a landscape feature. Although a patio may arguably be at times a landscape feature, a foundation is patently a structure under Section 240-128 which requires appropriate relief to encroach further into a given setback. Further, there was no evidence at all before the Board on March 28, 2018 or in Special Permit 2017-071 establishing that the patio was pre-existing nonconforming due to the way East Avenue has historically been used. In fact, and as stated previously, when questioned by Chair Rodolakis at the hearing whether East Avenue was a misnomer since it looked like a driveway, Attorney Ford responded correctly that East Avenue was shown on a layout, was unimproved westerly of the Beauregards' house and that other people had rights in it.

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# EXHIBIT 1

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## Michael Schulz

---

**From:** Michael Schulz  
**Sent:** Thursday, April 23, 2020 11:53 AM  
**To:** Florence, Brian; Carter, Jeff; michael.scalia@town.barnstable.ma.us  
**Cc:** Michael Schulz  
**Subject:** 8 East Avenue Osterville MA  
**Attachments:** 8 East Photograph of Foundation.jpg; 8 East Building Zoning Plan.pdf; RD-2017-071.pdf  
**Importance:** High

Good Morning Brian, Jeff and Michael:

As I discussed with Michael on the telephone this morning, I discovered yesterday that a foundation (structure) has been poured at 8 East Avenue, Osterville, MA (the "property") which protrudes significantly into East Avenue. **Photograph attached.**

In March 2018 a special permit was issued for the property which allowed for the construction of an addition to the existing dwelling into a front (4.4 feet from East Ave) and side yard setback pursuant to the plans. **Plans attached.** Although the plan references concrete pavers (which are not a structure requiring relief), the foundation is clearly a structure which requires relief. Additionally, the decision by the zoning board of appeals contains no reference, representation or finding for the construction of a foundation into East Avenue. **Decision attached.** The work being performed at the property is not in compliance with the special permit, not on the owners property, and is impedes the rights of others in/to East Avenue.

Based on the foregoing, I respectfully request that a stop work order be issued and building permit be suspended immediately for the property, that the property owner be notified of the same until the property is brought into compliance and the foundation removed from East Avenue. Thank you for your time, and I understand that with the COVID-19 issues, things may not happen as quickly as they would under normal circumstances. Michael

Michael F. Schulz, Esq.  
Schulz Law Offices, LLC  
1340 Main Street  
Osterville, Massachusetts 02655  
Telephone: (508) 428-0950  
Facsimile: (508) 420-1536  
Cell: (508) 364-6364  
[www.schulzlawoffices.com](http://www.schulzlawoffices.com)

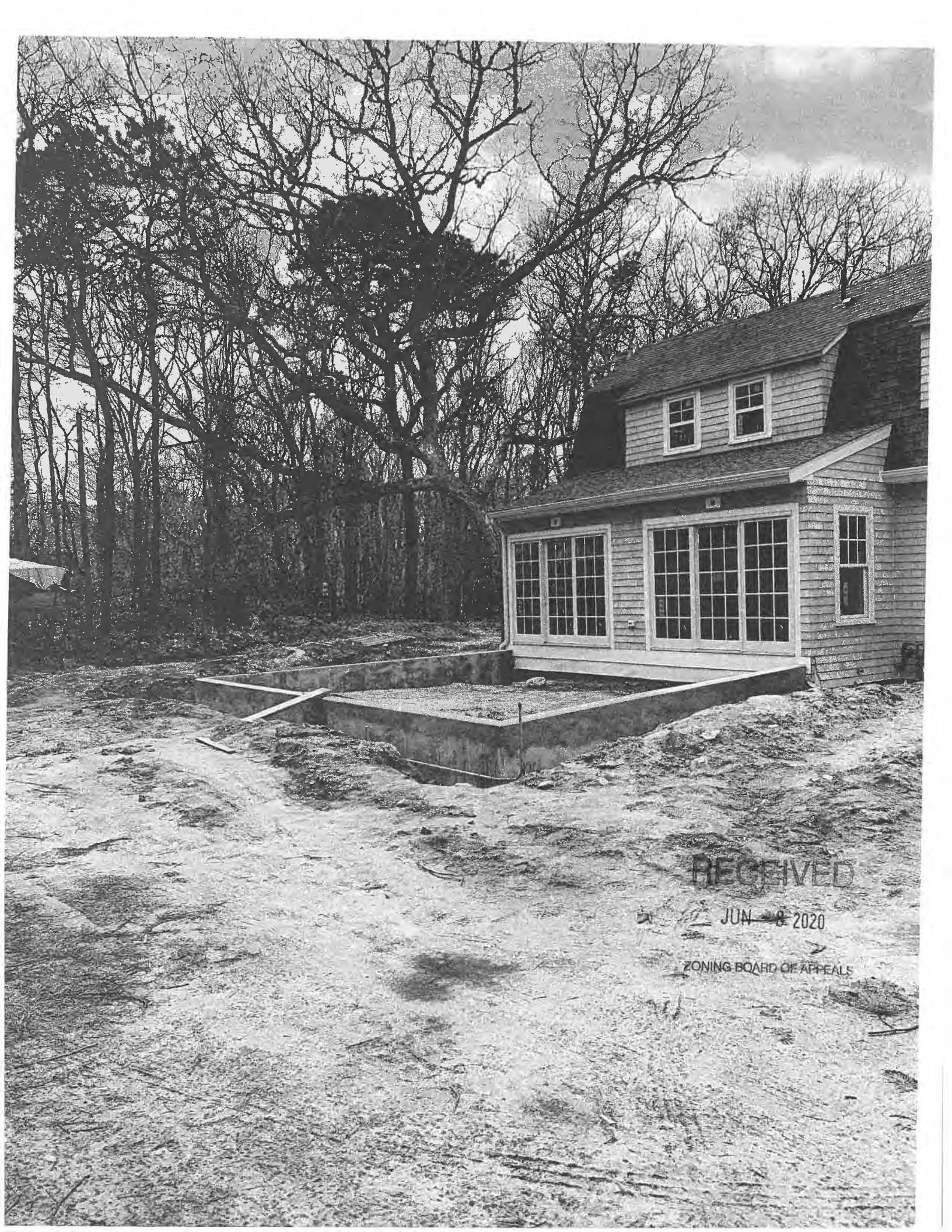
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**\*\*\*Be aware that online banking fraud is on the rise. If you receive an email containing wire transfer instructions from Schulz Law Offices, LLC, please call our office at (508) 428-0950 to verify the information prior to initiating the transfer\*\*\***

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**Town of Barnstable  
Zoning Board of Appeals  
Decision and Notice**

**Special Permit No. 2017-071 – Beauregard**

**§ 240-92(B) – Nonconforming structures used as single- or two-family residences**

To allow construction of an addition on a nonconforming dwelling

<b>Summary:</b>	<b>Granted with Conditions</b>
<b>Applicant:</b>	<b>Todd and Anne Beauregard</b>
<b>Property Address:</b>	8 East Avenue, Osterville, MA
<b>Assessor's Map/Parcel:</b>	139/075
<b>Zoning:</b>	Residence F-1 District
<b>Hearing Date:</b>	March 28, 2018
<b>Recording Information:</b>	Certificate No. 197648

BARNSTABLE TOWN CLERK

2018 APR 11 PM 1:00

**Background**

Todd and Anne Beauregard have applied for a Special Permit pursuant to Section 240-92(B) Nonconforming Buildings or Structures used as Single- and two-family residences. The applicants are proposing to construct a two-story, 1,180 square foot addition which will encroach into a front yard setback creating an intensification which requires a Special Permit. The subject property is addressed 8 East Avenue, Osterville, MA, as shown on Assessor's Map 139 as Parcel 075. It is located in the Residential F-1 Zoning District.

According to the site plan submitted, the subject lot is 9,974 square feet. The subject lot was created in 1924 by Land Court Plan 10290A and fronts on East Avenue and on Second Avenue. Neither of which is improved.

According to the Assessor's record, the lot is developed with a 1.5-story, two-bedroom dwelling of 1,735 square feet gross floor area, constructed in 1930. The Land Court plan shows that the dwelling existed at the time the lot was created. Both the lot and dwelling pre-date zoning and therefore would be considered pre-existing, legally-created and non-conforming. The applicants purchased the property in July of 2012.

The property was previously granted a Special Permit (No. 2006-009) which approved a similar proposal, however the rights under the permit were not exercised and the permit has since expired.

The lot is nonconforming as to lot size at 9,974 square feet where 87,120 square feet is required in the RF-1 (RPOD). The dwelling and shed are also nonconforming as to front yard setbacks at 4.2 feet where 30 feet is required and as to southerly side yard setback at 10 feet where 15 feet is required. The existing shed is also nonconforming in that it is setback 3.8 feet from the rear yard lot line where 15 feet is required.

**Procedural & Hearing Summary**

Special Permit Application No. 2017-071 to construct a two-story, 1,180 square foot addition which will encroach into a front yard setback was filed at the Town Clerk's office and the office of the Zoning Board of Appeals on November 16, 2017. A public hearing before the Zoning Board of Appeals was duly advertised and notice sent to all abutters and interested parties in accordance with MGL Chapter 40A. The hearing was opened on January 24, 2018 and continued to February 14, 2018, March 14, 2018, and finally to March 28, 2018 at which time the Board found to grant the Special Permit subject to conditions. Board Members deciding this appeal were Alex Rodolakis, Jacob Dewey, Paul Pinard, David Hirsch and Todd Walantis.

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ZONING BOARD OF APPEALS

Attorney Michael Ford represented the Applicants before the Board. Attorney Ford stated the Applicants, Todd and Anne Beauregard, seek to construct an addition to their pre-existing nonconforming single family dwelling at 8 East Avenue, Osterville. The proposed addition will be two stories and will not result in the creation of any new nonconformity. The addition will consist of two bedrooms upstairs and a living room, kitchen, and dining room downstairs. The addition will increase the total bedroom count to four. Attorney Ford reviewed the existing conditions and the previous Special Permit issued to the previous owners. The Beauregard's, the new owners, did not want to exercise the previous Special Permit to demolish the dwelling, but rather wanted to construct an addition. Attorney Ford stated the Applicants seek permission to keep the shed. The Board questioned the condition of East Avenue and that it really functions like a driveway for the Applicants. There was a discussion regarding the existing shed and the encroachment into the setback.

The Board Chair requested public comment. No testimony was given.

#### **Findings of Fact**

At the hearing on March 28, 2018, the Board unanimously made the following findings of fact in Special Permit Application No. 2017-071, a request to construct a two-story, 1,180 square foot addition which will encroach into a front yard setback:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92 allows for the expansion of a preexisting nonconforming structure used as a single-family residence with a Special Permit.
2. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
3. The proposed expansion of the dwelling will not be substantially more detrimental to the neighborhood than the existing building or structure.

The vote to accept the findings was:

**AYE: Alex Rodolakis, Jacob Dewey, Paul Pinard, David Hirsch and Todd Walantis**

**NAY: None**

#### **Decision**

1. Special Permit No. 2017-071 is granted to Todd and Anne Beauregard, to allow for the construction of an addition 4.4 feet from the front yard setback where 30 feet is required and 21.8 feet from the side yard setback where 15 feet is required. The property is located at 8 East Avenue, Osterville, MA.
2. The proposed alterations will be in substantial conformance with the plan entitled "Plan of Proposed Addition at 8 East Ave Barnstable (Osterville) Mass" prepared for Todd and Anne Beauregard dated January 6, 2016, drawn and stamped by CapeSurv and architectural drawings by Giampietro Architects dated April 15, 2016.
3. This construction shall represent full build-out of the lot. No additional increase in building coverage or gross square footage shall be permitted without prior approval of this Board.
4. The shed shall be relocated to comply with setbacks for an accessory structure.
5. This decision shall be recorded at the Barnstable County Registry of Deeds and copies filed with the Zoning Board of Appeals and Building Division. The rights authorized by this special permit must be exercised within two years, unless extended.

The vote was:

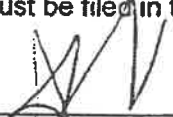
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**AYE: Alex Rodolakis, Jacob Dewey, Paul Pinard, David Hirsch and Todd Walantis**  
**NAY: None**

**Ordered**

Special Permit No. 2017-071 to construct a two-story, 1,180 square foot addition which will encroach into a front yard setback at 8 East Avenue, Osterville, MA, 191 Fifth Avenue, Hyannis (Hyannisport) has been granted subject to conditions. This decision must be recorded at the Barnstable Registry of Deeds for it to be in effect and notice of that recording submitted to the Zoning Board of Appeals Office. The relief authorized by this decision must be exercised within two years unless extended. Appeals of this decision, if any, shall be made pursuant to MGL Chapter 40A, Section 17, within twenty (20) days after the date of the filing of this decision, a copy of which must be filed in the office of the Barnstable Town Clerk.

  
\_\_\_\_\_  
Alex Rodolakis, Chair

4/11/2018  
Date Signed

I, Ann Quirk, Clerk of the Town of Barnstable, Barnstable County, Massachusetts, hereby certify that twenty (20) days have elapsed since the Zoning Board of Appeals filed this decision and that no appeal of the decision has been filed in the office of the Town Clerk.

Signed and sealed this 2<sup>ND</sup> day of MAY under the pains and penalties of perjury.

  
\_\_\_\_\_  
Ann Quirk, Town Clerk

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ZONING BOARD OF APPEALS



**Town of Barnstable**  
Assessing Division  
367 Main Street, Hyannis MA 02601  
www.town.barnstable.ma.us

Office: 508-862-4022  
FAX: 508-862-4722

Edward F O'Neil, MAA  
Director of Assessing

**ABUTTERS LIST CERTIFICATION**

November 27, 2017

RE: Adjacent Abutters List  
For Parcel: 139-075  
8 East Avenue  
Osterville, MA 02655

As requested, I hereby certify the names and addresses as submitted on the attached sheet(s) as required under Chapter 40A, Section 11 of the Massachusetts General Laws for the above referenced parcels as they appear on the most recent tax list with mailing addresses supplied.

*William J. Janoff*

*Donald M. ...*

*William J. ...*

Board of Assessors  
Town of Barnstable

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# Zoning Board of Appeals (ZBA) Abutter List for Map & Parcel(s): '139075'

Parties of interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

Total Count: 27



Close

Map & Parcel	Owner1	Owner2	Address1	Address 2	Mailing CityStateZip	Country Deed
138013	KNIGHTLY, TODD A & DIANA B		700 HIGH ST		DEDHAM, MA 02026	C174366
138014	ALLIEGRO, GEORGE & DEBRA		PO BOX 543		OSTERVILLE, MA 02655	C208099
139062	MECKE, STEPHEN C & ELIZABETH W		125 PILGRIM ROAD		WELLESLEY, MA 02481	C203119
139066	BREAULT, ROBERT N		PO BOX 709		OSTERVILLE, MA 02655	23021/246
139067001	YAREMCHUK, MICHAEL J & MARILYN K TRS	YAREMHUCK FAMILY REALTY TRUST	15 SMITH FARM TRAIL		LYNNFIELD, MA 01940	27864/199
139067002	BRESLIN, JOHN W & KATHLEEN H		5270 KENSINGTON HIGH ST		NAPLES, FL 34105	18672/34
139068	ENGLISH, MARY ANNE		64 WARREN STREET		OSTERVILLE, MA 02655	30119/348
139069	OLD, BRUCE S & KATHARINE D ET ALS TRS	WIANNO REAL ESTATE TRUST	C/O OLD, RANDOLPH B TR	935 SEAGRAPE LANE	VERO BEACH, FL 32963	2637/187
139070	WILBURN, MARILYN C & CHASE, PHILIP L		720 MAIN ST		HINGHAM, MA 02043	6741/41
139073	SMITH, LAMAR S TR	WARREN AVENUE TRUST	419 E HATHAWAY		SAN ANTONIO, TX 78209	7930/326
139074	MCELROY, JOSEPHINE A		24717 HARBOUR VIEW DRIVE		PONTE VEDRA BEACH, FL 32082	27179/53
139075	BEAUREGARD, TODD & ANNE		137 FAIRMOUNT STREET		LOWELL, MA 01852	C197648
139076	SINGH, AJAY K & RITU		65 ENDICOTT STREET		NEWTON, MA 02461	25368/9
139077	WIANNO CLUB		P O BOX 249		OSTERVILLE, MA 02655	C2362
139078	SULLIVAN, LUCIANN BOYD ETAL	C/O THOMPSON, LUCIANN P	PO BOX770991		STEAMBOAT SPRINGS, CO 80477	C124714
139079	REEVES, VIRGINIA T		26361 CLARKSTON DRIVE		BONITA SPRINGS, FL 34135	1592/193
139080	REEVES, KENNETH R TR	KENNETH R REEVES REV TRUST	C/O VIRGINIA REEVES	26361 CLARKSTON DRIVE	BONITA SPRINGS, FL 34135	6935/104
139082	WOODS, GARY T & SULLIVAN, ELIZABETH A		78 LONGFELLOW RD		WELLESLEY, MA 02481-5221	C183691
139083	CURTIS, ALAN B & EAGAN, GAIL		32 UNION PARK #1		BOSTON, MA 02118	C176669
139084	PARRELLA, DAVID A		PO BOX 483		BARNSTABLE, MA 02630	29681/174
139085	HEARN, DEIRDRE S		24 OXFORD RD		WELLESLEY, MA 02481	C149798
139086	HEARN, ROGER D		24 OXFORD RD		WELLESLEY, MA 02481	C149799
139087	BAER, MARY M & ROBERT A JR		BOX 1590		BOCA GRANDE, FL 33921	C172046
139088	MORRISON, ROBERT S & SUSAN E		600 EAST WESTMINSTER		LAKE FOREST, IL 60045	C139209
139089	CURTIS, PAUL G &		26 FROTHINGHAM ST		MILTON, MA	9046/11

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JUN - 8 2020

ZONING BOARD OF APPEALS

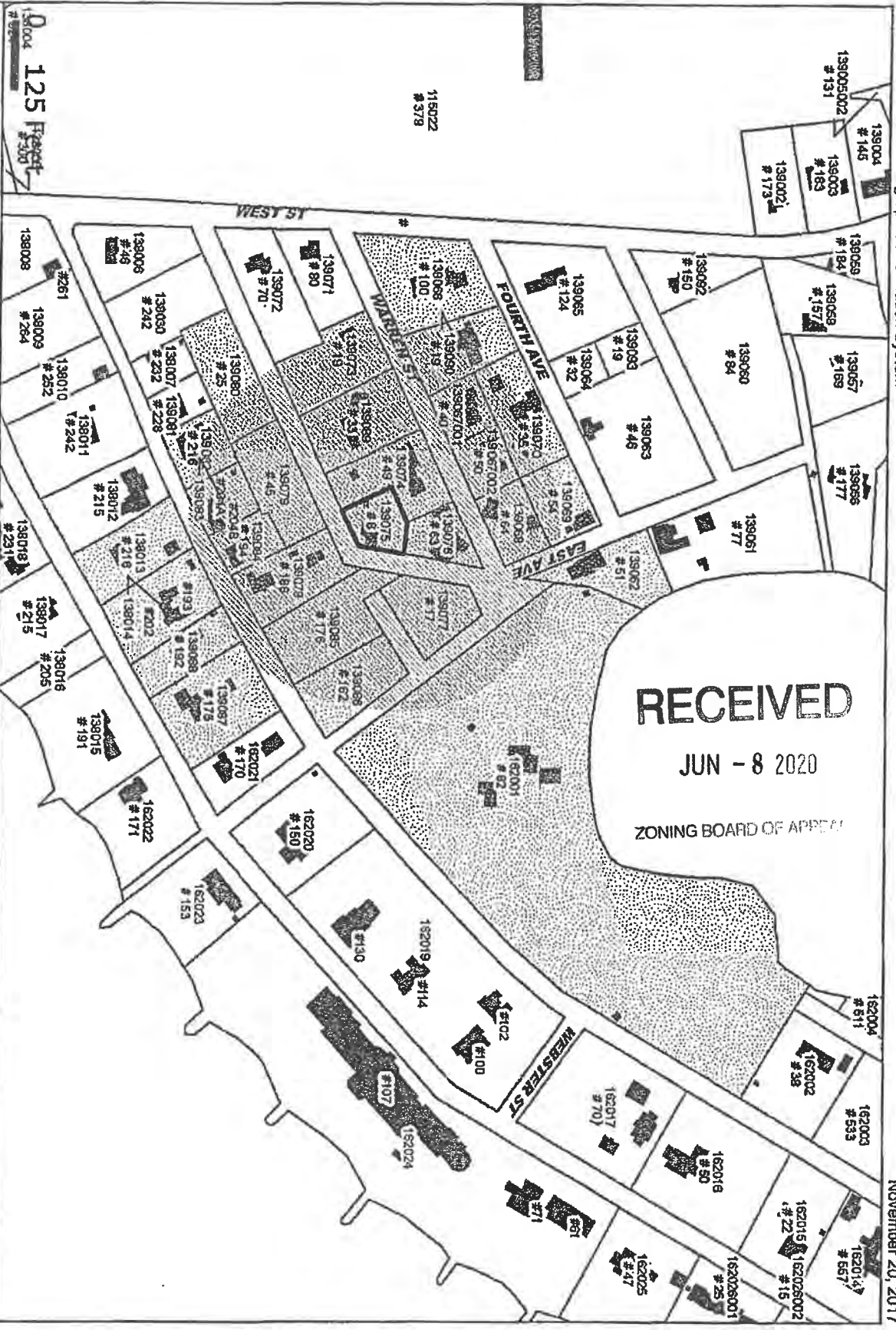
	JANET L			02186	
139090	WHITE, NANCY A TR	WHITE NANCY A FAMILY NOMINEE TRUST	19 LADY SLIPPER LN	OSTERVILLE, MA 02655	10704/320
162001	WIANNO CLUB		P O BOX 249	OSTERVILLE, MA 02655	C2362

This list by itself does NOT constitute a certified list of abutters and is provided only as an aid to the determination of abutters. If a certified list of abutters is required, contact the Assessing Division to have this list certified. The owner and address data on this list is from the Town of Barnstable Assessor's database as of 11/20/2017.

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**JUN - 8 2020**

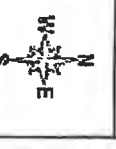
ZONING BOARD OF APPEALS



**DISCLAIMERS:** This map is for planning purposes only. It is not adequate for legal boundary determination or regulatory interpretation. Enhancements beyond a scale of 1"=100' may not meet established map accuracy standards. The parcel lines on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical features on the map such as building footprints.

Map: 139 Parcel: 075 Zoning Board of Appeals (ZBA)  
 Abutter List Type - Parties of Interest are those directly opposite subject lot on any public or private street or way and abutters to abutters. Notification of all properties within 300 feet ring of the subject lot.

Selected Parcel	
Abutters	
Buffer	



Town of Barnstable  
Zoning Board of Appeals  
Notice of Public Hearings under the Zoning Ordinance  
December 13, 2017

To all persons interested in or affected by the actions of the Zoning Board of Appeals, you are hereby notified, pursuant to Section 11 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, that a public hearing on the following appeals will be held on Wednesday, December 13, 2017 at the time indicated:

**Zoning Board of Appeals - 7:00 PM**

**7:00 PM Appeal No. 2017-071** Beauregard  
Todd and Anne Beauregard have applied for a Special Permit pursuant to Section 240-92(B) Nonconforming Buildings or Structures used as Single- and two-family residences. The applicants are proposing to construct a two-story, 1,180 square foot addition which will encroach into a front yard setback creating an intensification which requires a Special Permit. The subject property is addressed 8 East Avenue, Osterville, MA, as shown on Assessor's Map 139 as Parcel 075. It is located in the Residential F-1 Zoning District.

**7:01 PM Appeal No. 2017-072** Lombardo  
John & Mary Lombardo have applied for a Special Permit pursuant to Sections 240-91(H)(2) - Developed Lot Protection, 240-7.H.(1) - Setback from Wetland/Great Ponds, and 240-92(B) - Nonconforming Buildings or Structures. The applicants are proposing to demolish an existing single-family dwelling and replace with a 5,445-sq. gross floor area, single-family dwelling on a nonconforming lot consisting of two separate dwellings where only one dwelling is allowed under the zoning ordinance. The property is located at 81 Willow Run Drive, Centerville, MA as shown on Assessor's Map 210 as parcel 056. It is located in the Residence D-1 Zoning District.

**7:02 PM Appeal No. 2017-073** Kendrick  
Wayne and Sandra Kendrick, d.b.a. Kota's Place Pet Grooming has applied for a modification of Special Permit No. 2008-062 Condition No. 4 for a change of hours of operation. Special Permit No. 2008-062 was granted pursuant to Section 240-33.C (1) Conditional Uses for a Kennel. The applicant is seeking to operate a 24 hour dog grooming business in Unit 7 at 30 Perseverance Way, Barnstable, MA. The subject property is addressed 30 Perseverance Way, Barnstable, MA, and is shown on Assessor's Map 295 as parcel 007 units 00Fand 00G. It is in the IND Industrial Zoning District.

**7:00 PM Appeal No. 2017-068** Julius/Wentzel/Dubuc  
Susan Dubuc, Laura Wentzel and John Julius are appealing the issuance of a Building Permit (B-17-2336) for the property at 95 Chase Street; the building permit was issued for a fire sprinkler system. The Appellants contest that use of the property by Homeless Not Hopeless is not a principal use allowed in the RB District; their occupancy must be limited to no more than six residents and subject to the conditions of a Special Permit; the Dover Amendment does not exempt the proposed use from zoning; and if Dover applies, a modification permit is required from the Zoning Board of Appeals. The building permit was issued for property at 95 Chase Street, Hyannis as shown on Assessor's Map 307 as Parcel 134, zoned RB Residence B.

These public hearings will be held at the Barnstable Town Hall, 367 Main Street, Hyannis, MA, Hearing Room located on the 2nd Floor, Wednesday, December 13, 2017. Plans and applications may be reviewed at the Zoning Board of Appeals Office, Planning and Development Department, Town Offices, 200 Main Street, Hyannis, MA.

Barnstable Patriot  
November 24 & December 1, 2017

Alex Rodolakis, Chair  
Zoning Board of Appeals

Zoning Board of Appeals  
Notice of Public Hearings under the Zoning Ordinance  
December 13, 2017

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Barnstable Patriot  
November 24 & December 1, 2017

Alex Rodolakis, Chair  
Zoning Board of Appeals

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JUN - 8 2020

ZONING BOARD OF APPEALS

**BARNSTABLE REGISTRY OF DEEDS**  
John F. Meade, Register

# EXHIBIT 2

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ZONING BOARD OF APPEALS

**Town of Barnstable**  
**Building Department Services**

**Brian Florence, CBO**  
**Building Commissioner**  
200 Main Street, Hyannis, MA 02601  
[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)



Office: 508-862-4038

Fax: 508-790-6230

**Notice of Zoning Ordinance Request for Enforcement**  
**Denial**  
May 7, 2020

Michael Schulz 1340 Main St. Osterville, MA 02655 and all persons having interest in this notice:

I am in receipt of a request for zoning enforcement in accordance with M.G.L. c. 40A § 7 concerning the property located at 8 East Avenue, Osterville, MA 02655, Assessors Map 139 Parcel 075. Please be advised that your request for enforcement is DENIED.

**Summary of Request for Enforcement:**

In your request for enforcement you allege that a foundation structure is being installed that impedes into the access of East Avenue and is not consistent with the Special Permit 2017-071, and specifically ask that I place a stop work on property and immediately suspend building permit. In your request you fail to cite the relevant Barnstable Zoning Ordinance concerning the desired relief.

**Summary of Reason(s) for Denial:**

Your request for enforcement is denied in accordance with M.G.L. c. 40A § 7 for the following reasons:

- 1) The structure that is referenced in the complaint is being erected to improve a patio that was approved on the site plan referenced in Special Permit 2017-071 which reference both a plan dated 1/6/16 and the conditions of East Ave. within the findings.
- 2) Using photos provided by property owner, assessors database and using historical GIS imaging it is apparent that the patio has existed in its current footprint since at minimum 1990 and likely was established prior to the 1950's based upon less clear black and white imaging.
- 3) Finally, your appeal is not timely. Your appeal would have needed to have been filed within 20 days of the granting of the special permit for which your client was noticed; and in any event no later than within 30 days of the issuance of the building permit.

It is my further determination that the patio was pre-existing nonconforming due to the way East Ave. has historically been used and was subsequently approved by the current special permit and as long as there is no increase in the footprint of the approved patio it is a preexisting nonconforming landscape feature.

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JUN - 8 2020

If you have been aggrieved by this determination, you may file an appeal with the Town Clerk as well as the Planning and Development Department of the Town Barnstable, specifying the ground thereof within thirty (30) days of the receipt of this notice in accordance with Chapter 40A Section 15 of the Massachusetts General Laws.

Regards,



Brian Florence  
Building Commissioner

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JUN - 8 2020

ZONING BOARD OF APPEALS

## Michael Schulz

---

**From:** Florence, Brian <Brian.Florence@town.barnstable.ma.us>  
**Sent:** Thursday, May 7, 2020 2:33 PM  
**To:** Michael Schulz  
**Cc:** Carter, Jeff  
**Subject:** RE: Emailing: 8 E Ave RFS Denial\_20.pdf

Stand by.... I have them up in my email from Jeff.... I will just forward them unceremoniously.

-Brian

-----Original Message-----

**From:** Michael Schulz [mailto:mschulz@schulzlawoffices.com]  
**Sent:** Thursday, May 7, 2020 2:26 PM  
**To:** Florence, Brian  
**Cc:** Carter, Jeff; Michael Schulz  
**Subject:** RE: Emailing: 8 E Ave RFS Denial\_20.pdf

Hi Brian and Jeff, would either you be able to send along the photographs that you reviewed? Thank you. Michael

Michael F. Schulz, Esq.  
Schulz Law Offices, LLC  
1340 Main Street  
Osterville, Massachusetts 02655  
Telephone: (508) 428-0950  
Facsimile: (508) 420-1536  
Cell: (508) 364-6364  
www.schulzlawoffices.com

\*\*\*Be aware that online banking fraud is on the rise. If you receive an email containing wire transfer instructions from Schulz Law Offices, LLC, please call our office at (508) 428-0950 to verify the information prior to initiating the transfer\*\*\*

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-----Original Message-----

**From:** Florence, Brian <Brian.Florence@town.barnstable.ma.us>  
**Sent:** Thursday, May 7, 2020 2:23 PM  
**To:** Michael Schulz <mschulz@schulzlawoffices.com>  
**Cc:** Carter, Jeff <Jeff.Carter@town.barnstable.ma.us>  
**Subject:** Emailing: 8 E Ave RFS Denial\_20.pdf

Attorney Schulz,

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ZONING BOARD OF APPEALS



It was a pleasure speaking with you today. Attached please find the request for enforcement denial that we discussed. If you have any questions please do not hesitate to contact me.

Regards,  
Brian Florence, Building Commissioner  
Town of Barnstable  
200 Main Street  
Hyannis, MA 02601  
(508) 862-4038  
Brian.florence@town.barnstable.ma.us

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

CAUTION: This email originated from outside of the Town of Barnstable! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

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COMMISSION OF APPEALS

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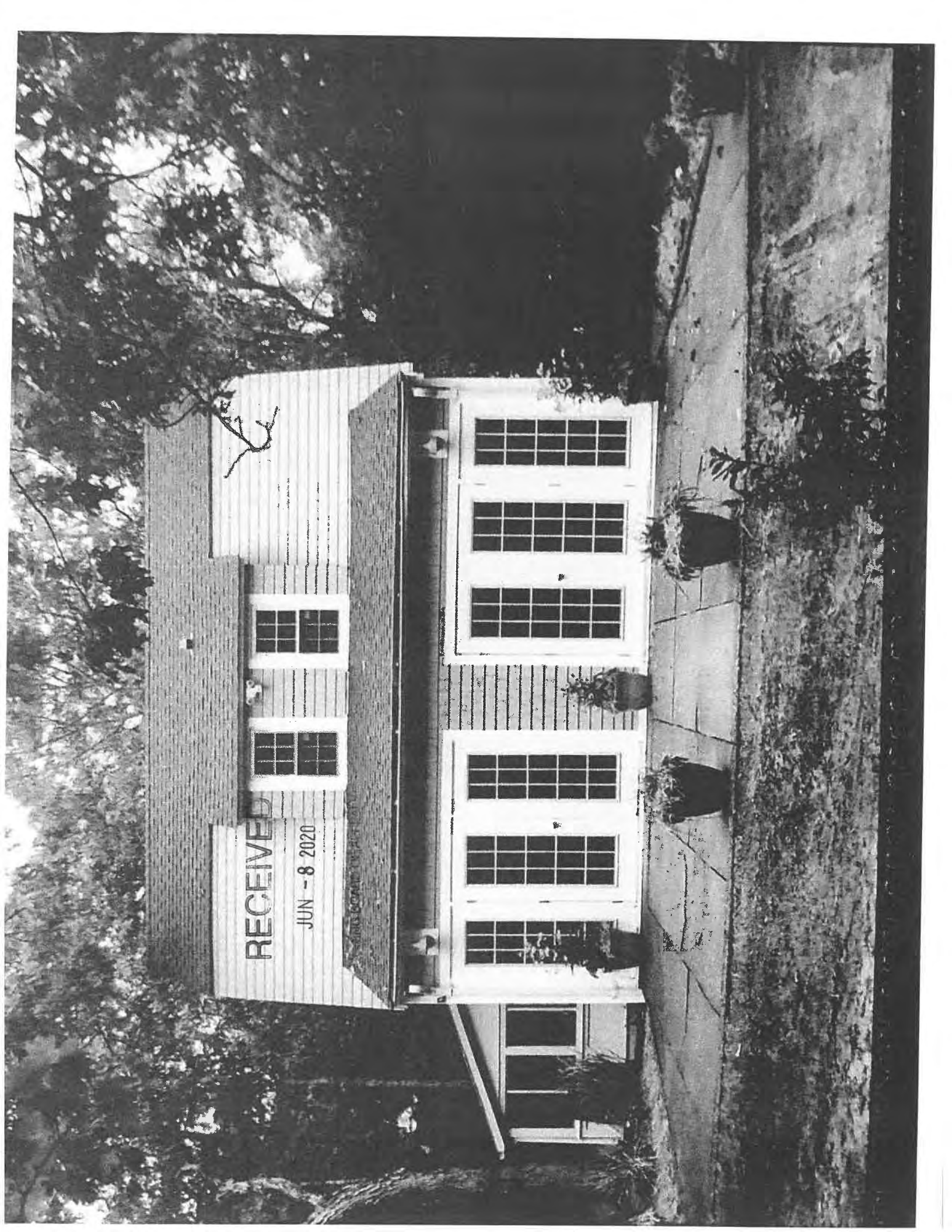
BOARD OF APPEALS

04/04/2007

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JUN - 8 2020

SHIRLEY GORDON

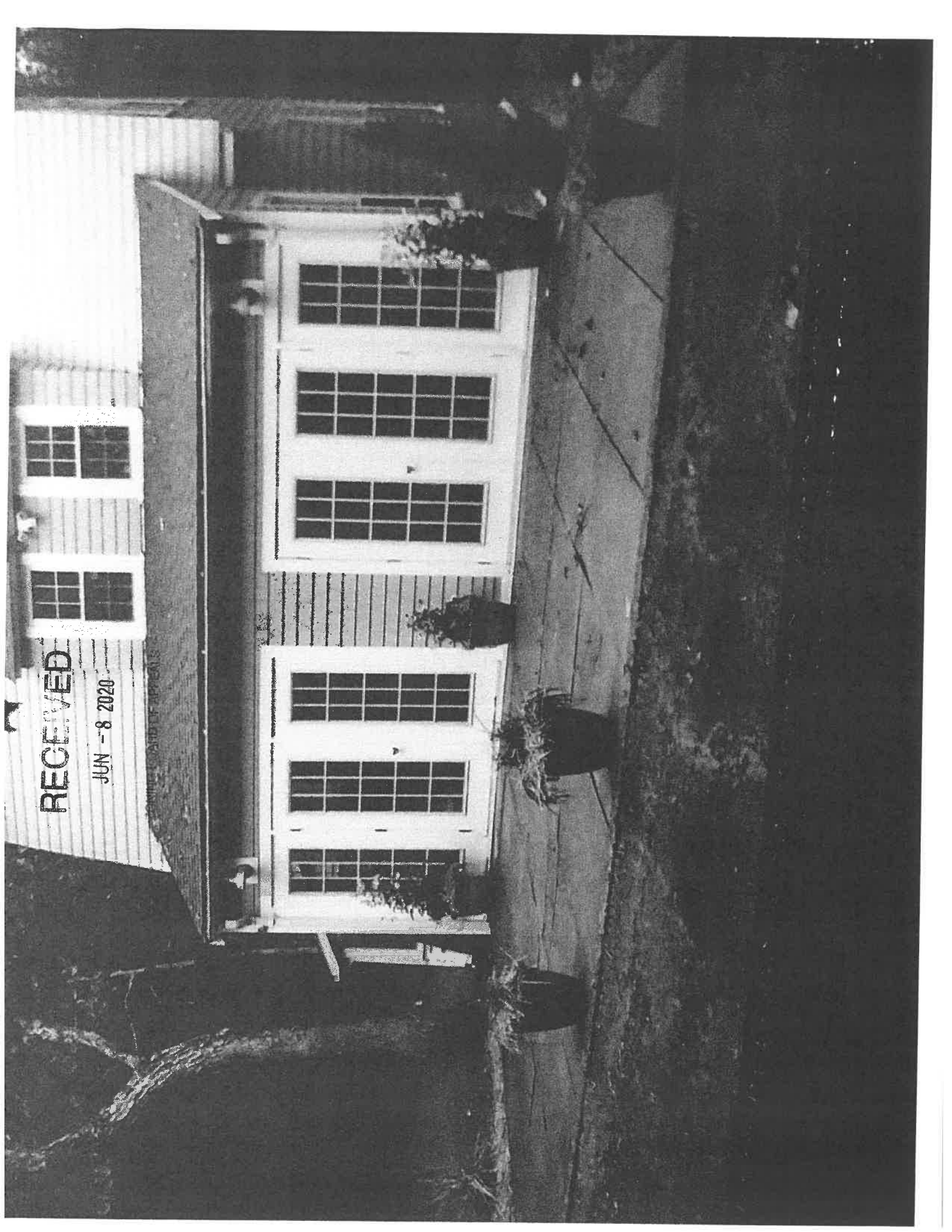




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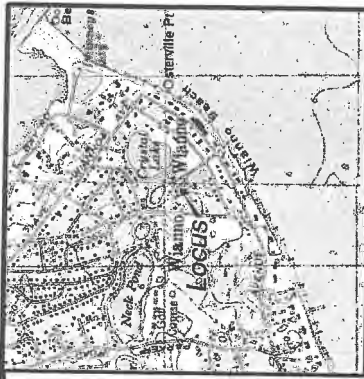
JUN -8 2020

CONTRACT NUMBER 11-11-11



**ASSESSORS REF.:**  
Map 139, Parcels 075

**OVERLAY DISTRICT:**  
AP - Aquifer Protection District



**Location Map:**  
1" = 2,000±

**ZONE:**  
RF-1

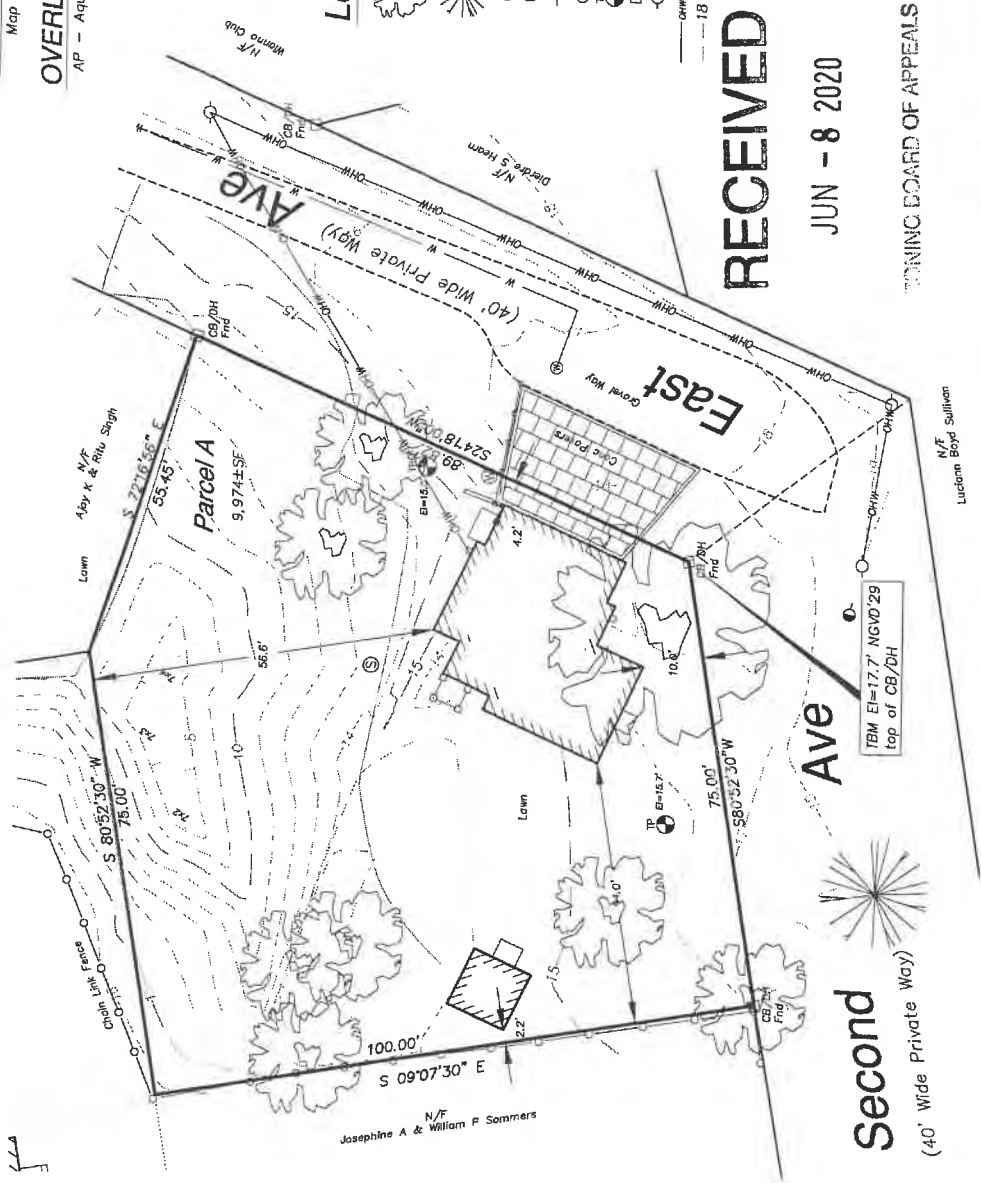
Area (min.) 43,560 SF  
Frontage (min.) 20'  
Width (min) 125'  
Setbacks:  
Front 30'  
Side 15'  
Rear 15'

**FLOOD ZONE:**

Zone C  
Community Panel No.  
#250001 0016 D  
July 2, 1992

**Legend:**

- Deciduous
- Coniferous
- Sewer Manhole
- Water Manhole
- Guy
- Water Gate (round)
- Test Pit
- CB/DH
- Utility Pole
- Overhead Wires
- Elevation Contour



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JUN - 8 2020

TOWN BOARD OF APPEALS



**NOTE:**

- 1.) The property line information shown was compiled from available record information.
- 2.) The topographic information was obtained from an on the ground survey performed on or between 8/MAY/12 and 16/MAY/12
- 3.) The datum used is NGVD '29, a fixed mean sea level datum.

<b>Sheet #</b> <b>1 of 1</b>	<b>Title:</b> <b>Existing Conditions Plan</b> <b>At 8 East Ave</b> <b>Barnstable (Osterville) Mass</b>		<b>CapeSurv</b> 7 Parker Road Osterville MA 02655 (508)420-3994 (508)420-3995 fax capeurv@capecod.net		Prepared For: <b>Todd Beauregard</b>	Notes/Revisions:
	Scale: 1" = 20'	Date: 16/MAY/12	Dwg: C515_891	Notes/Revisions:		





**Town of Barnstable**  
Planning and Development Department  
Elizabeth Jenkins, Director  
Staff Report



**Appeal No. 2020-024 – Elefante**  
**Appeal of Building Commissioners Decision**

**Date:** June 25, 2020 **Revised July 23, 2020 to Re-Notice**  
**To:** Zoning Board of Appeals  
**From:** Planning and Development Staff  
**Appellant:** **Mark B. Elefante, Trustee of 25 East Avenue Realty Trust and Nancy B. Gardiner, Trustee of 45 East Avenue Realty Trust**  
1340 Main Street, Osterville, MA  
**Subject Property Address:** **8 East Avenue, Osterville**  
**Property Owner:** Todd and Anne Beauregard  
**Assessor's Map/Parcel:** 139/075  
**Zoning:** Residence F-1 (RF-1)

Filed: June 4, 2020

Hearing: August 12, 2020

Decision Due: November 11, 2020

### Copy of Notice

Mark B. Elefante, Trustee of 25 East Avenue Realty Trust and Nancy B. Gardiner, Trustee of 45 East Avenue Realty Trust are appealing the decision of the Building Commissioner for denying their request for enforcement in suspending construction of the structure (foundation) extending from the dwelling into East Avenue and removal of said foundation as it exceeds the scope of the building permit, which permit was premised upon Special Permit 2017-071. The subject property is located at 8 East Avenue, Osterville, MA as shown on Assessor's Map 139 as Parcel 075. It is located in the Residence F-1 (RF-1) Zoning District.

### Appeal

This matter involves an appeal of the denial of a request for enforcement filed with the Building Commissioner on April 23, 2020 by Attorney Schulz. The appeal seeks to suspend construction of a patio/foundation structure by the Beauregard's into East Avenue on the grounds it exceeds the scope of the building permit, which was premised upon Special Permit No. 2017-071.

The Building Commissioner denied the request for enforcement by a letter dated May 7, 2020. The Appellants are requesting the Board reverse the Building Commissioner's decision.

### Background

The Appellants, Mark B. Elefante, Trustee of 25 East Avenue Realty Trust and Nancy Gardiner, Trustee of 45 East Avenue Realty Trust, own the property within 300 feet of 8 East Avenue, the property that is the subject of the appeal.

The Board granted Special Permit No. 2017-071 with conditions to Todd and Anne Beauregard at 8 East Avenue to allow construction of an addition to a preexisting nonconforming dwelling under Section 240-92 (B).

The Appellants argue that the construction exceeds the scope of the building permit. The appeal centers around a "patio" abutting the dwelling at 8 East Ave that extends into the right of way for 8 East Ave. The "patio" is depicted on the plan entitled "Plan of Proposed Addition at 8 East Ave" dated January 6, 2016 that was approved with Special Permit 2017-071.

The Appellants contest that a “foundation” has been constructed that exceeds the scope of the Special Permit and it is a structure that requires relief, and that the foundation “protrudes significantly into East Avenue”. They argue that there was no reference in Special Permit No. 2017-071 that a structure (foundation) was being erected to improve a patio and that the plan references only concrete pavers. They argue the “foundation” is a structure not a landscape feature. The Appellants’ complete argument is found in the memorandum attached to the application. The Appellants seek a stop work order and suspension of the Building Permit.

The Building Commissioner issued a denial for enforcement on May 7, 2020 which provided the following reasons for the denial:

1. The structure that is referenced in the complaint is being erected to improve a patio that was approved on the site plan referenced in Special Permit No. 2017-071 which reference both a plan dated January 6, 2016 and the conditions of East Avenue within the findings.
2. Using photos provided by the property owner, assessors database and using historical GIS imaging it is apparent that the patio has existed in its current footprint since at a minimum 1990 and likely was established prior to the 1950’s based upon less clear black and white imaging.
3. The Appeal is untimely. The appeal would have needed to have been filed 20 days of the grant of the special permit for which the appellants were notified and, in any event no later than within 30 days of the issuance of the building permit.
4. It is the Building Commissioner’s determination that the patio was preexisting nonconforming due to the way East Avenue has historically been used and was subsequently improved by the current special permit and as long as there is no increase in the footprint of the approved patio, it is a preexisting nonconforming landscape feature.

### **Procedural Review**

This appeal was filed with the Town Clerk’s office on June 4, 2020 and the Planning and Development Department, Zoning Board of Appeals office on June 8, 2020.

It was filed within 30 days of the Building Commissioner’s denial of the request for enforcement on May 7, 2020.

The Decision for Special Permit No. 2017-071 Beauregard was filed with the Town Clerk on April 11, 2018 and the Town Clerk certified that the appeal period had elapsed with no appeal being filed on May 2, 2018.

The Building Permit for the addition authorized by that Special Permit was issued in June 14, 2018.

The Building Commissioner found the Appeal untimely, stating the appeal would have needed to have been filed 20 days of the grant of the special permit for which the appellants were notified and, in any event no later than within 30 days of the issuance of the building permit.

The Appellants argue the request for enforcement is not untimely. Upon discovering that the Beauregard’s erection of the foundation closer to and into East Avenue which exceeded the scope of work in the building permit, the Trust requested enforcement. <sup>1</sup>

### **Board Responsibility and Findings**

The Board should make findings when either voting to uphold or overrule the Building Commissioner’s determination. It is the Board’s responsibility under Massachusetts General Law, Chapter 40A Section 8 and 15 hear and decide appeals by “any person aggrieved by reason of his inability to obtain a permit or enforcement action” from administrative officers or other parties, and in this case to determine if the Building Commissioner properly determined that the patio was constructed as approved and does not violate the Zoning Ordinance.

Should the Board wish to uphold the Building Commissioner’s decision to deny enforcement, the Board should consider the following findings:

The Board affirms the Building Commissioner’s findings that the request is not enforceable for the following reasons:

1. The structure that is referenced in the complaint is being erected to improve a patio that was approved on the site plan referenced in Special Permit No. 2017-071 which reference both a plan dated January 6, 2016 and the conditions of East Avenue within the findings.
2. Using photos provided by the property owner, assessors database and using historical GIS imaging it is apparent that the patio has existed in its current footprint since at a minimum 1990 and likely was established prior to the 1950’s based upon less clear black and white imaging.
3. The Appeal is untimely. The appeal would have needed to have been filed 20 days of the grant of the special permit (by May 23, 2018) for which the appellants were notified (prior to and in any event no later than within 30 days of the issuance of the building permit (July 14, 2018)).
4. It is the Building Commissioner’s determination that the patio was preexisting nonconforming due to the way East Avenue has historically been used and was

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<sup>1</sup> In *Connors v. Annino*<sup>1</sup>, as in *Gallivan v. Wellesley*<sup>1</sup>, the Court ruled that when a party is aggrieved by an action of an administrative official and has adequate notice of the action, that party must appeal to the ZBA within 30 days of the action by which they were aggrieved in accordance with MGL Chapter 40A §15. The “failure to do so deprives the board...and later the courts, of jurisdiction to consider the appeal.”

The above-cited cases conclude that requests for enforcement action made under Section 7 are “not an available alternative remedy” to appealing the issuance of a building permit. The cases state that failure to file an administrative appeal within 30 days of the issuance of the building permit “deprives the board...of jurisdiction to consider the appeal.”

The *Connors* case provides that “an enforcement request under §7...remains a valid procedural path for aggrieved parties to follow in appropriate circumstances. For example, an enforcement request may still be pursued under §7 if the aggrieved party can establish that he or she was without adequate notice” of the issuance of the building permit.

subsequently improved by the current special permit and as long as there is no increase in the footprint of the approved patio, it is a preexisting nonconforming landscape feature.

Should the Board wish to overrule the Building Commissioner’s Decision, below are draft findings for the Board’s potential consideration.

1. The Board finds the reconstruction of the patio beyond the scope of the building permit.

### **Procedural Information**

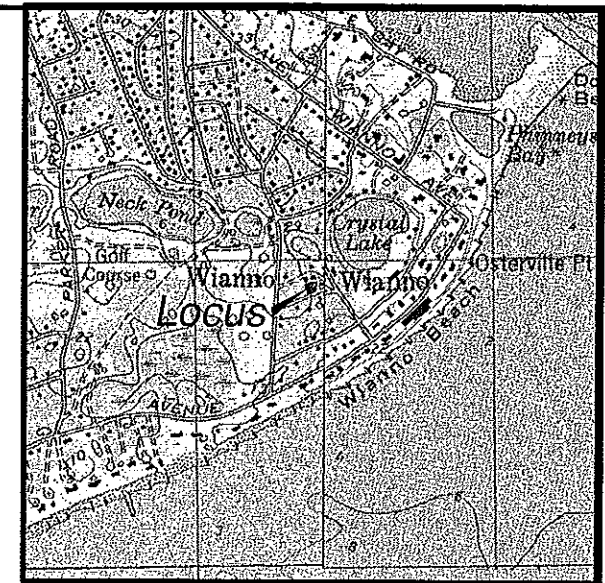
Upon making findings, the Board may choose to vote to:

- ) Uphold or the Building Commissioner’s denial of enforcement action; or
- ) Overrule the Building Commissioner’s denial of enforcement action,

A vote of 4 members of the Board is required to overrule the Building Commissioner’s decision.

CC: Appellants (c/o Attorney Michael Schulz)

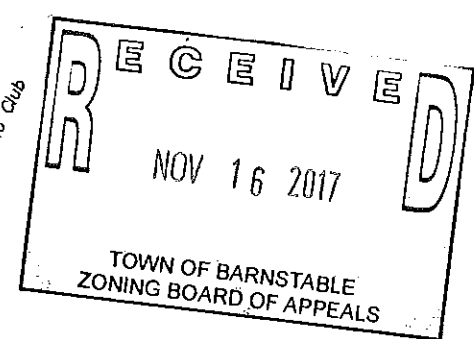
Attachments: Application  
Assessor’s information  
Copy of Denial letter from Building Commissioner  
Copy of Building permit



**Location Map:**  
1"=2,000±'

**ASSESSORS REF.:**  
Map 139, Parcels 075

**OVERLAY DISTRICT:**  
AP - Aquifer Protection District



**Area Breakdown:**

Total Lot Area 9,974±SF  
Existing Structures  
1,117±SF Impervious = 11.2% Coverage

Proposed Total Area  
1,959±SF Impervious = 19.6% Coverage

**ZONE:**

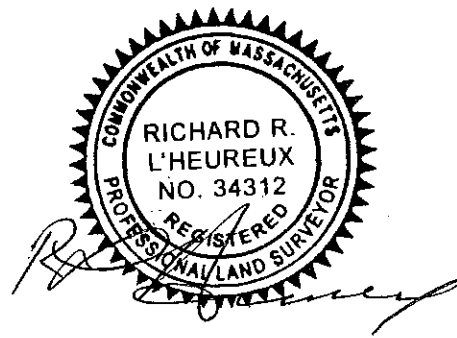
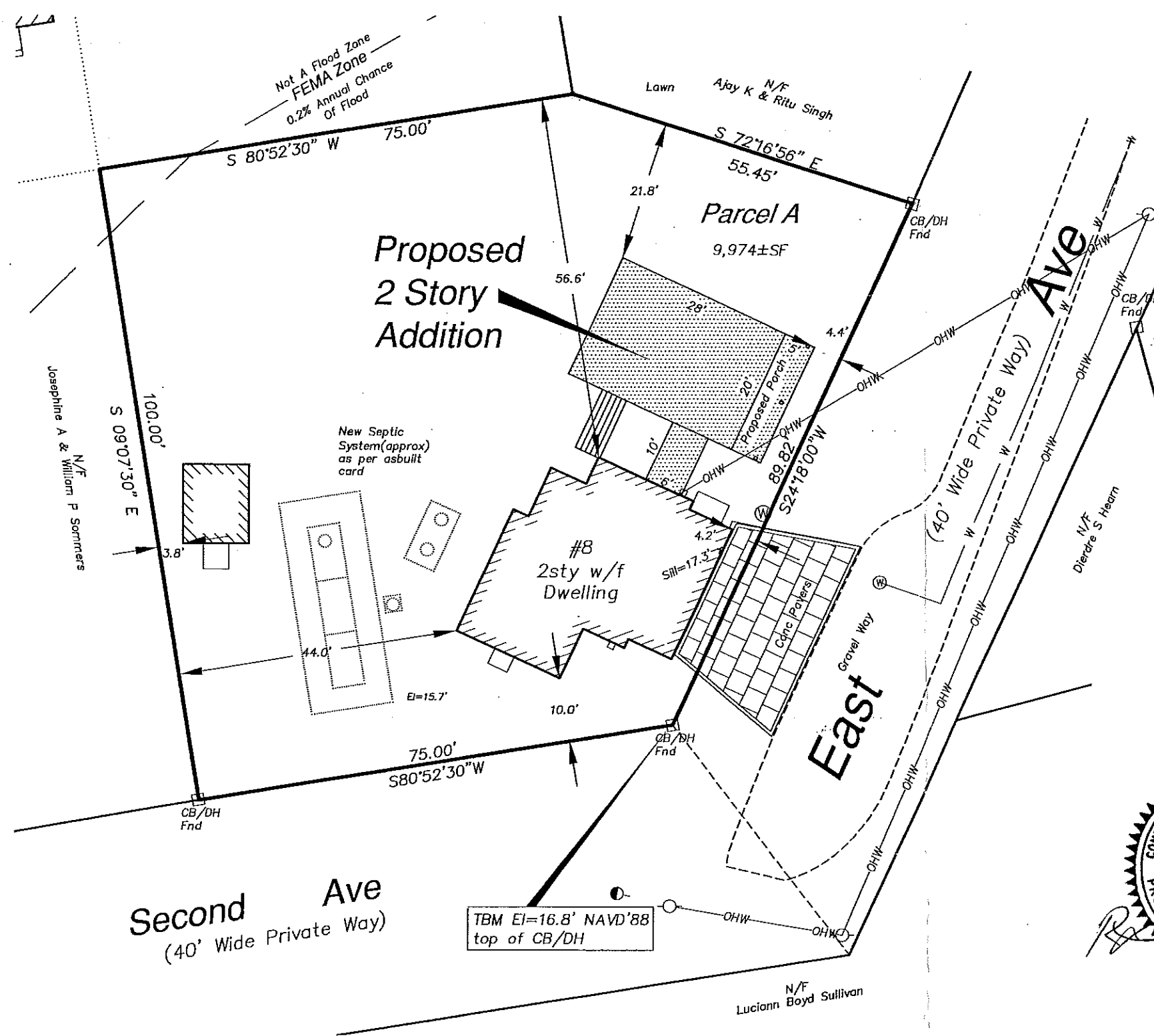
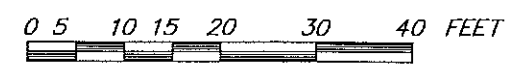
RF-1 (RPOD)  
Area (min.) 87,120 SF  
Frontage (min) 20'  
Width (min) 125'  
Setbacks:  
Front 30'  
Side 15'  
Rear 15'

**FLOOD ZONE:**

Zone X & X(0.2% Chance)  
FIRM Map #  
25001C0776J  
Effective: July 16, 2014

**NOTE:**

- 1.) The property line information shown was compiled from available record information.
- 2.) The topographic information was obtained from an on the ground survey performed on or between 8/MAY/12 and 06/JAN/16.
- 3.) The datum used is NAVD '88, a fixed mean sea level datum.

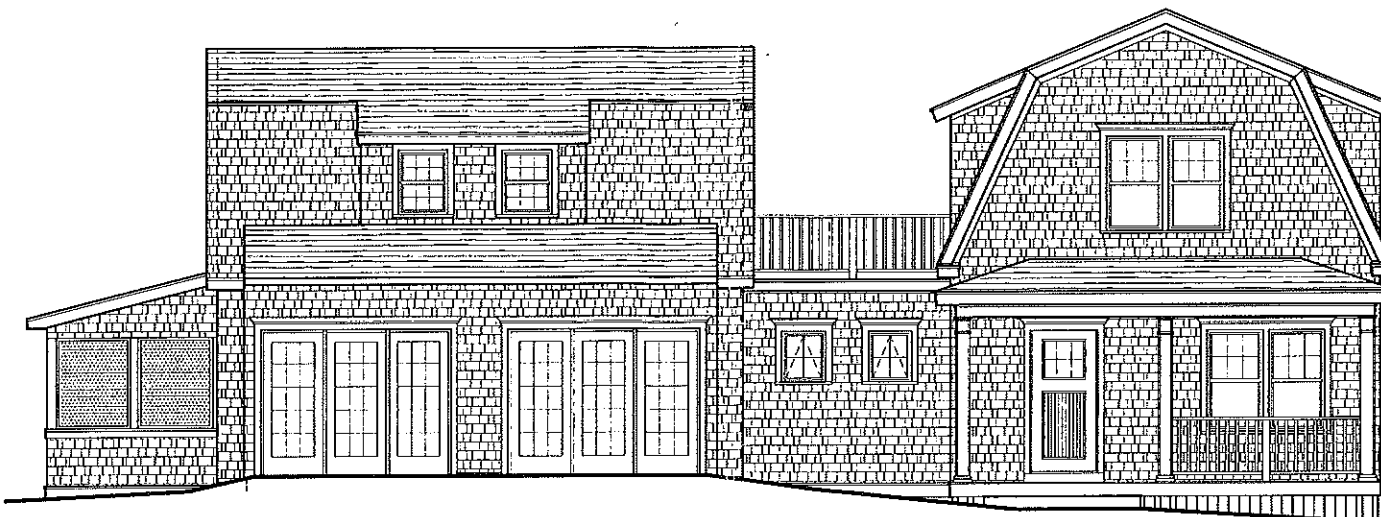


ARCHITECT:

GIAMPIETRO ARCHITECTS

354 Gifford Street  
Falmouth, MA 02540

TEL 508 540 7400  
FAX 508 540 0220



SCHEDULE OF DRAWINGS

- T1 TITLE SHEET
- AB1 EXISTING ELEVATIONS
- AB2 EXISTING FLOOR PLANS
- A1 ELEVATIONS
- A2 FLOOR PLANS
- A3 FOUNDATION PLAN/DETAILS
- A4 SECTIONS
- A5 FRAMING PLANS

SMOKE DETECTORS REVIEWED  
BARNSTABLE BUILDING DEPT. DATE 6/12/18  
FIRE DEPARTMENT DATE 6/14/18  
BOTH SIGNATURES ARE REQUIRED FOR PERMITTING

ADDITION & ALTERATIONS TO:  
THE BEAUREGARD RESIDENCE

8 EAST AVE  
BARNSTABLE, MA

DO NOT  
SCALE FROM  
DRAWINGS

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ABBREVIATIONS

Table with columns for abbreviations and their corresponding full names, including terms like ANCHOR BOLT, ABOVE FINISH FLOOR, ALUMINUM, etc.

SYMBOLS

Table of symbols for architectural elements, including North Arrow, Elevation Indicators, Interior Elevation, and various material patterns.

GENERAL NOTES

- 1. The General Conditions state that the Contract Documents are complimentary.
- 2. Provide the services of a Massachusetts Registered Surveyor to layout structure on site and establish existing elevations.
- 3. The General Contractor is responsible for all the work.
- 4. The General Contractor shall verify all dimensions at the site and shall notify the Architect of any discrepancies before proceeding with the Work or purchasing materials or equipment.
- 5. All details are typical unless otherwise noted and are not necessarily shown in the Documents at all locations where they occur.
- 6. The Architectural Documents govern the location of all Electrical and Mechanical Items installed as a part of the Work.
- 7. Existing items which are not to be removed and are damaged or removed in the course of the Work shall be repaired and replaced in like new condition without cost.
- 8. Existing surfaces disturbed during the course of the Work shall be reconstructed and finished to match adjoining surfaces.
- 9. All voids created or surfaces disturbed resulting from cutting, removal or installation of elements as part of the Work shall be filled and finished to match adjoining construction.
- 10. Except as provided in the Documents, no structural member or element shall be cut without written approval of the Architect.
- 11. Demolition work shall only be carried out once all temporary shoring and bracing is in place.
- 12. All materials, equipment and workmanship shall conform to the requirements of authorities having jurisdiction of the Work.
- 13. All materials and equipment shall comply with the Occupational Safety and Health Act, including all amendments.
- 14. All materials and equipment shall conform to the requirements of authorities having jurisdiction regarding not using or installing asbestos or asbestos-containing materials.
- 15. All paint used on all products and assemblies shall conform to A.N.S.I. Z86.1, Specifications for Paints and Coatings Accessible to Children to Minimize Dry Film Toxicity.
- 16. The General Contractor shall submit to the Architect for review and approval, shop drawings for all manufactured structural elements (i.e.: steel beams & columns, LVL beams, truss joists, wood roof trusses, steel joists, etc.) in accordance with 780 CMR Section 118.2.0 entitled "Architect/Engineer responsibilities during construction".
- 17. The General Contractor shall notify the Architect / Engineer of required inspections at least two (2) days in advance.
- 18. All warranties, guarantees and service maintenance agreements shall commence with the issuance of the occupancy permit so that the Owner may receive full use of the item for the guarantee or warranty period.
- 19. GENERAL WORK TO BE PERFORMED AS PART OF THE GENERAL CONSTRUCTION:
  - A. Seal cracks and openings to make the exterior skin of the building tight to water and air entry.
  - B. Provide adequate blocking, bracing, nallers, fastenings and other supports to install parts of the work securely.
  - C. Provide adequate blocking, bracing, nallers, fastenings and other supports shall be of a type not subject to deterioration or weakening as the result of environmental conditions or aging.
  - D. Perform cutting and patching for all trades.
  - E. Provide and coordinate access doors and panels as required for access to equipment requiring adjustment, inspection, maintenance or other access and as required for access to spaces not otherwise accessible, such as attics and crawl spaces.
  - F. Check Drawings and manufacturer's literature for requirements for bases, pads, and other supporting structures.
  - G. As part of one year warranty specified in the General Conditions, repair cracks and other damage which occur as a result of settlement and shrinkage during the first year after substantial completion.
- 20. All work shall conform to the applicable sections of the NINTH Edition of the Massachusetts State Building Code (International Residential Code for One- & Two-Family Dwellings, including Amendments).

MASSACHUSETTS  
COMPLIANCE BUILDING DEPARTMENT  
(WFCM)

1.1 SCOPE  
Wind Speed (3-sec. gust) 110 mph  
Wind Exposure Category B

CONSULTANT  
ARCHITECT  
SIGNATURE

ADDITIONS & RENOVATIONS TO:  
THE BEAUREGARD RESIDENCE  
8 EAST AVENUE  
OSTERVILLE, MA

Barnstable Bldg. Dept.  
Approved by: *RMK*  
Permit #: *B-18-1607*

Giampietro Architects  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
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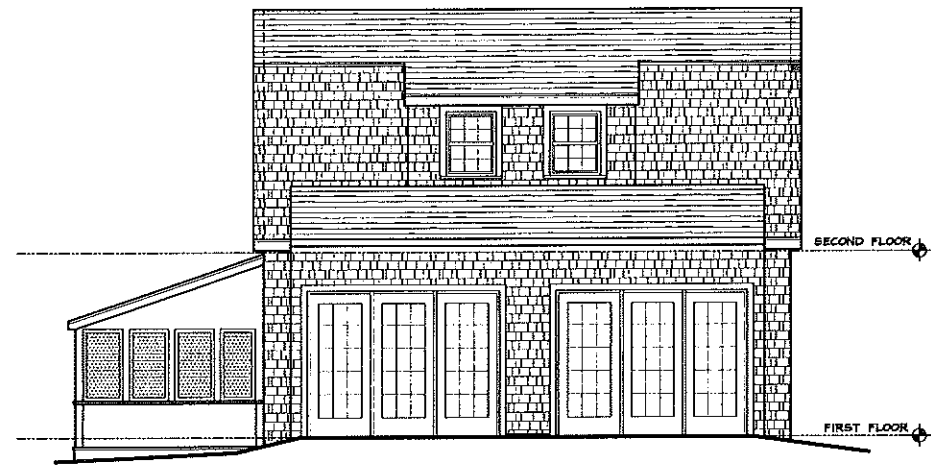
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CHECKED BY: *lsg*  
DATE: *6-2-18*

PROJECT No. 1511

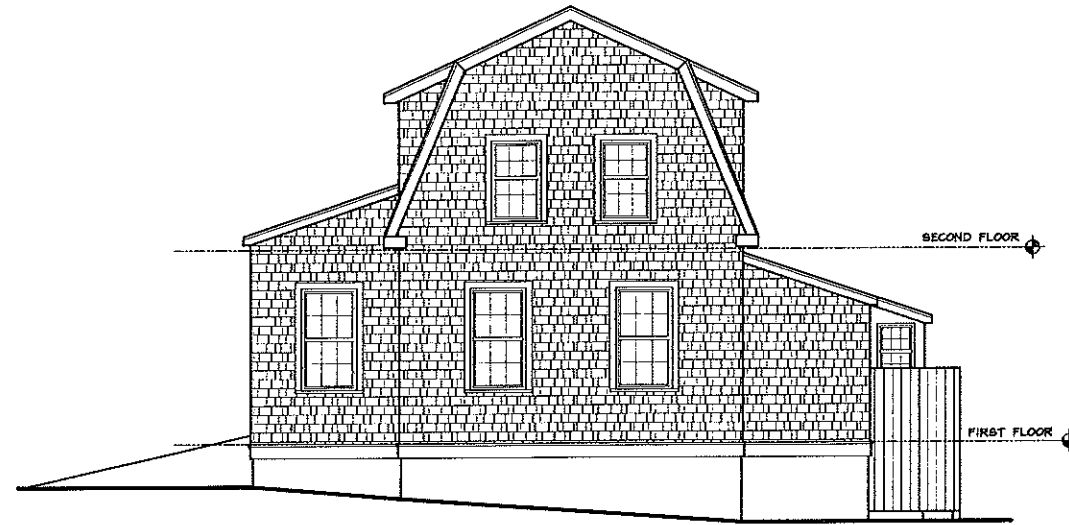
SHEET No.

T1  
TITLE

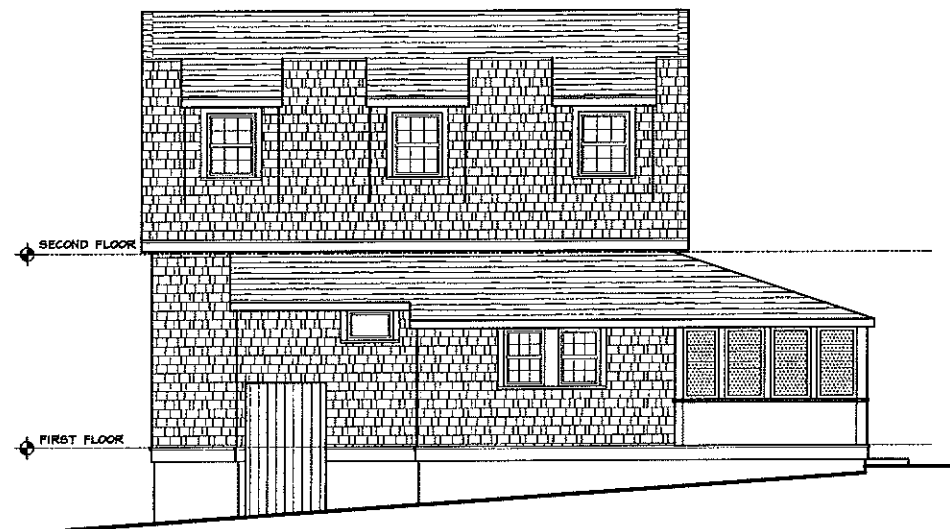
DO NOT SCALE FROM DRAWINGS



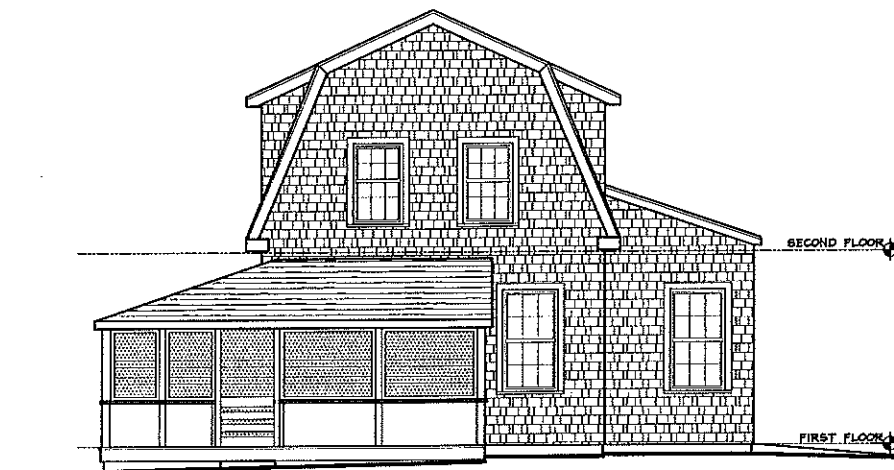
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SCALE: 1/4" = 1'-0"



**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/4" = 1'-0"



**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"

CONSULTANT

SIGNATURE

ARCHITECT

SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0720

DRAWING TITLE:  
**EXISTING ELEVATIONS**

DRAWN BY: *JS*

CHECKED BY: *LS*

DATE: 5-2-18

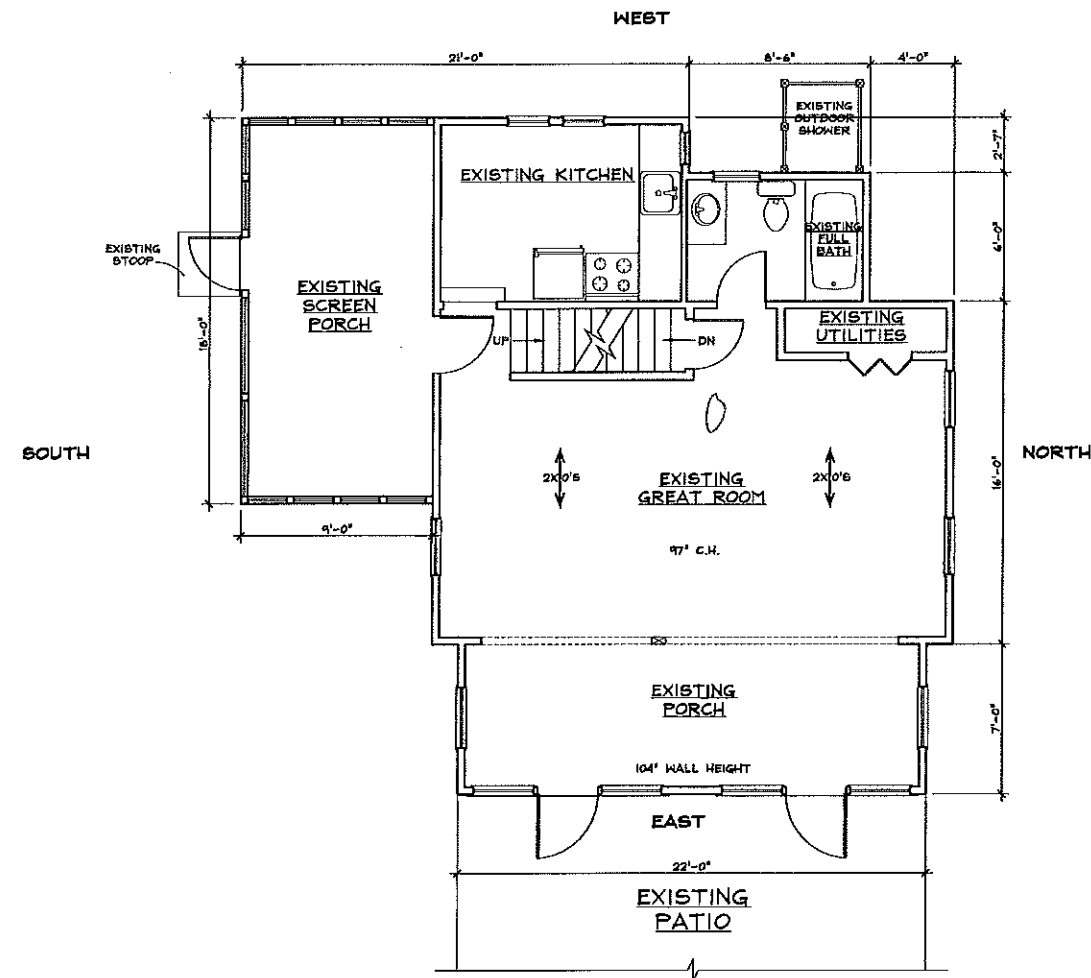
REVISIONS:

PROJECT No. 1511

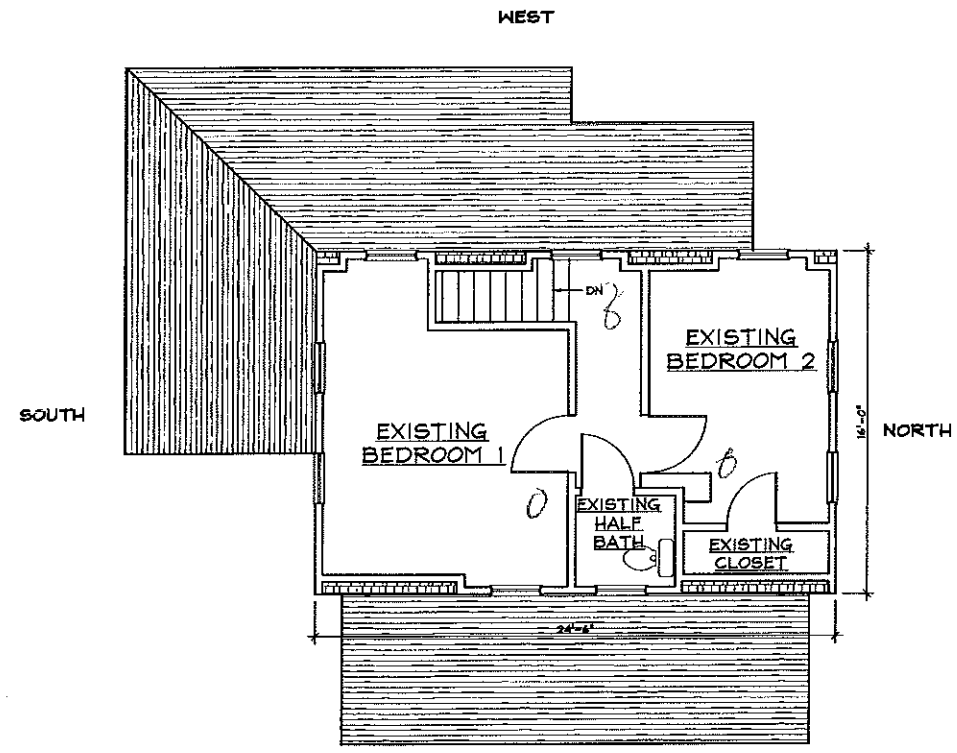
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**AB1**

EXISTING CONDITIONS



**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

CONSULTANT

SIGNATURE

ARCHITECT

SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
**EXISTING FLOOR PLANS**

DRAWN BY: *js*

CHECKED BY: *js*

DATE: 5-2-18

REVISIONS:

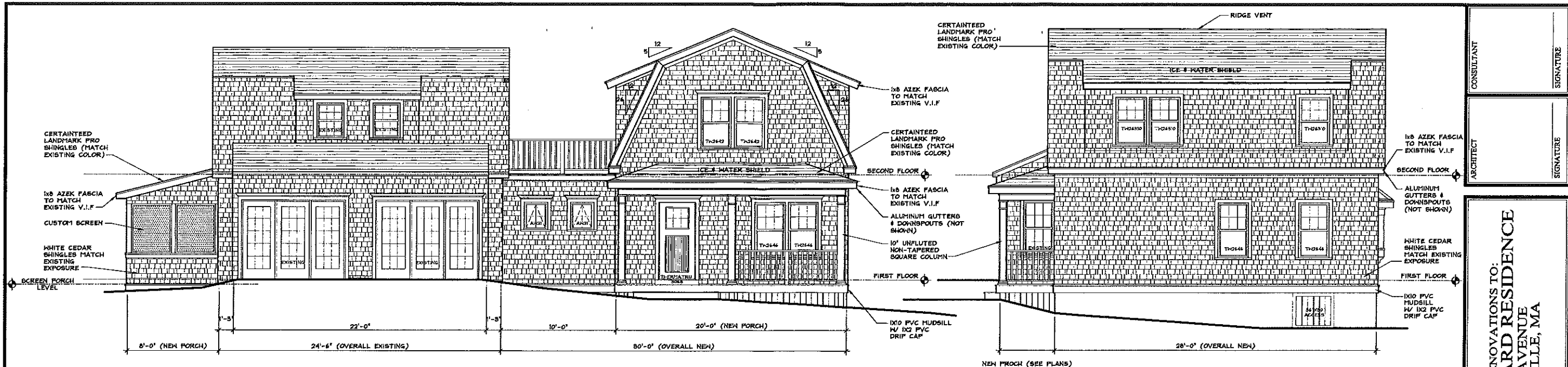
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**AB2**

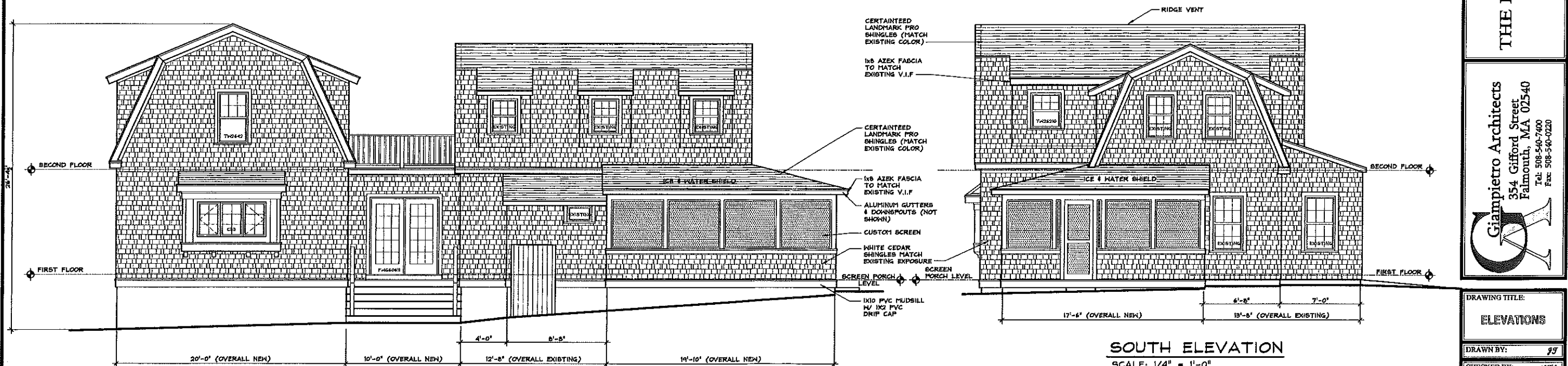
EXISTING CONDITIONS





**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"

**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/4" = 1'-0"

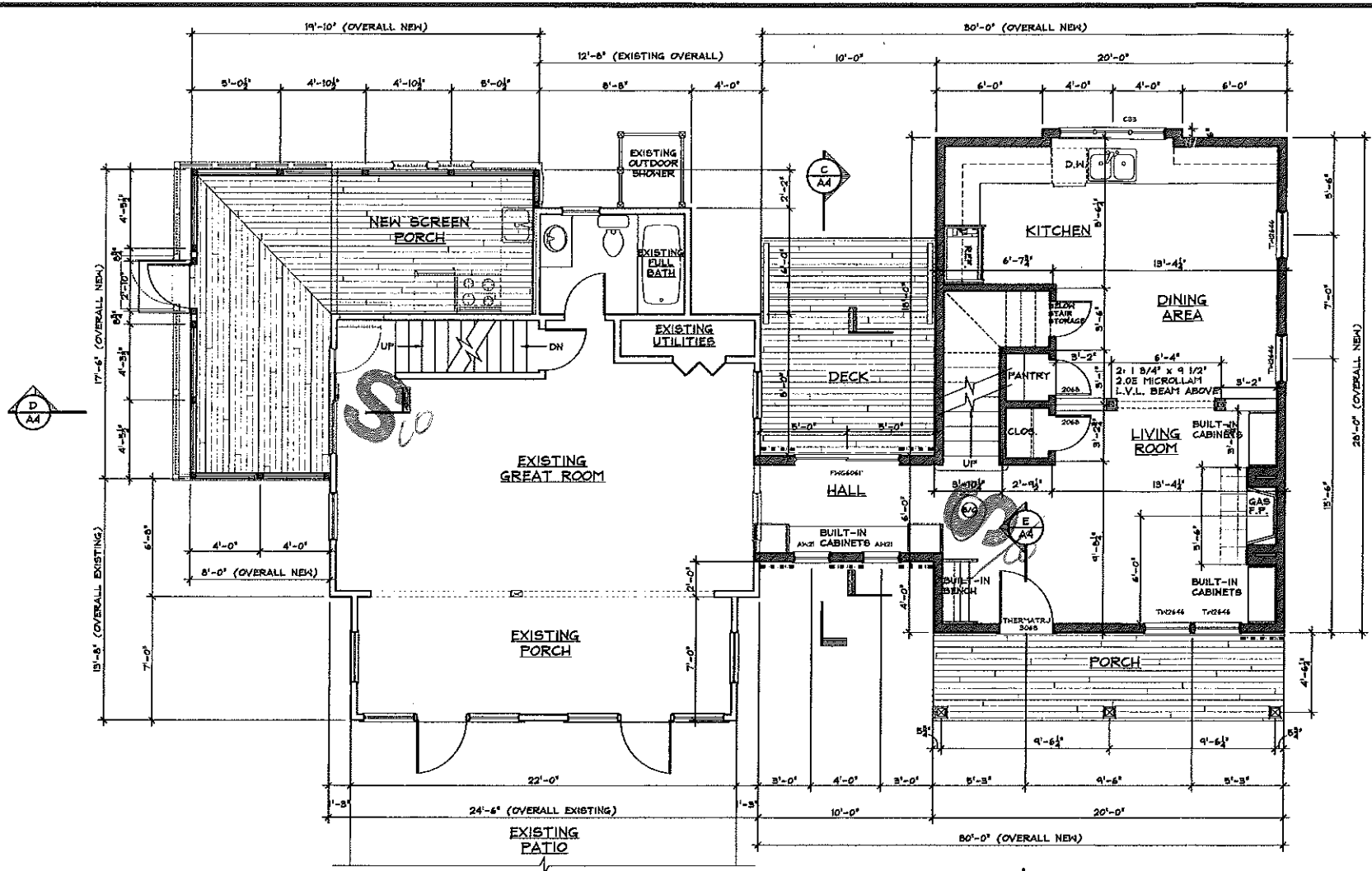
**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"

CONSULTANT  
ARCHITECT  
SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0210

DRAWING TITLE:	
ELEVATIONS	
DRAWN BY:	JS
CHECKED BY:	LS
DATE:	6-2-18
REVISIONS:	
PROJECT No. 1511	
SHEET No.	
<b>A1</b>	
CDS	



**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

**LEGEND**

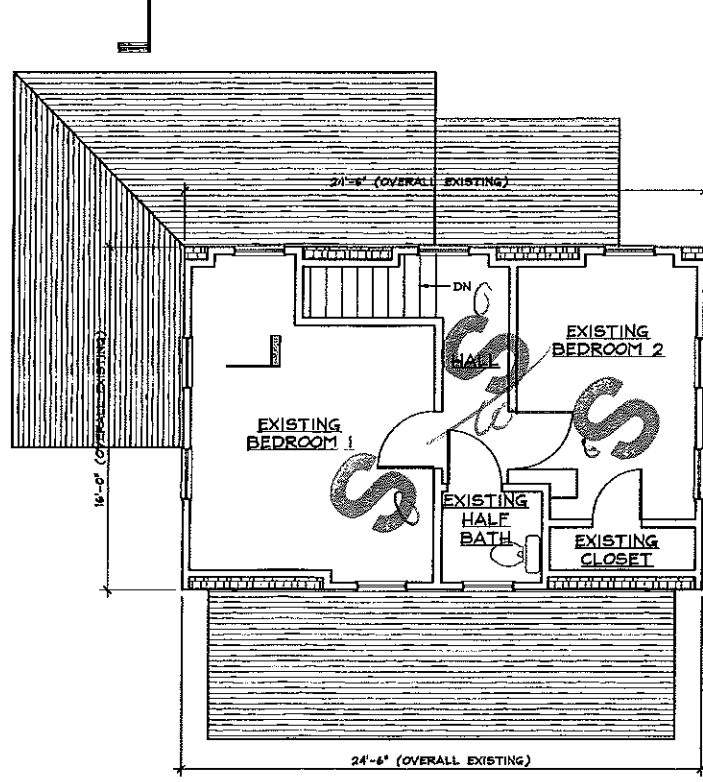
- ⊙ SMOKE DETECTOR
- ⊙ SMOKE/CARBON MONOXIDE DETECTOR
- ⊙ CARBON DETECTOR
- ⊙ HEAT DETECTOR
- ⊙ VENT FAN

**LEGEND**

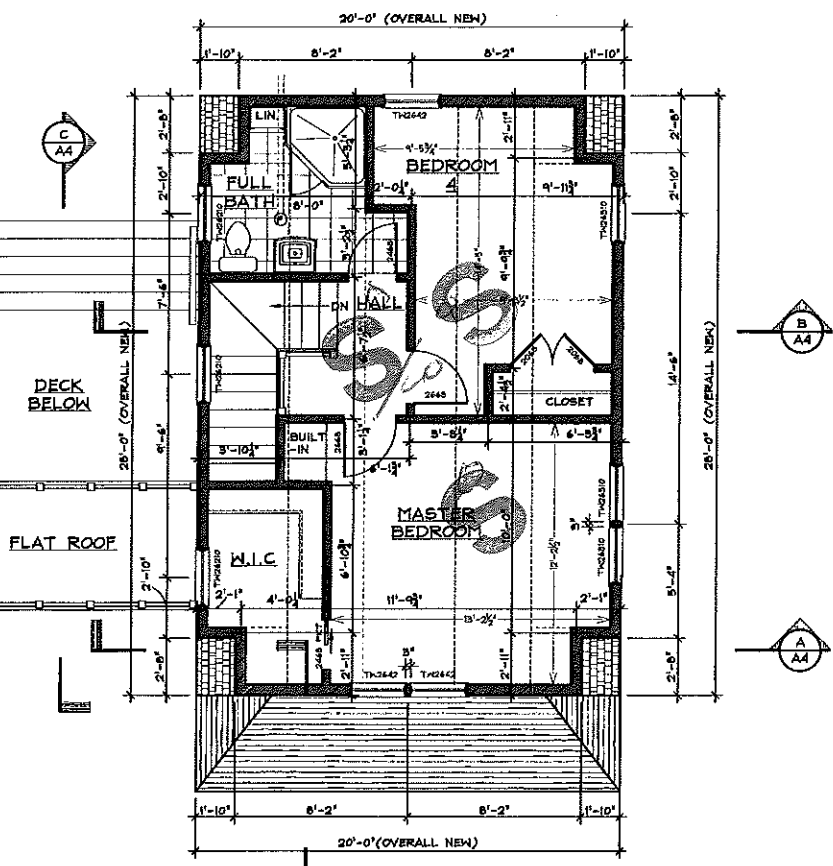
- SW-1 STANDARD SHEARWALL  
1/2" CDX W/ 8d COMMON NAIL W/ .188 DIA. @ 4" O.C. & SOLID BLOCKED BEAMS W/ 6x8/PLASTERBOARD ON INSIDE. ALL WALLS TO BE SM-1 UNLESS NOTED
- APA NARROW-WALL CONSTRUCTION FRAME W/ HOLD-DOWNS
- A- BOUNDARY KING STUDS/POSTS; MINIMUM 2: 2x4/6
- B- PANEL SHEATHING; 3/4" ZIP SYSTEM OR WINDSTORM, LONG STOCK
- C- NAILING; 2 ROWS OF 9d @ 3" O.C. ALL VERTICAL EDGES TO INCLUDE CORNERS. NAIL PLYWOOD/LSL LAF ZONES W/ 8d NAILS SPACED 3" O.C. EX IN GRID
- D- INSTALL SIMPSON MSTA31 STRAP TIES INSIDE AT OPENINGS OF WINDOW, 2x6 JACKS TO HEADER
- E- BOUNDARY PANEL TIES; SIMPSON'S MSTA34 STRAP TIES FROM BOUNDARY CORNERS TO DOUBLE PLATE BELOW EACH END OF EACH PANEL

**NAILING SCHEDULE**  
110 MPH EXPOSURE B WIND ZONE

JOINT DESCRIPTION	NO. OF COMMON NAILS	NO. OF BOX NAILS	NAIL SPACING
<b>ROOF FRAMING:</b>			
BLOCKING TO RAFTER (TOE NAILED)	2-8d	2-10d	EACH END
RIM BOARD TO RAFTER (END NAILED)	2-16d	3-16d	EACH END
<b>WALL FRAMING:</b>			
TOP PLATES AT INTERSECTIONS (FACE NAILED)	4-16d	6-16d	AT JOINTS
STUD TO STUD (FACE NAILED)	2-16d	2-16d	24" o.c.
HEADER TO HEADER (FACE NAILED)	16d	16d	16" o.c. ALONG EDGES
<b>FLOOR FRAMING:</b>			
JOIST TO SILL, TOP PLATE OR GIRDER (TOE NAILED)	4-8d	4-10d	PER JOIST
BLOCKING TO JOISTS (TOE NAILED)	2-8d	2-10d	EACH END
BLOCKING TO SILL OR TOP PLATE (TOE NAILED)	3-16d	4-16d	EACH BLOCK
LEDGER STRIP TO BEAM OR GIRDER (FACE NAILED)	3-16d	4-16d	EACH JOIST
JOIST ON LEDGER TO BEAM (TOE NAILED)	3-8d	3-10d	PER JOIST
BAND JOIST TO JOIST (END NAILED)	3-16d	4-16d	PER JOIST
BAND JOIST TO SILL OR TOP PLATE (TOE NAILED)	2-16d	3-16d	PER FOOT
<b>ROOF SHEATHING:</b>			
WOOD STRUCTURAL PANELS (PLYWOOD)			
RAFTERS OR TRUSSES SPACED UP TO 16" o.c.	8d	10d	6" EDGE/8" FIELD
RAFTERS OR TRUSSES SPACED OVER 16" o.c.	8d	10d	4" EDGE/4" FIELD
GABLE END WALL RAKE OR RAKE TRUSS W/O OVERHANG	8d	10d	6" EDGE/6" FIELD
GABLE END WALL RAKE OR RAKE TRUSS W/ STRUCTURAL OUTLOOKERS	8d	10d	6" EDGE/6" FIELD
GABLE END WALL RAKE OR RAKE TRUSS W/ LOOKOUT BLOCKS	8d	10d	4" EDGE/4" FIELD
<b>CEILING SHEATHING:</b>			
GYPSUM WALLBOARD	5d COOLERS	—	7" EDGE/10" FIELD
<b>WALL SHEATHING:</b>			
WOOD STRUCTURAL PANELS (PLYWOOD)			
STUDS SPACED UP TO 24" o.c.	8d	10d	6" EDGE/12" FIELD
12" x 24" FIBERBOARD PANELS	8d	—	6" EDGE/6" FIELD
1/2" GYPSUM WALLBOARD	5d COOLERS	—	7" EDGE/10" FIELD
<b>FLOOR SHEATHING:</b>			
WOOD STRUCTURAL PANELS (PLYWOOD)			
1" OR LESS THICKNESS	8d	10d	6" EDGE/12" FIELD
GREATER THAN 1" THICKNESS	10d	16d	6" EDGE/6" FIELD



**SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



CONSULTANT  
ARCHITECT  
SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
**FLOOR PLANS**

DRAWN BY: *JS*

CHECKED BY: *JS*

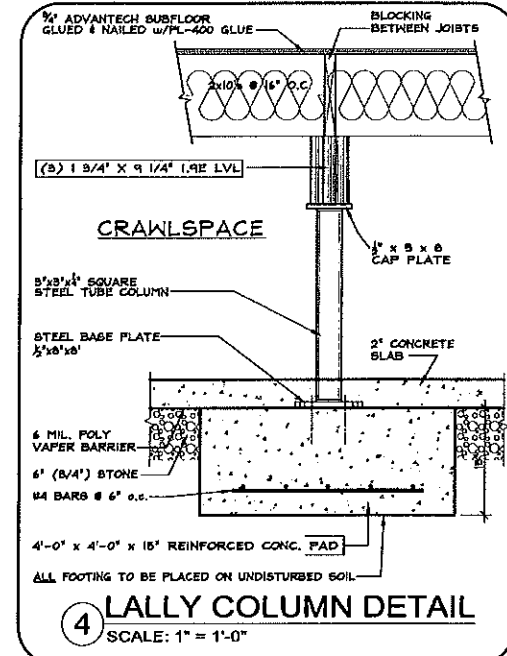
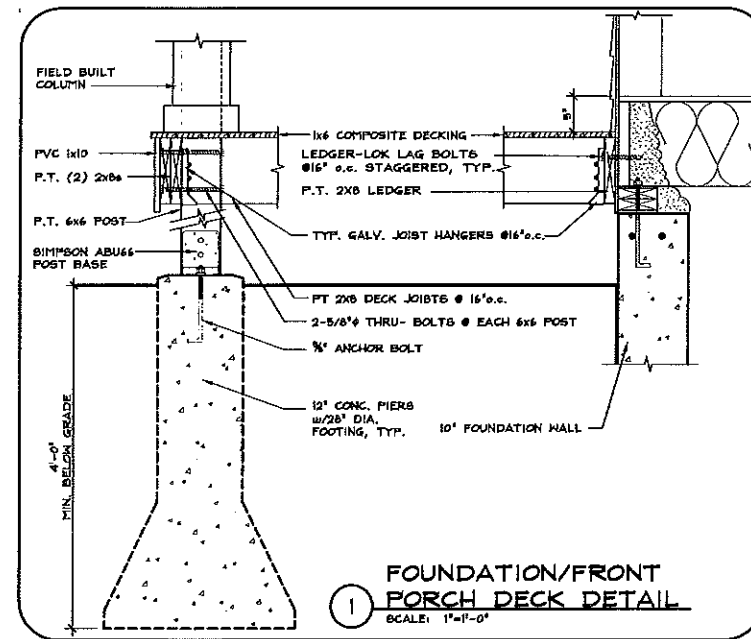
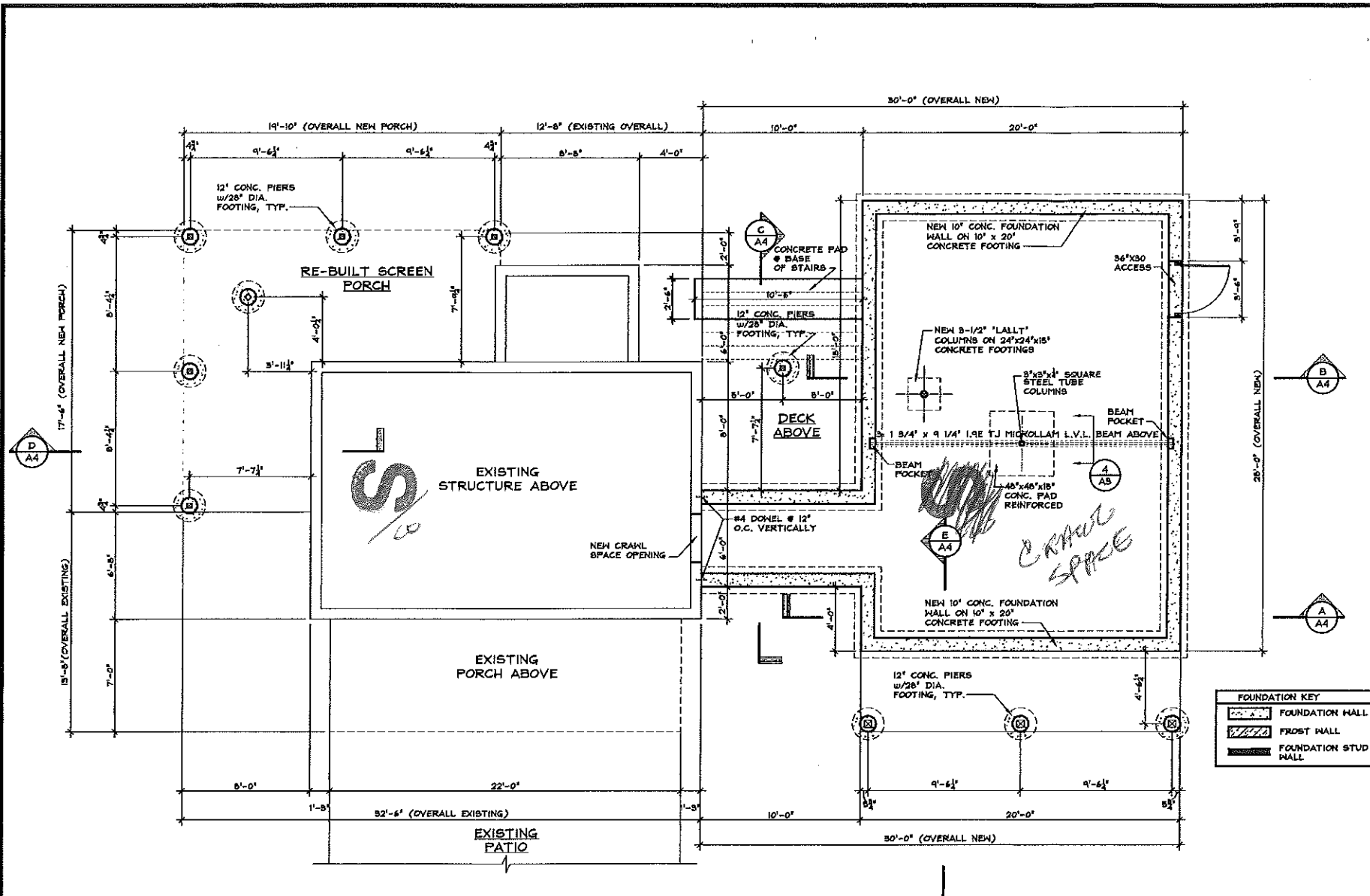
DATE: 5-2-18

REVISIONS:

PROJECT No. 1511

SHEET No. **A2**

CDS



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ARCHITECT	SIGNATURE
ADDITIONS & RENOVATIONS TO: <b>THE BEAUREGARD RESIDENCE</b> 8 EAST AVENUE OSTERVILLE, MA	
<b>Giampietro Architects</b> 354 Gifford Street Falmouth, MA 02540 Tel: 508-540-7400 Fax: 508-540-0220	
DRAWING TITLE: <b>FOUNDATION PLAN &amp; DETAILS</b>	
DRAWN BY: <i>JG</i>	
CHECKED BY: <i>LJS</i>	
DATE: 6-2-18	
REVISIONS:	
PROJECT No. 1511	
SHEET No.	
<b>A3</b>	
CDS	

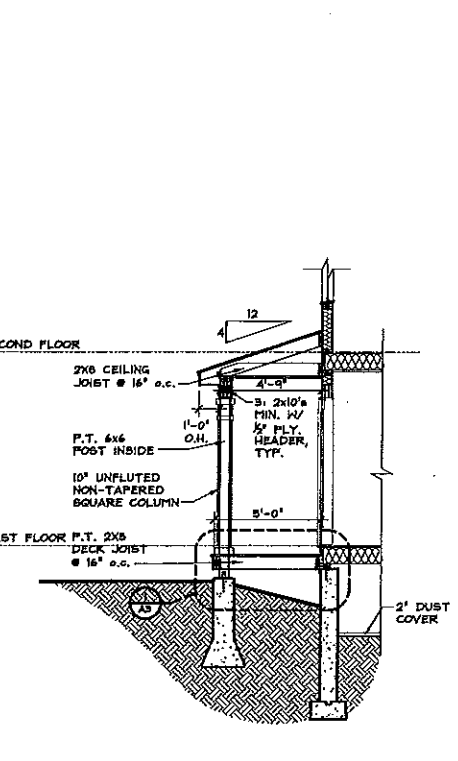
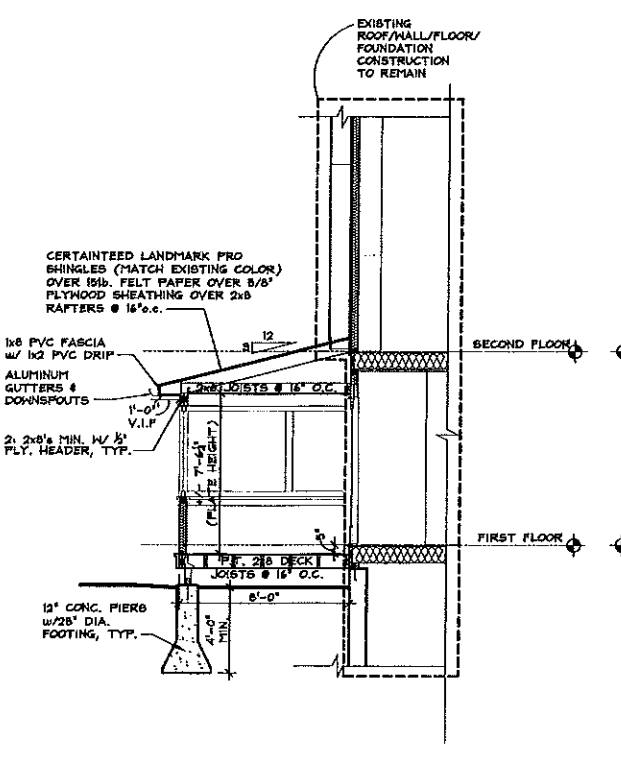
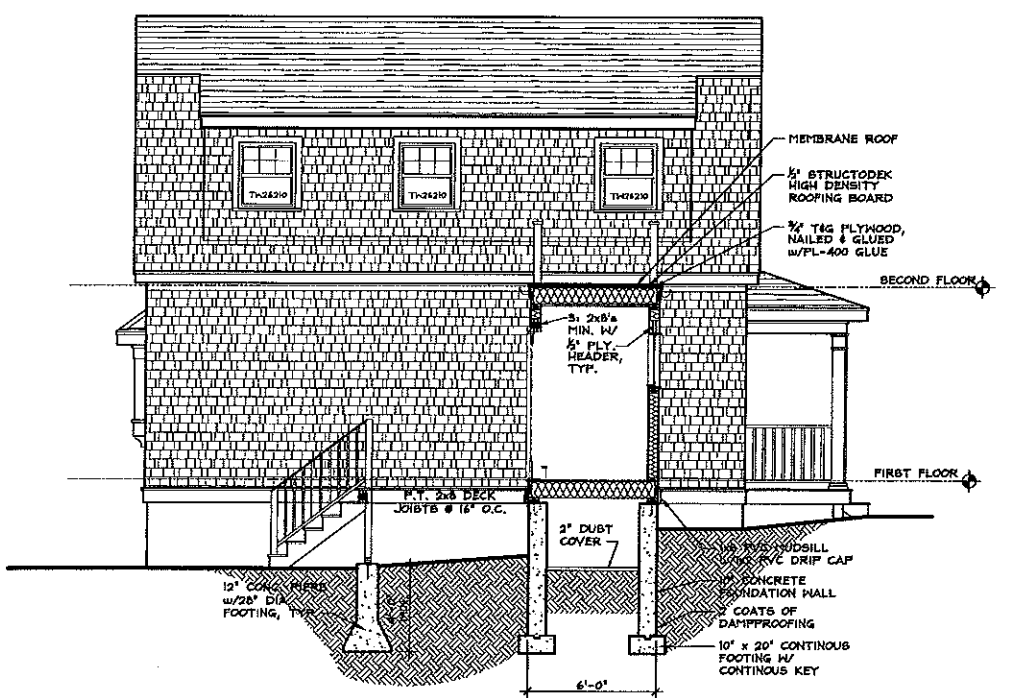
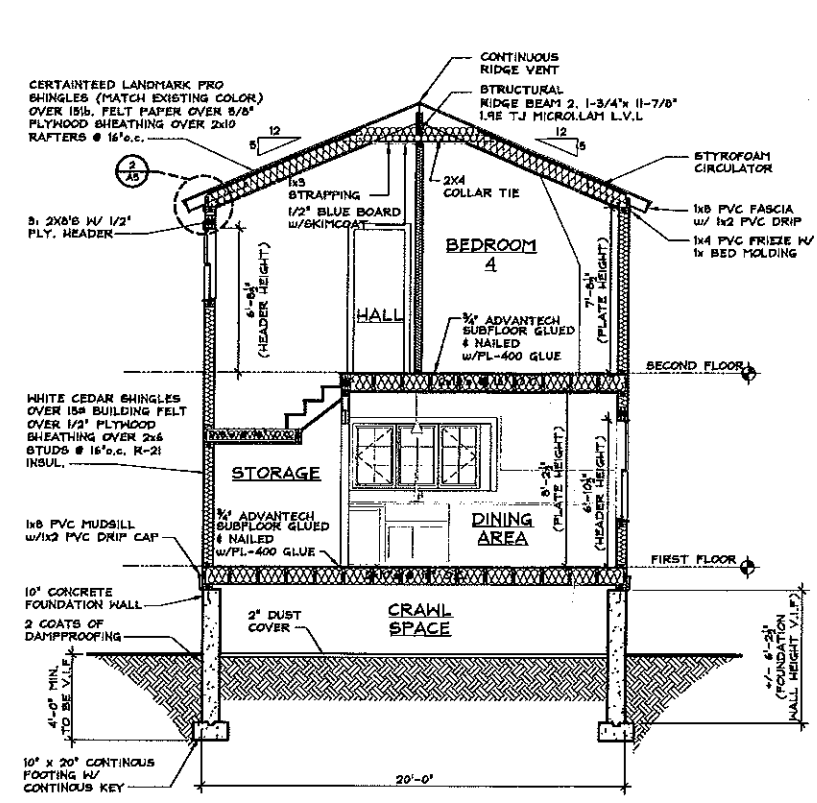
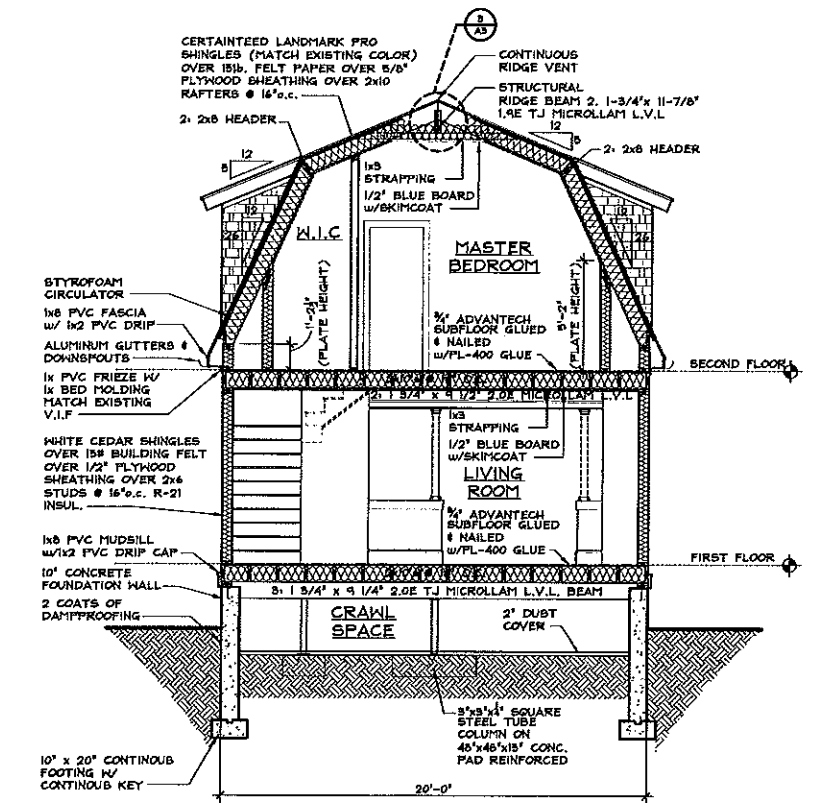
**IECC2015 RESIDENTIAL ENERGY EFFICIENCY DETAILS**

CLIMATE ZONE 5A (USE EITHER PRESCRIPTIVE VALUES OR RESCHECK CALCULATION)

TABLE 402.1.1 (MINIMUM PRESCRIPTIVE INSULATION & FENESTRATION REQUIREMENTS)

FENESTRATION U-FACTOR	SKYLIGHT U-FACTOR	CEILING R-VALUE	WOOD FRAMED WALL R-VALUE	FLOOR R-VALUE	BASEMENT WALL R-VALUE	BASEMENT SLAB R-VALUE	CRAWL SPACE WALL R-VALUE
0.32	0.60	49	20	50	15/19	10 (2 FT. DEEP)	15/13

- NOTE:**
- R-VALUES ARE MINIMUMS & U-FACTORS ARE MAXIMUMS.
  - 15/19 MEANS R=15 CONTINUOUS INSULATED SHEATHING ON THE INTERIOR OR EXTERIOR OF THE HOME OR R=19 CAVITY INSULATION AT THE INTERIOR OF THE BASEMENT WALL.
  - REFER TO IECC 2015 CHAPTER 4 FOR ALL INSULATION & ENERGY REQUIREMENTS.
  - INSULATION SHALL BE INSTALLED IN SUBSTANTIAL CONTACT AND CONTINUOUS ALIGNMENT WITH THE AIR BARRIER.
  - THE JUNCTION OF THE TOP PLATE & TOP OF EXTERIOR WALLS SHALL BE SEALED, JUNCTION OF FOUNDATION & GILL PLATE TO BE SEALED.
  - ATTIC ACCESS OPENINGS TO BE SEALED & INSULATED.
  - SPACE BETWEEN WINDOWS, DOOR JAMBS & FRAMING SHALL BE SEALED.



CONSULTANT  
ARCHITECT  
SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-546-7400  
Fax: 508-546-0220

DRAWING TITLE:  
**SECTIONS & DETAILS**

DRAWN BY: *JS*

CHECKED BY: *JS*

DATE: 5-2-18

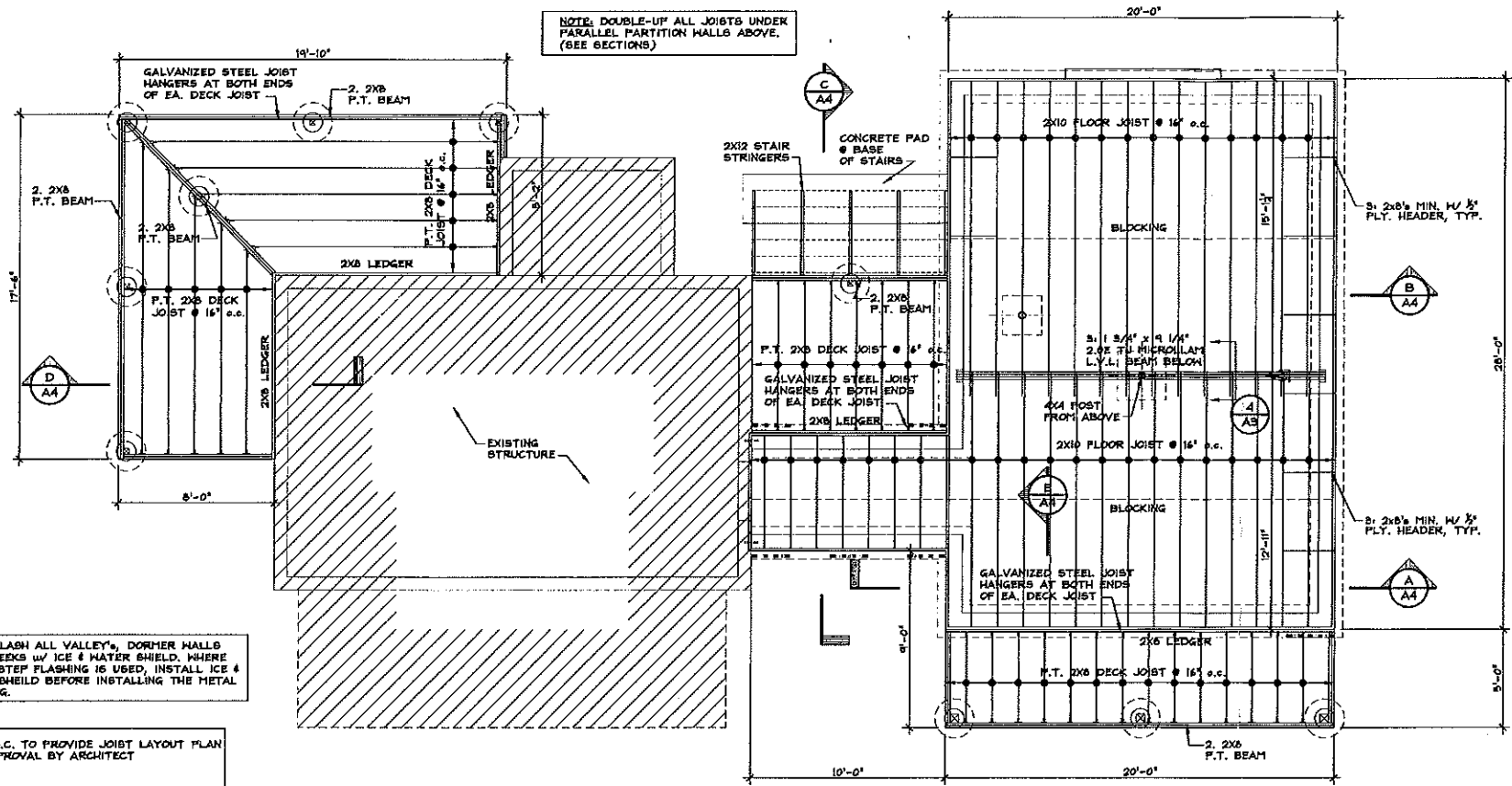
REVISIONS:

PROJECT No. 1511

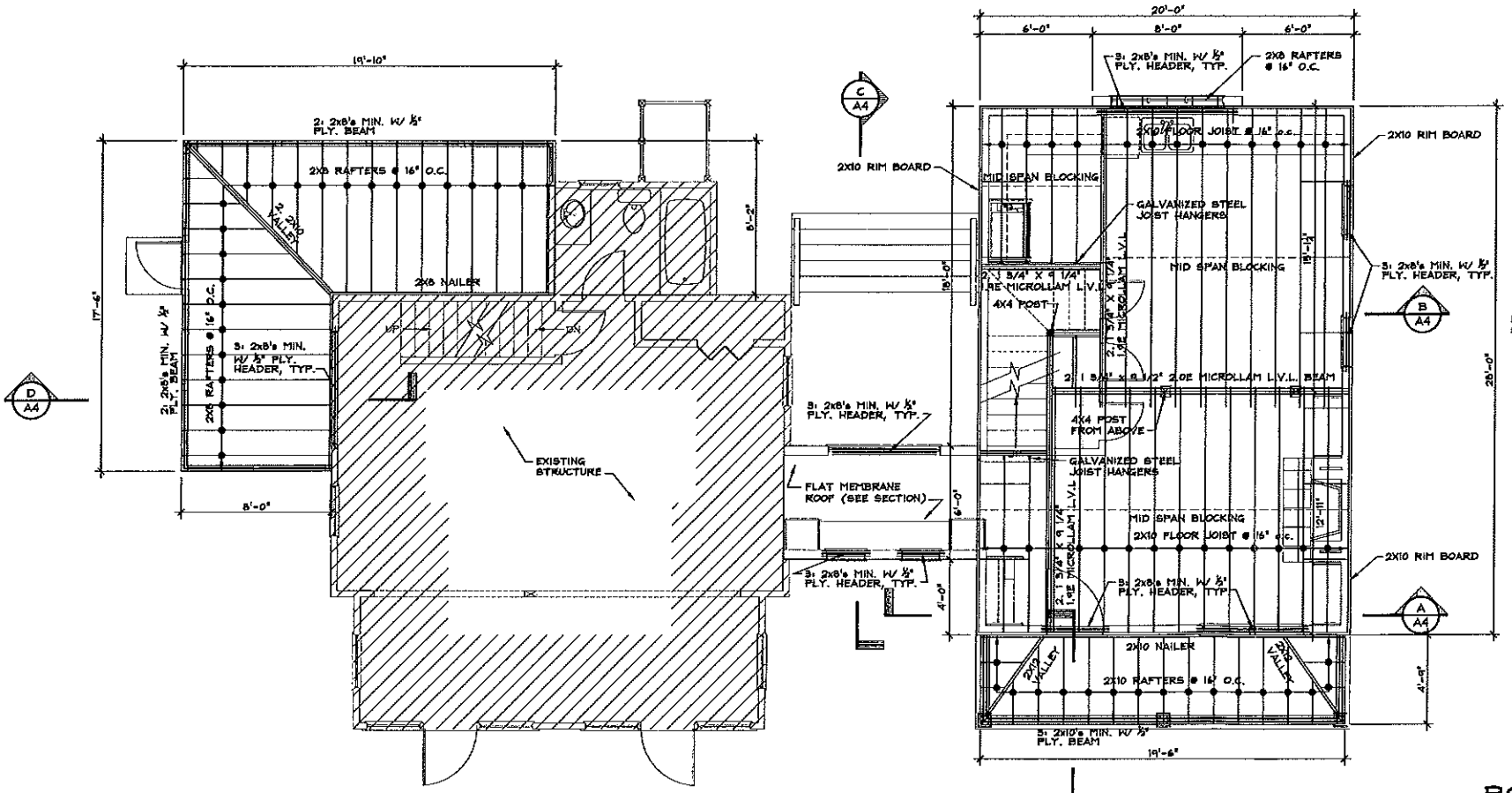
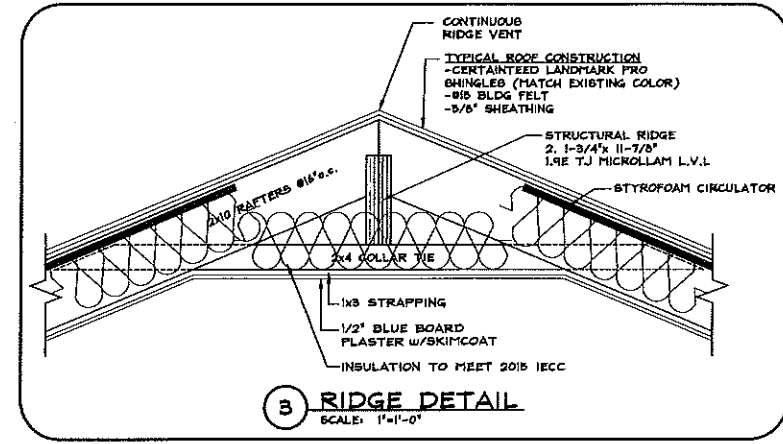
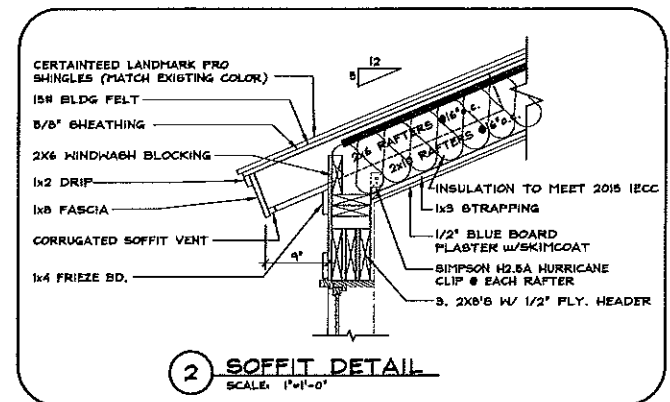
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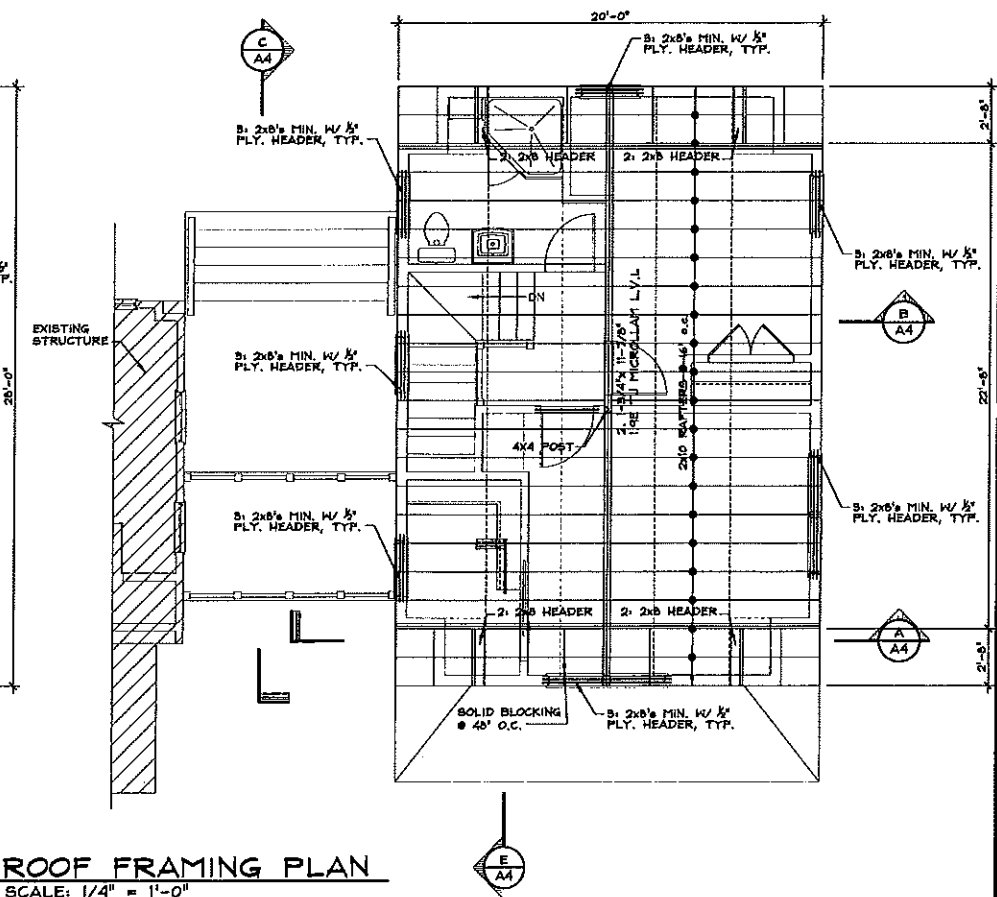
CDS



**FIRST FLOOR FRAMING PLAN**  
SCALE: 1/4" = 1'-0"



**SECOND FLOOR FRAMING PLAN**  
SCALE: 1/4" = 1'-0"



**ROOF FRAMING PLAN**  
SCALE: 1/4" = 1'-0"

CONSULTANT  
ARCHITECT  
SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
**FRAMING PLANS & DETAILS**

DRAWN BY: *gjt*

CHECKED BY: *ljs*

DATE: 5-2-18

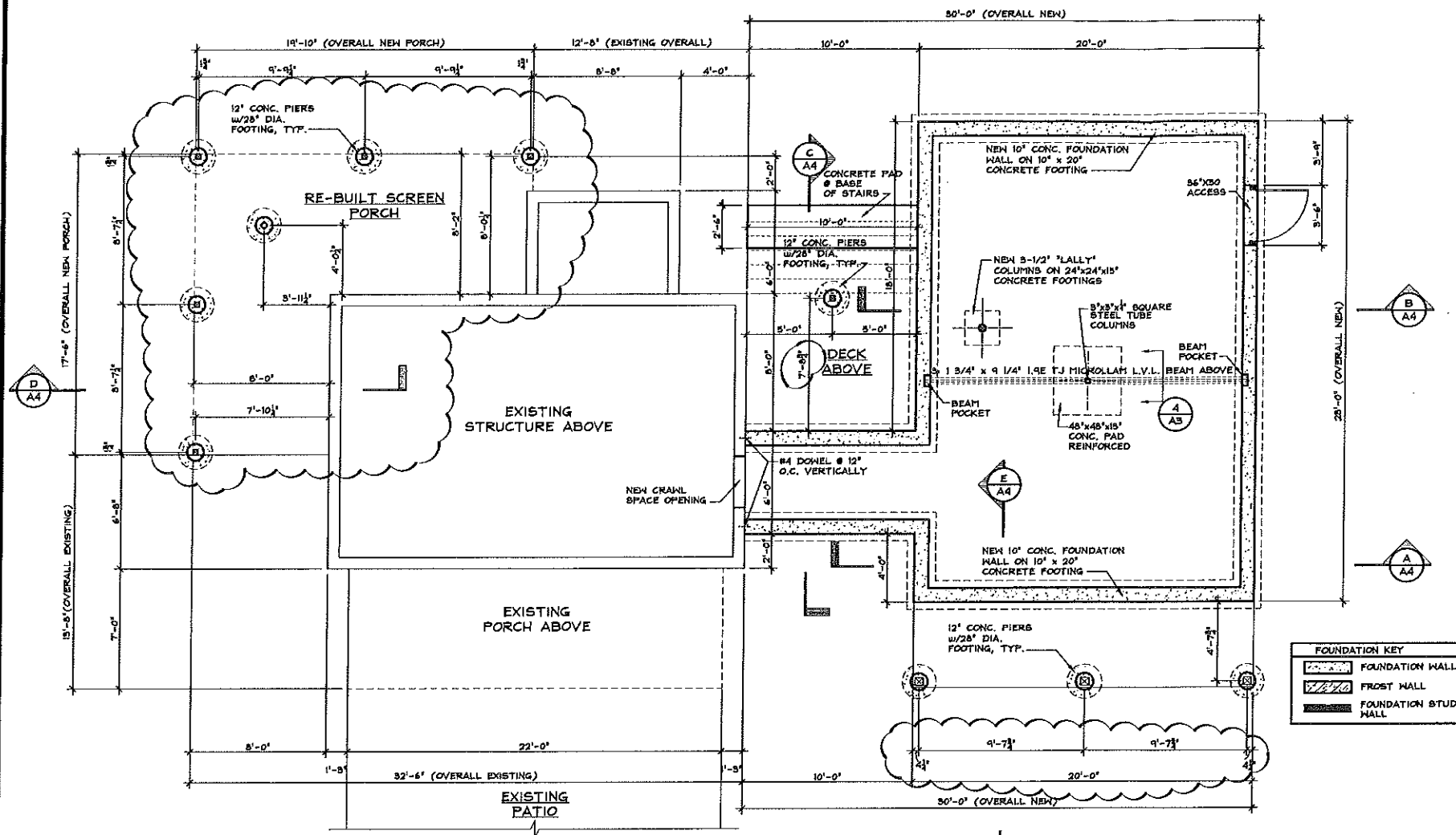
REVISIONS:

PROJECT No. 1511

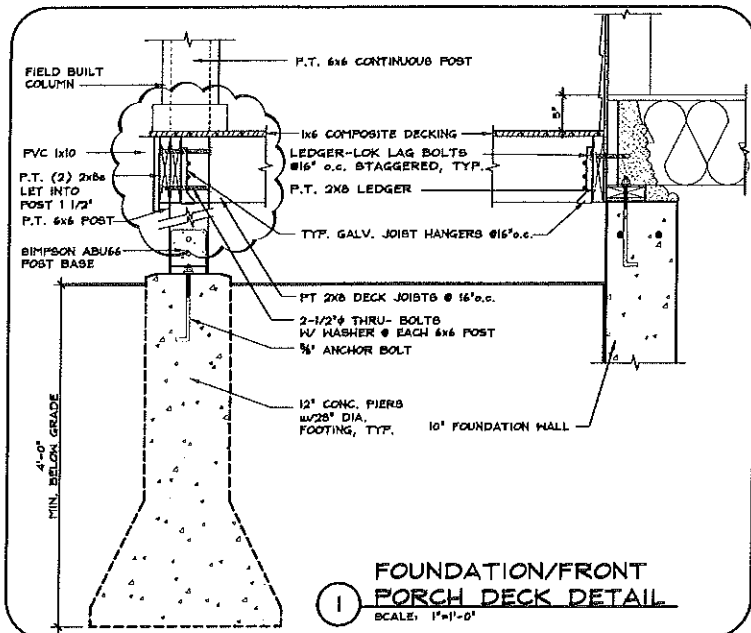
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**A5**

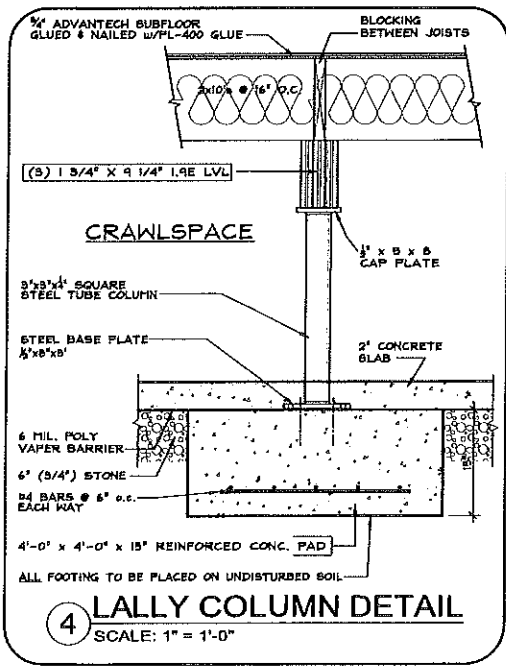
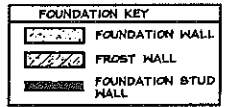
CDS



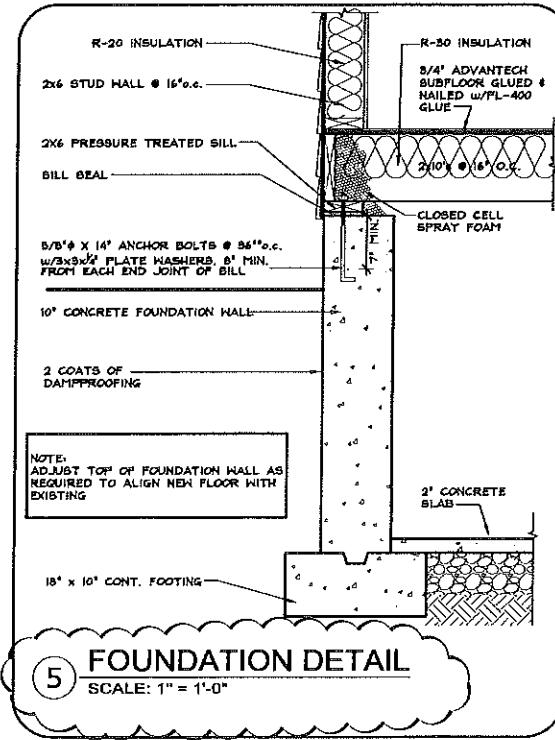
**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



**FOUNDATION/FRONT PORCH DECK DETAIL**  
SCALE: 1" = 1'-0"



**LALLY COLUMN DETAIL**  
SCALE: 1" = 1'-0"



**FOUNDATION DETAIL**  
SCALE: 1" = 1'-0"

CONSULTANT

ARCHITECT

REGISTERED PROFESSIONAL ARCHITECT

MASSACHUSETTS

NO. 10000

DATE: 5-2-18

SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
**FOUNDATION PLAN & DETAILS**

DRAWN BY: *JS*

CHECKED BY: *LSB*

DATE: 5-2-18

REVISIONS:

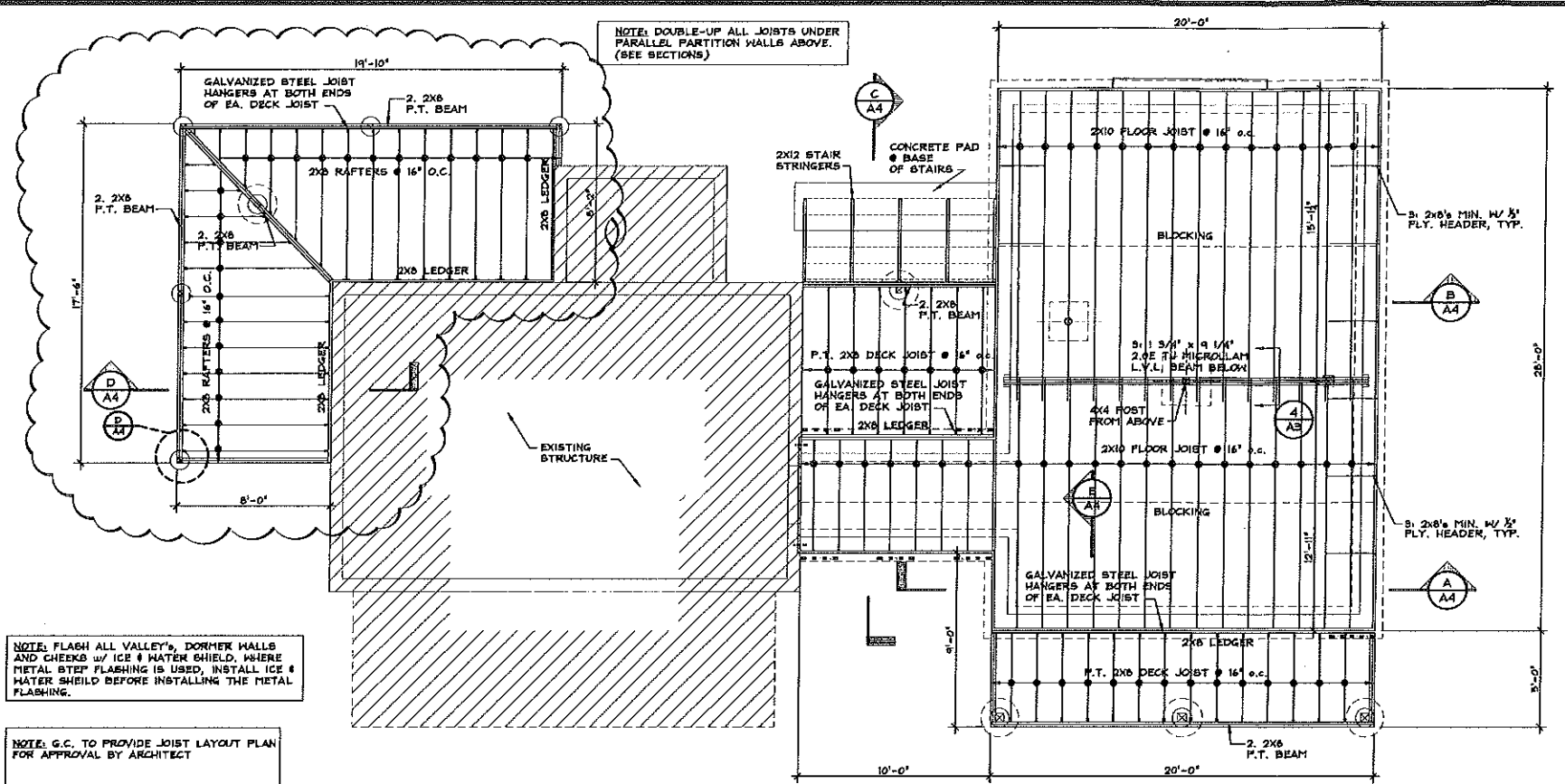
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PROJECT No. 1511

SHEET No.

**A3**

CDS

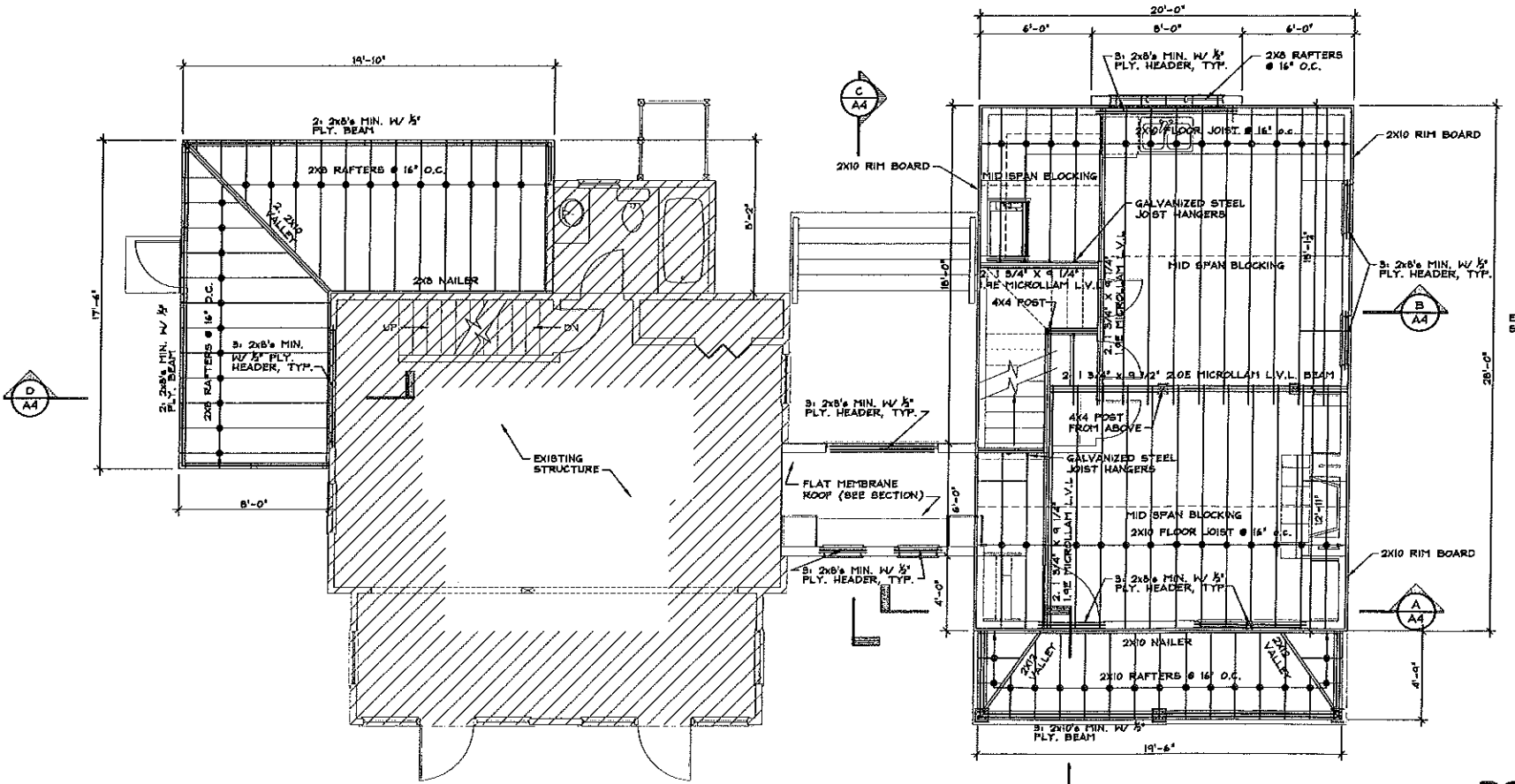
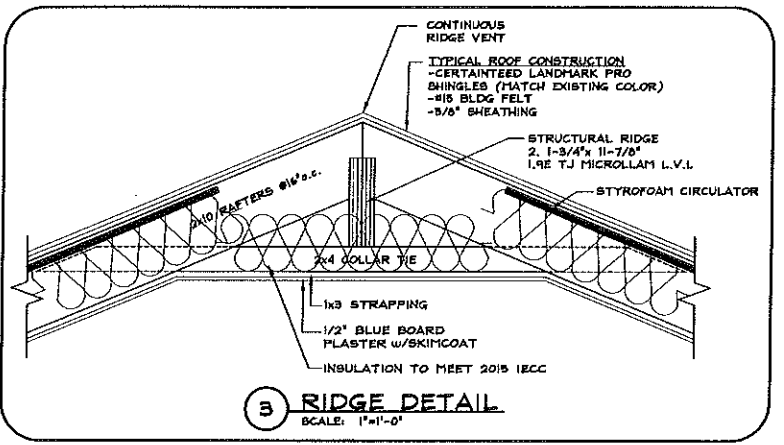
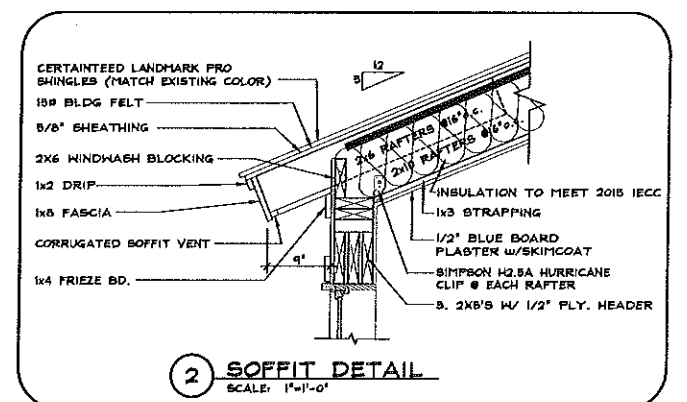


**FIRST FLOOR FRAMING PLAN**  
SCALE: 1/4" = 1'-0"

NOTE: FLASH ALL VALLEYS, DORMER WALLS AND CHIMNEYS W/ ICE & WATER SHIELD. WHERE METAL STEP FLASHING IS USED, INSTALL ICE & WATER SHIELD BEFORE INSTALLING THE METAL FLASHING.

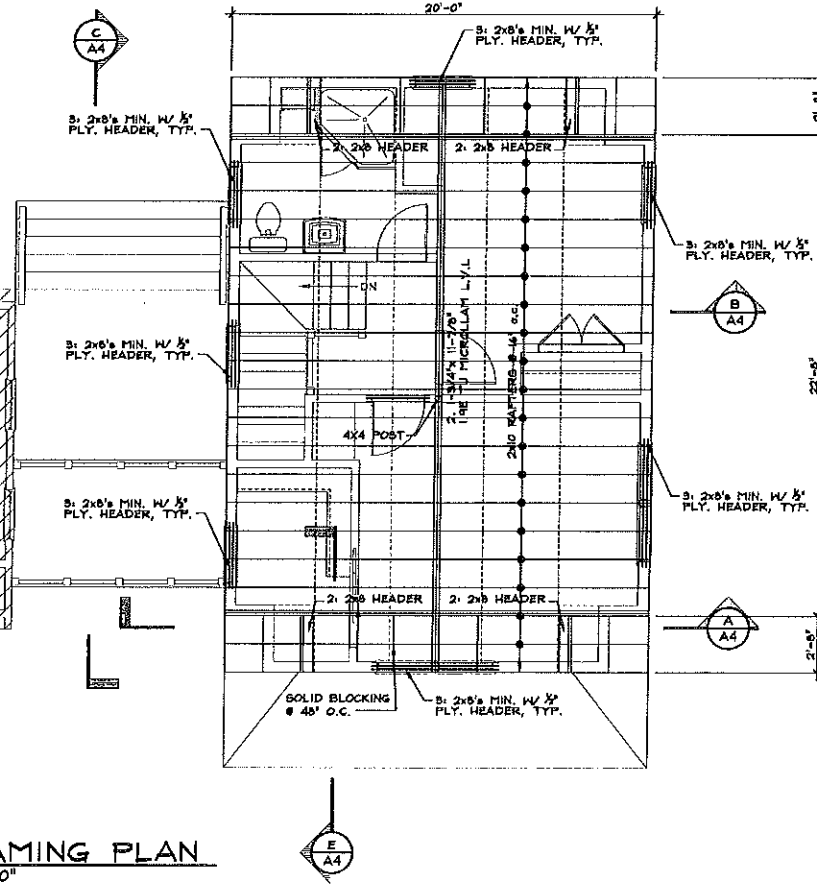
NOTE: G.C. TO PROVIDE JOIST LAYOUT PLAN FOR APPROVAL BY ARCHITECT

NOTE: DOUBLE-UP ALL JOISTS UNDER PARALLEL PARTITION WALLS ABOVE. (SEE SECTIONS)



**SECOND FLOOR FRAMING PLAN**  
SCALE: 1/4" = 1'-0"

**ROOF FRAMING PLAN**  
SCALE: 1/4" = 1'-0"



CONSULTANT

ARCHITECT

*Giampietro Architects*

354 GIFFORD STREET  
FALMOUTH, MA 02540  
TEL: 508-540-7400  
FAX: 508-540-0220

SIGNATURE

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
8 EAST AVENUE  
OSTERVILLE, MA

**Giampietro Architects**  
354 Gifford Street  
Falmouth, MA 02540  
Tel: 508-540-7400  
Fax: 508-540-0220

DRAWING TITLE:  
**FRAMING PLANS & DETAILS**

DRAWN BY: *JS*

CHECKED BY: *LS*

DATE: *5-2-18*

REVISIONS:  
6-14-2018

PROJECT No. **1511**

SHEET No.

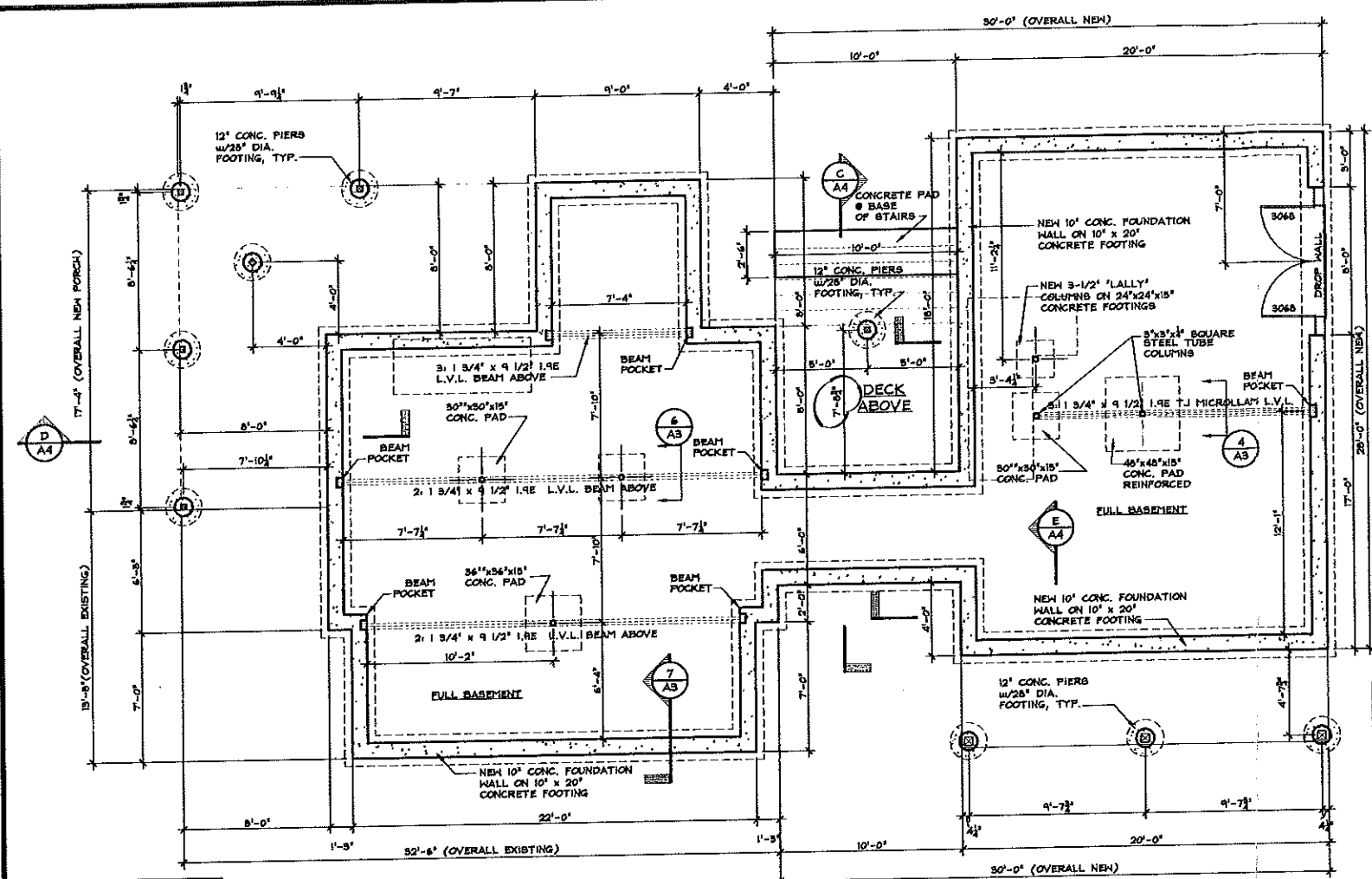
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TOWN OF BARNSTABLE  
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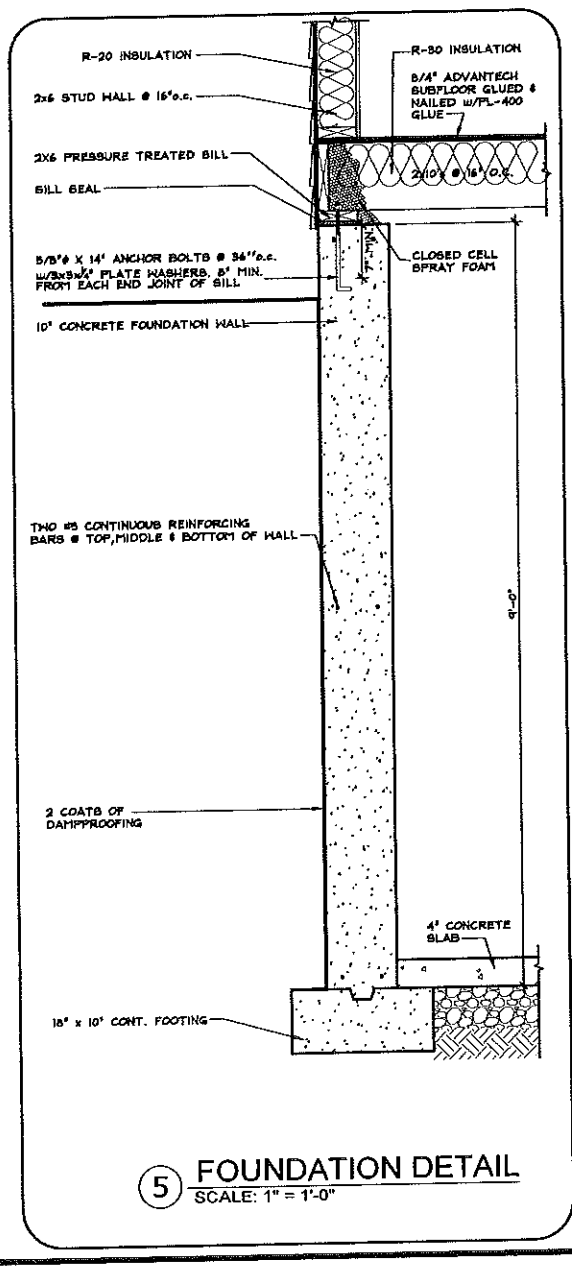
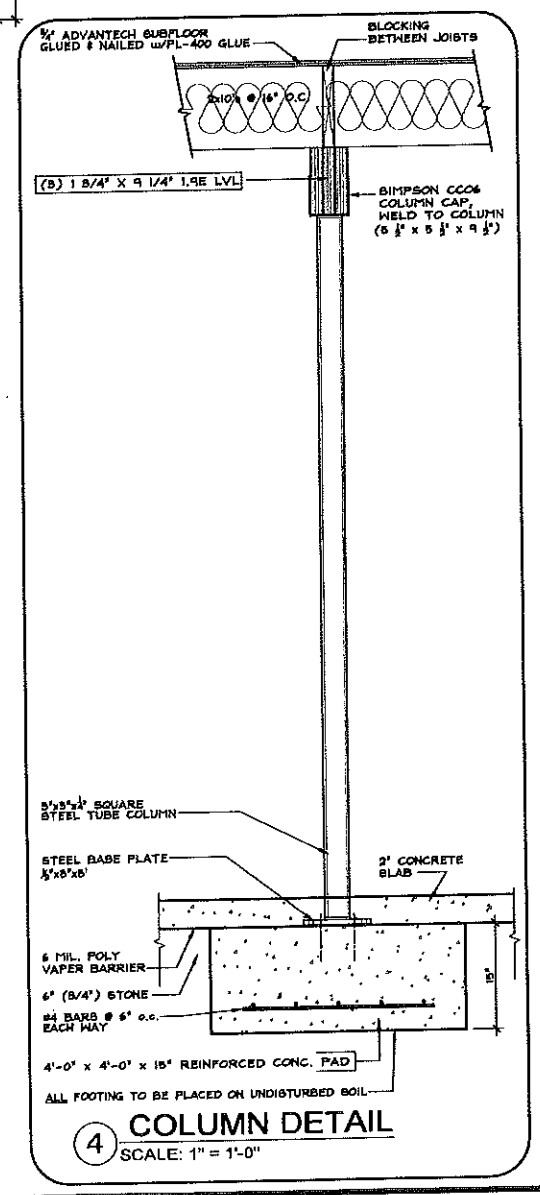
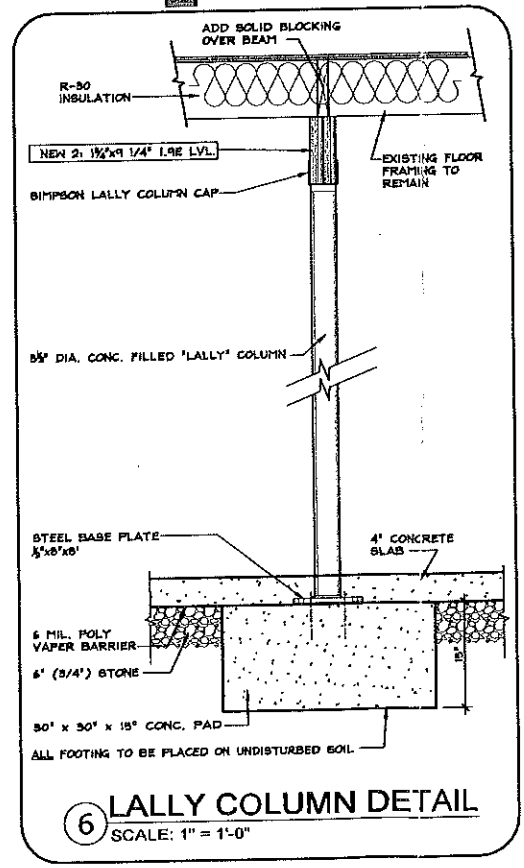
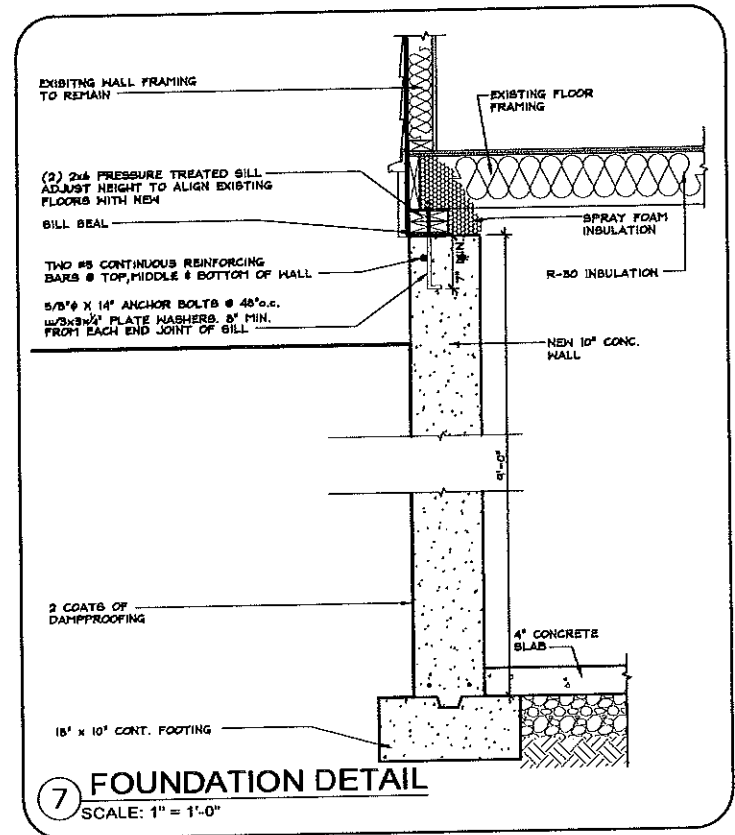
DIVISION

18-1607  
 REVISION



[Symbol]	FOUNDATION WALL
[Symbol]	FOUNDATION STUD
[Symbol]	FOUNDATION WALL

**FIRST FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"



CONSULTANT  
 ARCHITECT  
 ARCHITECTS

ADDITIONS & RENOVATIONS TO:  
**THE BEAUREGARD RESIDENCE**  
 8 EAST AVENUE  
 OSTERVILLE, MA 01033

**Giampietro Architects**  
 354 Gifford Street  
 Falmouth, MA 02540  
 Tel: 508-540-7400  
 Fax: 508-540-0220

DRAWING TITLE:	<b>FOUNDATION PLAN &amp; DETAILS</b>
DRAWN BY:	JS
CHECKED BY:	JFS
DATE:	8/28/2018
REVISIONS:	11/06/2018

PROJECT No. 1511  
 SHEET No. **A3**



20 JUL 14 AM 28



**Town of Barnstable  
Zoning Board of Appeals  
Application for a Variance**

**AMENDED**

Date Received  
Town Clerk's Office:

TO REFLECT THE CORRECT APPLICATION  
FORM

For office use only:  
Appeal# 2020-025  
Hearing Date \_\_\_\_\_  
Decision Due \_\_\_\_\_

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

e/o Attorney

Applicant's Name: EAR ORGANICS INC, Phone: 518-775-5050  
Applicant's Address: 2110 East Reservoir  
9289 BONTA Bridge Road, Jordan, NY 13080

Property Location: 0+280 Old Falmouth Rd, Mansions Mills, MA  
Property Owner: Same, Phone: See Above  
Address of Owner: Same

*If petitioner differs from owner, state nature of interest.*

280 Old Falmouth Road 2TF 11549 LC PLND 39931-A  
Registry of Deeds/Land Court References: Deed 010 FALMOUTH RD Book 6441 Page 218  
Plan 493 | 82

Assessor's Map/Parcel Number: 10017 Zoning Dist RF  
10018  
Number of Years Owned: 32 years Groundwater Overlay District: GP

Variance Requested: MBL CHAPTER 40A SECTION 14  
MODIFICATION OF EXISTING VARIANCE  
Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: See Attached

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [ ] Yes [ X ]  
Permit #: See Attached

<sup>1</sup> The Applicant's Name will be the entity to whom the variance will be issued to.  
<sup>2</sup> If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

Existing Level of Development of the Property- Number of Buildings: 3

Present Use(s): OFFICE, GRINDER BUILDING, STORAGE, WAREHOUSE, MAINTENANCE

Existing Gross Floor Area: 5,865 sq. ft. Proposed New Gross Floor Area: 3,200 sq. ft.  
1,960 - EX. DET. #2

Site Plan Review Number: 078-19 Date Approved: 3/5/20 (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [ ] No []
- Is this proposal subject to the jurisdiction of the Conservation Commission ..... Yes [ ] No []
- Is this proposal subject to approval by the Board of Health..... Yes [ ] No []
- Is the building a designated Historic Landmark?..... Yes [ ] No []
  
- Have you applied for a building permit?..... Yes [ ] No []
- Have you been refused a building permit?..... Yes [ ] No []

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: [Handwritten Signature] Date: July 6, 2020  
Applicant or Representative's Signature<sup>3</sup>

Print Name: CHARLES W. SABOTT

Address: 540 MAIN STREET - S. TO 8 Phone: 508-775-5650

HYANNIS, MA 02601 Fax No.: 508-422-7258

e-mail Address: EMS@SABOTT.LAW.COM

<sup>3</sup> All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

**Town of Barnstable**  
**Building Department Services**

**Brian Florence, CBO**  
**Building Commissioner**  
200 Main Street, Hyannis, MA 02601  
[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)



Office: 508-862-4038

Fax: 508-790-6230

March 9, 2020

Charles M. Sabatt, Attorney  
540 Main Street  
Hyannis, MA. 02601

**SPR 078-19 Cape Resources (Attorney Charles Sabatt)**  
**"0" and 280 Old Falmouth Road, Marstons Mills**  
**Map/Parcel: 100/007 and 008**  
**Zoning: RF/Solar Photovoltaic Overlay**

**Proposal: The Applicant will seek to modify its existing Variance by reducing the size of its wood recycling operation from an area of approx. 22 acres to approx. 7 acres. The recycling operation will be located at the southern end of the site. The modification would allow the balance of the site and a portion of "0" Old Falmouth Road (approx. 14 acres) to be used as a solar photovoltaic installation, which is a permitted use in the district. The Applicant also proposes to demolish the existing structures, except for the office, and construct one building that will be used as a maintenance facility.**

Dear Attorney Sabatt:

At the formal site plan review meeting held on March 5, 2020, the above proposal was found to be approvable by the Site Plan Review Committee subject to the following conditions and a modification of the existing variance from ZBA.

- **Nathan Collins (Engineering):** Pertaining to the Storm Water Report, impervious surfaces must be shown on the site plan. The site plan needs more detail. Contact: [Nathan.collins@town.barnstable.ma.us](mailto:Nathan.collins@town.barnstable.ma.us).
- **Martin MacNeely (COMM):** Applicant has changed the fire access road location; construction will be in accordance as per requirements. The new building will require testing for radio communication. Quantity of material storage was confirmed at 200 yards. Contact: [mmacneely@commfiredistrict.com](mailto:mmacneely@commfiredistrict.com)
- **Brian Florence (Building):** The use is allowed. Applicant will be required to seek zoning relief from the Zoning Board of Appeals for a modification of the existing variance. Applicant must provide final detailed plans prior to occupancy permit. Contact Brian Florence at [brian.florence@town.barnstable.ma.us](mailto:brian.florence@town.barnstable.ma.us) .
- **Paul Wackrow (Planning):** Applicant will be required to add parking areas to the site plan. Contact: Paul Wackrow at [Paul.Wackrow@town.barnstable.ma.us](mailto:Paul.Wackrow@town.barnstable.ma.us) .
- Applicant must obtain all other applicable permits, licenses and approvals required.
- Upon completion of all work, a registered engineer or land surveyor shall submit a certified "as built" site plan and a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Zoning Section 240-105 (G)). This document shall be submitted prior to the issuance of the final certificate of occupancy

Sincerely,



Brian Florence  
Building Commissioner

CC: Site Plan Review Staff

# **BEST MANAGEMENT PRACTICES (BMP) PLAN**

Prepared for

**Cape Resources Company**  
280 Old Falmouth Road  
Marstons Mills, MA

Prepared by

**SWCA Environmental Consultants**  
15 Research Drive  
Amherst, MA 01002  
(413) 256-0202  
[www.swca.com](http://www.swca.com)

SWCA Project No. 50792.01

February 2020

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# **1 General Description of Operations and System Supervision**

## **1.1 Introduction**

This section provides information on operations of the Cape Resources Company (CRC) Facility and supervision of those operations.

## **1.2 General Operations and Materials Received, Produced and Sold to the Public**

The CRC Facility is operated to receive the following materials:

- "Brush" material which is natural woody material from land clearing and land maintenance operations and is delivered to the CRC Facility site by truck. Brush is typically comprised of trees, stumps, shrubs, weeds, etc., often mixed with dirt.
- "Yard waste," which is natural lawn clippings, leaves, garden waste, and compostable organics (non-putrescible) delivered to the site by truck.

The CRG Facility is operated to produce the following products:

- "Loam," which is screened soil and dirt
- "Compost," which is composted yard waste and organic material
- "Mulch," which is processed brush and woody material

The CRC Facility is also operated to sell the following products processed at other locations and transported to the site for public sale:

- "Loam," which is screened soil and dirt
- "Compost," which is composted yard waste and organic material
- "Mulch," which is processed brush and woody material
- "Aggregates," which are sands, soils, and processed stone
- Firewood (cut and stockpiled)
- Miscellaneous landscaping products

## **1.3 Supervision of Operations and Best Management Practices (BMP)**

Best Management Practices (BMP) will proceed under the supervision of the CRC General Manager. The General Manager will ensure that individuals performing operations at the CRC Facility are trained and have demonstrated experience managing the receiving, processing, stockpiling, and loading of the materials listed in Section 1.2, along with the associated equipment.

## **1.4 Operators**

CRC operators will be responsible individuals who have been trained and are knowledgeable of the BMP that are pertinent to running and maintaining the CRC Facility. Qualified personnel will be on site at all times during operating hours.

## **1.5 Hours of Operation**

The CRC Facility will be open to the public from 7:00 AM to 4:00 PM, Monday through Friday and 7:00 -3:30 Saturday (April 1 – December 31). On occasion, the facility closes due to inclement weather.



The Facility is typically closed for the following holidays:

- New Year’s Day
- Memorial Day
- July 4<sup>th</sup>
- Labor Day
- Thanksgiving
- Christmas

## 2 Acceptable Material for Processing

### 2.1 Acceptable Material

The CRC Facility will only accept brush and yard waste as described in Section 1.

### 2.2 Non-Acceptable Material

The following waste materials will not be accepted at the site (references in parentheses are from Massachusetts Department of Environmental Protection (MassDEP) Regulations 310 CMR 19).

- Municipal Solid Waste (310 CMR 19.006) defined as residential and commercial solid waste
- Special Waste [310 CMR 19.130(3)] such as asbestos and asbestos-containing materials; infectious waste, including hospital waste; wastewater; drinking water treatment sludge; and industrial process water.
- Banned or restricted waste [(310 CMR 19.130(4))] including lead batteries; tires; white goods; aluminum, metal, or glass containers; plastic products; cathode ray tubes; construction and demolition (C&D) material; ferrous and non-ferrous metals; asphalt-bituminous-concrete (ABC); and paper.
- Hazardous waste [310 CMR 19.130(5)] as defined in the regulations and generally including fuels, paints, radioactive materials, oils, and solvents.
- Bulky waste [310 CMR 130(6)] including white goods, furniture, and auto parts.

### 2.3 Contingency Plan If Non-Acceptable Materials Are Observed

Table 1 summarizes response actions to the observance of non-acceptable materials being dropped off at the site.

**Table 1: Response Actions**

If...	Then...
Non-acceptable waste is observed in the load prior to tipping	<ol style="list-style-type: none"> <li>1.Reject the load.</li> <li>2.Contact the office and the General Manager.</li> </ol>
A special waste is observed after tipping	<ol style="list-style-type: none"> <li>1.Alert the General Manager of the situation.</li> <li>2.Follow proper training protocols to contain the waste for proper disposal.</li> </ol>

A banned or restricted waste is observed after tipping	1.Sort the banned or restricted waste from the incoming load. 2.Return the banned or restricted materials to the truck after separation.
Hazardous waste is observed after tipping	1.Alert the General Manager of the situation. 2.Follow proper training protocols to contain the waste for proper disposal. 3.Contact an outside hazardous materials (HAZMAT) vendor if on-site personnel cannot properly respond. 4.Determine if MassDEP and Board of Health notification is required.
Bulky waste is observed after tipping	1.Alert the operations manager of the situation. 2.Segregate the bulky waste. 3.Return the bulky waste to the truck after tipping of the unacceptable material.

### **3 Site Plan**

The CRC Facility site layout and process flow was redesigned in 2019 to accommodate a proposed solar array across most of the existing northern commercial area, as well as to improve operations and to mitigate operations impacts to neighboring properties. The entire operation has been consolidated to 5.6 acres, from the original 18.7 acres. The Final Site Plan (and the Final BMP Plan) will be based on input from the Town's Zoning Board of Appeals (ZBA) as part of the modification to the Variance Request and upon input from the neighbors.

The Site Plan is attached as Appendix A and illustrates the following features that are discussed in the following BMP Plan sections.

- Site Buildings
- Brush Processing Area
  - Brush Drop-off Area
  - Brush/grindings Storage Area
- Loam Processing Area
  - Loam Stockpile Area
- Mulch processing Area
  - Mulch Storage Area
- Yard Waste Drop Off Area
- Old Work Boundary
- Proposed New Work Boundary
- Bin Storage (extended)
- New Fence Along Old Falmouth Road
- Solar Boundary Fence

## **4 Materials Processing**

### **4.1 Introduction**

This section describes the materials processing on the site for the following two categories:

- Brush Processing
- Yard Waste Processing

### **4.2 Brush Processing**

Brush processing consists of the following steps located within the storage and processing areas illustrated on Figure 1:

- Trucks drop off brush at the Brush Drop-off Area after tipping. This area is observed on a daily basis for unacceptable material.
- Material is ground once through a larger screen system in the initial CBI grinding. The ground material is then run twice through smaller finish grates to process the material into a consistent mulch product. Color is applied during the secondary grinding phase.
  - Mulch product is stockpiled in Mulch Storage Area.
- Mulch is moved to pick-up area as needed.

### **4.3 Yard Waste Processing**

Yard waste processing consists of the following steps located within storage and processing areas as illustrated on Figure 1.

- Yard waste is dropped off in Yard Waste Area (YWA) 1, which may switch sides depending on the annual storage cycle. Temporary roads are maintained to allow drop off in specific areas.
- Fresh lawn clippings in the summer months are covered with 3 inches of compost to prevent odors.
- The organic decomposition of the material encouraged through a variety of processes, including flipping, or aerating the piles on a weekly basis and by adding residual wood grindings and moisture to the grass and leaves, allowing for a much faster process.
- After composting, the compost is removed with a loader and screened at the Final Screening Area.
- Compost is stockpiled and moved to the Pick-up Area as needed.
- Tailings (rocks, sticks, etc.) are moved to the Tailing Storage Area and ultimately used for berm construction. There is a small storage area for tailing on site, and CRC has the ability to haul tailings off-site or re-process them on-site.

## **5 Equipment and Maintenance**

### **5.1 Introduction**

Equipment is on site for proper and efficient material processing. The site equipment and its uses are listed in table 2 below:

**Table 2: Equipment Inventory**

<b>Piece of Equipment</b>	<b>Stationary/Mobile</b>	<b>Use</b>
CAT D6 Bulldozer	Mobile	Stack and push brush piles to aid in decomposition of natural yard waste
DOPPSTADT Primary	Stationary/Mobile (1)	Shred brush
CBI Colorizer	Stationary/Mobile (1)	Size and color mulch
Screen	Stationary/Mobile (1)	Final screening of compost and loam
Water Truck	Mobile	Dust control
Excavator	Mobile (2)	Materials management/ machine loading
Loaders (2 to 3)	Mobile	Materials management/ machine loading

(1) These pieces of equipment can be relocated on the site within the designated area for their use.

## **5.2 Contingency Plan for Equipment Failure**

If equipment failure occurs, the General Manager will coordinate with the maintenance personnel to repair and/or replace the equipment.

## **5.3 Maintenance**

All equipment is inspected and maintained as recommended by the equipment manufacturer.

# **6 Accident Prevention and Safety**

## **6.1 Introduction**

This section provides information about accident prevention and safety at the facility.

## **6.2 Safety**

All employees will be trained to work safely. Operational procedures and training will be given to all employees who are involved with the operations at the CRC Facility. This training will identify proper operation techniques and identify hazards that individuals may encounter while working at the facility. Accident prevention and safety activities will consist of the following:

- Safety meetings
- Scenario response / emergency contingency
- Pre-employment training
- Ongoing training

The CRC Facility currently employs several individuals who are Occupational Safety and Health Administration (OSHA) 40-hour Hazardous Waste Operations and Emergency Response (HAZWHOPPER) trained and OSHA 10- hour certified. These trained personnel will maintain certification and attend annual refresher courses.

### **6.3 First-Aid**

A fully stocked site-appropriate first-aid kit is available at the office and maintenance garage for use in the event of an accident and to aid when responding to emergency medical situations.

- Eye wash stations in work areas.

### **6.4 Communication**

The phone numbers for emergency response agencies will be posted in the immediate vicinity of all the telephones located throughout the CRC Facility. Also, two-way radios are provided to site personnel.

## **7 Odor, Dust, Noise, and Litter Control**

### **7.1 Introduction**

The purpose of this section is to establish procedures for assessing, identifying, and controlling odors, dust, noise, and litter (i.e. nuisances) that may emanate from the CRC Facility.

### **7.2 Assessment and Inspections**

Site personnel inspect the CRC Facility daily. If nuisance conditions are noted during the inspection, personnel will take action to rectify the nuisance and complete an "inspection form" that identifies the following:

- Location where odors, dust, noise, and/or litter were noted (or other nuisance conditions)
- Direction of the prevailing wind and weather conditions
- Corrective actions needed (i.e., compost application, excavation, water, pick up litter, etc.)
- Name of the inspector
- Time and date of the inspection

### **7.3 Equipment On-site**

The following on-site equipment will be made available to address nuisance conditions generated by the CRC Facility:

- Loaders
- Excavators
- Trucks
- Hand tools
- Other necessary equipment (e.g. - pumps, retainers, etc.)

### **7.4 Odor Control**

Since odors are usually associated with the biological breakdown of yard waste, an adequate amount of odor control materials shall be maintained on-site at all times. In addition to operational procedures, this odor control material shall consist of the following:

- Compost: for covering potential odor sources

- Water: for suppressing odor generation

### **7.5 Dust Control**

Dust is usually generated from windy conditions, operation of machinery, and movement of material. Site personnel will utilize the following when a nuisance condition associated with dust occurs:

- Water application with the water truck

### **7.6 Corrective Action Procedures for Odor and Dust**

Table 3 defines the procedures for addressing nuisance conditions at the CRC Facility.

**Table 3: Procedures for Addressing Nuisance Conditions**

<b>If inspection identifies...</b>	<b>Then CRC Facility personnel will...</b>
Odors and/or dust on a windy day during operations	Apply water or stop processing until the wind has subsided or the odors and/or dust have been properly controlled.
Odors and/or dust on a hot day during operations	Apply water or stop processing until the weather conditions do not promote nuisance conditions.
Odors and/or dust are being promoted due to operations	Apply compost, and/or a water mist to control the odor and/or dust.
Odors and/or dust that are emanating from newly excavated areas	Cover the excavated areas in between processing periods to alleviate prolonged odor conditions.
Odors and/or dust due to a fire situation	Control the fire situation as quickly as possible (see Fire Protection and Control section).
Odors are evident from yard waste composting area	Cover fresh clippings and/or other odorous material with finished compost material as carbon source and cover

### **7.7 Off-site Disposal**

If materials are identified on-site that pose a substantial nuisance problem that cannot be managed with the corrective actions listed in Table 3, the actions in Table 4 will take place:

**Table 4: Nuisance Corrective Actions**

<b>Step</b>	<b>Action</b>
1	Identify the material that is causing the odor.
2	Cover or contain the material and its odor until it can be loaded for off-site disposal.
3	Load the material into a transport vehicle for disposal.
4	Dispose of the material at a licensed facility.

### **7.8 Noise Control Protocols**

The CRC Facility incorporates the necessary steps to prevent off-site nuisance noise conditions from occurring. The protocols in Table 5 are followed when necessary:

**Table 5: Noise Corrective Actions**

Step	Action
1	Process brush in low-lying areas when possible.
2	Process between the hours of 7:00 AM and 4:00 PM.
3	Position processing equipment to minimize noise transmission to the neighbors.
4	Be responsive to neighbors' complaints.
5	Employ the use of multi-frequency back-up alarms on all mobile equipment.

## 7.9 Litter Control

Since the CRC Facility accepts only brush and yard waste, the CRC Facility does not anticipate a nuisance litter condition. However, should a nuisance litter condition be identified through site investigations and daily operations, site personnel will pick up the litter and dispose of it properly.

## 7.10 Good Neighbor Policy

The CRC Facility has implemented a "good neighbor" policy when assessing and addressing potential nuisance conditions. The CRC Facility is committed to:

- Addressing nuisance conditions in a timely fashion
- Inspecting the facility and operations (previous or on-going) after any complaint
- Halting activities that may promote nuisance conditions
- Implementing the necessary corrective actions
- Responding to all neighbor complaints

# 8 Stormwater Control

## 8.1 Introduction

The following section provides information relative to stormwater controls at the CRC Facility. A comprehensive stormwater report was developed for the entirety of the site in June 2019 as part of the proposed solar development approved by the Cape Cod Commission. A copy of the approved stormwater report is included in Appendix B.

## 8.2 Definition

Stormwater controls will be implemented to prevent erosion, flooding, and the discharge of pollutants.

## 8.3 Stormwater Control

The site contains deposition and reclamation areas that are graded so that stormwater is directed toward existing stormwater detention and infiltration basins. It should be noted that this facility has not placed nor created impermeable surfaces, therefore high-volume stormwater runoff does not occur. In addition to operational procedures, stormwater controls at the CRC Facility consist of:

- Grading
- Infiltration basins

- Detention pond
- Channels and ditches

## **8.4 Corrective Actions**

The following corrective actions in Table 6 take place at the CRC Facility as necessary.

**Table 6: Stormwater Corrective Actions**

<b>If</b>	<b>Then</b>
Siltation becomes apparent within the stormwater control areas	<ol style="list-style-type: none"><li>1. Measures will be taken to slow down the stormwater flow.</li><li>2. Measures shall include creating additional channels, regrading, and/or diffusing the stormwater flow.</li></ol>
Major erosion is observed	The eroded areas will be backfilled, and a silt fence placed to prevent further erosion.
Flooding should occur	<ol style="list-style-type: none"><li>1. Efforts will be made to correct the flooding situation.</li><li>2. Efforts will include pumping, creating channels to alternate areas, and excavation.</li></ol>

## **9 Facility Access, Security, and Posting**

### **9.1 Introduction**

The following section provides information about facility access, security, and posting.

### **9.2 Access, Gates & Security**

The CRC Facility has a gate installed at the driveway entrance. The facility gate is locked during off-hours and if no qualified attendant is available. Facility personnel inspect the site daily for security purposes to ensure that unauthorized access is not easily gained.

### **9.3 Posting**

The CRC Facility requires all clients to become familiar with the delivery procedures and operational hours. Therefore, signs have been posted at the facility entrance with the following information:

- Name of the owner and operator of the facility
- 24-Hour emergency contact number for the facility
- Operational hours

## **10 Fire Protection and Control**

### **10.1 Introduction**

The purpose of this section is to outline procedures for assessing, identifying, controlling, and reporting fires at the CRC Facility.



### 10.2 Assessment and Inspections

The CRC Facility is inspected daily. If a fire is noted during an inspection, responsive actions will take place and an "inspection form" shall be completed and shall identify the following:

- Location of fire
- Size of the area (small, medium, large, etc.)
- Corrective action needed (i.e., excavation of hot spot, water, etc.)
- Name of the inspector
- Time and date of the inspection

### 10.3 Equipment On-site

The following equipment is available to address any on-site fire conditions:

- Loaders
- Excavators
- Trucks
- Water pumps
- Fire hose
- Fire hydrant
- Hand tools
- Other necessary equipment (e.g. protective clothing, respirators, etc.)

### 10.4 Water Sources

On-site water sources consist of the following:

- Fire hydrant along Old Falmouth Road
- Municipal water service
- One private well

### 10.5 Fire Protocol

The following table defines the protocols for addressing fire situations at the CRC Facility.

**Table 7: Fire Protocol**

If visual inspection identifies...	Then CRC Facility personnel will...
A smoke plume from one area of buried yard or waste	Fill the opening where smoke is emanating with water to suffocate the fire through oxygen deprivation.
Fire and/or flame from an area of the site	Spray with water. Utilize equipment to excavate and expose hot spots (burning wood) and place copious amounts of water directly on the burning wood until the fire is extinguished.
A fire that cannot be controlled by on-site water sources and equipment	Call the Centerville-Osterville-Marstons Mills (COMM) Fire Department to assist in putting out the fire.

## **10.6 Health & Safety**

All site employees shall take reasonable precautions when attempting fire response actions. If on-site conditions appear dangerous and corrective actions do not appear to be controlling the situation, the CRC Facility shall notify the Centerville-Osterville-Marstons Mills (COMM) Fire Department immediately and request assistance.

## **10.7 Open Burning**

Open burning is not conducted at the CRC Facility.

# **11 Operational Records**

## **11.1 Introduction**

The following section provides information about operational records and reports at the CRC Facility.

## **11.2 Daily Tracking**

Daily logs are maintained at the CRC Facility and serve to track:

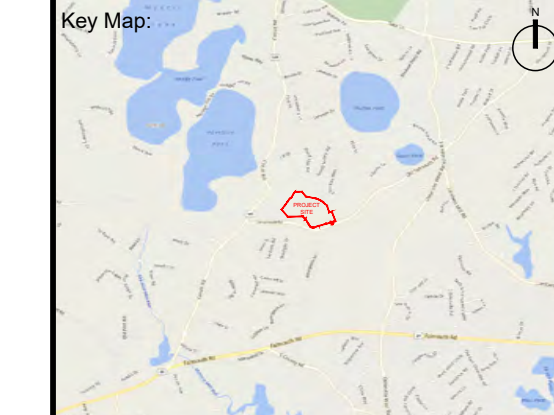
- The amounts of incoming and outgoing materials (mass and/or volumes)
- Proper records for reporting purposes including:
  - Maintenance
  - Equipment logs
  - Complaints
  - Rejected loads
  - Site supplies
  - Etc.
- Specific reporting protocols and procedures
  - Inspections
  - Process data
  - Nuisance issues
  - Etc.



- NOTES:**
- SIGNAGE IS LIMITED TO EMERGENCY CONTACT INFORMATION LOCATED ON EACH ENTRY GATE
  - ALL SIGNAGE SHALL CONFORM WITH LOCAL SIGNAGE REGULATIONS
  - LIGHTING LIMITED TO ONE POLE MOUNTED SECURITY LIGHT AT EACH EQUIPMENT PAD
  - LIGHTING SHALL BE MOTION ACTIVATED AND CONTROLLED BY A FULL CUT-OFF SWITCH INSTALLED WITHIN THE ELECTRICAL EQUIPMENT PERIMETER FENCE.
  - LIGHT DISTRIBUTION SHALL BE FULL CUTOFF
  - ALL LIGHTING SHALL CONFORM WITH LOCAL LIGHTING REGULATIONS
  - WESTERN TREELINE REDELINEATED BY SWCA ON JUNE 3, 2019.

Prepared by:  
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Prepared for:  
 Cape Resources Company  
 (fka EAC Disposal, Inc.)  
 9289 Bonta Bridge Road  
 Jordan, New York 13080

Project Title:  
**CAPE RESOURCES COMPANY  
 280 OLD FALMOUTH ROAD  
 MARSTONS MILLS, MA**  
 0 Old Falmouth Road  
 (Parcel # 100\_007)  
 280 Old Falmouth Road  
 (Parcel # 100\_008)

Zoning:  
 RF - Residential District  
 GP - Groundwater Protection Overlay District  
 GMSPOD - Ground Mounted Solar Photovoltaic Overlay District

Base information and stormwater calculations derived from the Old Falmouth Road, LLC Solar Development plan set approved by the Cape Cod Commission on June, 2019.

Sheet Title:  
**SOLAR ARRAY  
 AND CAPE ORGANICS  
 LAYOUT**

Date:	05-28-2020
Scale:	As Shown
Drawn by:	TS
Checked by:	MM
File #	50792.01

REVISIONS		
REVISION	DATE	BY

Sheet No:  
**1.0**

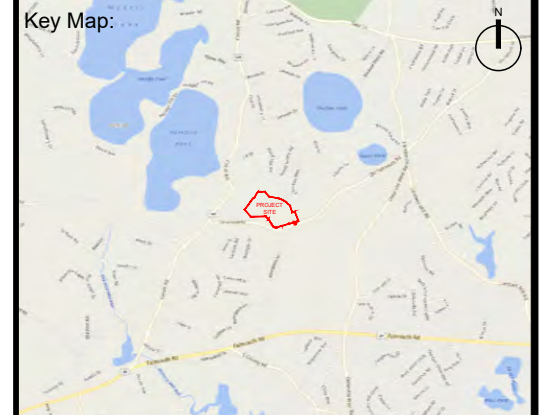


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Prepared for:  
 Cape Resources Company  
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Project Title:  
**CAPE RESOURCES COMPANY**  
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 0 Old Falmouth Road  
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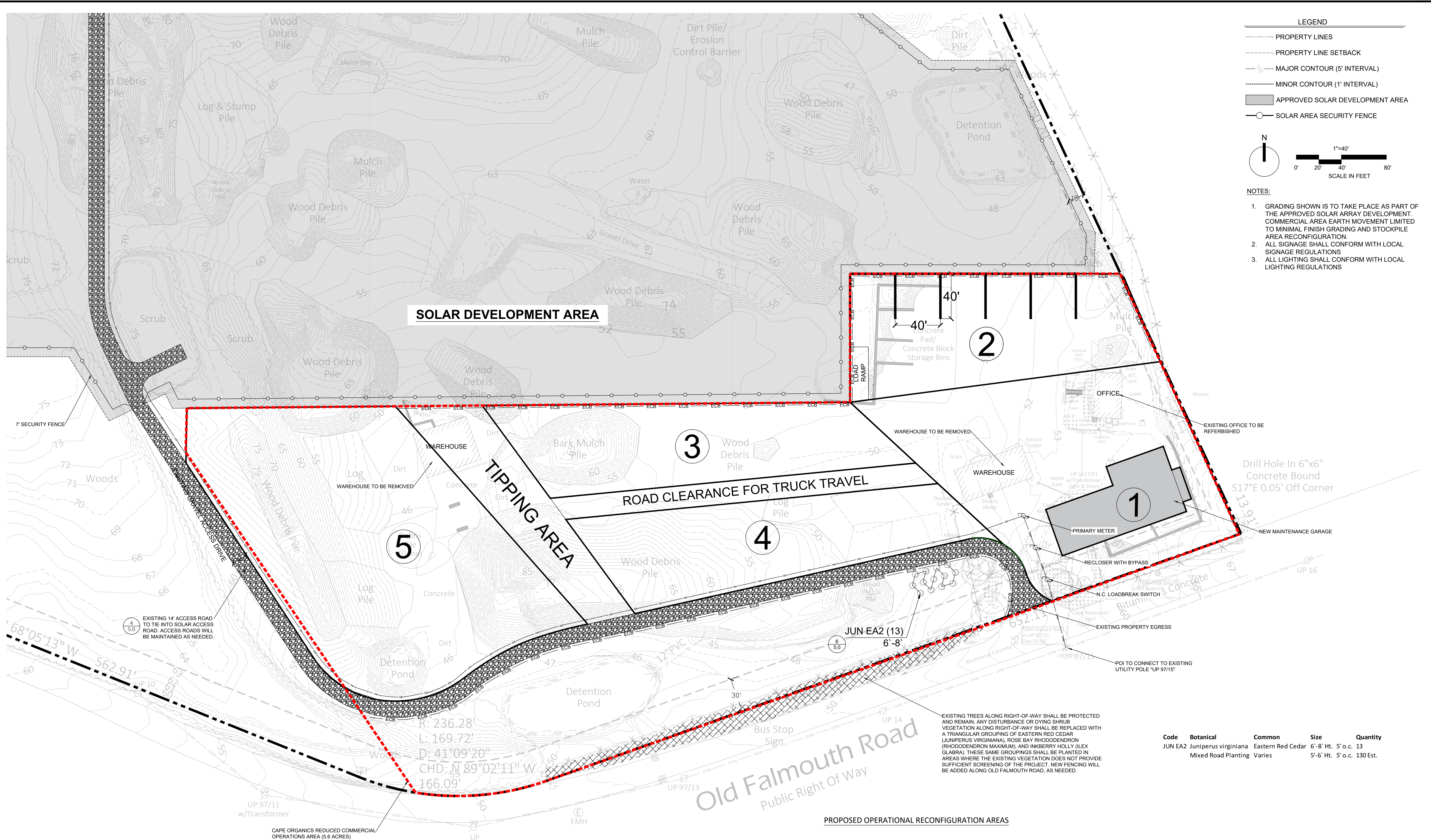
Base information and stormwater calculations derived from the Old Falmouth Road, LLC Solar Development plan set approved by the Cape Cod Commission on June, 2019.

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**SOLAR ARRAY AND CAPE ORGANICS LAYOUT**

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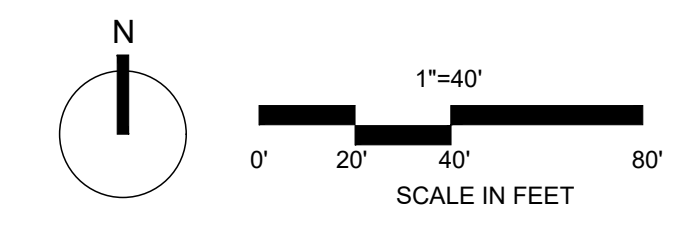
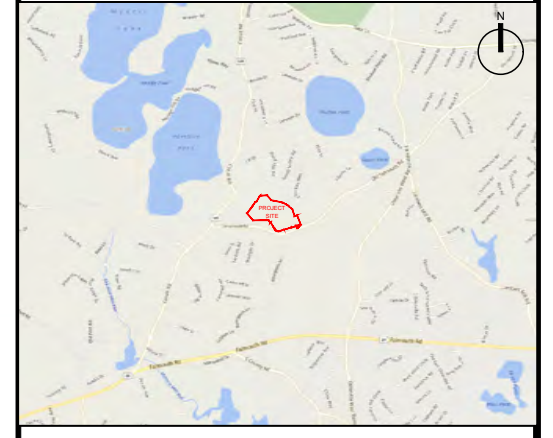
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**2.0**



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Prepared for:  
 Cape Resources Company  
 (fka EAC Disposal, Inc.)  
 9289 Bonta Bridge Road  
 Jordan, New York 13080



- NOTES:**
1. GRADING SHOWN IS TO TAKE PLACE AS PART OF THE APPROVED SOLAR ARRAY DEVELOPMENT. COMMERCIAL AREA EARTH MOVEMENT LIMITED TO MINIMAL FINISH GRADING AND STOCKPILE AREA RECONFIGURATION.
  2. ALL SIGNAGE SHALL CONFORM WITH LOCAL SIGNAGE REGULATIONS.
  3. ALL LIGHTING SHALL CONFORM WITH LOCAL LIGHTING REGULATIONS.

Project Title:  
 CAPE RESOURCES COMPANY  
 280 OLD FALMOUTH ROAD  
 MARSTONS MILLS, MA  
 0 Old Falmouth Road  
 (Parcel # 100\_007)  
 280 Old Falmouth Road  
 (Parcel # 100\_008)  
 Zoning:  
 RF - Residential District  
 GP - Groundwater Protection  
 Overlay District  
 GMSPOD - Ground Mounted Solar  
 Photovoltaic Overlay District  
 Base information and stormwater calculations  
 derived from the Old Falmouth Road, LLC Solar  
 Development plan set approved by the Cape  
 Cod Commission on June, 2019.

Sheet Title:  
**CAPE ORGANICS  
 DEVELOPMENT  
 LAYOUT**

Date:	05-28-2020
Scale:	As Shown
Drawn by:	TS
Checked by:	MM
File #	50792.01

REVISIONS		
REVISION	DATE	BY

Sheet No:  
**3.0**

**PROPOSED OPERATIONAL RECONFIGURATION AREAS**

1. This building will be a maintenance garage with combined parking in front for commercial traffic (between the garage and office building). The north side of the building will have a large high-clearance door to fit larger pieces of equipment. The northwest side will have one or two garage doors, serving as quick access or rental space. (51,500 sf, Garage 6,270 sf)
2. Area two contains concrete pads where mulch and soil products are kept for resale. Products are separated by concrete block forming bins. The end of the pad will be an area where residential customers can dispose of yard waste, keeping them safely away from commercial traffic and heavy equipment. (25,000 sf)
3. This area is where grass, leaves, and compostable products are dumped and unscrubbed loam is held. This area will likely be comprised of wind-rows that are consolidated neatly and kept separate based on the rate of decomposition. (23,100 sf)
4. Area four will be used to store brush, logs, and chips in separated piles. A wood grinder will also be placed in this area, out of the way of commercial traffic. (23,520 sf)
5. This area is where finished products and raw materials will be stockpiled. (55,580 sf)

Code	Botanical	Common	Size	Quantity
JUN EA2	Juniperus virginiana	Eastern Red Cedar	6'-8" Ht. 5'o.c.	13
	Mixed Road Planting	Varies	5'-6" Ht. 5'o.c.	130 Est.



**Town of Barnstable**  
Planning and Development Department  
Elizabeth Jenkins, Director  
Staff Report

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**Variance No. 2020-025 – EAC Organics, Inc**  
**Modify Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14**

To allow the Petitioner to modify existing Variance to maintain two principal uses on one lot

**Date:** August 25, 2020 **REVISED AUGUST 31, 2020**  
**To:** Zoning Board of Appeals  
**From:** Planning and Development Staff

**Petitioner** **EAC Organics, Inc d/b/a Cape Resources**  
**9289 Bonta Bridge Road, Jordan NY 13080**

**Property Address:** "0" and 280 Old Falmouth Road, Marstons Mills, MA  
**Assessor's Map/Parcel:** 100/007 and 100/008  
**Zoning:** Residence F (RF), Groundwater Protection Overlay (GP) and Ground-Mounted Solar Photovoltaic Overlay Districts

Filed: June 19, 2020

Hearing: August 12, 2020

Decision Due: September 27, 2020

### **Copy of Public Notice**

EAC Organics, Inc, d/b/a Cape Resources have petitioned for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at "0" Old Falmouth Road. The Petitioner seeks to reduce the area of the wood waste re-cycling operation. The subject properties are located at 280 Old Falmouth Road and "0" Old Falmouth Road, Marstons Mills , MA as shown on Assessors Map 100 as Parcel 008 and Map 100 as Parcel 007. Both lots are located in the Residence F (RF) Zoning District, Groundwater Protection (GP) and the Ground-Mounted Solar Photovoltaic Overlay Districts.

### **Background**

Cape Resources Company is one of the largest producers and suppliers of bark mulch and soil products for the Cape. The company operates by accepting landscape debris (brush, stumps, logs, leaves and grass clippings) from landscape contractors and individuals, and recycling that waste product into wood chips, bark mulches and screened compost and loam for reuse in landscape and garden applications.

The company operates from the 21.32-acre site located at 280 Old Falmouth Road in Marstons Mills. It is located on Old Falmouth Road between Route 149 and Flint Street and is situated across from the Town's Transfer Station property.

EAC Disposal, Inc., the parent company of Cape Resources, also owns the abutting 17-acre parcel to the west. To the east is an open space lot which is a part of the 18-acres of open space owned by the Holly Homeowner's Association. That land is a part of the 1986 subdivision that created the 26 lots on Chuckles Way (Subdivision No. 633). To the north is a larger, 1979 residential subdivision known as Fair Acres (Subdivision No 427). The 94 lots in that subdivision are roughly bounded by the site, Route 149, and Flint Road.

The entire area is zoned Residence F and permits only single-family use. However, some of the lots fronting on Old Falmouth Road, Flint Street and Osterville-Barnstable Road are being used for non-residential purposes either as pre-existing nonconforming uses or, as in this case, by use variances granted a number of years ago.

Section 240-44 Ground-Mounted Solar Photovoltaic Overlay District was approved in 2010 and its purpose was to promote the creation of new large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. The provisions of the Section apply to the construction, operation, and/or repair of large-scale, ground-mounted solar photovoltaic installations.

### History of Development

According to the information contained in the Zoning Board of Appeals files, the use of the property dates to 1973.

**1973:** On May 21, 1973, the Board of Selectmen issued a permit to Lebco Enterprises, Inc., for a 21-plus-acre lot fronting on Old Falmouth Road (Map 100, parcel 008). That permit authorized the use of the property to operate a sand and gravel removal pit and a wood and stump dump. That permit was issued under the “Removal of Soil, Sand and Gravel and the Sand Pits” bylaw of that time (Article XIII of Chapter III). The permit was not issued under the Zoning Bylaws of the Town (then Article III of Chapter III).<sup>1</sup>

**1975:** That permit from the Selectman’s Office did not override zoning and on April 22, 1975, Lebco Enterprises, Inc., made application to the Zoning Board of Appeals for a variance to Section I - Use Regulations Residential Districts - to allow the sand & gravel and a wood & stump operation in a district that permitted only a detached one-family dwelling,<sup>2</sup> a use variance to the principal permitted uses in the then Residence D-2 Zoning District.

On August 28, 1975, the Zoning Board of Appeals issued use variance No. 1975-34 allowing for the removal of sand and gravel and re-filling of those areas with wood and stumps. The variance was subject to several conditions that included a time limit on the operations, buffer areas, annual inspection and limited the excavation to 4-feet above groundwater. The approved plan for the site included an area 1,800 feet wide to be used for the wood and stump fill area, a 200-foot vegetated buffer along Old Falmouth Road, and a 35-foot landscaped buffer along the property edge to the east and northeast. The northern most triangular area of the lot was shown to be retained in its natural state.

**1978:** In 1978, Lebco Enterprises, Inc., made application to the Zoning Board to modify the use variance to allow for tires and demolition materials to be dumped at the site (Appeal No. 1978-24). On June 7, 1978, the Board issued its decision allowing the requested modification of use variance No. 1975-34.

**1994:** In June of 1994, two applications were made by Cape Resources, Inc., to the Zoning Board. Appeal No. 1994-62 appealed a Cease and Desist Order issued by the Building Commissioner against the retail sales of materials from the site, and Appeal No. 1994-63

<sup>1</sup> Article XIII, Chapter III at that time was the “Public Health, Safety, Welfare, Convenience and Good Order” bylaws of the Town.

<sup>2</sup> Note that this situation was found to also have existed with regards to the establishment and operation of the Gifford Brothers Sand & Gravel.

sought a modification of the use variance to allow for the retail sales of products produced both on and off site. In July of 1994, the Board issued its decisions on the appeals, upholding the Commissioner's cease and desist order on retail sales from the site and, at the request of the Applicant, granting a withdrawal without prejudice of the modification application. Both decisions were appealed.

Later in August of 1994, the Building Commissioner again issued a cease and desist order to Cape Resources citing not only the retail sales but also violation of the original use variance in terms of the operational area<sup>3</sup>, buffer zones, and retail sales. That cease and desist order was also appealed to the Zoning Board and on October 17, 1994, the Board upheld the decision of the Building Commissioner. Cape Resources again appealed that decision of the Board to Land Court.

**1995:** In May of 1995, the Building Commissioner issued:

- ) Another cease and desist order to Cape Resources Inc., for the retail sales from the site.
- ) A request to the Zoning Board of Appeals to rescind the original 1975 use variance and its 1978 modification, and :
- ) A request to the Town Manager seeking to initiate a restraining order to stop the activities at Cape Resources.

The Commissioner's request resulted in the Zoning Board agreeing to call for a "show cause" public hearing, on why the 1975 use variance and its 1978 modification should not be revoked. With regards to the cease and desist order issued by the Commissioner, Cape Resources again appealed that to the Zoning Board. On August 9, 1995, the Board issued its decisions, withdrawing the request to revoke the use variance and upheld the Building Commissioner's cease and desist order (Appeal 1995-77).

**1996:** In 1996, the Building Commissioner again cited Cape Resources with a Cease and Desist Order upon which the company again appealed that order to the Zoning Board (Appeal no. 1996-13). On a corresponding path, and after considerable input from Town and State agencies, a revised plan for the operation of the site was developed and submitted to the Zoning Board along with a request from EAC Disposal Inc, d/b/a Cape Resources Inc., to modify the original 1975 use variance and the 1978 modification (Appeal No. 1996-14). Upon the granting of that modification, on March 26, 1996, the appeal of the Building Commissioner was withdrawn.

In granting Appeal No. 1996-14 to modify the original use variance No. 1975-34 and its 1978-24 modification, the Board imposed 29 conditions and in doing so replaced all of the prior variances issued to the property.

**2008:** On October 22, 2008, Peter and Rose Kohler, who reside at 150 Chuckles Way, Marstons Mills, MA, appealed the Building Commissioner's September 22, 2008 determination that no enforcement action was needed with respect to the activities being carried on by Cape Resources. On November 4, 2009 the Board found to uphold the Building Commissioner (Appeal No. 2009-004).

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<sup>3</sup> At this time, the operation also received a Notice of Non-compliance from the Department of Environmental Protection (DEP) due to the extent of the operations being conducted on the site.



- 2009:** June 12, 2009, Peter and Rose Kohler appealed the May 15, 2009 Building Commissioner’s response concerning delivery of mulch to Cape Resources. On July 8, 2009, the Board ruled to uphold the decision of the Building Commissioner that the delivery of the mulch was not in violation of Condition 5 of the use variance (Appeal No. 2009-040).
- 2010:** January Site Plan Review to review site plan prior to Zoning Board of Appeals. Appeals Court case dismissal February 18, 2010. Zoning Board of Appeals March 24, 2020 Variance No. 2009-025 for a modification of Variance No. 1996-14 to allow for revisions to the site that include new wood processor and staging area, alteration to interior site circulation and additions and alterations to screening berms and landscape. Public Meeting held on December 15, 2010.
- 2011:** ZBA hearings held on July 27, 2011 and on December 14, 2011.
- 2012:** EAC filed a complaint with Superior Court (ZBA 2009-025) objecting to certain conditions in 2009-025 Decision.
- 2016:** DRI Scoping Session November 10, 2016 that determined no further DRI review is needed for the proposed solar installation.
- 2017:** Site Plan Review No. 44-16 approved January 5, 2017 for proposed solar facility and associated improvements.
- 2019:** Site Plan Review No. 31-19 for a renewable 20 year lease with SunRise Development LLC, a ground mounted solar array operation, was approved June 28, 2019.
- 2020:** Site Plan Review No. 78-19 for a second principal use (solar array) and reduction of the Cape Resources use and demolish the existing structures, except the office, and construct a maintenance facility.

### **Proposal & Relief Requested**

EAC Organics, Inc, d/b/a Cape Resources have petitioned for a Modification to Variance No. 2009-025 pursuant to M.G.L. Chapter 40A Section 14 in order to enter into a long term lease with a solar company. The Petitioner seeks to modify the existing Variance to maintain two principal uses on site (the solar photovoltaic system and the wood waste recycling business, at 280 Old Falmouth Road, as well as enable the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road. The Petitioner seeks to reduce the area of the wood waste re-cycling operation.

The two overriding modifications that the Petitioner seeks are 1. Permission to maintain two principal uses, the solar photovoltaic system and the wood waste recycling business, on the property at 280 Old Falmouth Rd and 2. A modification of the variance conditions enabling the Petitioner to locate the proposed solar photovoltaic system at “0” Old Falmouth Road in the areas shown of the site plan submitted without the requirement of establishing and maintaining a 100 foot vegetated buffer along the westerly boundary line of the Cape Resources property at 280 Old Falmouth Road.

Two structures, including the current warehouse/maintenance building will be removed. The office building will remain. A new warehouse/maintenance building consisting of 3200 square feet will be constructed.

### **Staff Analysis**

Staff reviewed the proposed conditions provided by the Applicant, the prior decision, the Best Management Practices Plan, and other materials and provides the following comments on the suggested and proposed conditions:

Condition 1. Change 1996-14 to 2009-025, as modified by the Agreement for Judgement dated September 22, 2015.

Condition 2. Updated to reflect required compliance with Site Plan Review comments from 2020.

Condition 3. Updated date for compliance with decision AS REQUESTED BY APPLICANT

**Condition 4. The use variance authorizes the “retail sale to the general public of the by-products of the on-site recycling operation” but prohibits “retail sales of products not manufactured or recycled on the site, including aggregates and fire wood.” The Best Management Practices Plan submitted by the Applicant is in direct conflict with this condition. Section 1.2 states the facility “is also operated to sell the following products processed at other locations and transported to the site for public sale: loam...compost...mulch...aggregates...firewood... miscellaneous landscaping products.” The Applicant should address this discrepancy.**

Condition 5. Updated to allow for solar installation in addition to wood waste processing facility, REQUESTED BY APPLICANT, language modified by Town staff to make clear the permission for the use and approval of site plans are authorized independently from this decision.

Condition 6. Requirement for new as-built plan AS REQUESTED BY APPLICANT

Condition 9. Recommend update to include reference to condition 17

Condition 11. Updated reference to new Best Management Practices plan submitted with Application and include statement that use will comply with the BMP Plan.

Condition 13. Updated to describe work limit boundary, REQUESTED BY APPLICANT, language modified by Town Staff

**Condition 14. The applicant is proposing to erect a fence on the upper limit of the area of work. The previous decision required concrete bounds to be set to ensure the limit of work was delineated on the ground. *The Applicant addressed concerns about placement of bounds at the prior hearing and staff recommends this condition as requested by the applicant.***

**Condition No. 16. Town staff recommends updating this condition to limit yard waste piles to the defined area for the wood waste recycling use.**

**Condition No. 17. AS REQUESTED BY APPLICANT, updated to reflect new site configuration. Town staff recommends submission of landscape plan for final review and approval of landscape screening and fencing.**

Condition 18. Condition 18 of the previous variance has been fulfilled.

**Condition 20. The current decision requires the access road to be paved with asphalt. The condition proposed by the applicant requests: “The access drive shall be composed of material suitable to support a fire or other emergency vehicle.” Town staff does not recommend the language proposed and suggests the material be required to be asphalt, or, another material as approved by the Site Plan Review Committee and Centerville Osterville Marstons Mills Fire Department.**

Condition No. 22: Updated AS REQUESTED BY APPLICANT. This condition requires berm and vegetation to remain.

Condition No. 23: Updated AS REQUESTED BY APPLICANT. This condition requires fencing to remain as currently installed.

Condition No. 24: Updated AS REQUESTED BY APPLICANT. Staff suggests the applicant address why the landscaping requirement along Old Falmouth Road (“the southern perimeter of the site”) has been eliminated and suggests it continue to be included.

**Condition No. 25: Updated as REQUESTED BY APPLICANT and provided for in the Settlement Agreement. The Board may want to request additional information on wood waste storage from applicant.**

**Condition No. 39: Conditions Nos. 36 through 39 provide for monitoring odor from the site. As stated in the Applicant’s BMP plan acknowledges that “odors are usually associated with the biological breakdown of yard waste.”**

The applicant has requested modification of Condition 39, which details locations for odor monitoring. The suggested condition reads:

“In the event that an odor is detected off site, then the Applicant shall eliminate or contain on site such odor in accordance with its best management practices.”

The applicant may want to address how modified site operations may impact the potential for odor.

It is unclear if the Applicant is asking for modification of all conditions (36-39) pertaining to odor monitoring, or only condition 39, which references location for odor monitoring.

The Best Management Practices document provided does not indicate that any odor monitoring will take place, but instead states that an “adequate amount” of compost and water will be kept on site to control odors.

Condition No. 43: Updated to define new locations for noise monitoring AS REQUESTED BY APPLICANT

Condition No. 44: Town Staff recommends updating condition to reflect proposed changes to monitoring locations.

Conditions 54 & 55: Standard conditions of variance added.

### **Suggested Variance Findings**

1. In Appeal 2020-025, EAC Organics, Inc. d/b/a Cape Resources Company (“Applicant”) seeks a modification of Variance 2009-025 to make changes to the yard waste recycling facility (“Facility”) at 280 Old Falmouth Road in Marstons Mills, as shown on Assessor’s Map 100 as Parcel 008 (“Property”). The Applicant seeks to modify the existing Variance to maintain two principal uses on site: a solar photovoltaic system and the wood waste recycling business.
2. The Property consists of 21.32 acres located in a Residence F District, Resource Protection Overlay District, and the Groundwater Protection Overlay District. The only principal permitted use in the RF District is single-family residential dwellings.
3. The Facility site layout and process flow was redesigned to accommodate a proposed solar array across the northern portion of the site, as well as to improve operations and to mitigate operational impacts to neighboring properties. The entire operation will be consolidated to 5.6 acres, from the original 18.7 acres.
4. The yard waste recycling operation is authorized Variance 2009-025 and an associated Settlement Agreement dated September 22, 2015, which modified and superseded Variance No. 1996-14, Variance Nos. 1975-34 and 1978-24.
5. The Applicant submitted a Best Management Practices Plan entitled “Cape Resources Company Best Management Practices (BMP) Plan” (draft), dated January 2011, prepared by GHD for Applicant (hereinafter “Best Management Practices Plan”), and a plan entitled “Best Management Practices Plan Conceptual Site Plan” prepared by BSC Group for the Applicant, dated January 17, 2011 (hereinafter “Conceptual Site Plan”) to illustrate potential site, development, and operational changes to the Property.
6. The Applicant has proposed to reconfigure the Facility into five (5) operational areas: a maintenance garage, area for resale of mulch and soil products and for residential disposal of yard waste; area for holding compostable products; areas for the storage of brush and associated materials and for processing (grinding) wood products; and an area where “finished products and raw materials” will be stockpiled.
7. Conditions of Variance 2009-025 were informed by testimony provided by abutters regarding the impacts of noise, dust, and odors generated by the yard waste recycling operation and recommended by an outside consultant, SCS Engineers and by a November 22, 2011 report from Stantec Corporation, based on Guidance Documents issued by the Massachusetts Department of Environmental Protection (Mass DEP) for Leaf and Yard Waste Composting, Grass Composting, and Utilization of Shredded Brush, and OSHA standards, along with the location and character of the subject facility. The recommendations were intended to limit negative environmental impacts from the operation and prevent nuisance conditions for the protection of adjacent residential property owners and continued to be recommended.
8. The changes proposed to the site require Site Plan Review in accordance with Article IX of the Zoning Code. The Site Review Committee reviewed the proposed plans and found them to be approvable on March 5, 2020, subject to modification of the variance conditions by the Zoning Board of Appeals. Additional review of outstanding comments in the March 5, 2020 Site Plan letter and the conditions of this decision shall be required by the Site Plan Review Committee.
9. The Best Management Practices Plan provided by the Applicant continues to indicate that the processors (DOPPSTADT Primary Processor), which were said operate at a significantly lower sound level than older equipment will continue to be used on the site.
10. The height of shredded brush piles continues to pose a public safety concern, based on information from the Massachusetts Department of Environmental Protection that there have been several reports of spontaneous combustion in shredded brush piles over ten feet in height.

11. In fulfillment of Condition No. 10 of Variance No. 1996-14, a declaration of restrictions and covenants was recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document No. 703891-1, which requires the Applicant to establish a 100 foot vegetated buffer along the western property line of the Property if property within 100 feet to the west is sold, conveyed, or improved. This condition remains binding on the Applicant.
12. The proposed modifications may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

### **Suggested Variance Conditions**

1. In the event that this decision becomes final under operation of law, the findings and conditions of this variance modification shall supersede all prior findings and conditions issued by the Zoning Board of Appeals with respect to the Property. In the event that this decision does not become final for any reason Variance No. 2009-025, as modified by the Settlement Agreement dated September 22, 2015 shall remain in full force and effect.

### Required Plans

2. The following plans shall be submitted to the Building Commissioner and Site Plan Review Committee for review and approval of safe access for fire-fighting and emergency rescue vehicles within the site; safety of vehicular movement within the site and in relation to adjacent streets; and satisfactory methods for drainage of surface water to and from the site:
  - a. An Existing Conditions Plan (as of the date of approval of this variance) signed and stamped by a Professional Land Surveyor, depicting two (2) foot contours,
  - b. Final Site Plan, as required by Condition 7.
  - c. Electronic Final Site Plan, as required by Condition 8.
  - d. Landscape Plan, as required by Condition 9.
  - e. Water supply, fire protection, and emergency access plan, as required by Condition 10.
  - f. Final Best Management Practices Plan, as required by Condition 11.

The Applicant shall submit updated plans for review and approval as may be made necessary by the requirement to conform with the performance standards contained in this decision and the comments in the Formal Site Plan review letter dated March 9, 2020.

3. Operations at this Property shall be subject to all performance standards contained in this Decision on December 31, 2020 or such later date that this decision becomes final.

### Use

4. This variance shall allow the following uses on the Property, in accordance with all conditions herein.
  - a. Accepting brush and yard waste material, including stumps, brush, logs, grass, and leaves to be processed and recycled into landscape products including mulch, compost, loam, and wood chips.
  - b. The retail sale to the general public of the by-products of the on-site recycling operation, including the sale of mulch, loam, compost, and wood chips.

- c. In connection with the sale of mulch by-products, off-site bark or mulch materials may be imported to the site for mixing and blending only with on-site by-products to produce a final mixed mulch product for sale.

Any and all other uses are expressly prohibited on the Property, including, and without limitation the following:

- a. Permanent on-site disposal of any product, including wood waste and yard waste.
  - b. Retail sales of products not manufactured or recycled on the site, including aggregates and fire wood.
  - c. The receipt, storage, or permanent disposal of solid waste, special waste, banned or restricted waste, hazardous waste and bulky waste as defined by the Massachusetts Department of Environmental Protection (“Mass DEP”).
  - d. The receipt, storage, or permanent disposal of construction debris, food waste, animal waste, or animal by-products.
  - e. Any additional uses prohibited within the Groundwater Protection Overlay District
5. In addition to the uses allowed by this Variance as provided for by Condition No. 4 herein, the construction and operation of a large scale ground-mounted solar photovoltaic installation as allowed by the Ground Mounted Solar Photovoltaic Overlay District, and subject to separate approvals independent from this decision, shall be permitted in in the locations and in the configurations established by the plan referenced in Condition 2 herein.

No other by- right principal or accessory use or conditional uses on the Property shall be permitted without further approval from the Board to prevent undue intensification of the operation on this site. While the rights authorized by this Variance are being exercised, any other uses permitted by the underlying zoning are prohibited on the Property. The ground-mounted solar photovoltaic construction and operation may be extended to the adjoining property located at 0 Old Falmouth Road, Assessor’s Map 100 Parcel 007 as shown on the Conceptual Site Plan.

#### Required Plans

6. The Applicant shall submit an as-built plan, prepared by a Professional Land Surveyor, showing the location of all improvements on the property by **December 31, 2020**. The as-built plan shall be submitted to the Building Commissioner and to the Director of the Growth Management Department. The plan shall also be submitted in electronic format (AutoCad .dwg (R14), AutoCad .dxf, or Microstation .dgn, or equivalent).
7. A final engineered site plan (“Final Site Plan”) shall be prepared for review and approval by the Site Plan Review Committee as required by Condition 2. That plan shall be consistent with the conditions imposed in this decision and all requirements of the Site Plan Review Committee.
8. The Applicant shall submit a copy of the approved Final Site Plan in electronic format to the Building Commissioner and Zoning Board of Appeals.
9. The Applicant shall submit a landscape plan, signed and sealed by a Massachusetts registered landscape architect, to the Site Plan Review Committee for review and approval. The landscape plan shall show all of the landscape improvements required **by Conditions 17 & 24** herein.
10. The Applicant shall submit a water supply and fire protection plan to the COMM Fire District for review and approval. The plan shall contain information as required by the COMM Fire District.

Final plans and specifications for the emergency access road shall be submitted for review and approval to the Site Plan Review Committee and COMM Fire Department.

11. **The Applicant shall submit a final “Best Management Practices Plan prepared for Cape Resources Company” prepared by SWCA Environmental Consultants dated February 2020 to the Building Commissioner and Planning & Development Department. The use shall comply with the Best Management Practices Plan and all conditions of this decision.**

Site and Operations

12. The Property shall be improved and the authorized uses shall be operated in compliance with approved plans as listed in Condition 2 and with the terms of this decision.
13. All operations related to the wood waste recycling facility on the Property shall occur within the area of the Property designated for use by Cape Resources Company within the red outlined area shown on the Conceptual Site Plan and to be shown on the Final Site Plan. Said red outlined area is hereinafter called "the CRC Area." No materials, equipment, machinery, or vehicles related to the operation of the wood waste recycling facility shall be operated, located or stored in areas other than the CRC Area on a temporary or permanent basis. Vehicles or equipment may be permitted to operate north of the CRC Area for the purpose of maintaining or repairing the site or in the event of an emergency.
14. The Applicant or the Solar Development operator shall erect and maintain a fence on the northern boundary of the CRC Area.
15. All processing operations, including but not limited to brush prescreening, brush shredding, mulch chipping, and compost screening, and operation of colorization equipment shall take place within the area designed for processing on the Final Site Plan. No processing shall occur outside of the limits of this area. Processing equipment shall not be moved outside of this area.
16. Yard waste piles shall be located only within the CRC area as defined herein and shown on the plans referenced in Condition No. 2.
17. Existing trees along the right-of-way of Old Falmouth Road shall be protected and remain. Any disturbed or dying shrub vegetation along the right-of-way shall be replaced with a triangular grouping of deciduous trees and vegetation that will provide year-round screening. Such groupings shall be planted in areas where the existing vegetation does not provide sufficient screening of the site. New fencing will be added along Old Falmouth Road as needed.

The fence along the easterly lot line of the CRC Area shall be maintained.

A vegetated buffer shall be established along the western property line of the CRC Area if property to within 100 feet to the westerly lot line of the CRC area is sold, conveyed, or improved, except for the proposed solar photovoltaic array in accordance with the Declaration of Restrictions and Covenants recorded at the Barnstable County Registry of Deeds on September 8, 1997 as Document #703891 - I .

A landscape plan depicting these requirements shall be submitted to the Site Plan Review Committee for review and approval as required by Condition No. 9 herein

18. [Intentionally blank]

19. The perimeter emergency access road shall be developed and maintained to a standard suitable to support fire department equipment during all seasons. The access roadway shall be elevated as required by the Site Plan Review Committee and the COMM Fire District.

20. The access drive shall be paved with asphalt, or shall be another material as approved by the Site Plan Review Committee and Centerville Osterville Marstons Mills Fire Department. The road shall be kept clear of dirt and debris at all times.
21. Tailings (rocks, sticks, etc.) shall not be permanently stored on the Property.
22. The berm on the northern portion of the Property shall be maintained in its current length and height. Any existing vegetation on the berm that has died or is unstable shall be replaced with new vegetation.
23. The twelve (12) foot high wood stockade fence installed along the eastern property line of the CRC Area shall be maintained. The eight (8) foot high wood stockade fence installed along the southern property line shall be maintained.
24. The easterly, southerly, and westerly lot lines of the CRC Area shall be landscaped as provided in Condition # 17 above. The perimeter area adjacent to the detention pond within the CRC Area shall be loamed and seeded. The southern perimeter of the site in front of the proposed stockade fence shall be landscaped with trees and shrubs.
25. The height of the materials within the yard waste areas shall not exceed thirty -five (35) feet. Piles of shredded brush shall not exceed twenty (20) feet in height. Height measurements shall be taken from the elevation above sea level to be shown on the Final Site Plan.  
  
In the event that the Applicant discovers any construction and demolition material buried on the site, then the Applicant at its sole cost and expense shall immediately remove all such material and shall restore the area affected.  
  
In the event that any fire occurs on the Property resulting from spontaneous combustion of materials stored on the Property or from any negligent act of the Applicant, then such fire shall be considered a nuisance for which the Town of Barnstable may take appropriate legal action for damages or equitable action for injunctive relief sought through an action filed in the Barnstable Superior Court. The Town may also pursue all remedies available to town officers and agencies including, without limitation the Board of Health and the Zoning Board of Appeals. This condition shall run with the land and shall bind all successors in interest to it.
26. The permitted hours of operation shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Saturday, except no grinding shall take place until after 7:30 a.m. On Saturdays, grinding and screening shall only take place between 10:00 a.m. and 2:00 p.m. Sunday hours of operation are prohibited. The facility shall be closed on the following legal holidays: New Year's Day, July Fourth, Labor Day, Thanksgiving, and Christmas. On Memorial Day, the site may be open, but grinding, screening, and use of colorization equipment is prohibited.
27. There shall be an attendant on the premises at all times that the facility is open who shall inspect the contents of any and all vehicles for the purpose of ensuring that the materials to be deposited are limited to materials permitted by this variance.
28. The facility shall maintain a gate at its main entrance. When the facility is closed, the gate at the facility shall be closed and secured. The gate and its operation shall be reviewed and approved by the COMM Fire District.

#### Inspections

29. All operations on the Property shall at all times be in compliance with all applicable federal, state, regional, and local regulations, as well as the conditions of this variance. All operations on this site shall be in conformance with any Administrative Consent Order issued by the



Commonwealth of Massachusetts Executive Office of Environmental Affairs Department of Environmental Protection (or any successor agency carrying on its functions) for the Property.

#### Monitoring – Dust

30. Limit: Airborne dust generated at the Facility shall not exceed 1,500 micrograms per cubic meter (1.5 milligrams per cubic meter) at the Property boundary.
31. Monitoring Methodology: Trained facility staff shall take dust readings using a portable electronic dust monitor such as Thermo Scientific personal DATARAM pDR 1000AN or equal. Readings shall be taken for fifteen (15) minutes and the averaged reading recorded. In addition to the readings, notations shall be made on the level of activity on activity on site and listing of the equipment in operation during the reading.
32. Monitoring Frequency: Dust readings shall be taken a minimum of twice per day (once in the morning and once in the afternoon) during dry weather. Additional readings shall be taken when complaints are received and as may be directed by the Town of Barnstable Building Commissioner.
33. Monitoring Location: Readings shall be taken along the downwind property boundary.
34. Reporting: Records of the readings shall be kept on file at the facility and shall be available for public inspection during regular business hours. The records shall be maintained for a period of seven years. In addition, each month a copy of the readings for that month shall be submitted electronically to the Town of Barnstable Building Commissioner and to the Director of the Town's Growth Management Department in an electronic format.
35. Mitigation: Dust mitigation measures shall include, but are not limited to, regular wetting of the traffic surfaces throughout the Facility. These surfaces include, but are not limited to, areas of public access, all tipping areas, areas around the grinder and screens and any areas where equipment is operating. Water shall be sprayed on piles before movement begins and as needed during their movement.

#### Monitoring – Odor

36. Limit: Odor from the Facility shall not exceed 30 dilutions to threshold (D/T) at the Property boundary as measured with a handheld field olfactometer.
37. Monitoring Methodology: Odor measurements shall be taken using a handheld field olfactometer (Nasal Ranger as manufactured by St Croix Sensory, or equivalent), by a member of the office staff at the facility. The staff member shall be trained in the use of the Nasal Ranger by someone with experience in its use.
38. Monitoring Frequency: Measurements shall be made at least once per week under the following conditions:
  - a. The measurements shall be taken when the staff member first arrives on site before doing any other activity. This is done to prevent them from becoming desensitized to the ambient conditions.
  - b. There will be no rain or other precipitation during the test.
  - c. Each reading shall be recorded, along with the air temperature, wind speed and direction as well as notations on activity at the site including the equipment in operation.

Additional readings shall be taken whenever a complaint is received or as directed by the Town of Barnstable Building Commissioner.

39. ~~Monitoring Location: At a minimum, odor measurements shall be taken at the locations indicated in Figure 1. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner. The locations shown in the illustration below shall be shown on the Final Site Plan using latitude and longitude to identify these sampling locations. {FIGURE 1}~~

In the event that an odor is detected off site, then the Applicant shall eliminate or contain on site such odor in accordance with its best management practices.

40. Reporting: Records of the readings shall be kept on file at the facility and shall be available for public inspection during regular business hours. The records shall be maintained for a period of seven years. In addition, each month a copy of the readings for that month shall be submitted electronically to the Town of Barnstable Building Commissioner and to the Director of the Town's Growth Management Department in an electronic format.
41. Mitigation: Odor mitigation measures shall include, but are not limited to the careful timing of turning of piles, daily blending of grass with ground wood waste and incorporation into the composting piles, regular pumping out of stormwater retention ponds and avoiding standing water puddles in process areas by regularly grading these areas.

#### Monitoring – Noise/Sound

42. Limit: Sound from the Facility shall be limited to ten (10) decibels above ambient sound levels at the Property boundary. Ambient sound levels shall be measured with no equipment in operation.
43. Monitoring Methodology: Sound level measurements shall be taken using a portable sound level meter (Casella 360IS Personal Sound Dosimeter or equal). Measurements shall be taken by an independent third party with experience in similar sound testing. Measurements shall be taken at each designated location for a minimum of five (5) minutes with readings recorded every ten (10) seconds for a minimum of thirty (30) readings under each of the following conditions:
- One grinder operating and normal operation of earthmoving equipment;
  - One grinder and the screen operating and normal operation of earth moving equipment;
  - Grinders, colorization equipment and screening equipment operating and normal operation of earth moving equipment;
  - All grinding, shredding, colorization, screening equipment and earth moving equipment turned off.

The thirty (30) readings at each designated location and for each condition shall be averaged for comparison. Readings shall be re-recorded if there are extraneous sounds by the sampler or others such as conversation.

44. Monitoring Location: At a minimum, measurements shall be regularly taken at the locations to be shown on the Final Site Plan as established by the Applicant's engineer. Monitoring shall be required at additional locations as directed by the Town of Barnstable Building Commissioner.
45. Monitoring Frequency: Sound level measurements shall be taken in accordance with the methodology outlined in Condition 44 herein, three (3) times per year at the following times:
- During the month of April when foliage has not returned to the trees;

- b. During the month of July; and
- c. During the month of November when foliage is off the trees.

Additional readings shall be taken whenever a complaint is received or as directed by the Town of Barnstable Building Commissioner.

- 46. Reporting: A report of the noise testing shall be provided to the Owner and to the Town of Barnstable Building Commissioner and Director of the Planning & Development Department in an electronic format. Records of the readings shall be kept on file at the facility and shall be available for public inspection during regular business hours. The records shall be maintained for a period of seven years.
- 47. Mitigation: Sound mitigation measures may include, but are not limited to construction of a sound barrier around the processing equipment, with all of the grinding/coloring equipment located to the south and west of the wall. Other mitigation measures shall be employed as needed including, but not limited to, limiting equipment that can operate simultaneously.
- 48. Noise monitoring locations shall be identified on the Final Site Plan using longitude and latitude to identify the sampling locations. Additionally, the monitoring locations shall be on the ground with a marker or other permanent signage.
- 49. A continuous weather station shall be installed and operational on the Property at all times. The weather station shall be professional quality and, at a minimum, measure and record wind speed and direction, barometric pressure, temperature, and rain fall. A summary of the data shall be submitted to the Building Commissioner, or designee, and the Director of the Planning & Development Department on a monthly basis.
- 50. A daily log shall be maintained by the Applicant in a spreadsheet, database, or other electronic format. The daily log shall detail the operations, including equipment utilized, materials handled, areas of work, volume of material accepted and processed, and approximate hours of operation for each piece of equipment. The log shall be kept on site at all times and shall be available for inspection by the Building Commissioner, or designee, at all times.
- 51. The Applicant shall install, maintain, and monitor a complaint hotline and investigate complaints as they are registered. When a complaint is registered, site activities shall be noted, including activities before the complaint and at the time of the complaint. All complaints and the corresponding response to the complaints shall be recorded in the log book referenced in Condition 51 herein.

#### Effect and Duration

- 52. It is intended that this decision and the conditions contained herein, are in addition to and independent of, any requirements to exercise the rights granted hereunder by other regulatory agencies, including without limitation MassDEP, and that the restrictions contained herein shall have independent legal significance and effect.
- 53. This variance shall expire on December 31, 2030 unless renewed by the Applicant or unless otherwise revoked under the terms and conditions of this decision.
- 54. All conditions set forth in the Site Plan Review approval letter dated March 9, 2020 are hereby incorporated in this Decision.
- 55. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this Variance must be exercised within one year, unless extended.

Town of Barnstable Planning and Development Department Staff Report  
Variance 2020-025 – EAC Organics, Inc

Copies:           Petitioner (c/o Attorney Sabatt)

Attachments:    Application  
                      Aerial Photo  
                      Building and Site Plans  
                      Assessor's Record  
                      Copy of Variance No. 2009-025

RECEIVED

AUG X 7 2020

OUT OF QUARANTINE

ZONING BOARD OF APPEALS



BARNSTABLE TOWN CLERK

20 AUG 12 AM 10:01

Town of Barnstable  
Zoning Board of Appeals  
Application for a Variance

Date Received  
Town Clerk's Office:

For office use only:  
Appeal # 2020-029  
Hearing Date 09-09-20  
Decision Due 11-10-20

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Applicant's Name: The Cape Cod Five Cents Savings Bank, Phone: 508-247-2216

Applicant's Address: 1500 Iyannough Rd. Hyannis, MA 02601

Property Location: 1500 Iyannough Rd.

Property Owner: The Cape Cod Five Cents Savings Bank, Phone: 508-247-2216

Address of Owner: 1500 Iyannough Rd. Hyannis MA 02601

*If petitioner differs from owner, state nature of interest:<sup>2</sup>*

Registry of Deeds/Land Court References: Deed 27968/116 & 27968/195 Plan A&B on 76/11 & 397/15

Assessor's Map/Parcel Number: 253-020-B00 / 253-020-T00 Zoning District: HB

Number of Years Owned: 6 Groundwater Overlay District: yes

Variance Requested: Please see attached - signs

*Cite Section & Title of the Zoning Ordinance.*

Description of Activity/Reason for Request: Please see attached - signs

*Attach additional sheet if necessary*

Does the property have any existing Variance or Special Permit issued to it? No [ ] Yes [X]

Permit #: 1968-145, 1973-32, 1987-03,  
2017-060, and 2018-011

<sup>1</sup> The Applicant's Name will be the entity to whom the variance will be issued to.  
<sup>2</sup> If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

Existing Level of Development of the Property - Number of Buildings: one

Present Use(s): Corporate offices

Existing Gross Floor Area: 83,996 sq. ft. Proposed New Gross Floor Area: no change - signs sq. ft.

Site Plan Review Number: \_\_\_\_\_ Date Approved: \_\_\_\_\_ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes [ ] No [X]  
Is this proposal subject to the jurisdiction of the Conservation Commission ..... Yes [ ] No [X]  
Is this proposal subject to approval by the Board of Health ..... Yes [ ] No [X]  
Is the building a designated Historic Landmark?..... Yes [ ] No [X]

Have you applied for a building permit?..... Yes [ ] No [X]  
Have you been refused a building permit?..... Yes [ ] No [X]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

The Cape Cod Five Cents Savings Bank  
Signature: Andrew L. Singer Date: August 12, 2020  
Applicant or Representative's Signature

Print Name c/o Andrew L. Singer, Attorney  
Law Office of Singer & Singer, LLC  
Address: P.O. Box 67 Phone: 508-398-2221  
Dennisport, MA 02639 Fax No.: \_\_\_\_\_

e-mail Address: alsinger@singer-law.com

<sup>3</sup> All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.



**Town of Barnstable  
Zoning Board of Appeals**

**Agreement to Extend Time Limits  
for Holding of a Public Hearing and Filing of a Decision on a  
Variance**

Date Application was Time Stamped w/Town Clerk:	8/12/2020	ZBA Appeal #:	
Original Hearing Date:		Applicant:	The Cape Cod Five Cents Savings Bank
Original Decision Due:		Address:	1500 Iyannough Road Hyannis, MA 02601
Number of Days Extended:		Map/Parcel:	253-020-B00 & 253-020-T00
New Decision Due Date:			

In the Matter of The Cape Cod Five Cents Savings Bank, (the Applicant(s) and the Zoning Applicant(s)

Board of Appeals, pursuant to Mass. General Laws, Chapter 40A, Section 15, agree to extend the required time limits for holding of a public hearing and filing of a decision on this application for a Variance for a period of \_\_\_\_\_ days beyond that date the hearing was required to be held and the decision was to be filed. This extension requires that the decision be filed 14 days after the decision is rendered by the Zoning Board of Appeals and that the decision be filed no later than \_\_\_\_\_.

In executing this Agreement, the Applicant(s) hereto specifically waive any claim for a constructive grant of relief based upon time limits applicable prior to the execution of this Agreement.

**Applicant(s):**

The Cape Cod Five Cents Savings Bank

Signature: Andrew S. D. AM  
Applicant(s) or Applicant's Representative

Date: August 12, 2020

**Zoning Board of Appeals**

Signature: \_\_\_\_\_  
Chairman or Acting Chairman

Date: \_\_\_\_\_

**Zoning Board of Appeals**  
Growth Management Department  
200 Main Street, Hyannis, MA 02601  
Phone: 508-862-4785 Fax: 508-862-4784

cc: Town Clerk  
Applicant(s)  
File

**Town of Barnstable**  
**Zoning Board of Appeals**

Applicant: The Cape Cod Five Cents Savings Bank  
Property: 1500 Iyannough Road, Hyannis, MA – New Headquarters Office Building (HQ5)  
(Located on both Route 132 and Attucks Lane)

Exterior Sign Variance Relief Request:

The Applicant is requesting variance relief in accordance with Sections 240-125 and 240-126 of the Barnstable Zoning Ordinance and M.G.L. Chapter 40A, Section 10, from the following provisions of the Zoning Ordinance:

1. § 240-65 (A) – Number of signs. Requesting a total of (4) Building and Freestanding signs
  - Two (2) each on the building with frontage on two streets and at the property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this section of the code.
  - Design calls for 198.00 SF of Building/Freestanding signage -- 98 SF relief requested
  - This is exclusive of the 41.96 SF of Directional/Incidental signage proposed (see below)
3. § 240-65 (D), (G) – A second freestanding sign.
  - This is allowed by exception where a property has frontage on two public ways, and requires additional square footage be allowed.
4. § 240-75 (A), (B) – Allowance of larger than allowed Directional signs, in terms of both square footage and height as well as number and square footage of “regulatory” (Incidental) signs



## Signage Square Footage Tables:

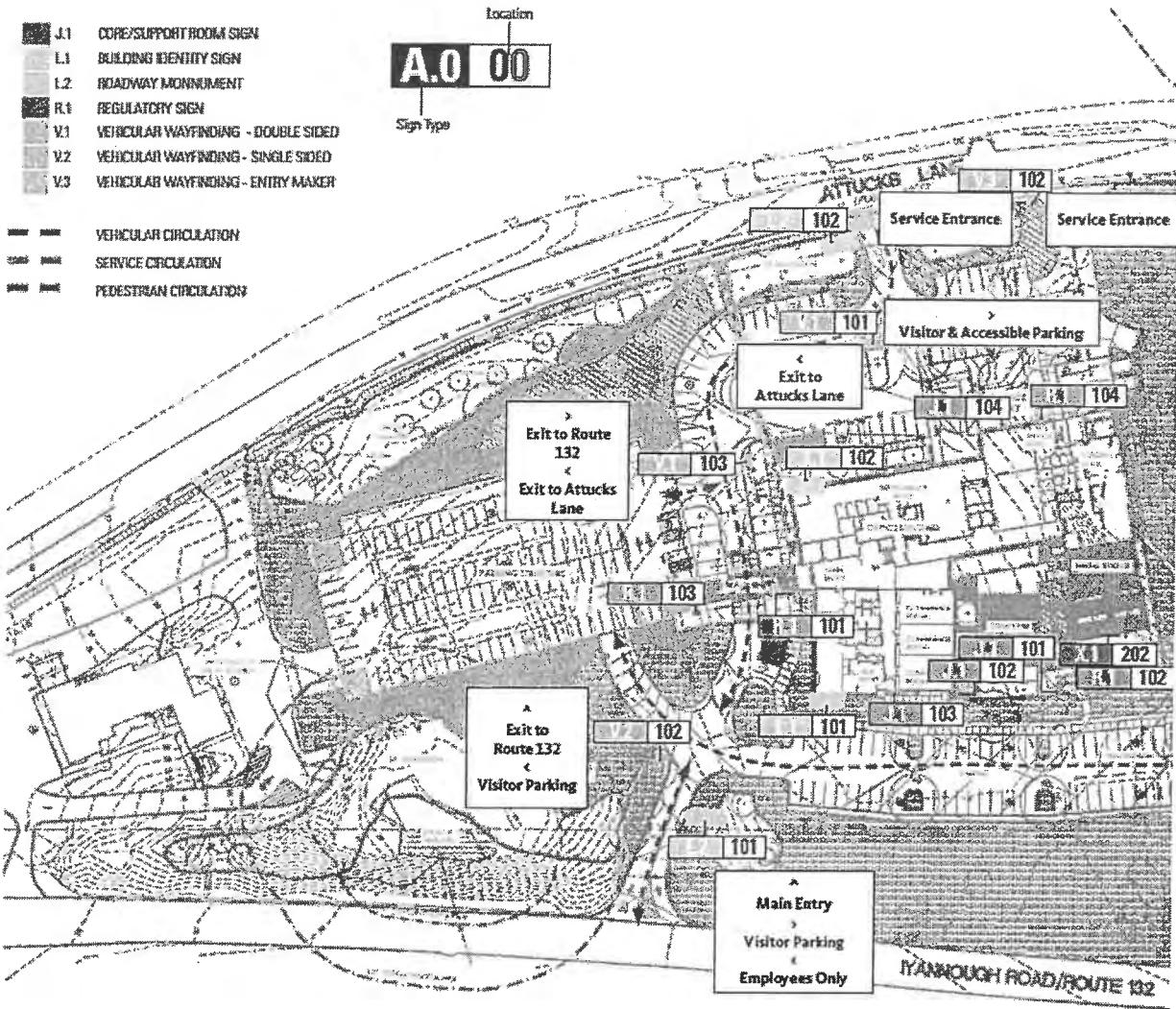
Inserted here are two tables for each site.

- 1) One for wall and freestanding signs, and the other for additional signs that are allowed.
  - 2) All sign areas have been calculated per section § 240-6 (A)
- *This is intended to point out differences with the requirements of the local Sign Regulations and how they define and limit number of and allowed square footage of the various sign types – especially the “Building/Wall” and “Freestanding” varieties.*
  - *We also have the need for numerous wayfinding and directional signs. This second category is where the more defined requirements of the Highway Business Zoning District (HB) come into play.*

1500 Iyannough Road						
HQ5 - CC5 Headquarters Office Building						
Freestanding and Building Signs						
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Building Identity Sign	L.1 / 101	Building	12.00	5.42	65.00	Route 132 façade mounted sign
Building Identity Sign	L.1 / 102	Building	12.00	5.42	65.00	Second building mounted sign - on the Attucks Lane façade
Roadway Monument	L.2 / 101	Freestanding	4.25	8.00	34.00	at Route 132 side of site
Roadway Monument	L.2 / 102	Freestanding	4.25	8.00	34.00	Second roadway/pylon sign at Attucks Lane side of site
<b>TOTALS</b>					<b>198.00</b>	
1500 Iyannough Road						
HQ5 - CC5 Headquarters Office Building						
Directional / Information Signs						
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Vehicular Wayfinding	V.1 / 101	Directional/Information	2.00	5.00	10.00	See layout for text
Vehicular Wayfinding	V.2 / 103	Directional/Information	2.00	5.00	10.00	"
Vehicular Wayfinding	V.2 / 102	Directional/Information	2.00	5.00	10.00	"
Vehicular Wayfinding	V.3 / 102	Directional/Information	2.00	5.00	10.00	do we have four or five
Regulatory signage	R.1 / 101	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 102	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 103	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 104	Incidental	0.66	0.66	n/a	"This is a Tobacco free Campus" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	n/a	"Exit" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	n/a	"Exit" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	0.22	"Not an Entrance"
Core / Support	J.1 / 104	Incidental	0.66	0.66	0.44	"Service Entry Only"
Occupancy sign	X.1	Incidental	0.66	0.66	n/a	Code required occupancy sign inside courtyard
		<i>subtotal of incidental signs equals-</i>	<i>1.96</i>			
<b>TOTALS</b>					<b>41.96</b>	

# Detailed Layout of the 1500 Ivannough Road Site:

## SIGNAGE LOCATION PLAN EXTERIOR SIGNAGE PLAN



137 SPACES/8 = 17.13	17.13	18
(1/30 FT OF FRONTAGE = 1.999 LF FRONTAGE/30 = 66.63)	66.63	67
PARKING TABLE	PER BUILDING COMMISSIONER	136 SPACES (GROSS) 217 SPACES (PER STRUCTURE)
TOTAL PARKING		353 SPACES
HANDICAP PARKING (TOTAL/VAN)	8/1 SPACES	5/2 SPACES (GROSS) 3/2 SPACES (PER STRUCTURE)

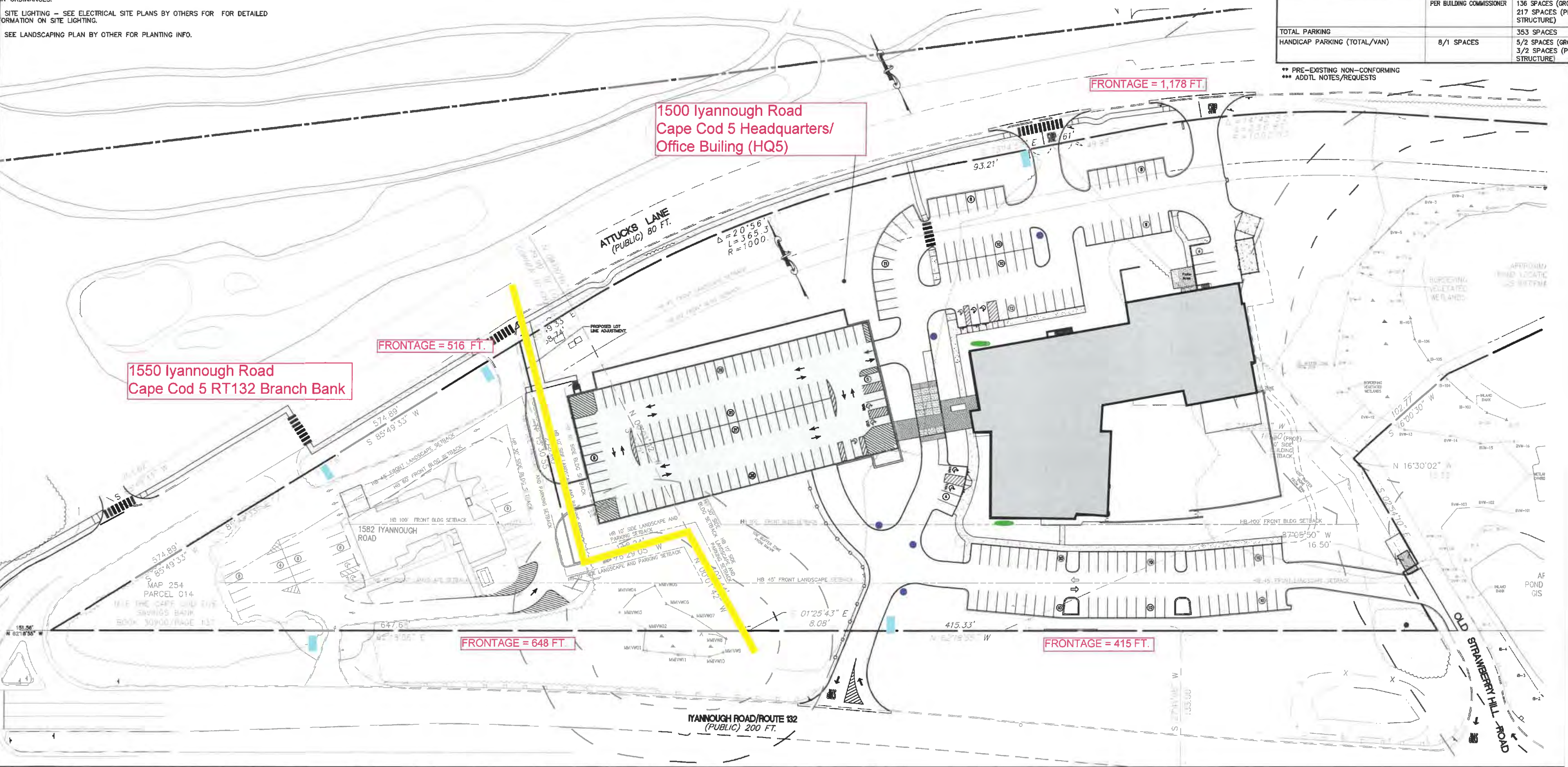
\*\* PRE-EXISTING NON-CONFORMING  
\*\*\* ADDTL. NOTES/REQUESTS

ALL PAVEMENT MARKINGS AND STRIPING SHALL FOLLOW MUTCD STANDARDS. TYPICAL LINE WIDTH FOR LANE AND PARKING STALL STRIPING SHALL BE 4 INCHES. UNLESS OTHERWISE NOTED, PARKING STALL COLOR SHALL BE WHITE, TYPICAL, UNLESS OTHERWISE NOTED.

BUILDING AND SITE SIGNAGE SHALL MEET REQUIREMENTS OF TOWN ZONING AND/OR ORDINANCES.

SITE LIGHTING - SEE ELECTRICAL SITE PLANS BY OTHERS FOR DETAILED INFORMATION ON SITE LIGHTING.

SEE LANDSCAPING PLAN BY OTHER FOR PLANTING INFO.



1500 Iyannough Road  
Cape Cod 5 Headquarters/  
Office Building (HQ5)

1550 Iyannough Road  
Cape Cod 5 RT132 Branch Bank

FRONTAGE = 516 FT.

FRONTAGE = 1,178 FT.

FRONTAGE = 648 FT.

FRONTAGE = 415 FT.

IYANNOUGH ROAD/ROUTE 132  
(PUBLIC) 200 FT.

ATTUCKS LANE  
(PUBLIC) 80 FT.

$\Delta = 20^{\circ}56'$   
 $L = 365.3$   
 $R = 1000.$

OLD STRAWBERRY HILL ROAD

MAP 254  
PARCEL C14  
1/4 OF THE CAPE COD TRUST  
SAVINGS BANK  
BOOK 10900/PAGE 137

1582 IYANNOUGH ROAD

AF  
POND  
GIS

# SIGNAGE LOCATION PLAN

## EXTERIOR SIGNAGE PLAN

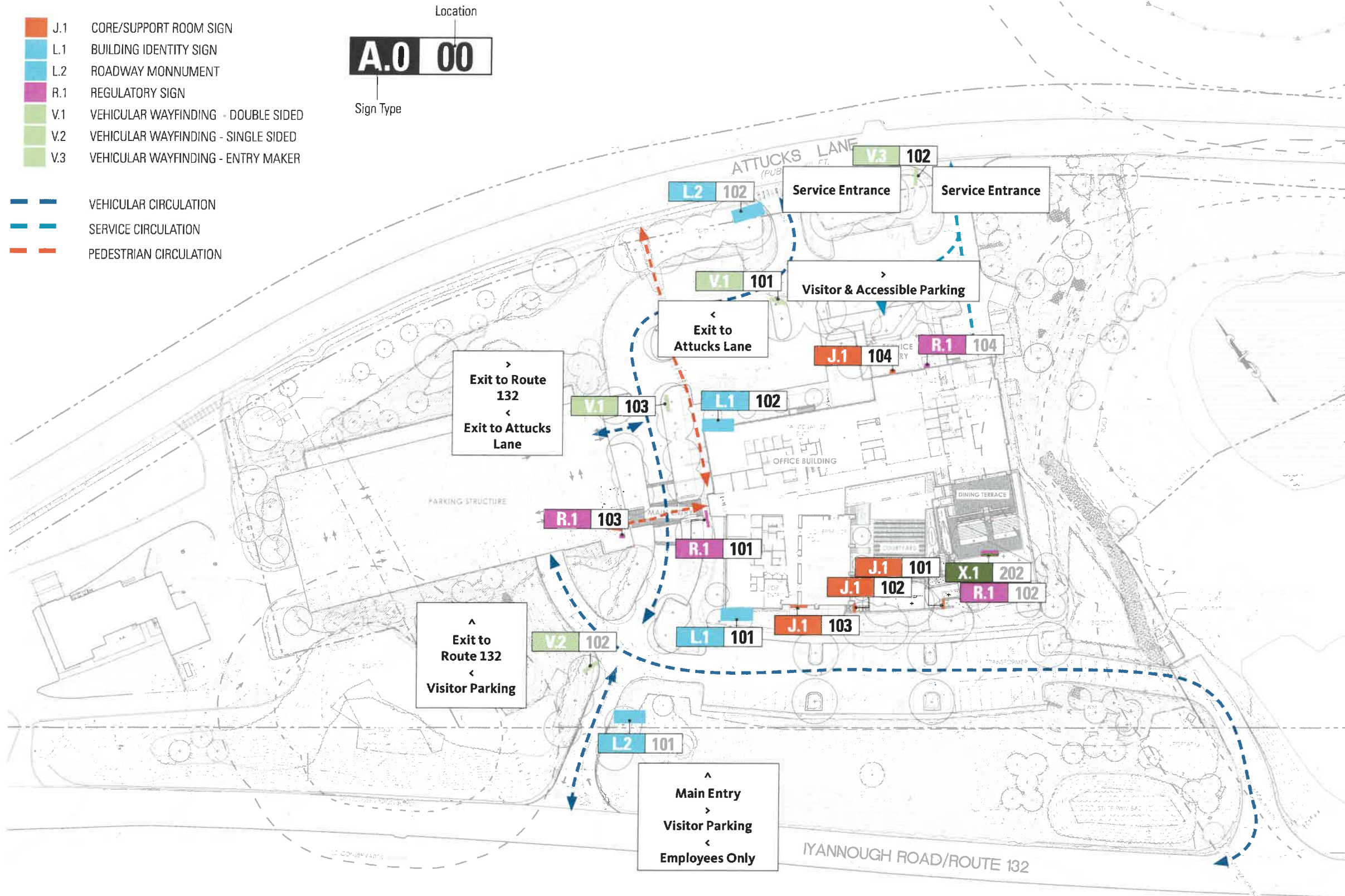
UPDATED 1/6

Cape Cod 5

Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108



**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
4	Sept 16 2019	Updated SLP
3	Sept 3 2019	Updated SLP
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**  
011.7456.700

**Sign Type**

**Scale**

Refer to drawing

**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.41**

# TYPOGRAPHY & COLOR SPECIFICATION

## Gotham Book

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz!

@#\$%^&\*()\_+<>?.,

0123456789

## Gotham Medium

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz!

@#\$%^&\*()\_+<>?.,

0123456789

Tracking Caps (Visual): 25

Tracking Caps (Dimensional): 25

Tracking U&LC: 0

Tracking Numbers: 25

Auto Kerning

Tracking Caps (Visual): 0

Tracking U&LC: 0

Tracking Numbers: 25

Auto Kerning

MATERIAL	DESCRIPTION	REFERENCE
MT 01	Heavy gauge aluminum SGC to provide material approved by DOT/MUTCD	
PT 01	Painted to match PMS 302C	
PT 02	Painted Matte White	
FL 01	Outdoor reflective parking film	N/A
VN 01	Vinyl to Match PMS 302	

**Note:** Vendor is responsible for purchasing typefaces specified for this scope of work.

## Cape Cod 5

Interior & Exterior Signage

## Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

### Design Intent Drawings

### Job Number

011.7456.700

### Sign Type

### Scale

Refer to drawing

SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.3

# L.1 BUILDING IDENTITY SIGN - OPTION 1A

## BLUE FACE WITH WHITE SIDES

Note: Rendering for design intent reference only;  
See detailed drawings on following pages per sign type

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108



**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**

011.7456.700

**Sign Type**

**Scale**

Refer to drawing

**SIGNAGE**

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

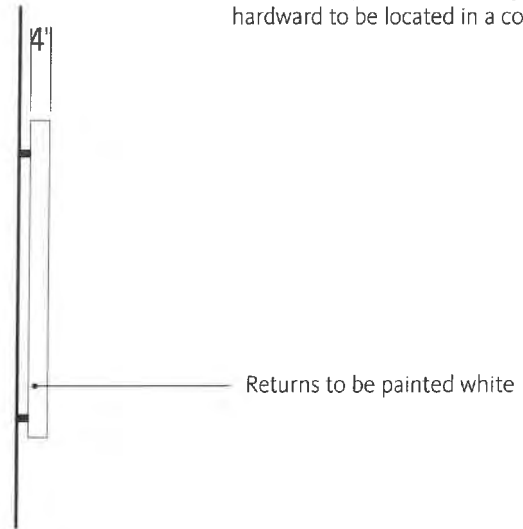
**DI.32**

# L.1 BUILDING IDENTITY SIGN - OPTION 1A



4" thick aluminum fabricated halo lit letters with dimmer switch and timer. LED at 3,000K for warm white glow.

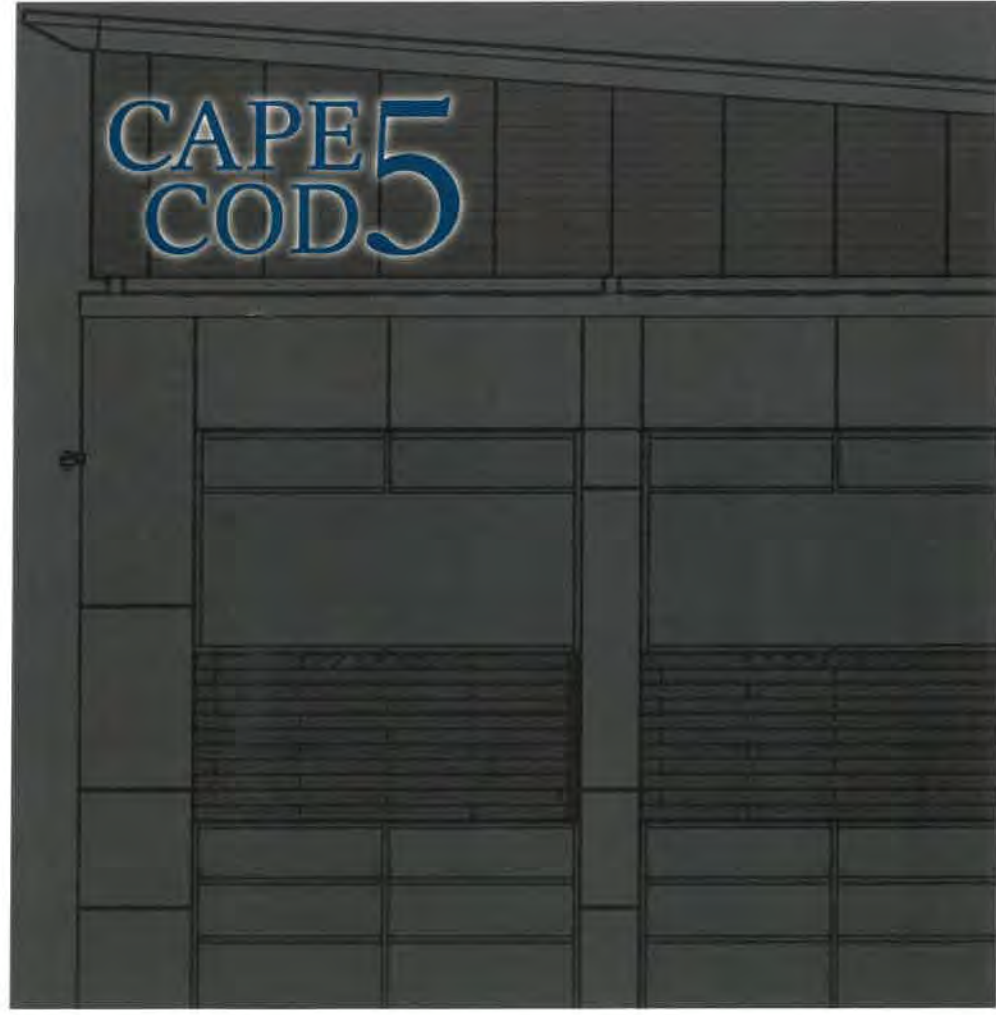
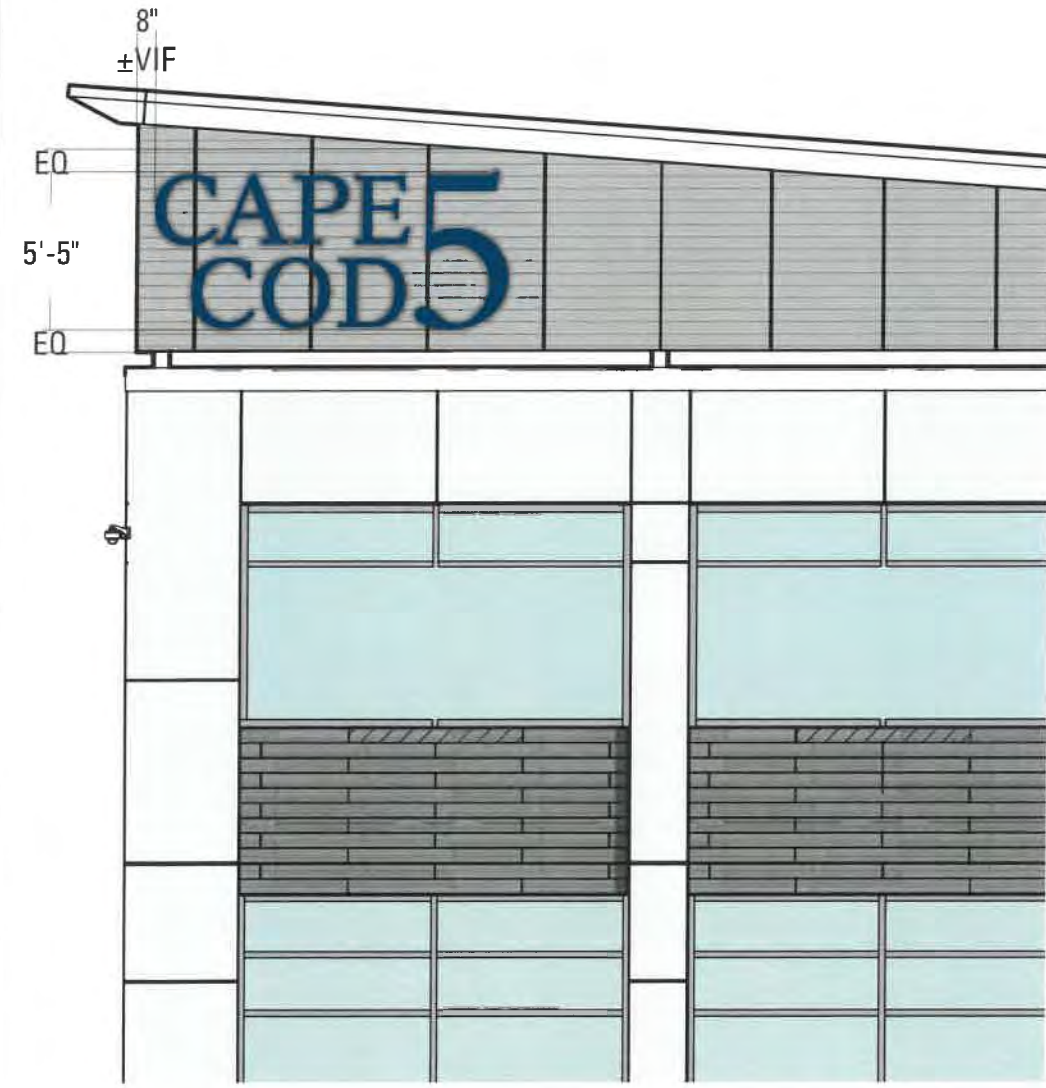
LED color same to be confirmed during prototyping



Note: Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. All electrical hardware to be located in a concealed location.

1 FRONT ELEVATION  
Scale: 1/4" = 1'-0"

2 SIDE ELEVATION  
Scale: 1/4" = 1'-0"



3 EXTERIOR SIGNAGE: DAY  
Scale: 1/8" = 1'-0"

3 EXTERIOR SIGNAGE: NIGHT  
Scale: 1/8" = 1'-0"

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**  
One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**  
011.7456.700

**Sign Type**

**Scale**  
Refer to drawing

**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.33**



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Avon, MA 02322 fax 617.951.0777

### Cape Cod 5 Int, Ext Signage

TITLE	Sign Type L.1: Building ID Sign
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 3/4" = 1' - 0"

ST TOTAL: 2

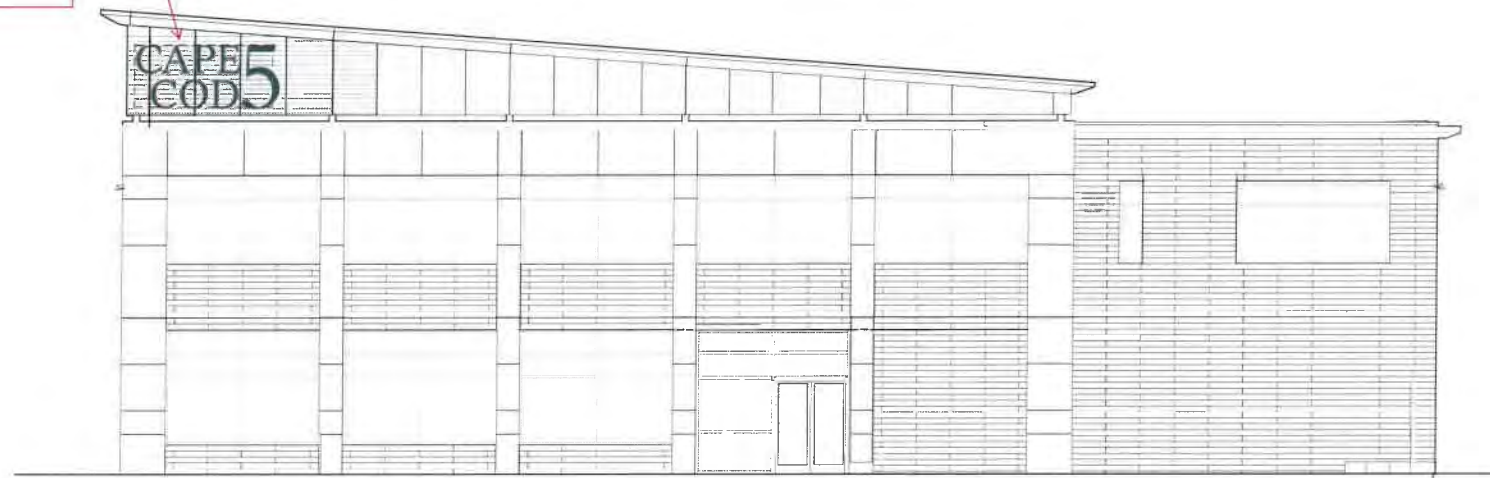
Graphic Layout  
15772 -

12



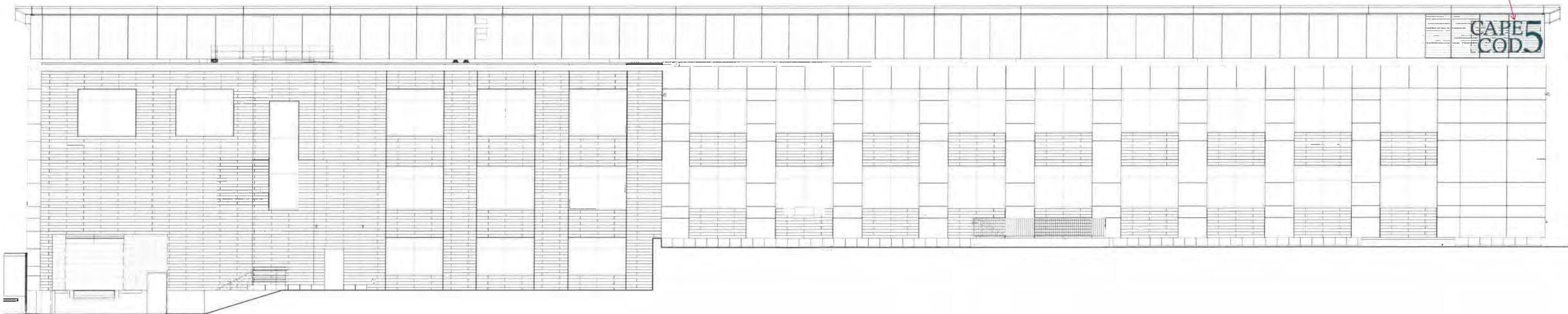


BUILDING SIGNAGE -  
REFER TO DETAILS BY  
SIGN VENDOR



**3 BUILDING ELEVATION SOUTH**  
SKA132.01 1/8" = 1'-0"

BUILDING SIGNAGE -  
REFER TO DETAILS BY  
SIGN VENDOR



**2 BUILDING ELEVATION NORTH**  
SKA132.01 1/8" = 1'-0"



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**Cape Cod 5  
Int, Ext Signage**

TITLE	Sign Type L.2: Roadway Monument
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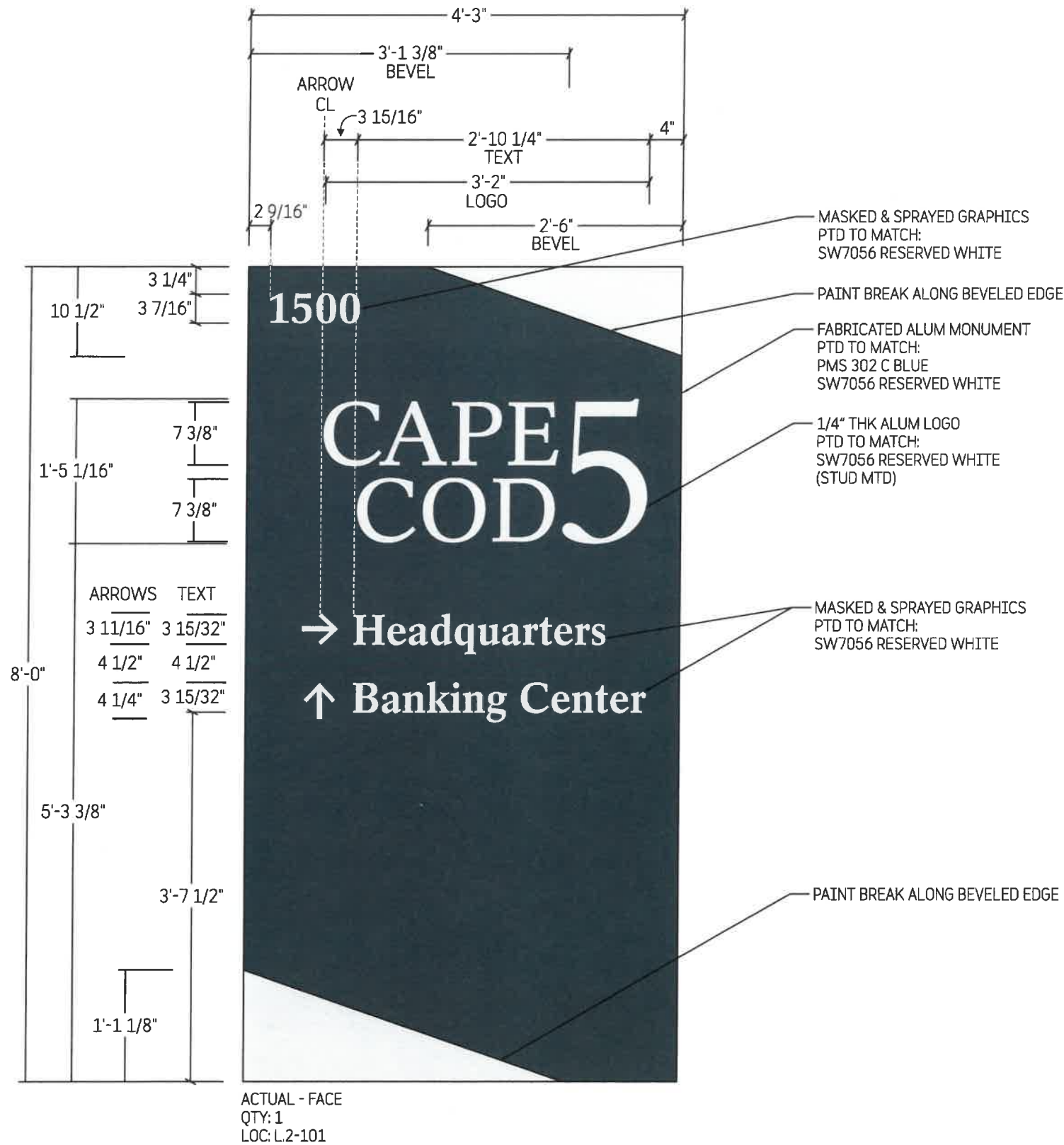
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19
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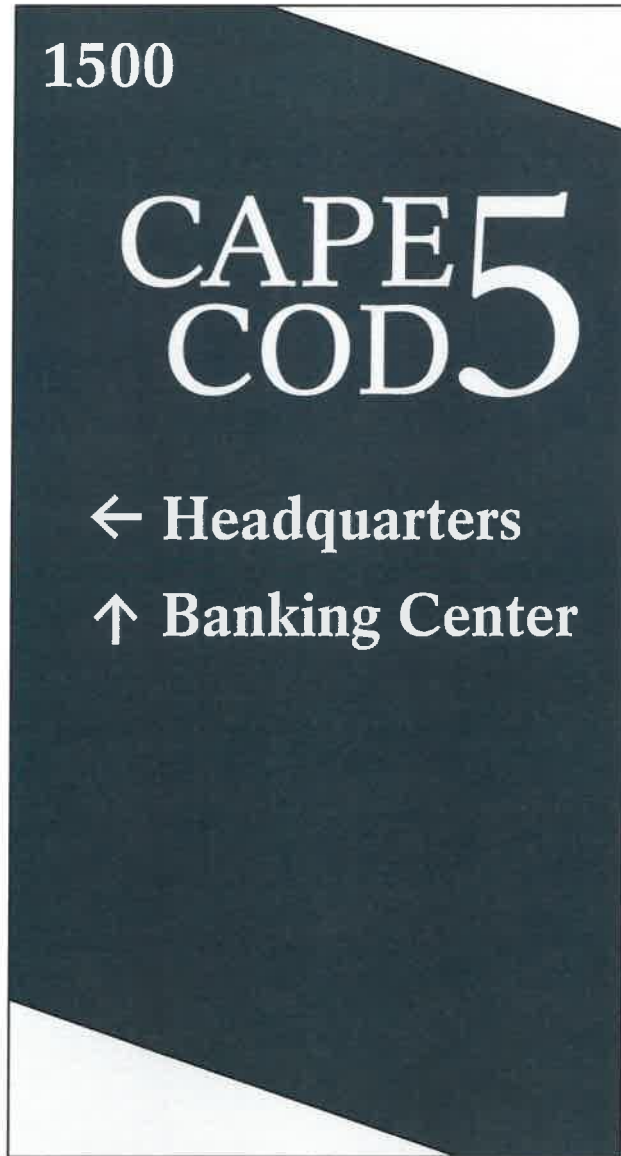
DRAWN BY	SDL
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scale: 3/4" = 1' - 0"

Graphic Layout 15772-	<b>13</b>
--------------------------	-----------

ST TOTAL: 2





ACTUAL - FACE  
 QTY: 1  
 LOC: L2-102



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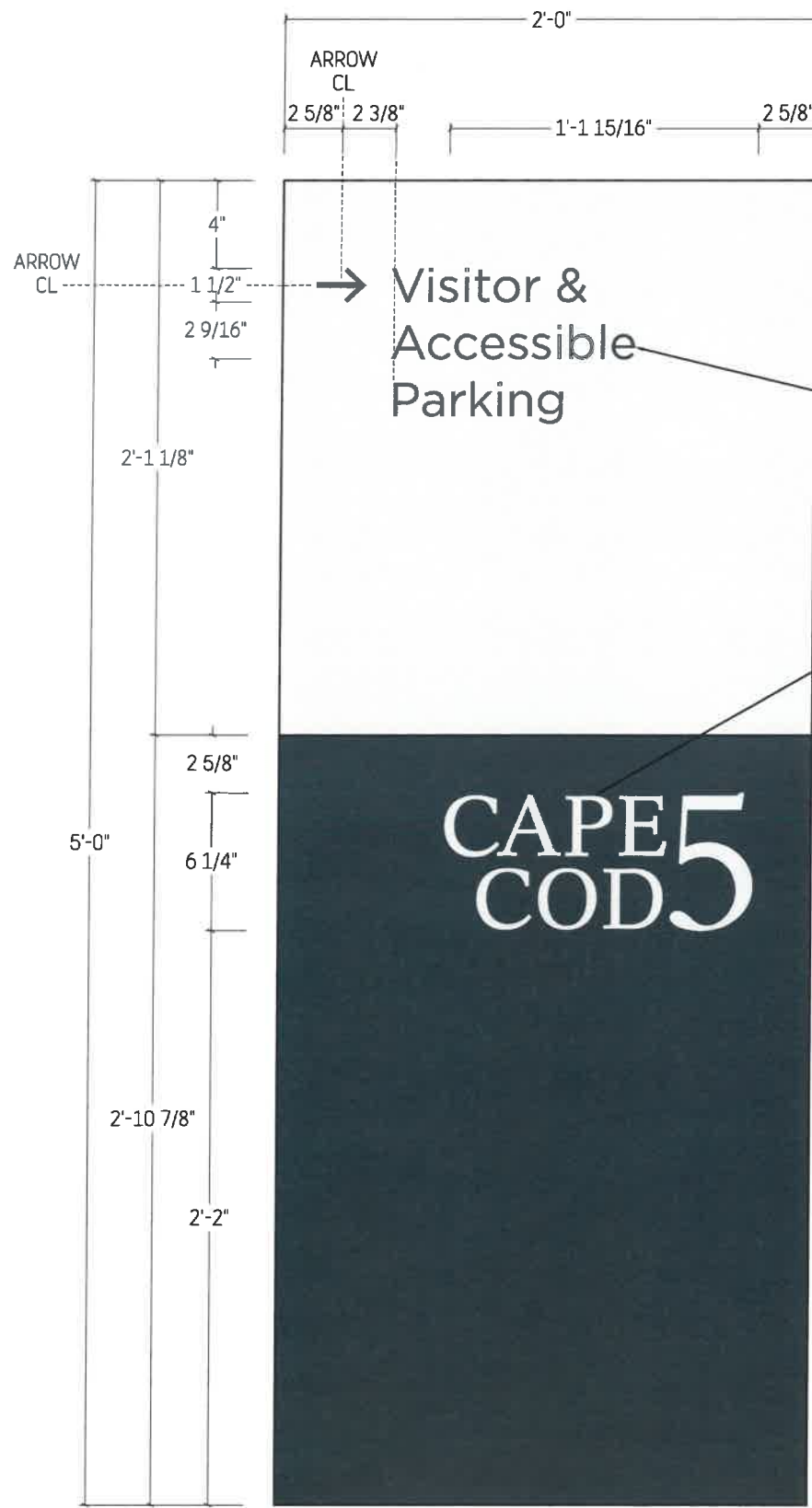
**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type L.2: Roadway Monument
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 3/4" = 1' - 0"

Graphic Layout | 15772 - **13a**



ACTUAL - SIDE A  
 QTY: 1  
 LOC: V.1-101

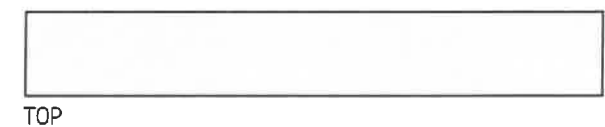
TEXT: AUTO KERNING, 0 TRACKING

DIGITALLY PRINTED VINYL GRAPHICS  
 TO MATCH: PMS 302 C BLUE

MASKED & SPRAYED GRAPHICS  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

3 1/2" DEEP FABRICATED ALUM MONUMENT  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

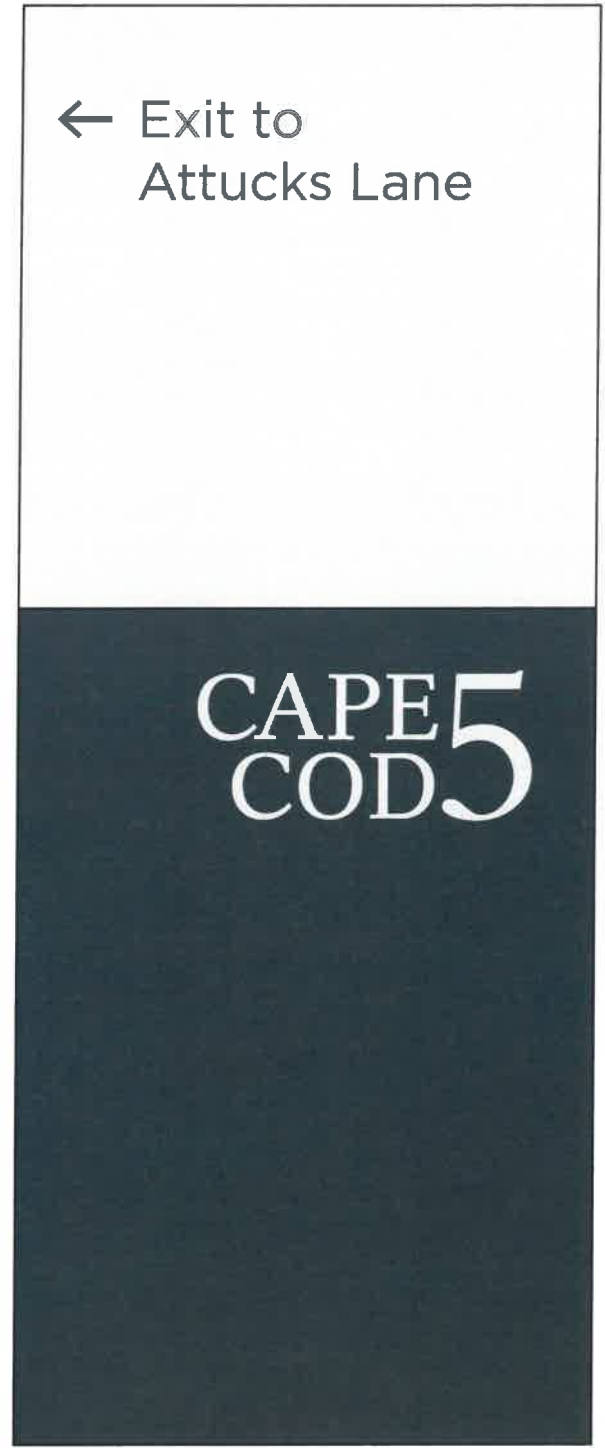
PAINT BREAK



TOP



SIDE



SIDE B



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**Cape Cod 5**  
**Int, Ext Signage**

TITLE	Sign Type V.1: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

ST TOTAL: 1

Graphic Layout  
15772-

19



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### Cape Cod 5 Int, Ext Signage

TITLE Sign Type V.2:  
Vehicular Wayfinding

ISSUE For Approval  
23 SEP 19  
For Production  
28 OCT 19

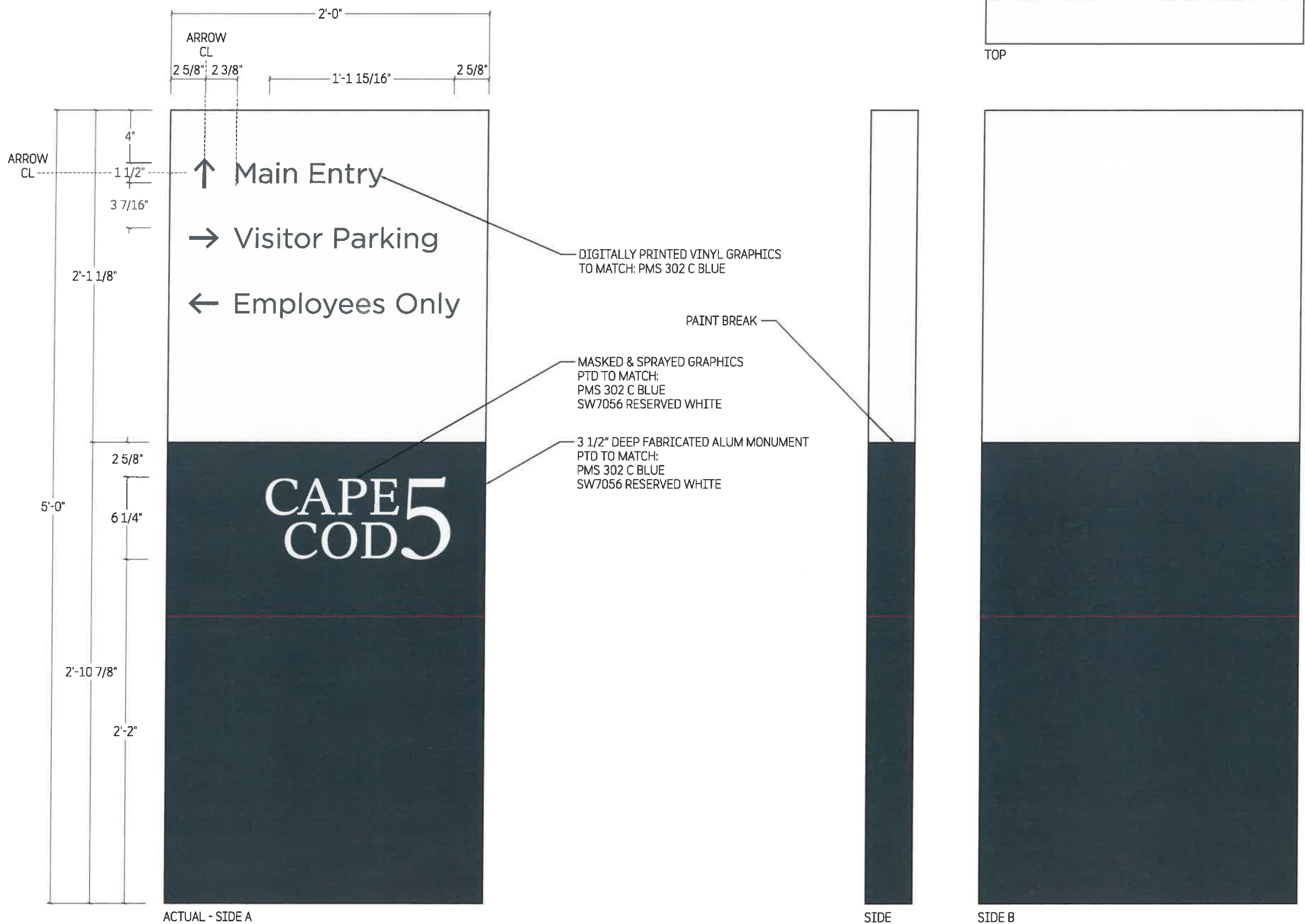
DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

Graphic Layout  
15772 -

20

ST TOTAL: 3



ACTUAL - SIDE A  
QTY: 1  
LOC: V.2-101

TEXT: AUTO KERNING, 0 TRACKING



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**Cape Cod 5  
Int, Ext Signage**

TITLE	Sign Type V.2: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY	SDL
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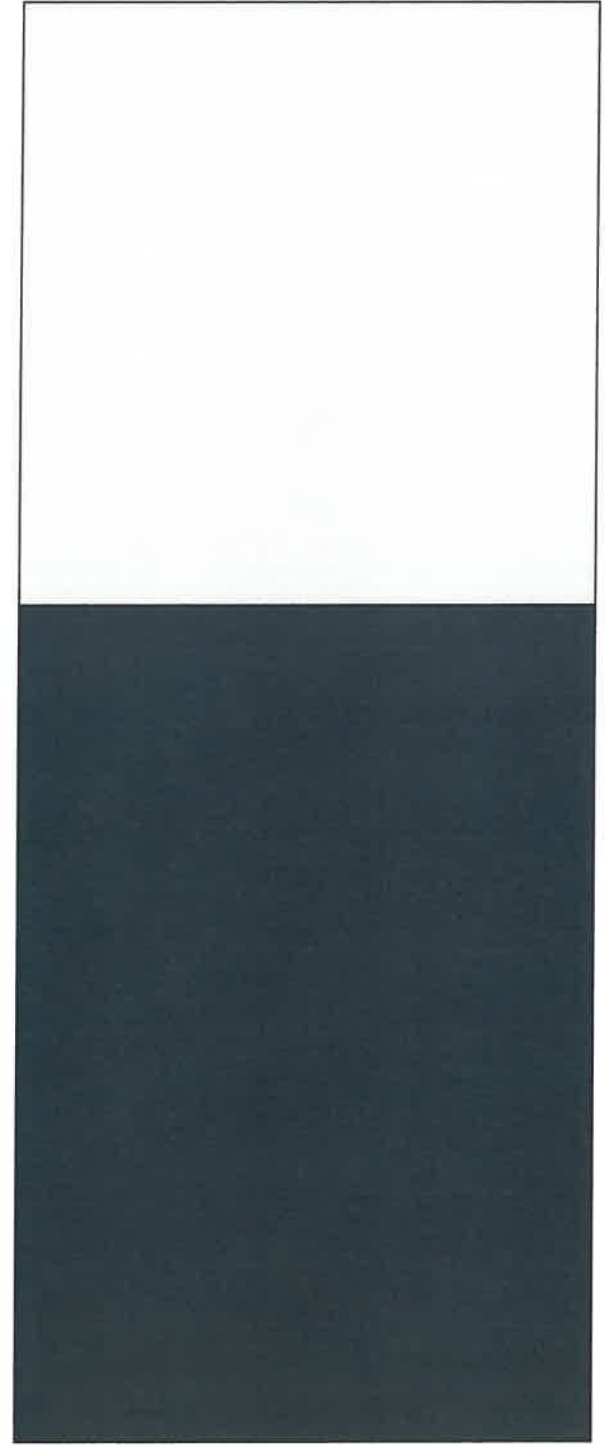
scale: 1 1/2" = 1' - 0"

Graphic Layout 15772 -	<b>20a</b>
---------------------------	------------

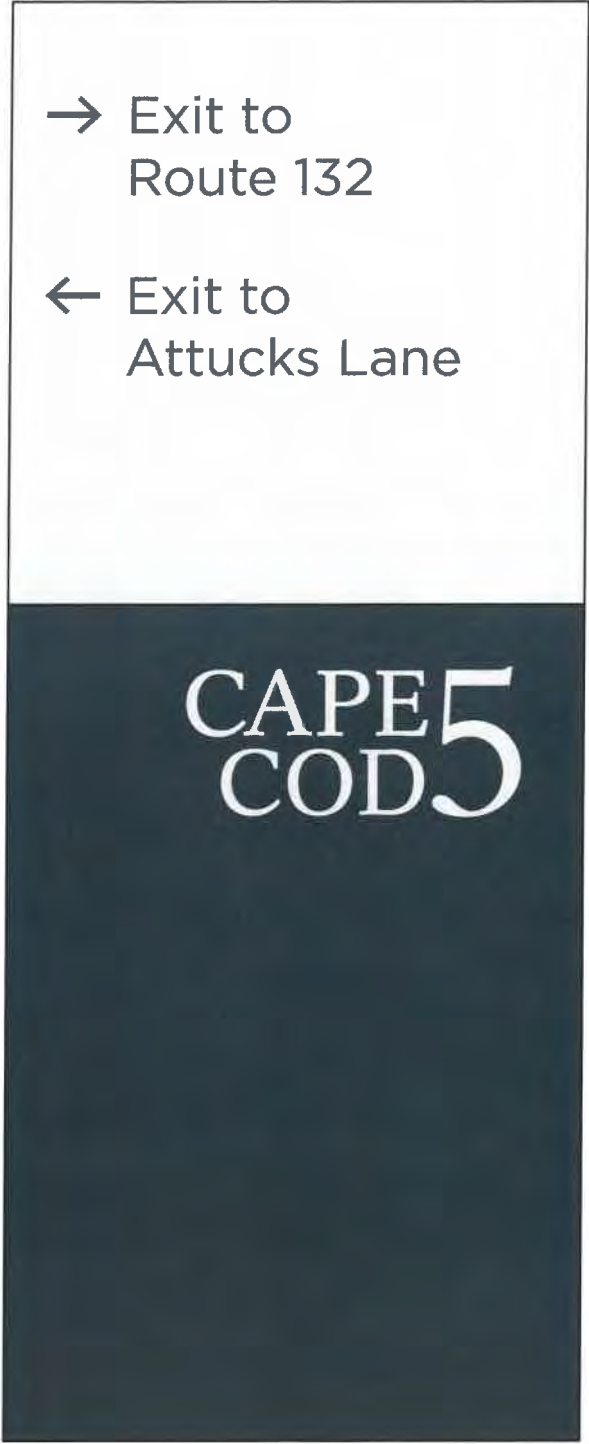


29/16"

ACTUAL - SIDE A  
QTY: 1  
LOC: V.2-102



SIDE B



ACTUAL - SIDE A  
 QTY: 1  
 LOC: V.2-103



SIDE B



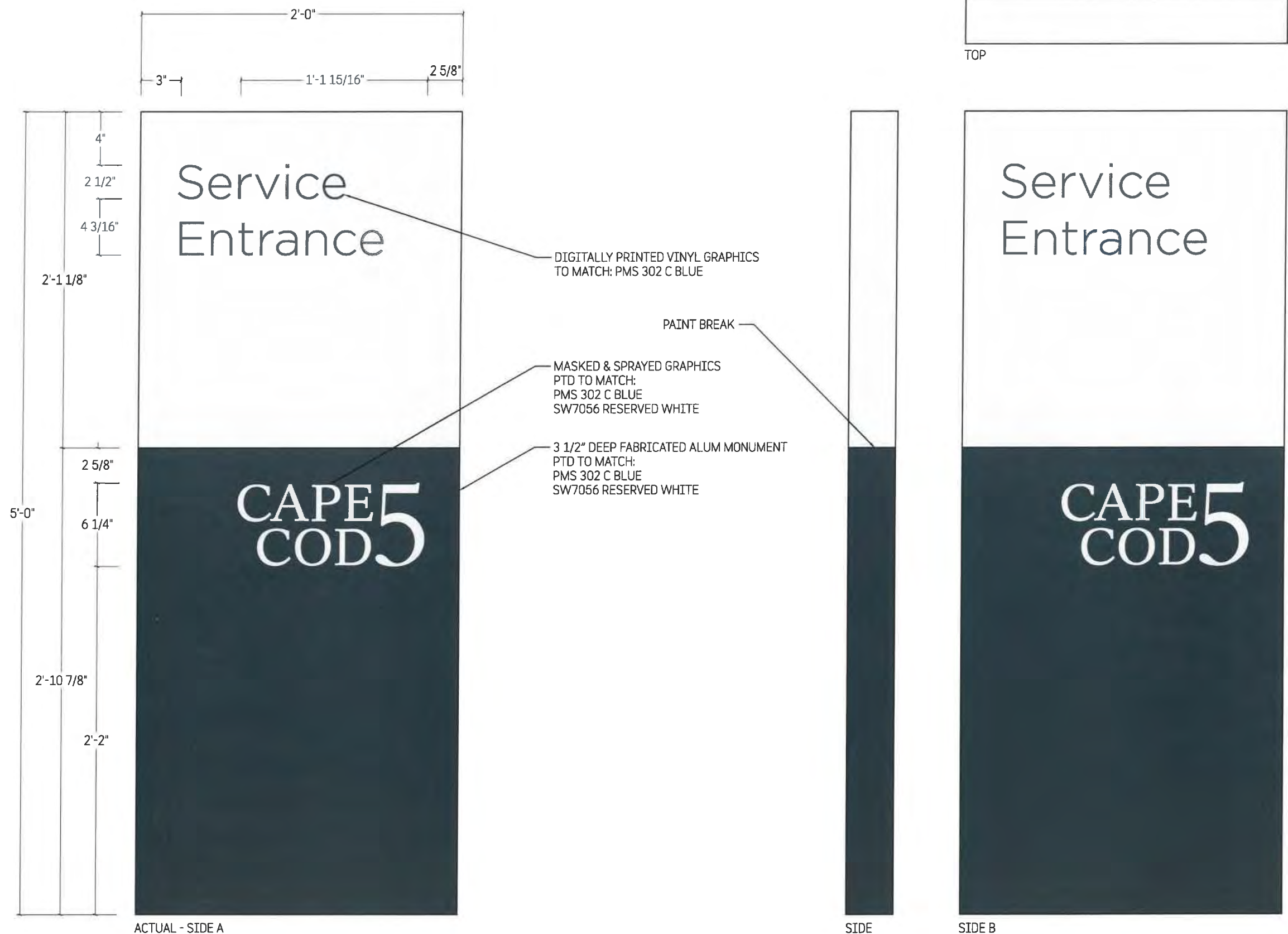
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**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type V.2: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19
DRAWN BY	SDL
scale: 1 1/2" = 1' - 0"	

Graphic Layout  
 15772- **20b**



ACTUAL - SIDE A  
 QTY: 1  
 LOC: V.3-102

TEXT: AUTO KERNING, 0 TRACKING

DIGITALLY PRINTED VINYL GRAPHICS  
 TO MATCH: PMS 302 C BLUE

PAINT BREAK

MASKED & SPRAYED GRAPHICS  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

3 1/2" DEEP FABRICATED ALUM MONUMENT  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

SIDE

SIDE B

TOP



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**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type V.3: Vehicular Wayfinding Entry Marker
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

ST TOTAL: 1

Graphic Layout  
 15772 -

21





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**Cape Cod 5  
Int, Ext Signage**

**TITLE** Sign Type X.1:  
Max Occupancy Sign

**ISSUE** For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

**DRAWN BY** SDL

scale: full

**ST TOTAL: 6**  
**GLASS BACKER: 0**  
**EXT ALUM BACKER: 1**

**Graphic Layout**  
15772 -

**22**



**MAXIMUM  
OCCUPANCY  
142 PERSONS**

1/8" THK P99 ACRYLIC PANEL  
W/ SANDED RETURNS  
2ND SURFACE PTD TO MATCH:  
SW7056 RESERVED WHITE

FLAT DIGITALLY PRINTED TEXT  
TO MATCH: PMS 302 C

1/16" THK ALUM BACKER PTD TO MATCH:  
SW7056 RESERVED WHITE  
(NOT SHOWN)  
(FOR EXTERIOR NON-GLASS LOCATIONS ONLY)

1ST SURFACE VINYL BACKER TO MATCH:  
3M MATTE WHITE  
(GLASS MTD LOCATIONS ONLY)

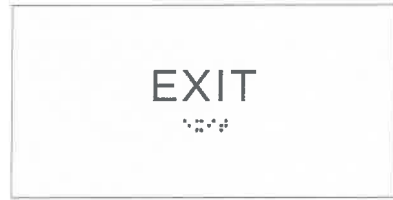
QTY: 1  
LOC: X.1-201  
TEXT: AUTO KERNING, 25 TRACKING



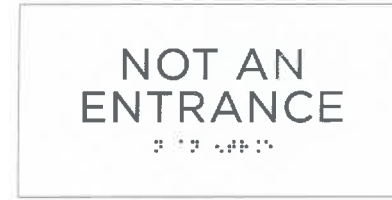
QTY: 1 GLASS MTD  
LOC: J.1-L28B



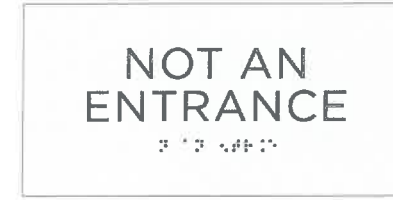
QTY: 1 EXTERIOR  
LOC: J.1-101 ALUM  
BACKER



QTY: 1 EXTERIOR  
LOC: J.1-102 ALUM  
BACKER



QTY: 1 EXTERIOR  
LOC: J.1-103 GLASS MTD



QTY: 1 EXTERIOR  
LOC: J.1-104 ALUM  
BACKER



QTY: 1  
LOC: J.1-L28



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### Cape Cod 5 Int, Ext Signage

TITLE	Sign Type J.1: Core Support Room
ISSUE	For Approval 13 SEP 19 27 SEP 19 10 OCT 19
DRAWN BY	SDL
scale: 3" = 1' - 0"	
Graphic Layout 15772 -	10d



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### Cape Cod 5 Int, Ext Signage

TITLE Sign Type R.1:  
Regulatory Signs

ISSUE For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

DRAWN BY SDL

scale: full

Graphic Layout  
15772 -

16



1/8" THK P99 ACRYLIC PANEL  
W/ SANDED RETURNS  
2ND SURFACE PTD TO MATCH:  
SW7056 RESERVED WHITE

FLAT DIGITALLY PRINTED TEXT  
TO MATCH: PMS 302 C

1/16" THK ALUM BACKER PTD TO MATCH:  
SW7056 RESERVED WHITE  
(NOT SHOWN)  
(FOR EXTERIOR NON-GLASS LOCATIONS ONLY)

1ST SURFACE VINYL BACKER TO MATCH:  
3M MATTE WHITE  
(GLASS MTD LOCATIONS ONLY)

ACTUAL  
QTY: 3  
LOC: R.1-101\*, R.1-102\*, R.1-103

TEXT: AUTO KERNING, 25 TRACKING

\*MODIFY LOCATION TO  
INSTALL ON SOLID WALL

ST TOTAL: 4  
GLASS BACKER: 0  
EXT ALUM BACKER: 4



DESIGN COMMUNICATIONS LTD.

85 Bodwell Street phone 617.542.9620  
Avon, MA 02322 fax 617.951.0777

**Cape Cod 5  
Int, Ext Signage**

**TITLE** Sign Type R.1:  
Regulatory Signs

**ISSUE** For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

**DRAWN BY** SDL

scale: full

**Graphic Layout** 16a  
15772 -

CL

SERVICE  
ENTRANCE

USE  
INTERCOM  
FOR  
ASSISTANCE

11/16"  
5/8"  
3/8"  
5/8"  
1 3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
11/16"

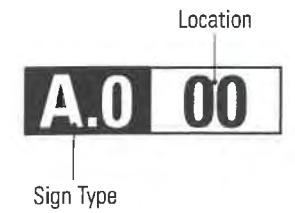
ACTUAL  
QTY: 1  
LOC: R.1-104

TEXT: AUTO KERNING, 25 TRACKING

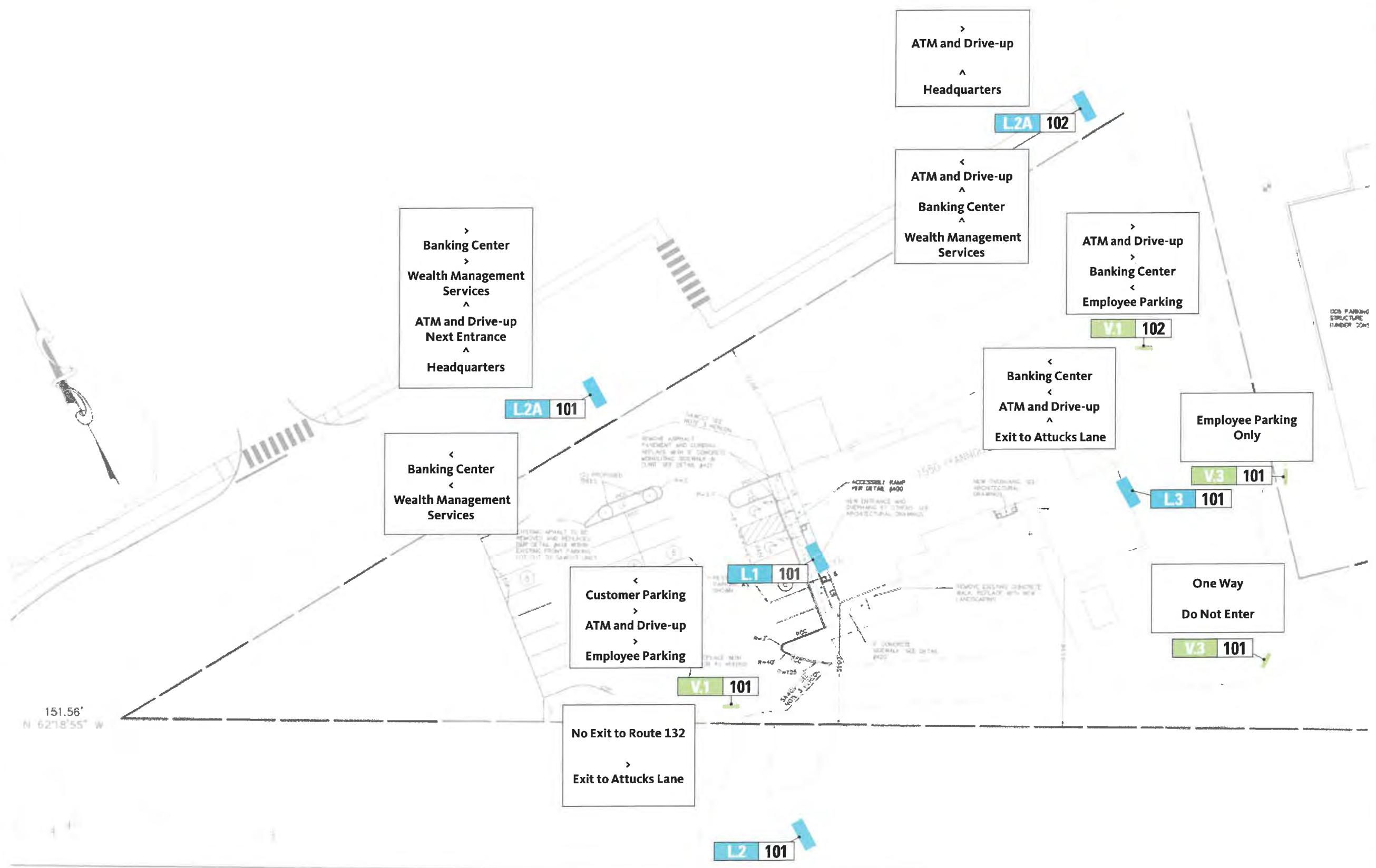
EXTERIOR

# PARKING SIGNAGE LOCATION PLAN

## BANKING CENTER



- L.1 BUILDING IDENTITY SIGN
- L.2 ROADWAY MONUMENT
- L.2A ROADWAY MONUMENT - DOUBLE SIDED
- L.3 TRAINING AND DEVELOPMENT
- V.1 VEHICULAR WAYFINDING - DOUBLE SIDED
- V.2 VEHICULAR WAYFINDING - SINGLE SIDED
- V.3 VEHICULAR WAYFINDING - ENTRY MAKER



Cape Cod 5  
 Barnstable Town Clerk  
 Interior & Exterior Signage  
 20 AUG 12 09:19

**Gensler**  
 One Beacon Street  
 Third Floor  
 Boston, Massachusetts 02108

**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

Design Intent Drawings

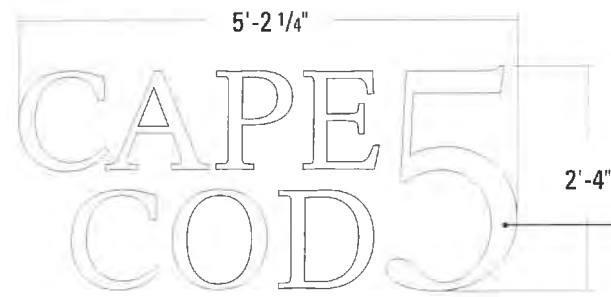
Job Number  
 011.7456.700

Sign Type

Scale  
 Refer to drawing

SIGNAGE  
 Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

# L.1 BUILDING IDENTITY SIGN



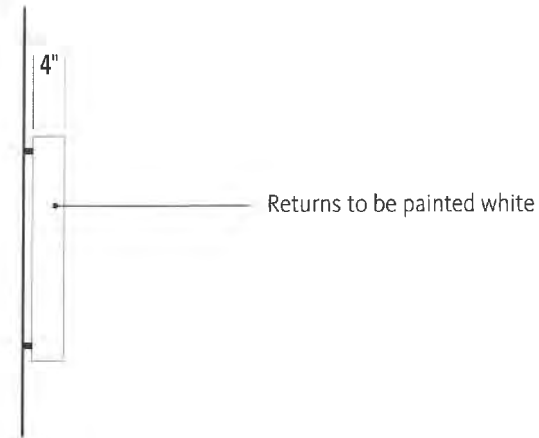
2" thick aluminum fabricated halo lit letters painted white with dimmer switch and timer. LED at 3,000K for warm white glow.

LED color to match existing conditions at HQ

1 ELEVATION  
SCALE: 1" = 1' 0"



3 LOCATION ELEVATION: FRONT  
SCALE: 1/4" = 1' 0"



1 SIDE ELEVATION  
SCALE: 1" = 1' 0"



4 RENDER  
SCALE: NTS

Note: Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. All electrical hardware to be located in a concealed location.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

Refer to drawing

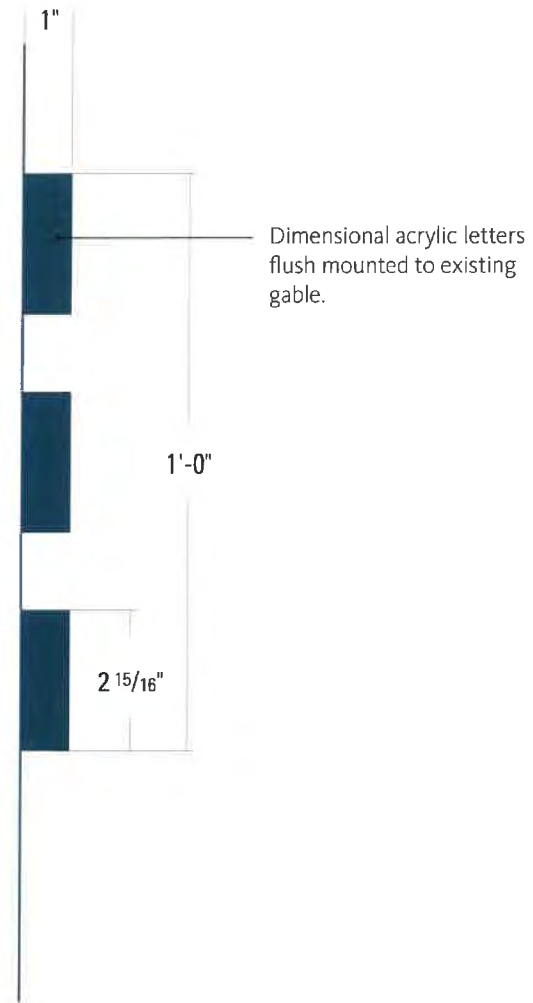
SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.6

# L.3 TRAINING AND DEVELOPMENT - OPTION 1



1 LOCATION ELEVATION: FRONT  
SCALE: 1/2" = 1' 0"



2 SIDE ELEVATION  
SCALE: 3" = 1' 0"

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**

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Third Floor  
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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

**Design Intent Drawings**

**Job Number**

011.7456.700

**Sign Type**

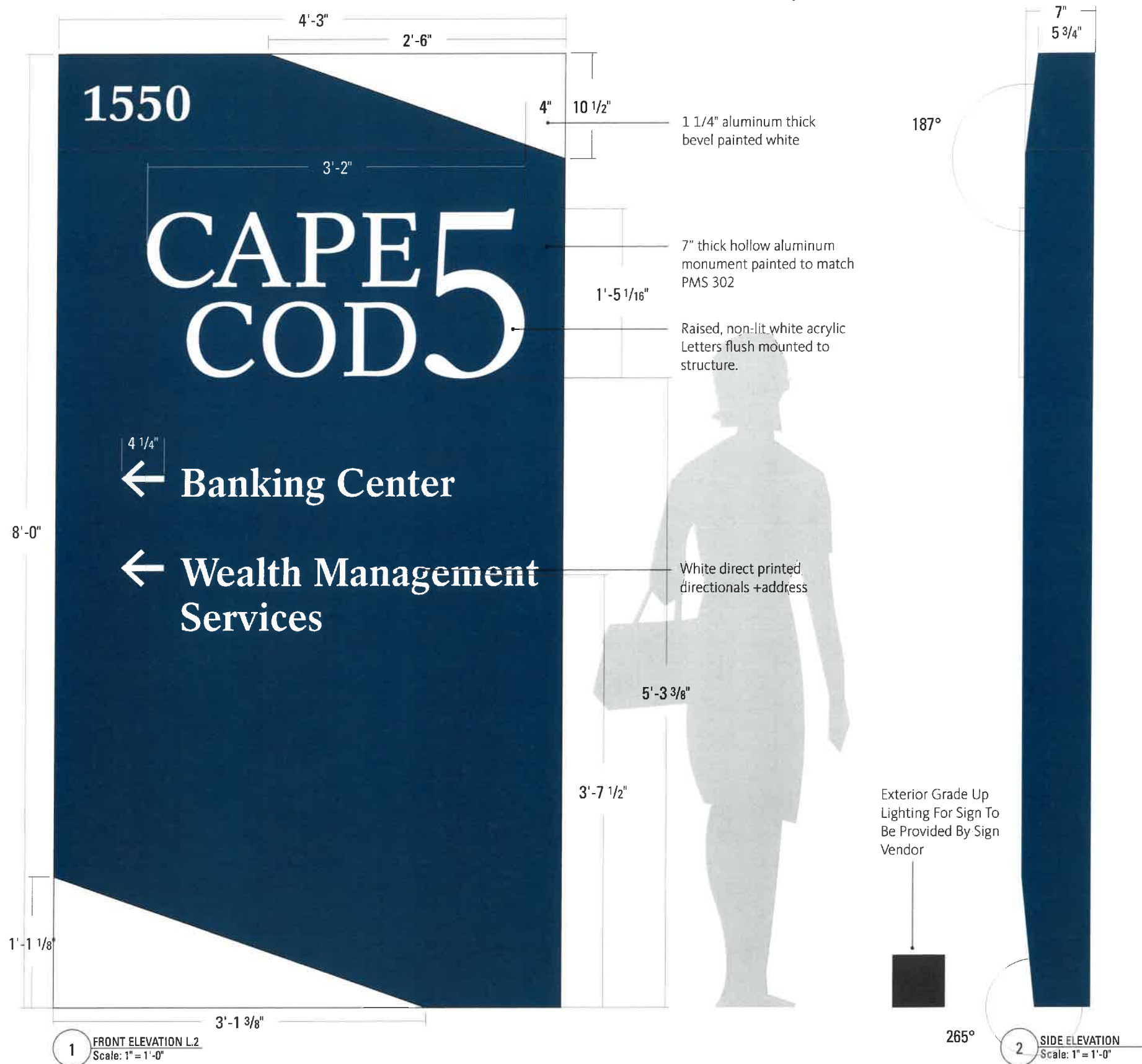
**Scale**

Refer to drawing

SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.7**

# L.2 ROADWAY MONUMENT



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

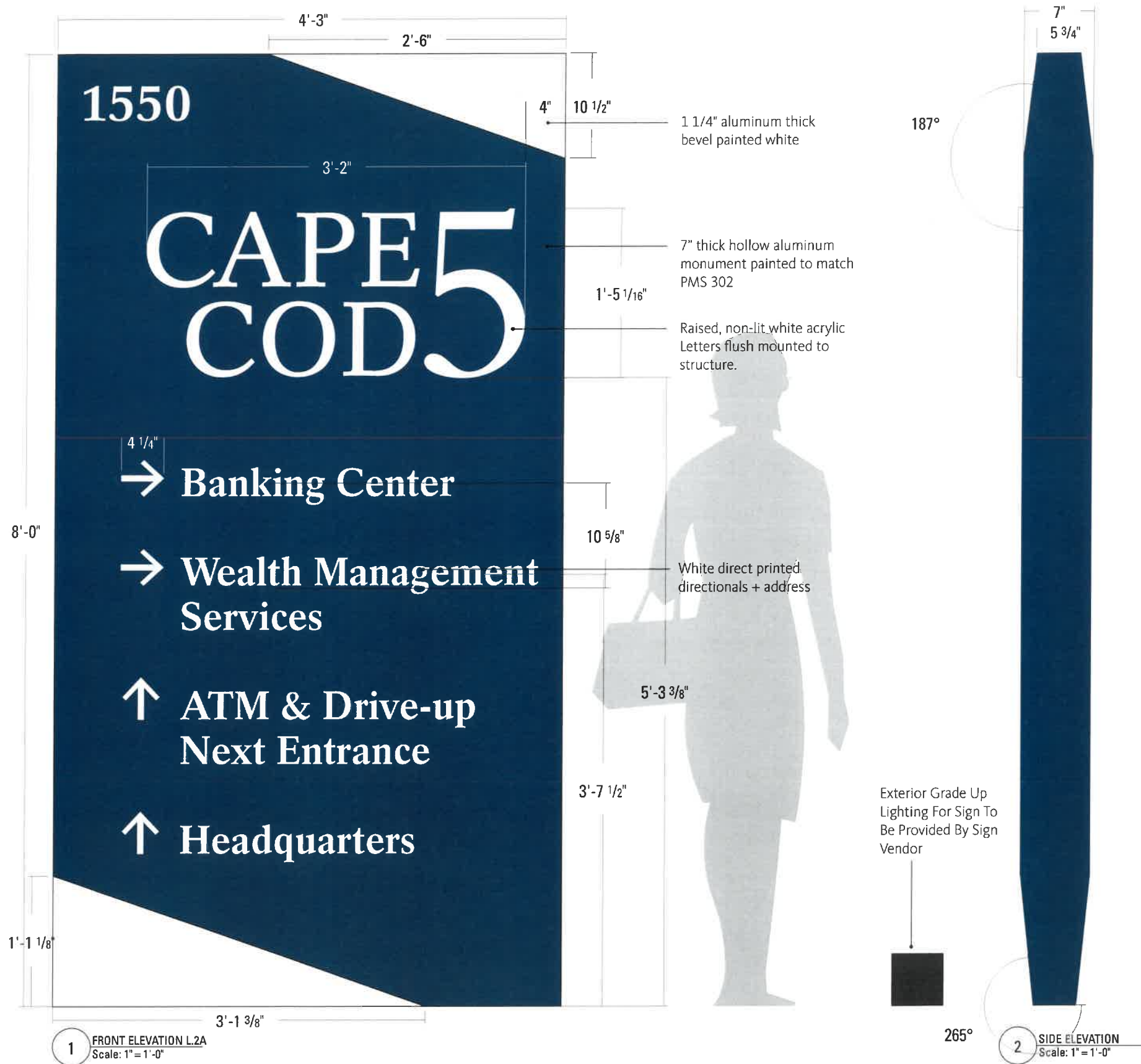
Refer to drawing

SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.27



# L.2A ROADWAY MONUMENT - DOUBLE SIDED



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

**Design Intent Drawings**

**Job Number**

011.7456.700

**Sign Type**

**Scale**

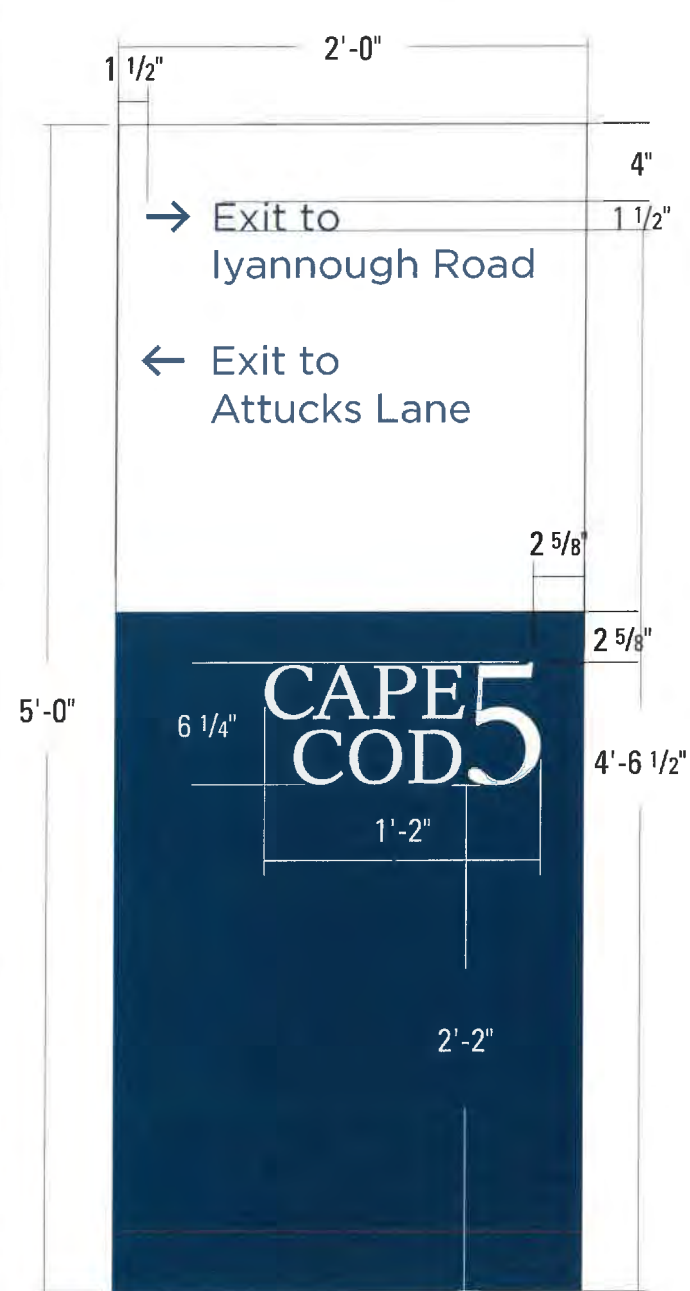
Refer to drawing

**SIGNAGE**

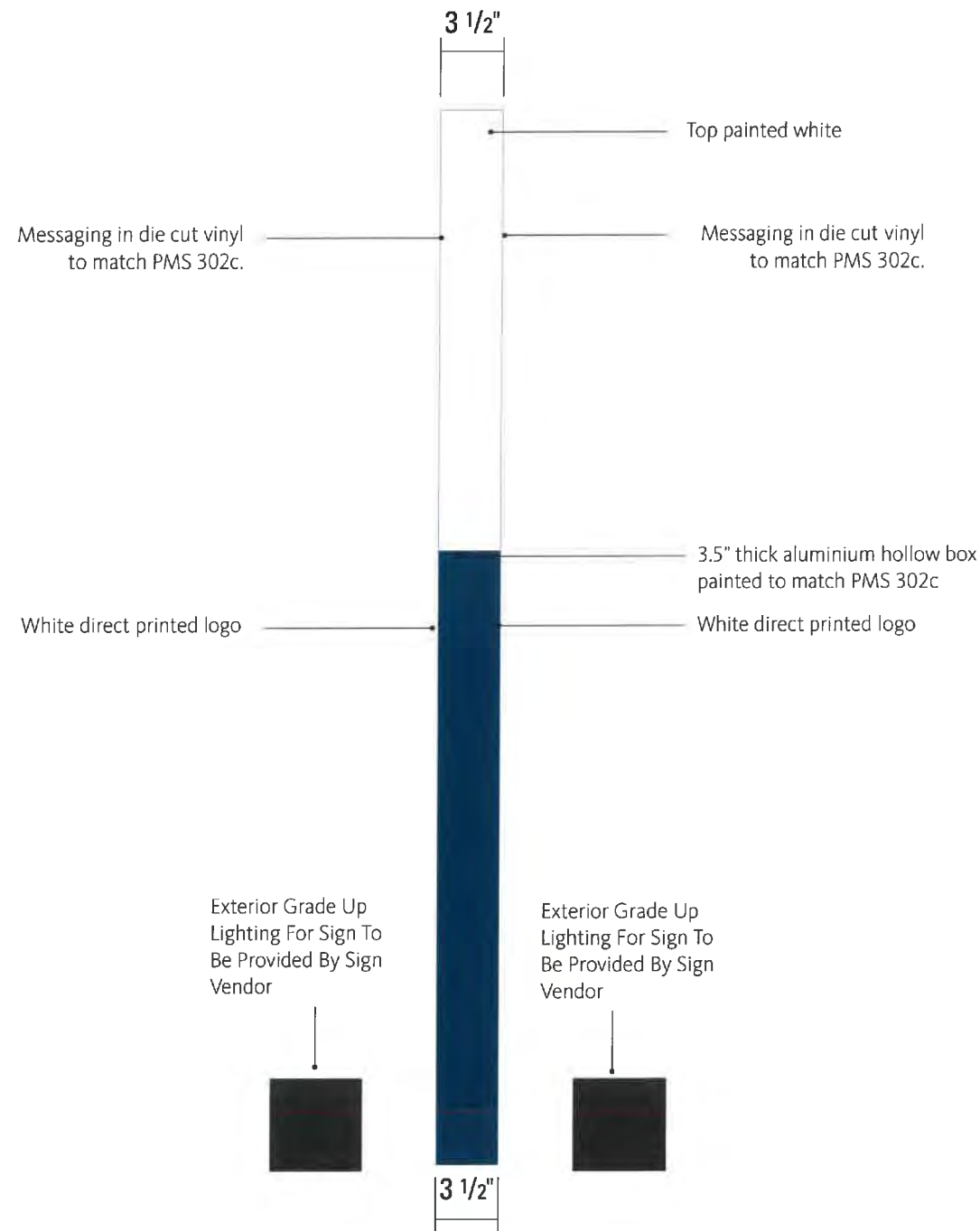
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.28**

# V.1 VEHICULAR WAYFINDING - DOUBLE SIDED



1 FRONT ELEVATION V.1  
Scale: 1" = 1'-0"



3 SIDE ELEVATION  
Scale: 1" = 1'-0"

**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

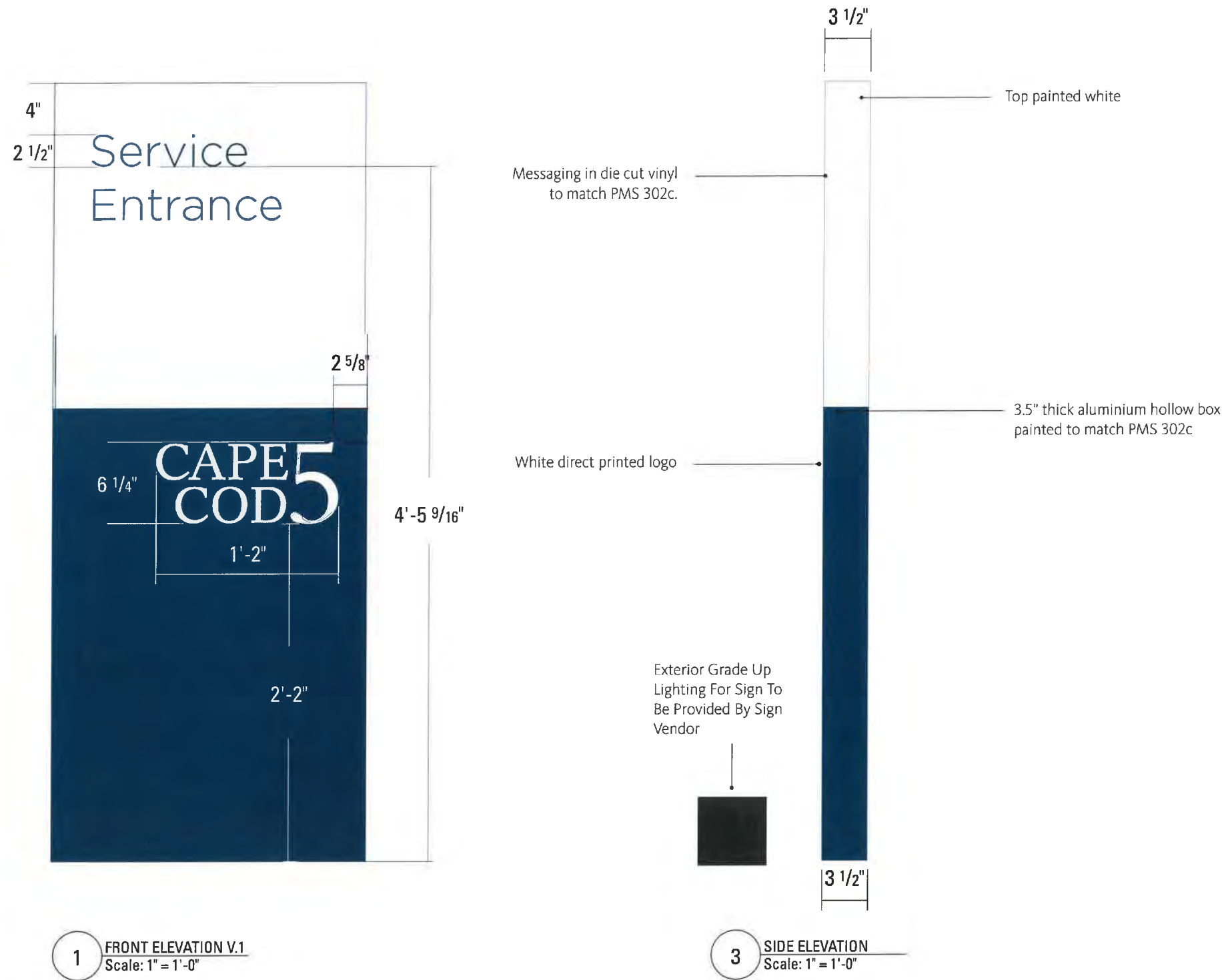
#### Scale

Refer to drawing

#### SIGNAGE

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

# V.3 VEHICULAR WAYFINDING - SINGLE SIDED



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

Refer to drawing

#### SIGNAGE

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.30

# Law Office of Singer & Singer, LLC

26 Upper County Road  
P. O. Box 67  
Dennisport, Massachusetts 02639

Andrew L. Singer  
Marian S. Rose

Myer R. Singer (1938-2020)

Tel: (508) 398-2221  
Fax: (508) 398-1568  
www.singer-law.com

Barnstable Board of Appeals

1500 and 1550 Iyannough Road, Hyannis

## SUMMARY OF REASONING

Introduction/Proposal. The Cape Cod Five Cents Savings Bank [“Applicant”], owns the adjacent properties located at 1500 Iyannough Road and 1550 Iyannough Road, both in Hyannis [collectively “Property” and individually “1500 Iyannough” and “1550 Iyannough”]. 1500 Iyannough is improved with the new Cape Cod Five Headquarters Building with two curb cuts on Route 132 and two curb cuts on Attucks Lane. 1550 Iyannough is improved with a remodeled Cape Cod Five Banking Center Building with one curb cut on Route 132 and two curb cuts on Attucks Lane. The total campus is 11± acres (1500 Iyannough is approximately 9 acres, and 1550 Iyannough is approximately 2.25 acres). The Property, which is located in the Highway Business (HB) Zoning District, is shown as Assessor’s Map 253 as Parcels 253-020-B00 and 253-020-T00 (1500 Iyannough) and as Assessor’s Map 254, Parcel 014 (1550 Iyannough).

The Applicant has completed construction of the 82,000± sq. ft., two-and-half story office building and detached two-level parking structure on 1500 Iyannough and of the 13,000± sq. ft., two-story office building on 1550 Iyannough. The Applicant is now at the final stage of permitting freestanding and building signage for the campus. These two applications have been filed as companion cases. The overall redevelopment of the Property did not go through a Regulatory Agreement process with the Town and has been before the Board once before for certain dimensional relief for each parcel.

Relief Requested. The Applicant is requesting variance relief in accordance with Sections 240-125 and 240-126 of the Barnstable Zoning Ordinance and M.G.L. Chapter 40A, Section 10, from the following provisions of the Zoning Ordinance:

1500 Iyannough

1. § 240-65 (A) – Number of signs. Requesting total of (4) Building and Freestanding signs
  - Two (2) each on building with frontage on two streets and at property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this code section
  - 198.00 SF of Building/Freestanding signage -- 98 SF relief requested, exclusive of 41.96 SF of proposed Directional/Incidental signage (see below)
3. § 240-65 (D), (G) – A second freestanding sign
  - This is allowed by exception where a property has frontage on two public ways, and requires additional square footage be allowed.
4. § 240-75 (A), (B) – Allowance of larger than allowed Directional signs, in terms of both square footage and height as well as number and square footage of “regulatory” (Incidental) signs

1550 Iyannough

1. § 240-65 (A) – Number of signs. Requesting total of (4) Building and Freestanding signs
  - One (1) building sign and one (1) freestanding sign on the Route 132 frontage and two (2) freestanding signs on the Attucks Lane frontage at property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this section of the code
  - 113.28 SF of Building/Freestanding signage -- 13.28 SF relief requested, exclusive of 42.75 SF of Directional signage proposed (see below)
3. § 240-65 (D), (G) – Number of signs. Requesting total of (4) building and freestanding signs

- A second freestanding sign is allowed by exception where a property has frontage on two public ways. This requires additional square footage relief.
4. § 240-75 (A), (B) – Allowance/approval of (4) larger than allowed Directional signs, in terms SF in one case, and in terms of both square footage and height for three others.

The Board of Appeals is authorized to grant variances upon a finding that owing to circumstances relating to the soil conditions, shape or topography of such land or due to circumstances relating to the structure and especially affecting such land or structure but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the Petitioner, 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 the Zoning By-Law.

The Applicant submits that a literal enforcement of the Zoning By-Law in connection with the campus at 1500 Iyannough and 1550 Iyannough will result in a substantial practical (safety) and economic hardship to the Applicant and the community and that this hardship is owing to unique circumstances relating to the shapes, sizes, and orientations of the buildings; the parking layout and design, including the parking structure; and the overall shape and topography of the land as it relates to the site redevelopment, including various grade changes and wetlands that impact site visibility from both Route 132 and Attucks Lane.

As Martin Healy and Franklin Stearns, Esqs., discuss in the Massachusetts Zoning Manual, “the conditions that establish hardship are diverse” (Massachusetts Zoning Manual, Martin R. Healy, Esq. and Franklin G. Stearns, Esq., Supp. 2002, Chapter 9, Section 9.3.2, Page 9-10). Citing a number of court cases, the Zoning Manual discusses further that “[d]espite the stringency of the hardship requirement generally, where only dimensional variances are involved, even relatively minor ‘hardship’ can justify a variance” (*Id.* at 9-15).

In *Furlong V. Zoning Board of Appeals of Salem*, the Massachusetts Appeals Court affirmed the grant of variances to a marina where the peculiar shape of the property resulted in a “‘hardship’ in the form of safety hazards to people and property...” if a new building was located in a conforming location on the land (*Furlong V. Zoning Board of Appeals of Salem*, 64 N.E.2d 268, 271 (Mass.App.Ct. 2016)). The Court also held that “[w]e agree with the judge that ‘[w]here a variance diminishes the risk of an existing harm or where it prevents a greater risk of harm that would result from compliance with a zoning ordinance, such a hardship may merit a variance’” (*Id.* At 272). In this case, given the unique site conditions detailed above, safety and efficiency can be enhanced and danger mitigated with the proposed sign package submitted by the Applicant.

In addition, for the reasons set forth in the attached Exterior Signage Proposal Narrative and below, the Applicant submits that desirable relief may be granted in this instance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law because:

1. The Property is centrally located with direct access from main roads into and out of Hyannis with frontage on both the divided Route 132 and Attucks Lane and is zoned for the existing uses;
2. The proposed signage is in keeping with a campus containing seven curb cuts on two different roads, one of them a divided highway, and will also be keeping with and compatible with the character of the neighborhood;
3. The proposed signage will enhance the public safety, welfare, and convenience of the community;
4. No new activity is proposed within the 100 ft. buffer to any wetlands;
5. Lighting will comply with the Town of Barnstable lighting regulations, and there will be no negative change in artificial light, noise, litter, and odor; and

6. The proposal will not create any nuisance, hazard or congestion or any harm to the neighborhood or neighboring properties and, to the contrary, will be a benefit.

For all of the above reasons, the Applicant respectfully requests that the Board of Appeals make a finding that the statutory criteria for the requested relief are met and grant Variances to allow the signage as shown on the submitted plans.





## Cape Cod 5 Exterior Signage Proposal Narrative

We are applying for approval of what we feel is an important piece of the completion of the renovation, redevelopment, and construction work we have been undertaking between Iyannough Road and Attucks Lane. This includes two separate addresses.

- 1550 Iyannough Road - The Cape Cod 5 Headquarters/Office building (HQ5) site, which is nearly 9 acres in size with 4 curb cuts, and just over 82,000 GSF of new building and the accompanying parking structure.
- 1550 Iyannough site - Located at the intersection of Iyannough and Attucks Lane which is another 2.25 acres. This parcel is home to our new RT 132 Banking Center, and will soon include additional Wealth Management Offices and Training spaces. This site has an additional 3 curb cuts, includes two drive-up service lanes, and existing driveway layouts require one way traffic around the building that requires additional signs for safety reasons.

Together the sites we are talking about provide 1,063 linear feet of frontage on Iyannough Road (RT 132), and 1,694 linear feet of frontage on Attucks Lane. With a combined ~95,000 gross square feet of space and over 2,500 linear feet of road frontage we would argue that what we are proposing is well below what might be allowed if the sites were redeveloped differently.

One could imagine how many signs this area might have seen if the properties involved were further subdivided and/or redeveloped differently. Perhaps with more distinct buildings and/or tenants each allowed the minimum number of signs allowed.

For example –

- The multiple sites we have assembled most recently were the home to not less than 4 businesses, and prior to that a few more. According to the current regulations this would allow for, at a minimum, 4 to 7 freestanding signs and at least 4 building signs. It is easy to see how such a scenario would total 400 SF before counting any additional directional or other signs that may be allowed.
- Shopping Center allowances may have allowed for even more signage (by numbers and Sq. Ft.)

The good news is we are proposing just under this amount - inclusive of all our sign types.

Design Considerations:

Our design team took great care to follow industry standards and best practices in designing all signs so they could be read from a distance and while traveling on roadways at speed. We feel the designs are appropriate for both the size and complexity of these sites, and buildings thereon.

This includes careful calculations for all text sizes used based on USSC standards for legibility. Crafting the designs to balance the size, color and layouts to ensure maximum visibility and legibility, with properly sized background sizes and contrasts.

(Here we have provided a link to the standards referenced above)

<https://usscfoundation.org/wp-content/uploads/2018/03/USSC-Guideline-Standards-for-On-Premise-Signs-2018.pdf>

For Example: Using the standard for parallel signs offset from the roadway, the two proposed wall signs at HQ5 would be have letters ranging from 39” to 44” tall (with 175-220 offsets like we have). The current proposal includes letters at 29” tall in the “Cape Cod” on each side of the building, with only the “5” being larger.

It is also important to point out that all of the Freestanding signage designs utilize rectangular shapes that are ground mounted in lieu of perhaps more typical post mounted sign panels that may indeed have measured smaller in overall square footage. These designs are purposely a modern expression meant to complement the modern design of the new buildings and spaces within. This was an intentional decision which represents the future-looking mission and technology the facilities represent.

## **Specific Arguments for Variances Requested:**

**Below is a lengthier outline/explanation of where we see issues related specific portions the signage regulations, and where we are requesting relief, or explaining how we believe we comply.**

§ 240-65

*Signs in B, UB, HB, HO, S&D, SD-1 and GM Districts.*

*[Amended 8-15-1991; 7-15-1999; 6-20-2013 by Order No. 2013-133; 4-27-2017 by Order No. 2017-100]*

*A. Each business may be allowed a total of two signs.*

### **Request:**

**At the HQ5 Office Building site we feel a second facade mounted and a freestanding sign are both warranted as we have two important frontages. Added freestanding signs are more important at the branch bank to direct traffic to the correct entry and exit points. Due to RT 132 being a divided highway, our Attucks Lane frontage on both sites is extremely important, and some may argue an equally important approach or means of entering the site.**

*B. The maximum height of any freestanding sign will be 10 feet, except that a height of up to 12 feet may be allowed by the Building Commissioner if it is determined that the additional height will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.*

*Note: While we are not asking for additional height relief, we would like to note here that we feel strongly that both the wall and freestanding signs are appropriate for the RT 132 corridor and to the size and scale for the CC5 Campus.*

- C. *The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount. In instances where multiple business establishments share a customer entrance on the same facade, the total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount. [Amended 4-17-2014 by Order No. 2014-047]*

**NOTE:** *Additionally it is critical that we direct traffic to the Bank Branch and the Office Building separately as they each have different functions and meaning to customers, visitors and employees.*

- D. *Only one freestanding sign is allowed per business, which may not exceed half the allowable size as permitted in this section.*
- E. *When a business property is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.*

**Request:**

**Because we have two important frontages running along both Iyannough Rd. and Attucks Lane. Additionally because RT 132 is a divided highway, it is critical that we direct traffic to each the Bank Branch and the HQ5 Office Building separately as they have very different functions and meanings to customers, visitors and employees.**

**For these reasons we feel a second freestanding sign is warranted at the larger HQ5 (1500) site. Additionally as we intend the Bank Branch (1550) site to be more frequented by customers, we have included three larger freestanding signs to appropriately direct people to this site with multiple curb cuts and a one-way flow for the drive-thru.**

**While we feel each additional freestanding signs are warranted – it is also critical that additional Square Footage be allowed in order for each sign to be functional. The tables provided detail that we are requesting an additional 98 SF at 1500 Iyannough Rd. and 13,208 SF at 1550 Iyannough rd.**

§ 240-75

*Directional or safety signs.*

*In addition to other allowable signs, directional, warning or traffic signs necessary for the safety and direction of residents, employees, customers and visitors may be allowed as follows:*

**Request:**

**The Bank is asking for approval of our proposed signage designs including “Directional” or vehicular wayfinding signs and several additional “Regulatory” signs.**

- **These regulatory signs include posting of LEED required “Tobacco Free Campus” signs, as well as occupancy and signs directing people to the correct entry doors. (See examples below)**

*A. Such signs shall not exceed one square foot in area, nor be more than three feet high.*

**We feel strongly that these signs cannot be limited to 1 SF each. As we have noted elsewhere, all signs have been designed for proper visibility. Height and width of signs are therefore larger by necessity.**

**In addition to visibility the ground mounted directional signs have been designed for viewing by both pedestrians and those in vehicles, and as such the limitation of 3 feet in height is not sufficient where they might be temporarily obscured. This might be another passing vehicle or might occur during winter months where signs can easily be obscured by snowbanks.**

*B. No more than four such signs will be allowed per site.*

*C. The Building Commissioner may grant exceptions from the provisions of this subsection on a case-by-case basis if he finds that the site requires more or larger or higher directional or safety signs, and that such signs will not conflict with the visual quality and character of the area nor lead to clutter or confusion*

**Depending on how the signs are counted we may be slightly over the allowed number of 4. However due to the overall scope of the project across both sites we are asking the ZBA to approve the current design.**

- **We would suggest that the number and size of all signs are appropriate for the context and size of each site – both 1500 and 1550 Iyannough Rd.**
- **We also feel the designs are appropriate and necessary for safety reasons.**



# Town of Barnstable

## Planning and Development Department

Elizabeth Jenkins  
Director

### Staff Report

#### Appeal No. 2020-029 – Cape Cod Five Cents Savings Bank

#### Variance to Sections 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs

Variance to allow additional signage: two building signs, two freestanding signs, four directional signs, and nine incidental signs for 1500 Iyannough Rd

**Date:** August 31, 2020  
**To:** Zoning Board of Appeals  
**From:** Anna Brigham, Principal Planner  
**Petitioner/Owner:** **The Cape Cod Five Cents Savings Bank**  
**1500 Iyannough Rd, Hyannis, MA**

**Property Address:** 1500 Iyannough Road, Hyannis  
**Assessor's Map/Parcel:** Map 253 Parcels 020-B00 and 020-T00  
**Zoning:** Highway Business (HB) District

Filed: August 12, 2020

Hearing: September 9, 2020

Decision Due: November 10, 2020

### Copy of Public Notice

The Cape Cod Five Cents Savings Bank has petitioned for relief in accordance to Section 125 and Section 240-126 of the Zoning Ordinance and M.G.L. Chapter 40A Section 10 from the following provisions: 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs. The Petitioner is seeking additional signage at the Cape Cod Five Cents Savings Bank Headquarters. The subject property is located at 1500 Iyannough Road, Hyannis MA as shown on Assessors Map 253 as Parcels 020-B00 and 020-T00. It is located in the Highway Business (HB) Zoning District.

### Background

The property is located within the Highway Business District and is improved with the Cape Cod Five Corporate Offices and a parking garage which fronts on both Attucks Lane and Iyannough Rd (Rte 132). The Banking Center project was approved as a Development of Regional Impact (DRI) by the Cape Cod Commission in July, 2017. The project was granted a Special Permit as a Conditional Use by the Zoning Board of Appeals (No. 2017-060) to demolish existing buildings and construct a 78,220 banking center with a 99,733 parking garage. The Applicant returned to the Zoning Board of Appeals for Special Permit No. 2018-011 for site alterations.

The sign regulations pertaining to number of signs, as they apply to the Highway Business zoning district and this request, is as follows:

**§ 240-65 Signs in B, UB, HB, HO, S&D, SD-1 and GM Districts.**

A. Each business may be allowed a total of two signs.

B. The maximum height of any freestanding sign will be 10 feet, except that a height of up to 12 feet may be allowed by the Building Commissioner if it is determined that the additional height will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.

C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount. In instances where multiple business establishments share a customer entrance on the same facade, the total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount.

D. Only one freestanding sign is allowed per business, which may not exceed half the allowable size as permitted in this section. .

F. Incidental business signs indicating the business, hours of operation, credit cards accepted, business affiliations, "sale" signs and other temporary signs shall be permitted so long as the total area of all such signs does not exceed four square feet and is within the allowable maximum square footage permitted for each business.

G. When a business property is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.

**§ 240-75 Directional or safety signs.**

In addition to other allowable signs, directional, warning or traffic signs necessary for the safety and direction of residents, employees, customers and visitors may be allowed as follows:

A. Such signs shall not exceed one square foot in area, nor be more than three feet high.

B. No more than four such signs will be allowed per site.

**Proposal & Relief Requested**

The Cape Cod Five Cents Savings Bank has petitioned for relief in accordance to Section 240-125 and Section 240-126 of the Zoning Ordinance and M.G.L. Chapter 40A Section 10 from the following provisions: 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs.

1500 Iyannough Road						
HQ5 - CC5 Headquarters Office Building			Freestanding and Building Signs			
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Building Identity Sign	L.1 / 101	Building	12.00	5.42	65.00	Route 132 façade mounted sign
Building Identity Sign	L.1 / 102	Building	12.00	5.42	65.00	Second building mounted sign - on the Attucks Lane façade
Roadway Monument	L.2 / 101	Freestanding	4.25	8.00	34.00	at Route 132 side of site
Roadway Monument	L.2 / 102	Freestanding	4.25	8.00	34.00	Second roadway/pylon sign at Attacks Lane side of site
<b>TOTALS</b>					<b>198.00</b>	

1500 Iyannough Road						
HQ5 - CC5 Headquarters Office Building			Directional / Information Signs			
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Vehicular Wayfinding	V.1 / 101	Directional/Information	2.00	5.00	10.00	See layout for text.
Vehicular Wayfinding	V.2 / 103	Directional/Information	2.00	5.00	10.00	"
Vehicular Wayfinding	V.2 / 102	Directional/Information	2.00	5.00	10.00	"
Vehicular Wayfinding	V.3 / 102	Directional/Information	2.00	5.00	10.00	do we have four or five
Regulatory signage	R.1 / 101	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 102	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 103	Incidental	0.66	0.66	0.44	"This is a Tobacco free Campus"
Regulatory signage	R.1 / 104	Incidental	0.66	0.66	n/a	"This is a Tobacco free Campus" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	n/a	"Exit" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	n/a	"Exit" - inside courtyard
Core / Support	J.1 / 104	Incidental	0.66	0.33	0.22	"Not an Entrance"
Core / Support	J.1 / 104	Incidental	0.66	0.66	0.44	"Service Entry Only"
Occupancy sign	X.1	Incidental	0.66	0.66	n/a	Code required occupancy sign inside courtyard
<i>subtotal of incidental signs equals-</i>			<i>1.96</i>			
<b>TOTALS</b>					<b>41.96</b>	

## Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

- owing to circumstances related to 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 zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
- desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

An application for a variance that has met all three requirements “does not confer ... any legal right to a variance.” The Board still has the discretionary power to grant or not to grant the variance.

## Suggested Conditions

Should the Board find to grant Variance No. 2020-029 it may wish to consider the following conditions:

1. Variance No. 2020-029 is granted to The Cape Cod Five Cents Savings Bank for the property located at 1500 Iyannough Road for two building signs each 65 square feet, two freestanding signs each 34 square feet, four directional signs each 10 square feet, and nine incidental signs each not to exceed 0.44 square feet.
2. The signs shall be in substantial conformance with the sign specifications by Gensler DI.3, DI.32, DI.33, and sign specifications by DCL Sheets 12-22.
3. The Applicant is required to obtain sign permits from the Building Division prior to installation.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

CC: Applicant (c/o Attorney Andrew Singer)

Attachments: Application  
Sign Specifications  
Site Plan  
Assessor's Record  
Summary of Reasoning from Attorney Singer  
CC5Exterior Signage Proposal Narrative



RECEIVED

AUG X 7 2020

OUT OF QUARANTINE

ZONING BOARD OF APPEALS

BARNSTABLE TOWN CLERK

20 AUG 12 AIO 59



Town of Barnstable  
Zoning Board of Appeals  
Application for a Variance

Date Received  
Town Clerk's Office:

For office use only:

Appeal # 2020-030  
Hearing Date 09-09-20  
Deed 11-10-20

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Applicant's Name:<sup>1</sup> The Cape Cod Five Cents Savings Bank, Phone: 508-247-2216  
Applicant's Address: 1500 Iyannough Rd Hyannis, MA 02601

Property Location: 1550 Iyannough Road  
Property Owner: The Cape Cod Five Cents Savings Bank, Phone: 508-247-2216  
Address of Owner: 1500 Iyannough Rd. Hyannis, MA 02601

*If petitioner differs from owner, state nature of interest:<sup>2</sup>*

Registry of Deeds/Land Court References: Deed 30900/137 Plan 268/53

Assessor's Map/Parcel Number: 254/014 Zoning District: HB

Number of Years Owned: 3 Groundwater Overlay District: yes

Variance Requested: Please see attached - signs  
*Cite Section & Title of the Zoning Ordinance.*

Description of Activity/Reason for Request: Please see attached - signs

*Attach additional sheet if necessary.*

Does the property have any existing Variance or Special Permit issued to it? No [ ] Yes [X]  
Permit #.: 1968-145, 1973-32, 1987-03, 2017-060, and 2018-011

<sup>1</sup> The Applicant's Name will be the entity to whom the variance will be issued to.  
<sup>2</sup> If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Application for a Variance - Page 2

Existing Level of Development of the Property - Number of Buildings: 1

Present Use(s): Branch Bank, plus additional office space

Existing Gross Floor Area: 13,000 sq. ft. Proposed New Gross Floor Area: 13,000 sq. ft.  
no change

Site Plan Review Number: \_\_\_\_\_ Date Approved: \_\_\_\_\_ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes [ ] No [X]  
Is this proposal subject to the jurisdiction of the Conservation Commission ..... Yes [ ] No [X]  
Is this proposal subject to approval by the Board of Health ..... Yes [ ] No [X]  
Is the building a designated Historic Landmark?..... Yes [ ] No [X]

Have you applied for a building permit?..... Yes [ ] No [X]  
Have you been refused a building permit?..... Yes [ ] No [X]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: C. W. Singer Date: August 12, 2020  
Applicant or Representative's Signature<sup>3</sup>

Print Name c/o Andrew L. Singer, Attorney

Law Office of Singer & Singer, LLC

Address: P.O. Box 67 Phone: 508-398-2221

Dennisport, MA 02639 Fax No.: \_\_\_\_\_

e-mail Address: alsinger@singer-law.com

<sup>3</sup> All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.



**Town of Barnstable  
Zoning Board of Appeals**

**Agreement to Extend Time Limits  
for Holding of a Public Hearing and Filing of a Decision on a  
Variance**

Date Application was Time Stamped w/Town Clerk:	8/12/2020	ZBA Appeal #:	
Original Hearing Date:		Applicant:	The Cape Cod Five Cents Savings Bank
Original Decision Due:		Address:	1550 Iyannough Road Hyannis, MA 02601
Number of Days Extended:		Map/Parcel:	254/014
New Decision Due Date:			

In the Matter of The Cape Cod Five Cents Savings Bank, (the Applicant(s) and the Zoning Applicant(s)

Board of Appeals, pursuant to Mass. General Laws, Chapter 40A, Section 15, agree to extend the required time limits for holding of a public hearing and filing of a decision on this application for a Variance for a period of \_\_\_\_\_ days beyond that date the hearing was required to be held and the decision was to be filed. This extension requires that the decision be filed 14 days after the decision is rendered by the Zoning Board of Appeals and that the decision be filed no later than \_\_\_\_\_.

In executing this Agreement, the Applicant(s) hereto specifically waive any claim for a constructive grant of relief based upon time limits applicable prior to the execution of this Agreement.

**Applicant(s):**

The Cape Cod Five Cents Savings Bank

Signature: *[Handwritten Signature]*  
Applicant(s) or Applicant's Representative

**Zoning Board of Appeals**

Signature: \_\_\_\_\_  
Chairman or Acting Chairman

Date: August 12, 2020

Date: \_\_\_\_\_

**Zoning Board of Appeals**  
Growth Management Department  
200 Main Street, Hyannis, MA 02601  
Phone: 508-862-4785 Fax: 508-862-4784

cc: Town Clerk  
Applicant(s)  
File

**Town of Barnstable**  
**Zoning Board of Appeals**

Applicant: The Cape Cod Five Cents Savings Bank  
Property: 1550 Iyannough Road, Hyannis, MA -- Route 132 Banking Center  
(located at the intersection of Route 132 and Attucks Lane)

Exterior Sign Variance Relief Request:

The Applicant is requesting variance relief in accordance with Sections 240-125 and 240-126 of the Barnstable Zoning Ordinance and M.G.L. Chapter 40A, Section 10, from the following provisions of the Zoning Ordinance:

1. § 240-65 (A) – Number of signs – Requesting a total of (4) Building and Freestanding signs
  - One (1) building sign and one (1) freestanding sign on the Route 132 frontage and two (2) freestanding signs on the Attucks Lane frontage at the property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this section of the code
  - Design calls for a total of 113.28 SF of Building/Freestanding signage -- 13.28 SF relief requested
  - This is exclusive of the 42.75 SF of Directional signage proposed (see below)
3. § 240-65 (D), (G) – Number of signs. Requesting a total of (4) building and freestanding signs
  - A second freestanding sign is allowed by exception where a property has frontage on two public ways. This requires additional square footage relief.
4. § 240-75 (A), (B) – Allowance/approval of (4) larger than allowed Directional signs, in terms SF in one case, and in terms of both square footage and height for three others.

## Signage Square Footage Tables:

Inserted here are two tables for each site.

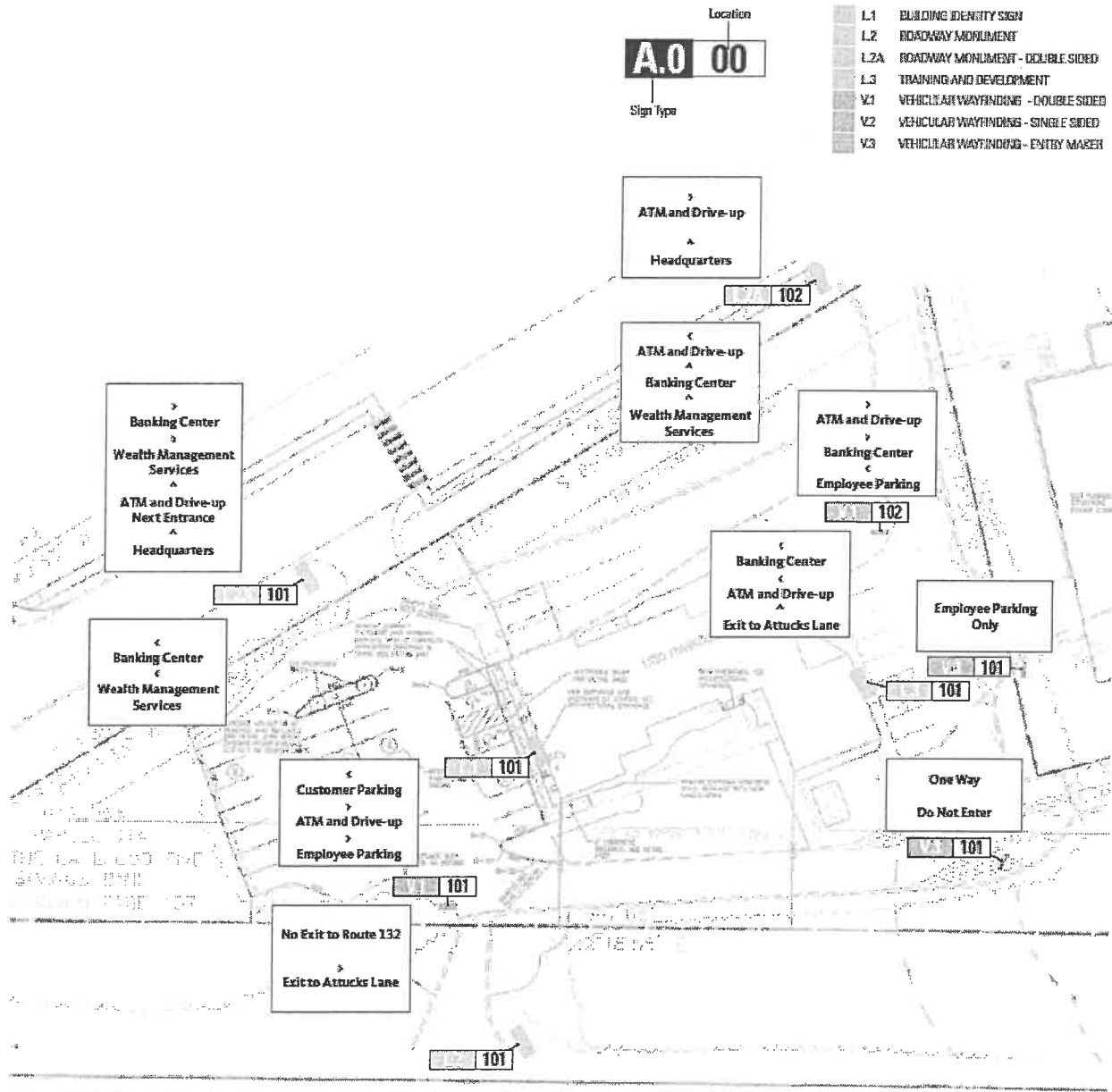
- 1) One for wall and freestanding signs, and the other for additional signs that are allowed.
  - 2) All sign areas have been calculated per section § 240-6 (A)
- *This is intended to point out differences with the requirements of the local Sign Regulations and how they define and limit number of and allowed square footage of the various sign types – especially the “Building/Wall” and “Freestanding” varieties.*
  - *We also have the need for numerous wayfinding and directional signs. This second category is where the more defined requirements of the Highway Business Zoning District (HB) come into play.*

1550 Iyannough Road						
CC5 RT 132 Branch Bank						
Freestanding and Building Signs						
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Building Sign	L.1 / 101	Building	5.21	2.17	11.28	Route 132 façade - 62.25" (w) x 28" (h) CC5 Logo on gable end
Roadway Monument	L2 / 101	Freestanding	4.25	8.00	34.00	See layout for text.
Roadway Monument	L2A / 101	Freestanding	4.25	8.00	34.00	"
Roadway Monument	L2A / 102	Freestanding	4.25	8.00	34.00	"
<b>TOTALS</b>					<b>113.28</b>	

1550 Iyannough Road						
CC5 RT 132 Branch Bank						
Directional / Information Signs						
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Vehicular Wayfinding	V.1 / 101	Directional/Information	2.00	5.00	10.00	"Customer Parking ..."
Vehicular Wayfinding	V.1 / 102	Directional/Information	2.00	5.00	10.00	"ATM and Drive-up..."
Vehicular Wayfinding	V.3 / 101	Directional/Information	2.00	5.00	10.00	"One Way Do Not Enter"
Vehicular Wayfinding	V.3 / 101	Directional/Information	2.00	5.00	10.00	"Employee Parking only" at entry to garage
Wall mounted sign at secondary entry	L.3	Directional/Information	1.00	2.75	2.75	Small wall mounted directional type sign at employee only lower level entry, to read "TRAINING & DEVELOPMENT CENTER"
<b>TOTALS</b>					<b>42.75</b>	

# Detailed Layout of the 1550 Iyannough Road Site:



137 SPACES/8 = 17.13	17.13	18
(1/30 FT OF FRONTAGE = 1.999 LF FRONTAGE/30 = 66.63)	66.63	67
PARKING TABLE	PER BUILDING COMMISSIONER	136 SPACES (GROSS) 217 SPACES (PARKING STRUCTURE)
TOTAL PARKING		353 SPACES
HANDICAP PARKING (TOTAL/VAN)	8/1 SPACES	5/2 SPACES (GROSS) 3/2 SPACES (PARKING STRUCTURE)

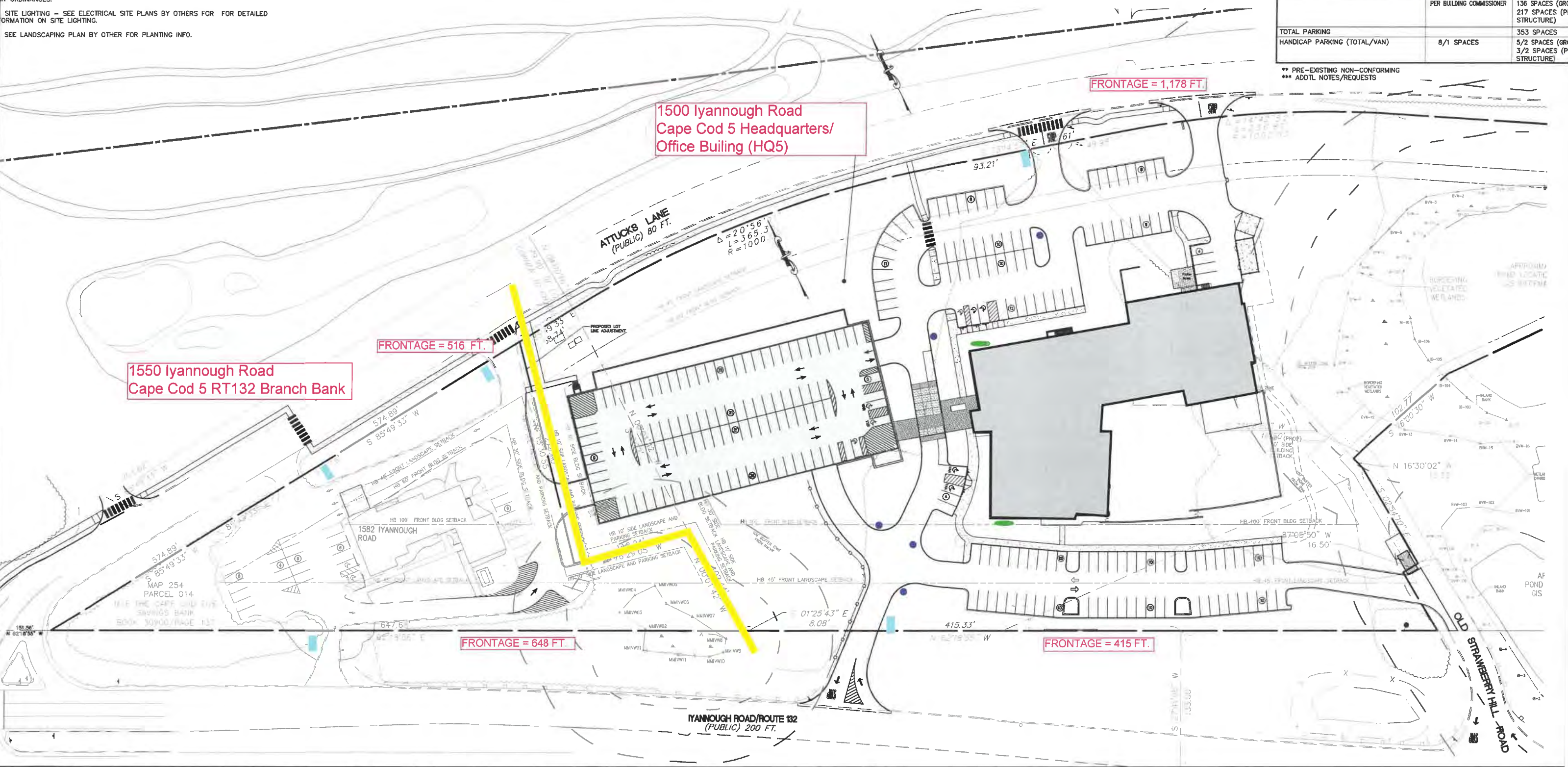
\*\* PRE-EXISTING NON-CONFORMING  
\*\*\* ADDTL. NOTES/REQUESTS

ALL PAVEMENT MARKINGS AND STRIPING SHALL FOLLOW MUTCD STANDARDS. TYPICAL LINE WIDTH FOR LANE AND PARKING STALL STRIPING SHALL BE 4 INCHES. UNLESS OTHERWISE NOTED, PARKING STALL COLOR SHALL BE WHITE, TYPICAL, UNLESS OTHERWISE NOTED.

BUILDING AND SITE SIGNAGE SHALL MEET REQUIREMENTS OF TOWN ZONING AND/OR ORDINANCES.

SITE LIGHTING - SEE ELECTRICAL SITE PLANS BY OTHERS FOR DETAILED INFORMATION ON SITE LIGHTING.

SEE LANDSCAPING PLAN BY OTHER FOR PLANTING INFO.



1500 Iyannough Road  
Cape Cod 5 Headquarters/  
Office Building (HQ5)

1550 Iyannough Road  
Cape Cod 5 RT132 Branch Bank

FRONTAGE = 516 FT.

FRONTAGE = 1,178 FT.

FRONTAGE = 648 FT.

FRONTAGE = 415 FT.

IYANNOUGH ROAD/ROUTE 132  
(PUBLIC) 200 FT.

ATTUCKS LANE  
(PUBLIC) 80 FT.

$\Delta = 20.56'$   
 $L = 365.3'$   
 $R = 1000'$

MAP 254  
PARCEL C14  
1/4 OF THE CAPT. AND THE  
SAVINGS BANK  
BOOK 10900/PAGE 137

OLD STRAWBERRY HILL ROAD

AF  
POND  
GIS

# SIGNAGE LOCATION PLAN

## EXTERIOR SIGNAGE PLAN

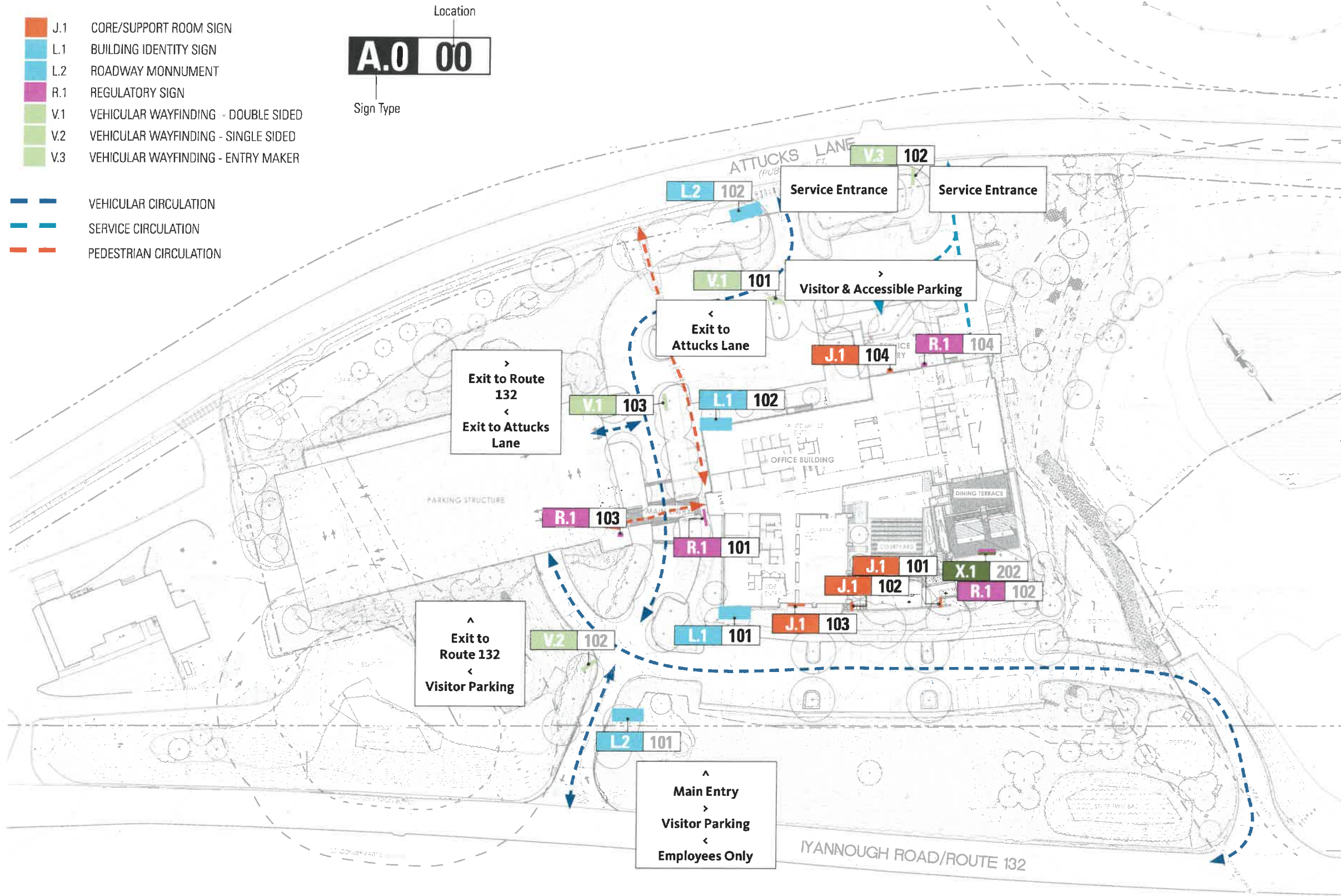
UPDATED 1/6

Cape Cod 5

Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108



**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
4	Sept 16 2019	Updated SLP
3	Sept 3 2019	Updated SLP
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**  
011.7456.700

**Sign Type**

**Scale**

Refer to drawing

**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.41**



# TYPOGRAPHY & COLOR SPECIFICATION

## Gotham Book

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz!

@#\$%^&\*()\_+<>?.,

0123456789

## Gotham Medium

ABCDEFGHIJKLMNOPQRSTUVWXYZ

abcdefghijklmnopqrstuvwxyz!

@#\$%^&\*()\_+<>?.,

0123456789

Tracking Caps (Visual): 25

Tracking Caps (Dimensional): 25

Tracking U&LC: 0

Tracking Numbers: 25

Auto Kerning

Tracking Caps (Visual): 0

Tracking U&LC: 0

Tracking Numbers: 25

Auto Kerning

MATERIAL	DESCRIPTION	REFERENCE
MT 01	Heavy gauge aluminum SGC to provide material approved by DOT/MUTCD	
PT 01	Painted to match PMS 302C	
PT 02	Painted Matte White	
FL 01	Outdoor reflective parking film	N/A
VN 01	Vinyl to Match PMS 302	

**Note:** Vendor is responsible for purchasing typefaces specified for this scope of work.

## Cape Cod 5

Interior & Exterior Signage

## Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

### Design Intent Drawings

### Job Number

011.7456.700

### Sign Type

### Scale

Refer to drawing

SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.3

# L.1 BUILDING IDENTITY SIGN - OPTION 1A

## BLUE FACE WITH WHITE SIDES

Note: Rendering for design intent reference only;  
See detailed drawings on following pages per sign type

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108



**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**

011.7456.700

**Sign Type**

**Scale**

Refer to drawing

**SIGNAGE**

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

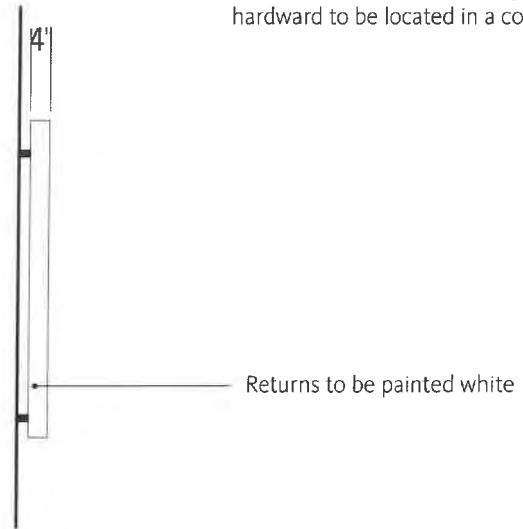
**DI.32**

# L.1 BUILDING IDENTITY SIGN - OPTION 1A



4" thick aluminum fabricated halo lit letters with dimmer switch and timer. LED at 3,000K for warm white glow.

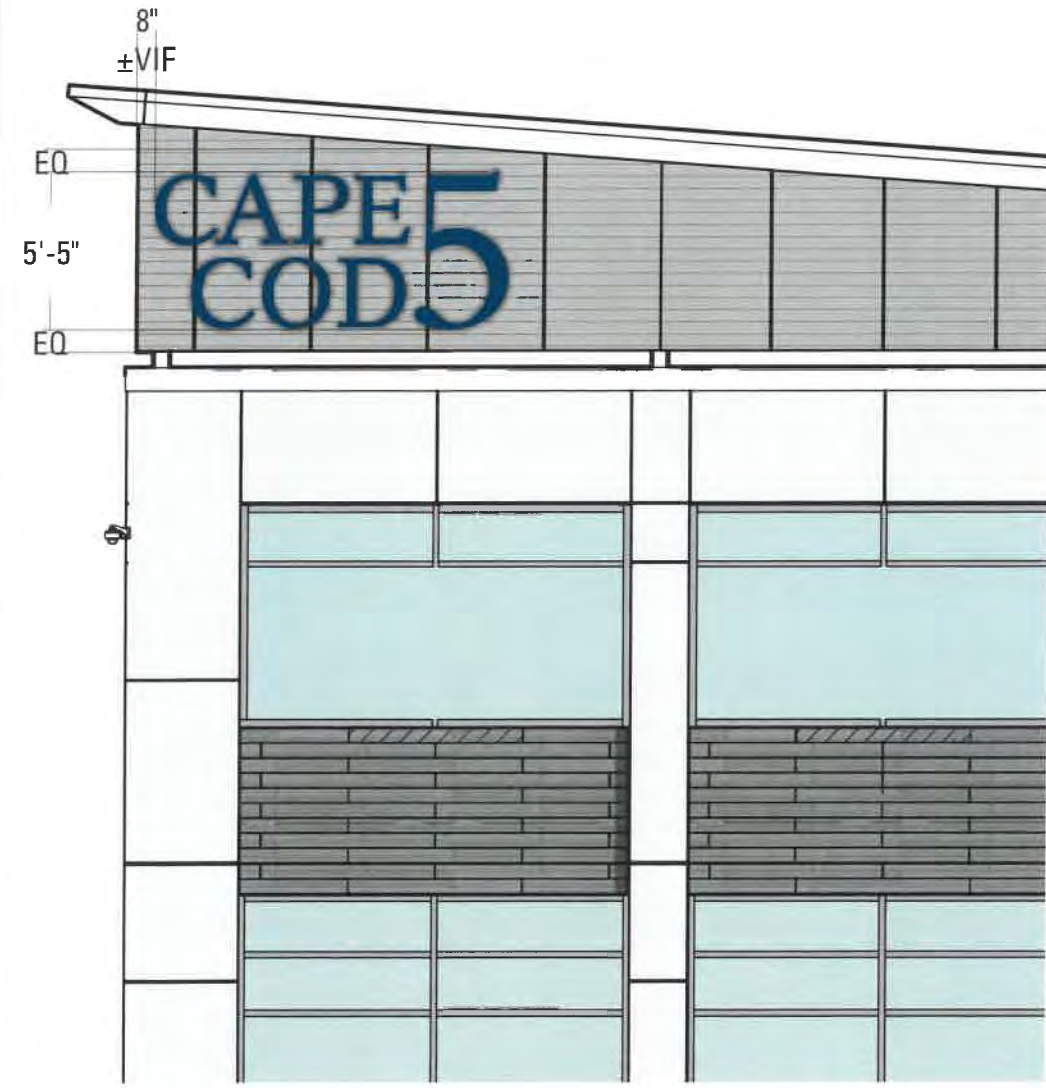
LED color same to be confirmed during prototyping



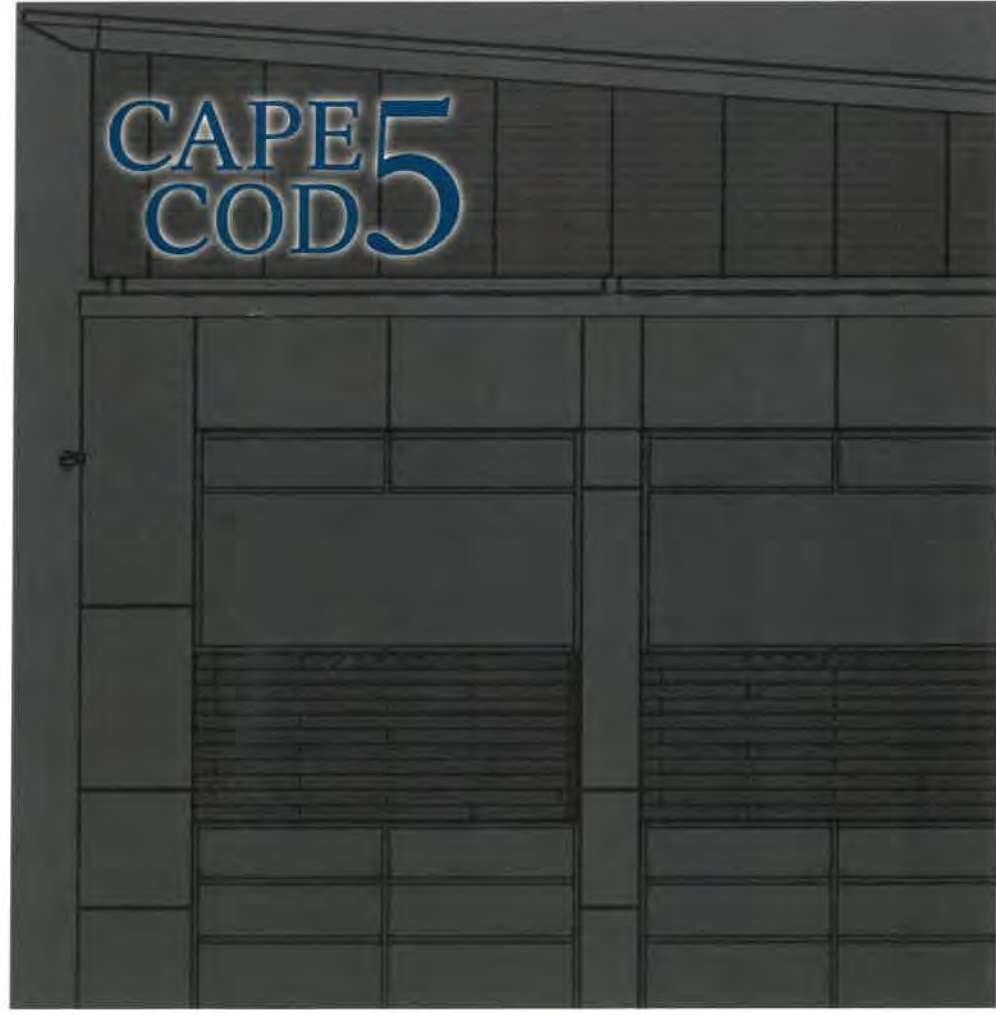
**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. All electrical hardware to be located in a concealed location.

1 FRONT ELEVATION  
Scale: 1/4" = 1'-0"

2 SIDE ELEVATION  
Scale: 1/4" = 1'-0"



3 EXTERIOR SIGNAGE: DAY  
Scale: 1/8" = 1'-0"



3 EXTERIOR SIGNAGE: NIGHT  
Scale: 1/8" = 1'-0"

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**  
One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
2	August 08 2019	VE'ed updates
1	July 31 2019	Design Intent

**Design Intent Drawings**

**Job Number**  
011.7456.700

**Sign Type**

**Scale**  
Refer to drawing

**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.



DESIGN COMMUNICATIONS LTD.

85 Bodwell Street phone 617.542.9620  
Avon, MA 02322 fax 617.951.0777

### Cape Cod 5 Int, Ext Signage

TITLE	Sign Type L.1: Building ID Sign
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 3/4" = 1' - 0"

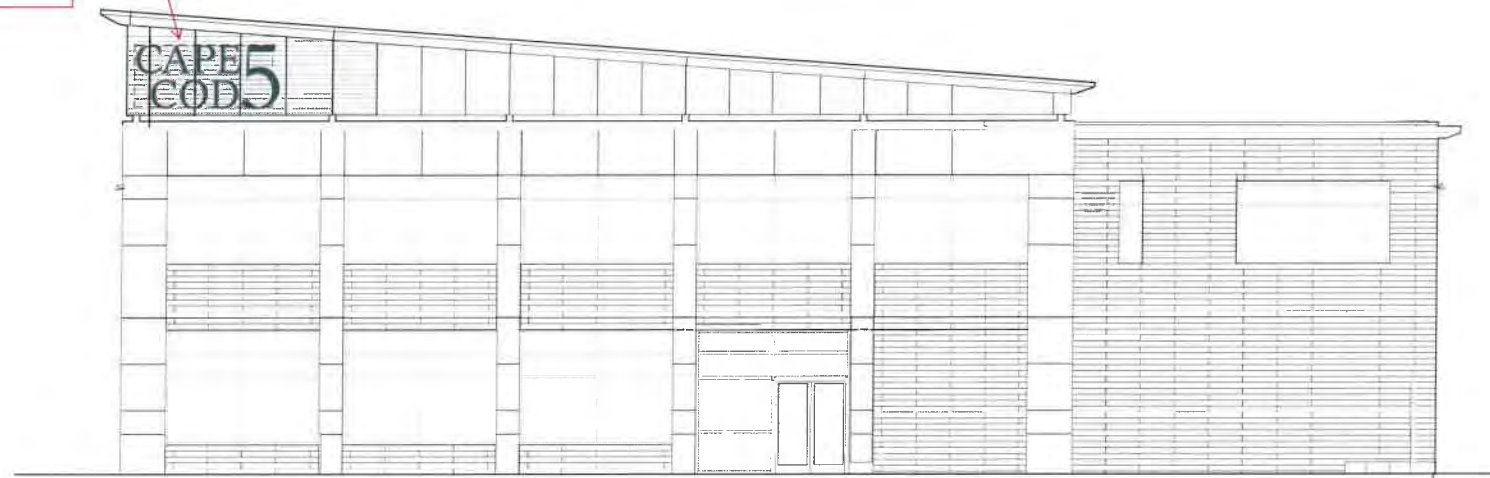
ST TOTAL: 2

Graphic Layout  
15772 -

12

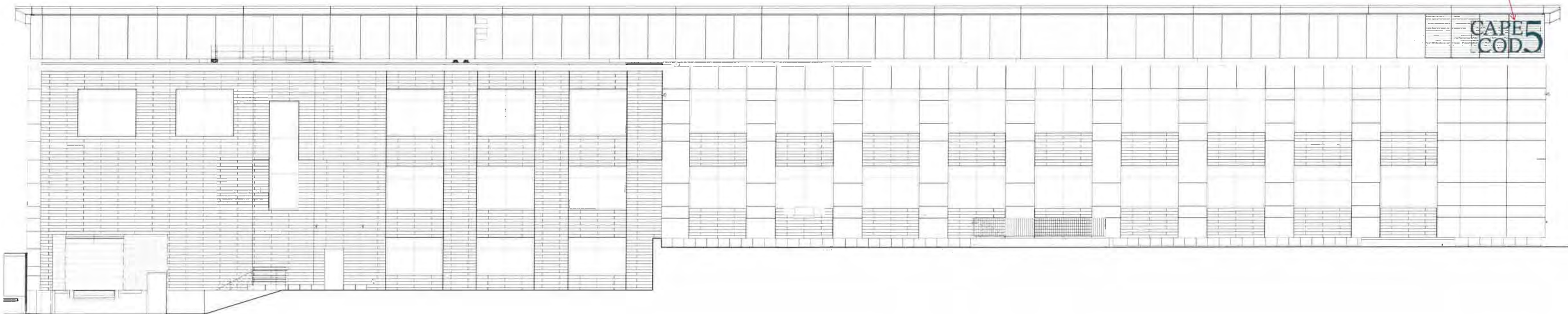


BUILDING SIGNAGE -  
REFER TO DETAILS BY  
SIGN VENDOR



**3 BUILDING ELEVATION SOUTH**  
SKA132.01 1/8" = 1'-0"

BUILDING SIGNAGE -  
REFER TO DETAILS BY  
SIGN VENDOR



**2 BUILDING ELEVATION NORTH**  
SKA132.01 1/8" = 1'-0"



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Avon, MA 02322 fax 617.951.0777

**Cape Cod 5  
Int, Ext Signage**

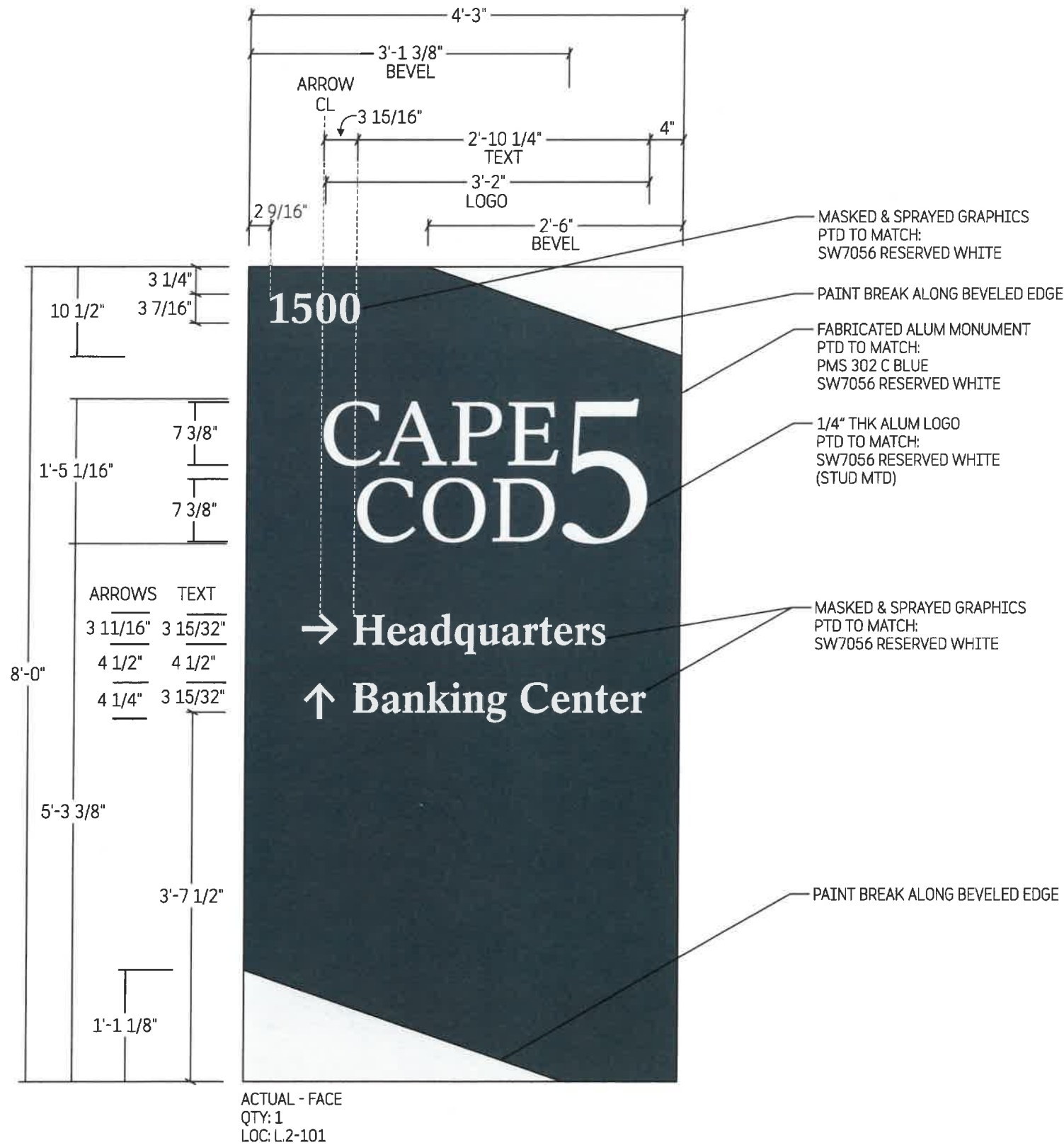
TITLE	Sign Type L.2: Roadway Monument
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ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19
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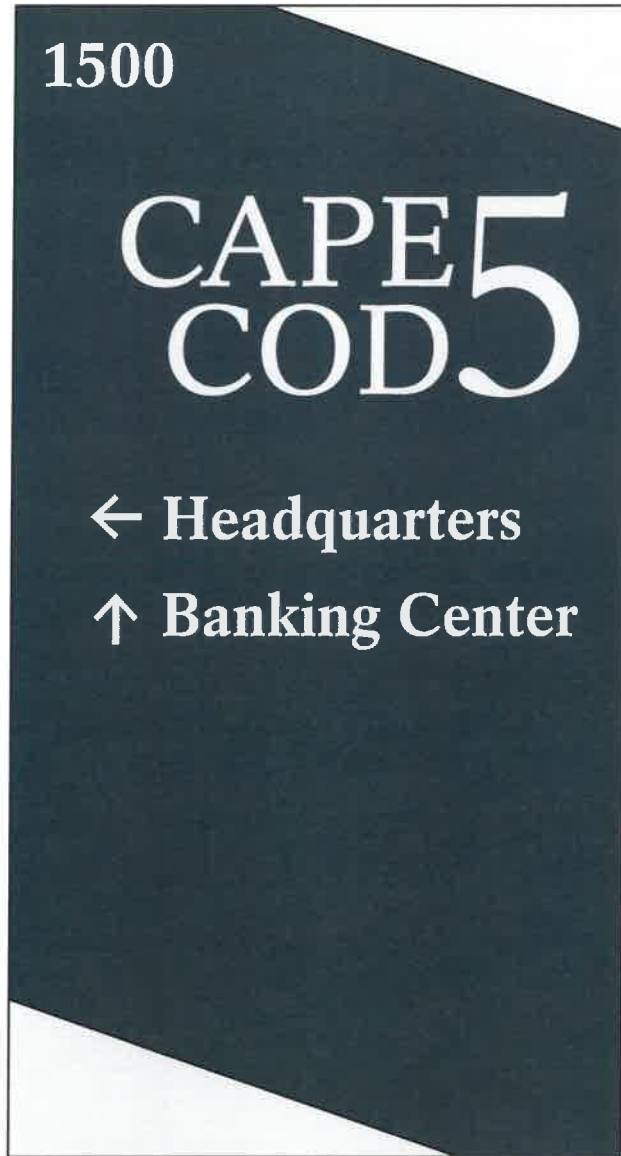
DRAWN BY	SDL
----------	-----

scale: 3/4" = 1' - 0"

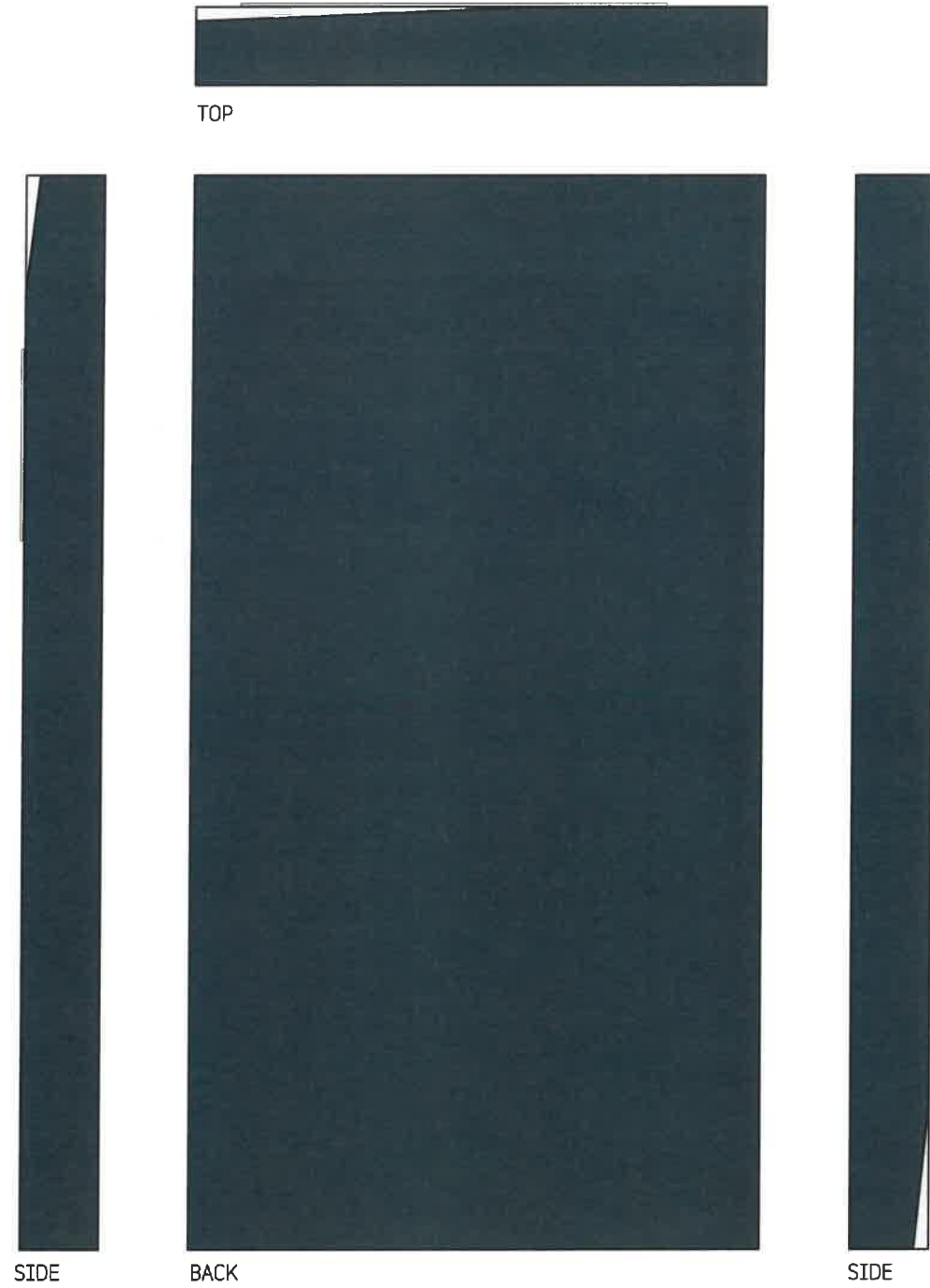
Graphic Layout 15772-	<b>13</b>
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ST TOTAL: 2



ACTUAL - FACE  
 QTY: 1  
 LOC: L2-102



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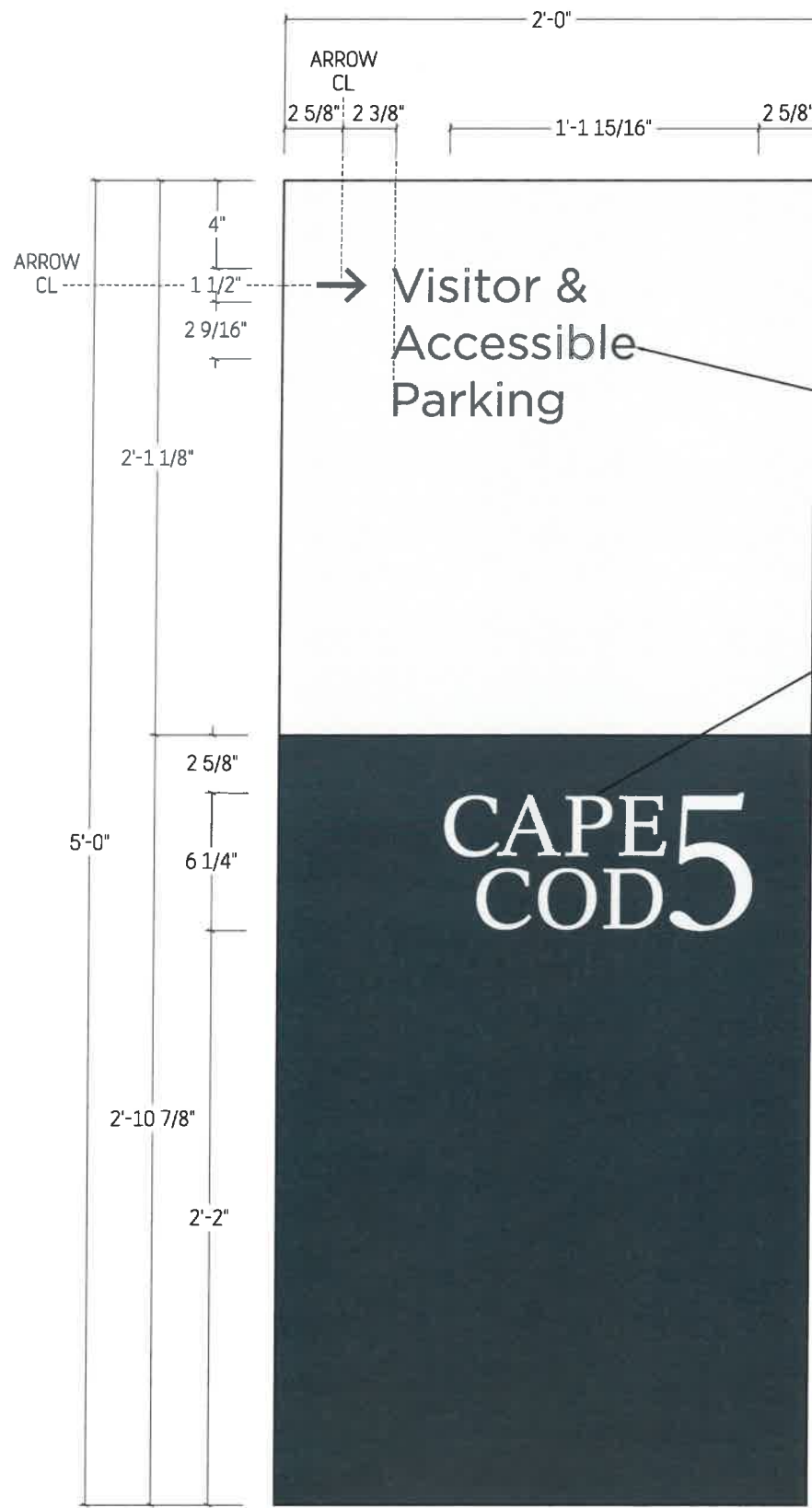
**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type L.2: Roadway Monument
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 3/4" = 1' - 0"

Graphic Layout | 15772 - **13a**



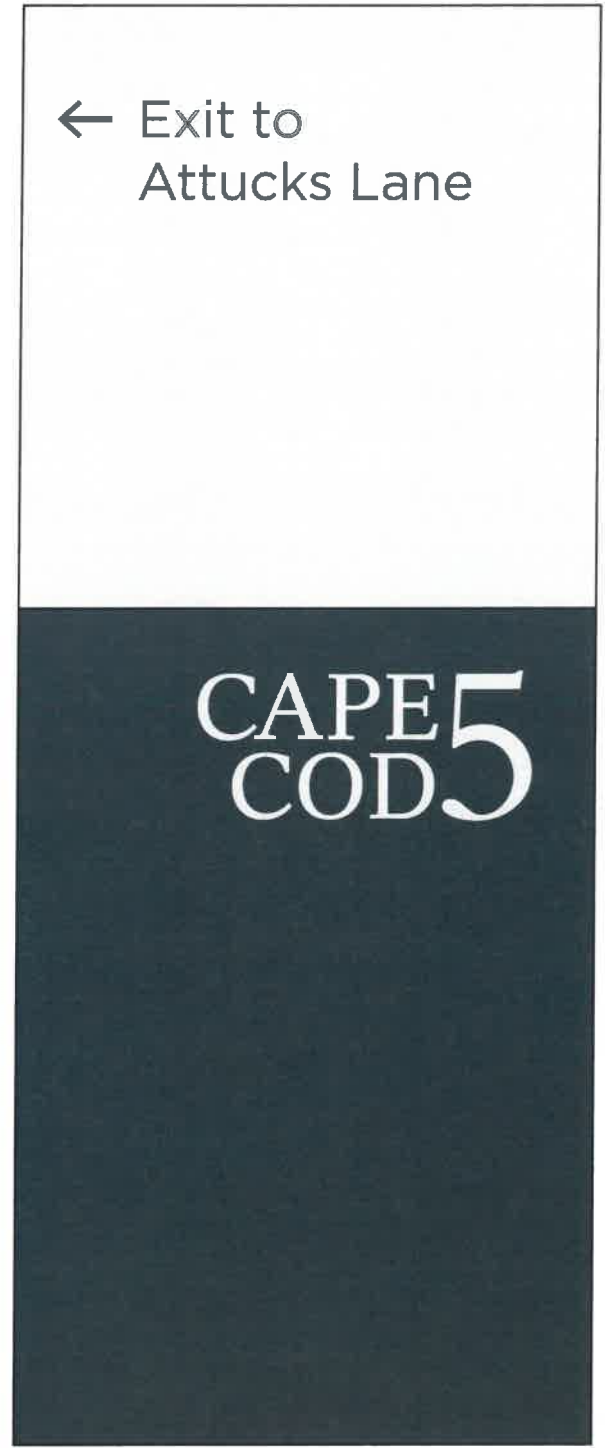
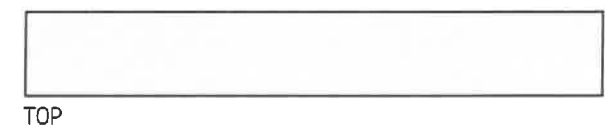
ACTUAL - SIDE A  
 QTY: 1  
 LOC: V.1-101  
 TEXT: AUTO KERNING, 0 TRACKING

DIGITALLY PRINTED VINYL GRAPHICS  
 TO MATCH: PMS 302 C BLUE

MASKED & SPRAYED GRAPHICS  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

3 1/2" DEEP FABRICATED ALUM MONUMENT  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

PAINT BREAK



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**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type V.1: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

ST TOTAL: 1

Graphic Layout  
15772-





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### Cape Cod 5 Int, Ext Signage

TITLE Sign Type V.2:  
Vehicular Wayfinding

ISSUE For Approval  
23 SEP 19  
For Production  
28 OCT 19

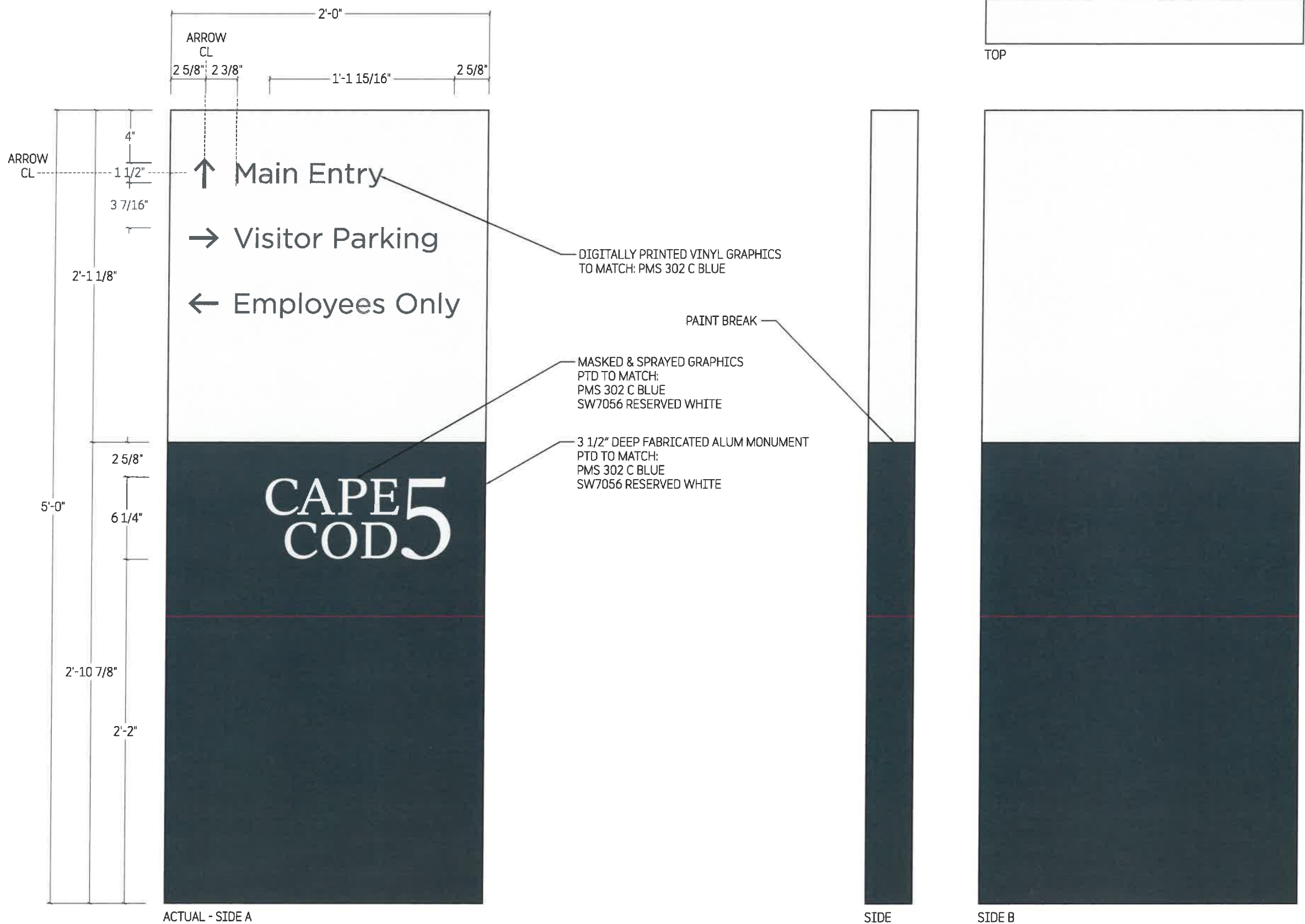
DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

Graphic Layout  
15772 -

20

ST TOTAL: 3



ACTUAL - SIDE A  
QTY: 1  
LOC: V.2-101

TEXT: AUTO KERNING, 0 TRACKING



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**Cape Cod 5  
Int, Ext Signage**

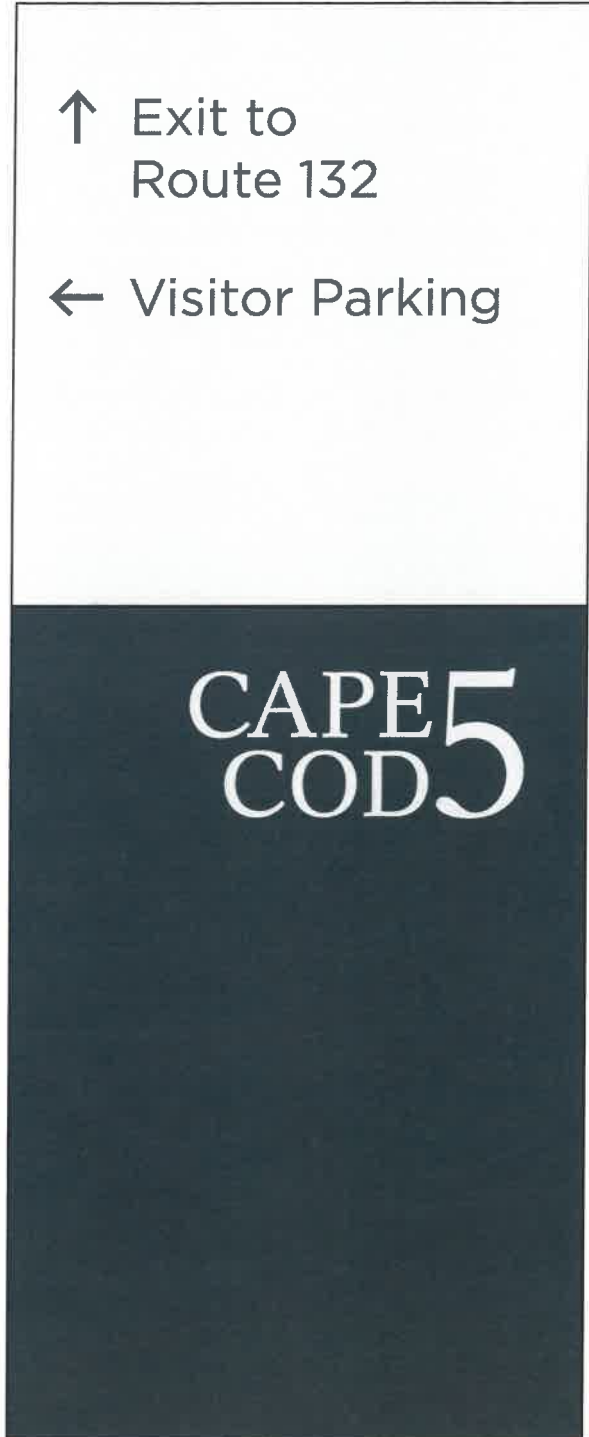
TITLE	Sign Type V.2: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

Graphic Layout | 15772 - **20a**

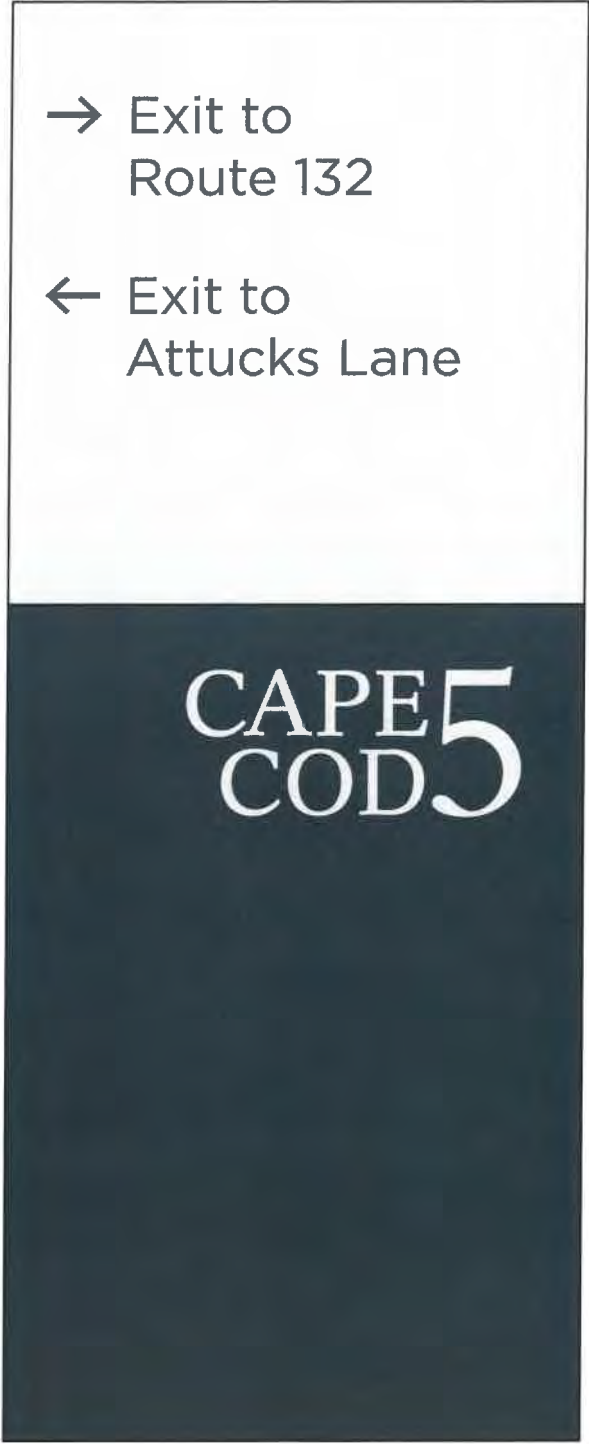
2 9/16"



ACTUAL - SIDE A  
QTY: 1  
LOC: V.2-102



SIDE B



ACTUAL - SIDE A  
QTY: 1  
LOC: V.2-103



SIDE B



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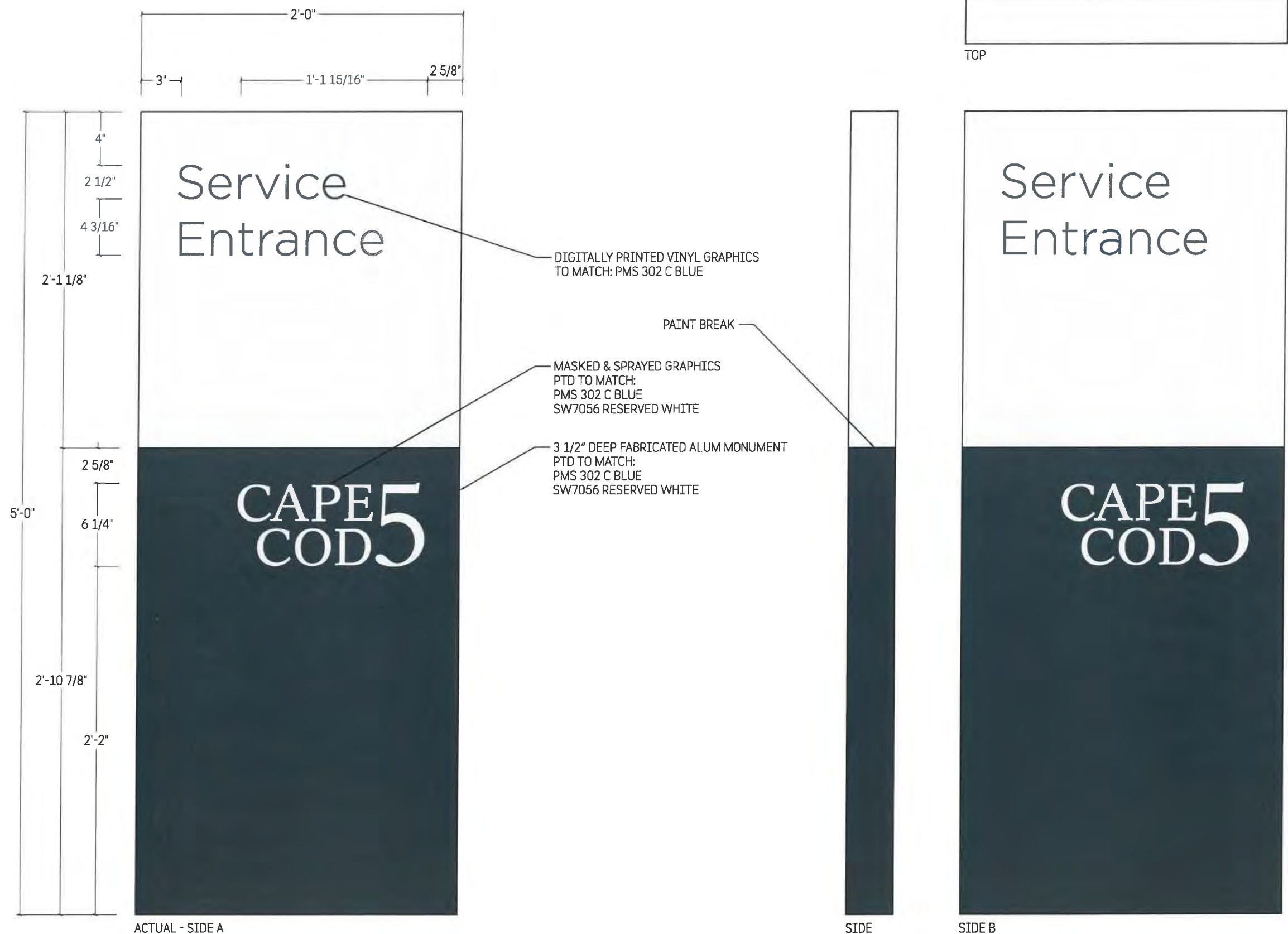
**Cape Cod 5  
Int, Ext Signage**

TITLE	Sign Type V.2: Vehicular Wayfinding
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

Graphic Layout 15772- | **20b**



ACTUAL - SIDE A  
 QTY: 1  
 LOC: V.3-102

TEXT: AUTO KERNING, 0 TRACKING

DIGITALLY PRINTED VINYL GRAPHICS  
 TO MATCH: PMS 302 C BLUE

PAINT BREAK

MASKED & SPRAYED GRAPHICS  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

3 1/2" DEEP FABRICATED ALUM MONUMENT  
 PTD TO MATCH:  
 PMS 302 C BLUE  
 SW7056 RESERVED WHITE

SIDE

SIDE B

TOP



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**Cape Cod 5  
 Int, Ext Signage**

TITLE	Sign Type V.3: Vehicular Wayfinding Entry Marker
ISSUE	For Approval 23 SEP 19 For Production 28 OCT 19

DRAWN BY | SDL

scale: 1 1/2" = 1' - 0"

ST TOTAL: 1

Graphic Layout  
 15772 -

21



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85 Bodwell Street phone 617.542.9620  
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**Cape Cod 5  
Int, Ext Signage**

TITLE Sign Type X.1:  
Max Occupancy Sign

ISSUE For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

DRAWN BY | SDL

scale: full

ST TOTAL: 6  
GLASS BACKER: 0  
EXT ALUM BACKER: 1

Graphic Layout  
15772 -

22



1/8" THK P99 ACRYLIC PANEL  
W/ SANDED RETURNS  
2ND SURFACE PTD TO MATCH:  
SW7056 RESERVED WHITE

FLAT DIGITALLY PRINTED TEXT  
TO MATCH: PMS 302 C

1/16" THK ALUM BACKER PTD TO MATCH:  
SW7056 RESERVED WHITE  
(NOT SHOWN)  
(FOR EXTERIOR NON-GLASS LOCATIONS ONLY)

1ST SURFACE VINYL BACKER TO MATCH:  
3M MATTE WHITE  
(GLASS MTD LOCATIONS ONLY)

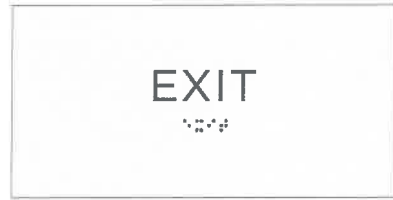
QTY: 1  
LOC: X.1-201  
TEXT: AUTO KERNING, 25 TRACKING



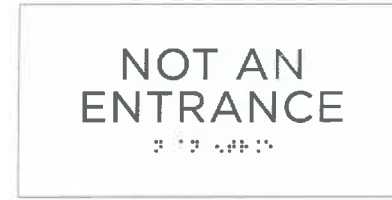
QTY: 1 GLASS MTD  
LOC: J.1-L28B



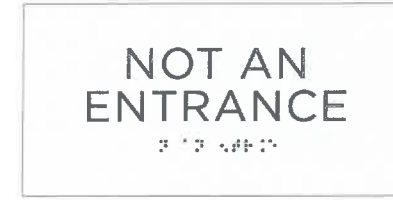
QTY: 1 EXTERIOR  
LOC: J.1-101 ALUM  
BACKER



QTY: 1 EXTERIOR  
LOC: J.1-102 ALUM  
BACKER



QTY: 1 EXTERIOR  
LOC: J.1-103 GLASS MTD



QTY: 1 EXTERIOR  
LOC: J.1-104 ALUM  
BACKER



QTY: 1  
LOC: J.1-L28



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### Cape Cod 5 Int, Ext Signage

TITLE	Sign Type J.1: Core Support Room
ISSUE	For Approval 13 SEP 19 27 SEP 19 10 OCT 19
DRAWN BY	SDL
scale: 3" = 1' - 0"	
Graphic Layout 15772 -	10d



DESIGN COMMUNICATIONS LTD.

85 Bodwell Street phone 617.542.9620  
Avon, MA 02322 fax 617.951.0777

### Cape Cod 5 Int, Ext Signage

TITLE Sign Type R.1:  
Regulatory Signs

ISSUE For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

DRAWN BY SDL

scale: full

Graphic Layout  
15772 -

16



1/8" THK P99 ACRYLIC PANEL  
W/ SANDED RETURNS  
2ND SURFACE PTD TO MATCH:  
SW7056 RESERVED WHITE

FLAT DIGITALLY PRINTED TEXT  
TO MATCH: PMS 302 C

1/16" THK ALUM BACKER PTD TO MATCH:  
SW7056 RESERVED WHITE  
(NOT SHOWN)  
(FOR EXTERIOR NON-GLASS LOCATIONS ONLY)

1ST SURFACE VINYL BACKER TO MATCH:  
3M MATTE WHITE  
(GLASS MTD LOCATIONS ONLY)

ACTUAL  
QTY: 3  
LOC: R.1-101\*, R.1-102\*, R.1-103

TEXT: AUTO KERNING, 25 TRACKING

EXTERIOR

\*MODIFY LOCATION TO  
INSTALL ON SOLID WALL

ST TOTAL: 4  
GLASS BACKER: 0  
EXT ALUM BACKER: 4



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**Cape Cod 5  
Int, Ext Signage**

**TITLE** Sign Type R.1:  
Regulatory Signs

**ISSUE** For Approval  
13 SEP 19  
27 SEP 19  
10 OCT 19

**DRAWN BY** SDL

scale: full

**Graphic Layout** 16a  
15772 -

CL

SERVICE  
ENTRANCE

USE  
INTERCOM  
FOR  
ASSISTANCE

11/16"  
5/8"  
3/8"  
5/8"  
1 3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
3/8"  
5/8"  
11/16"

ACTUAL  
QTY: 1  
LOC: R.1-104

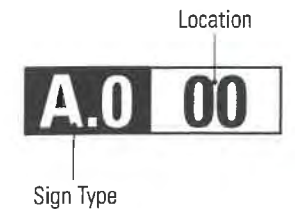
TEXT: AUTO KERNING, 25 TRACKING

EXTERIOR

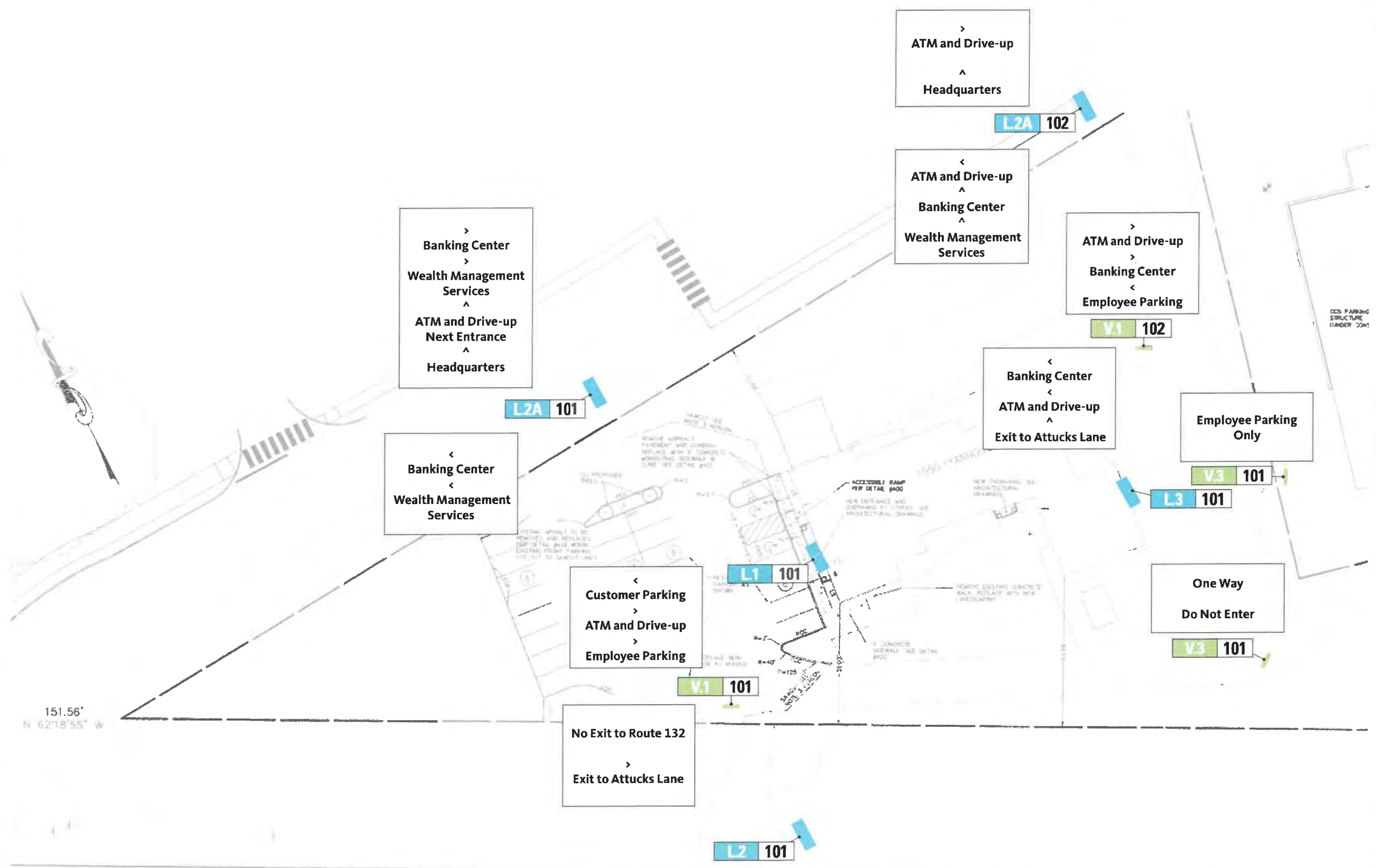


# PARKING SIGNAGE LOCATION PLAN

## BANKING CENTER



- L.1 BUILDING IDENTITY SIGN
- L.2 ROADWAY MONUMENT
- L.2A ROADWAY MONUMENT - DOUBLE SIDED
- L.3 TRAINING AND DEVELOPMENT
- V.1 VEHICULAR WAYFINDING - DOUBLE SIDED
- V.2 VEHICULAR WAYFINDING - SINGLE SIDED
- V.3 VEHICULAR WAYFINDING - ENTRY MAKER



Cape Cod 5  
 Barnstable Town Clerk  
 Interior & Exterior Signage  
 20 AUG 12 09:19

**Gensler**  
 One Beacon Street  
 Third Floor  
 Boston, Massachusetts 02108

**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

Design Intent Drawings

Job Number  
 011.7456.700

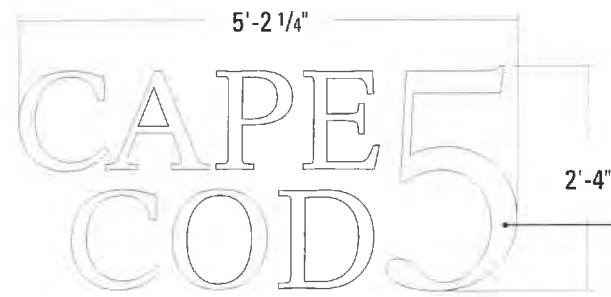
Sign Type

Scale  
 Refer to drawing

SIGNAGE  
 Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

DI.26

# L.1 BUILDING IDENTITY SIGN



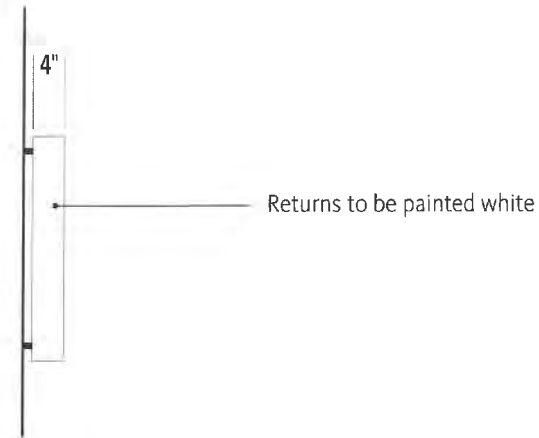
2" thick aluminum fabricated halo lit letters painted white with dimmer switch and timer. LED at 3,000K for warm white glow.

LED color to match existing conditions at HQ

1 ELEVATION  
SCALE: 1" = 1' 0"



3 LOCATION ELEVATION: FRONT  
SCALE: 1/4" = 1' 0"



1 SIDE ELEVATION  
SCALE: 1" = 1' 0"



4 RENDER  
SCALE: NTS

Note: Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. All electrical hardware to be located in a concealed location.

Note: Rendering for design intent reference only;

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

Refer to drawing

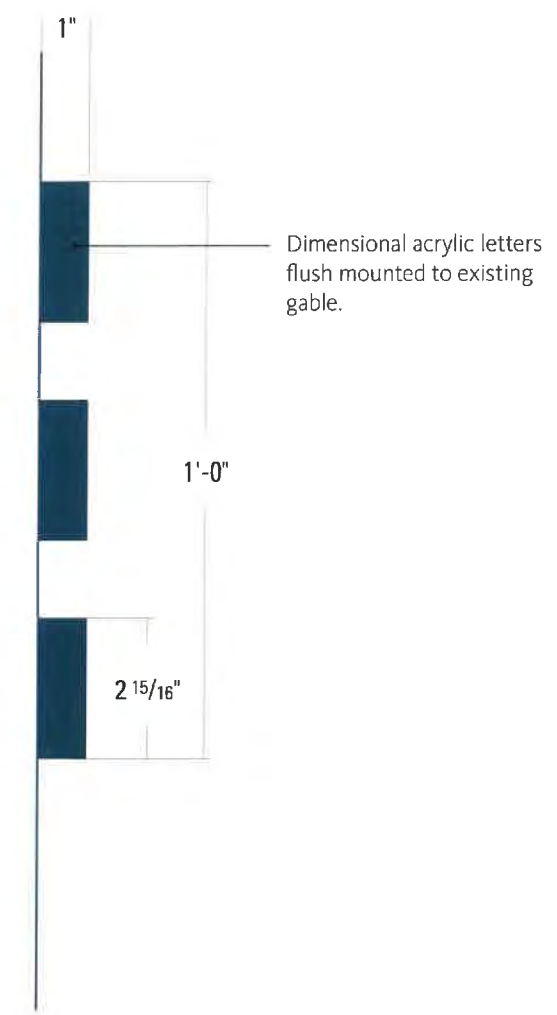
SIGNAGE  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.6

# L.3 TRAINING AND DEVELOPMENT - OPTION 1



1 LOCATION ELEVATION: FRONT  
SCALE: 1/2" = 1' 0"



2 SIDE ELEVATION  
SCALE: 3" = 1' 0"

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**  
One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

**NOTES:**

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

**Design Intent Drawings**

**Job Number**  
011.7456.700

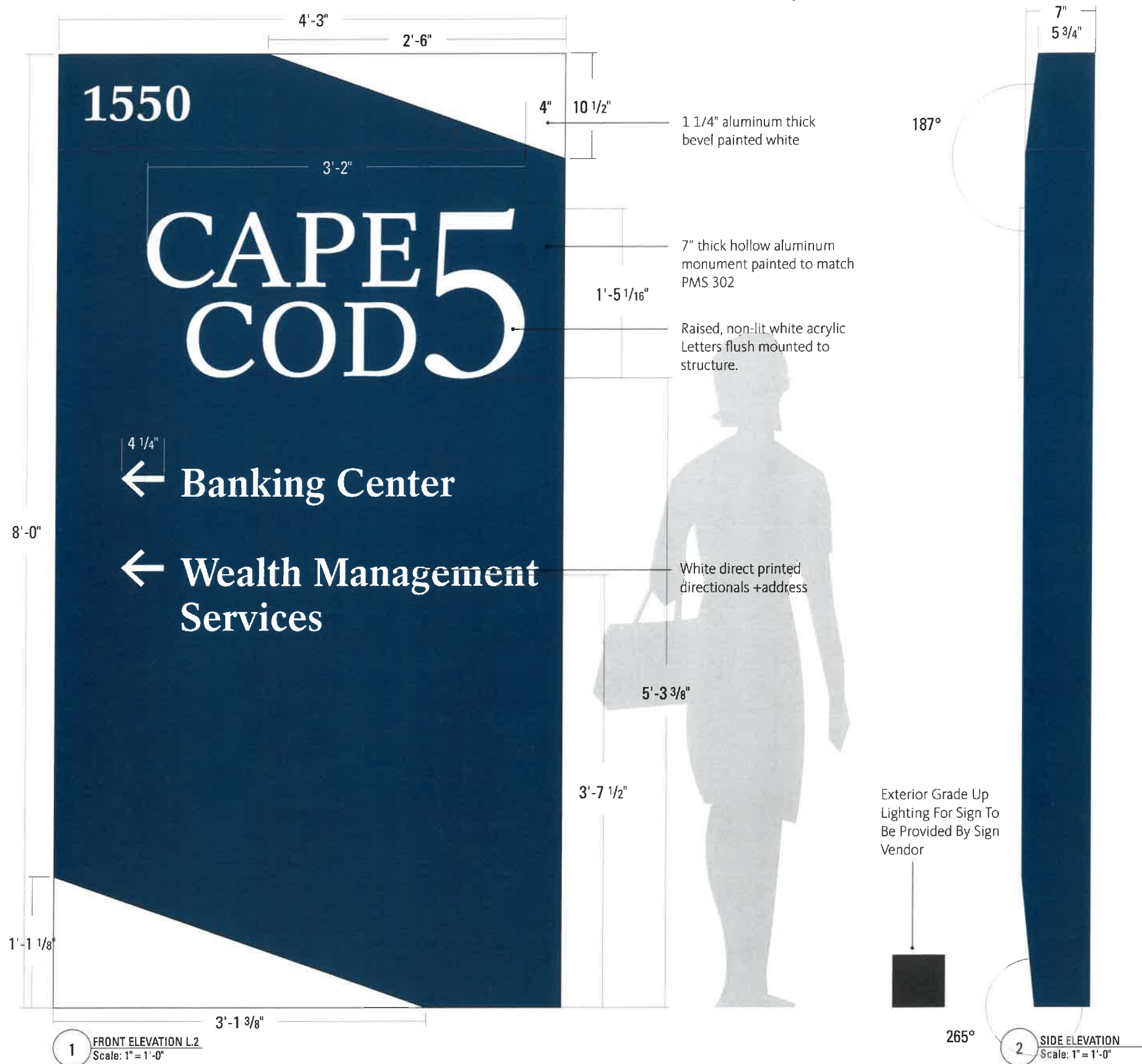
**Sign Type**

**Scale**  
Refer to drawing

**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.7**

# L.2 ROADWAY MONUMENT



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

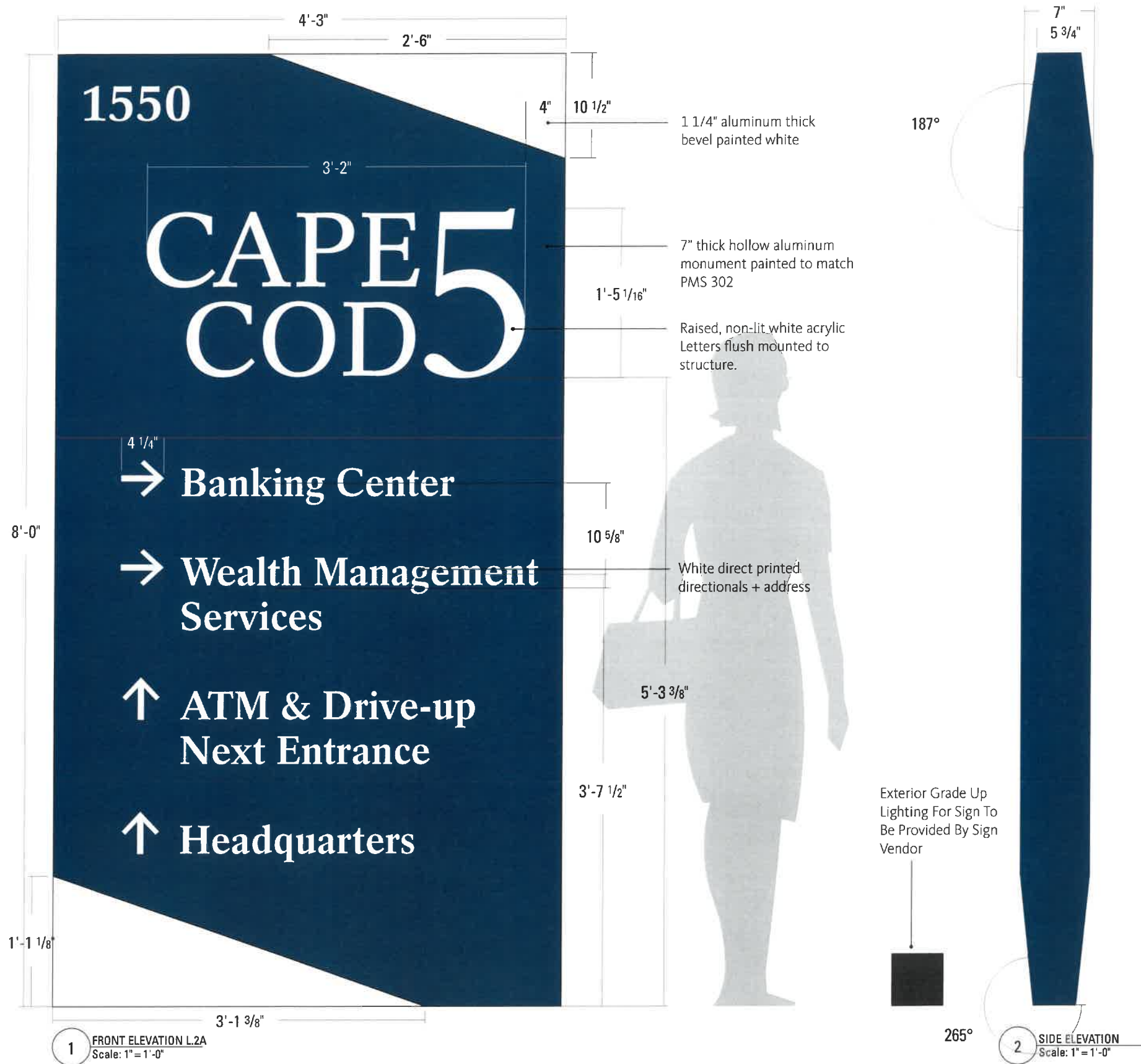
Refer to drawing

#### SIGNAGE

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.27

# L.2A ROADWAY MONUMENT - DOUBLE SIDED



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

**Cape Cod 5**  
Interior & Exterior Signage

**Gensler**

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

**NOTES:**

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

**Design Intent Drawings**

**Job Number**

011.7456.700

**Sign Type**

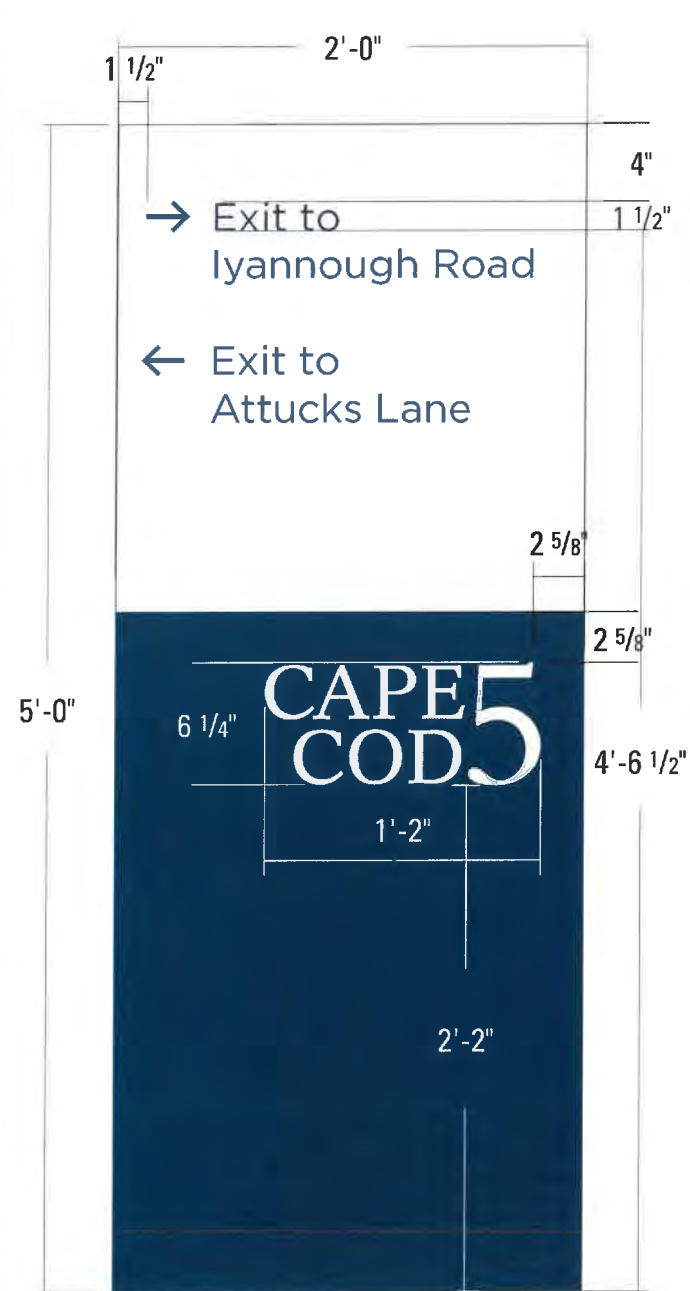
**Scale**

Refer to drawing

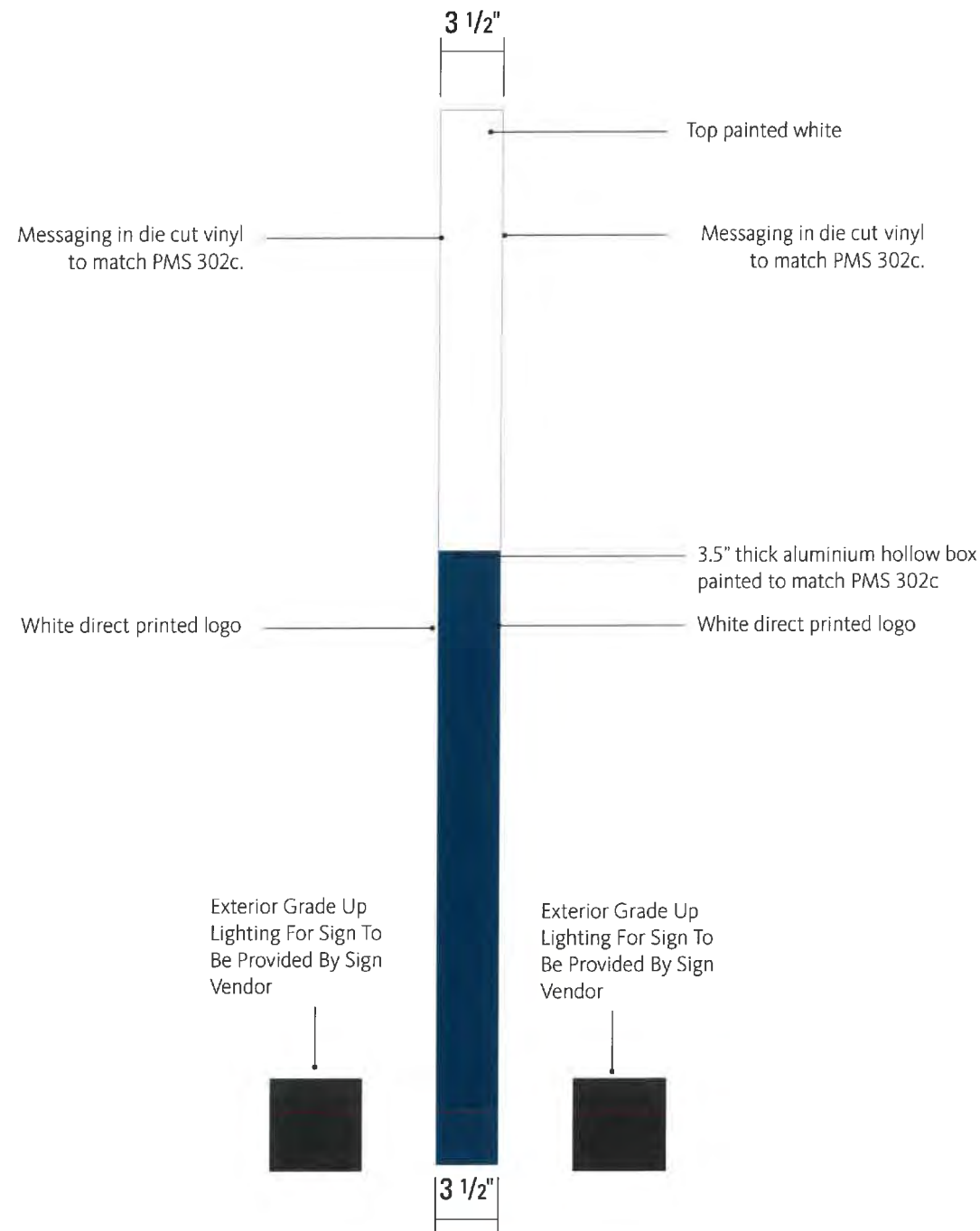
**SIGNAGE**  
Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

**DI.28**

# V.1 VEHICULAR WAYFINDING - DOUBLE SIDED



1 FRONT ELEVATION V.1  
Scale: 1" = 1'-0"



3 SIDE ELEVATION  
Scale: 1" = 1'-0"

**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

MATERIAL, FINISH AND COLOR SAMPLES MUST BE PROVIDED FOR GENSLER'S REVIEW AND APPROVAL UPON REQUEST PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

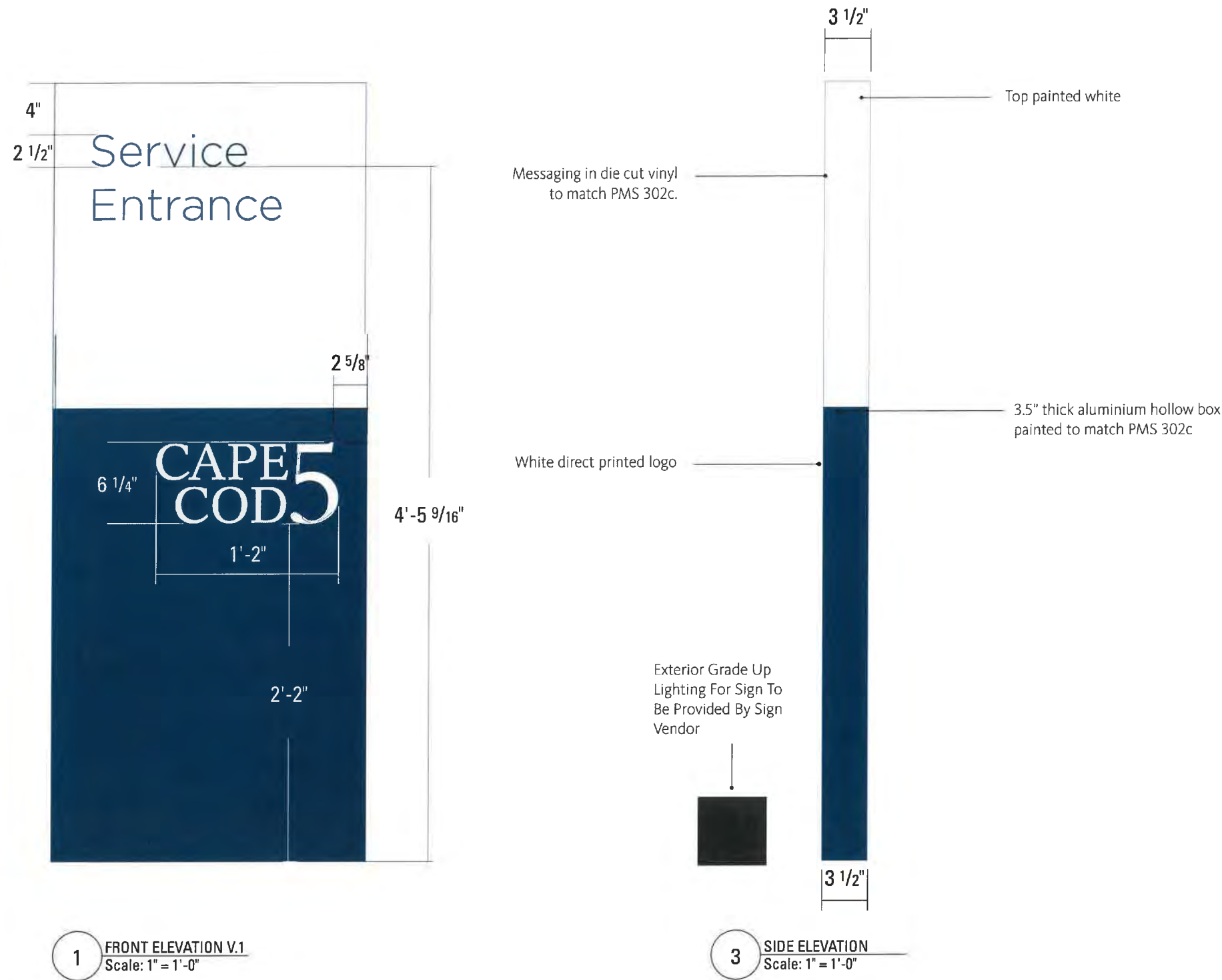
Refer to drawing

#### SIGNAGE

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.29

# V.3 VEHICULAR WAYFINDING - SINGLE SIDED



**Note:** Vendor to propose installation method and propose permitting fees based off site survey. Vendor to coordinate all electrical requirements with general contractor. Vendor to coordinate with landscape designer for footing details.

Vendor to develop and engineer below grade break-away system to be reviewed with gensler prior to fabrication.

Vendor to VIF location to confirm size, means and methods prior to fabrication.

## Cape Cod 5 Interior & Exterior Signage

### Gensler

One Beacon Street  
Third Floor  
Boston, Massachusetts 02108

#### NOTES:

ALL SITE CONDITIONS, LOCATION AND DIMENSIONS MUST BE VERIFIED BY THE CONTRACTOR/INSTALLER PRIOR TO FABRICATION.

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SHOP DRAWINGS MUST BE PROVIDED TO GENSLER FOR REVIEW PRIOR TO FABRICATION, UNLESS OTHERWISE SPECIFIED.

Issue	Date & Issue	Description
1	Dec 06, 2019	Design Intent

#### Design Intent Drawings

#### Job Number

011.7456.700

#### Sign Type

#### Scale

Refer to drawing

#### SIGNAGE

Vendor to produce final production artwork based on approved message schedule. Gensler to provide one typical layout for reference.

## DI.30



## Cape Cod 5 Exterior Signage Proposal Narrative

We are applying for approval of what we feel is an important piece of the completion of the renovation, redevelopment, and construction work we have been undertaking between Iyannough Road and Attucks Lane. This includes two separate addresses.

- 1550 Iyannough Road - The Cape Cod 5 Headquarters/Office building (HQ5) site, which is nearly 9 acres in size with 4 curb cuts, and just over 82,000 GSF of new building and the accompanying parking structure.
- 1550 Iyannough site - Located at the intersection of Iyannough and Attucks Lane which is another 2.25 acres. This parcel is home to our new RT 132 Banking Center, and will soon include additional Wealth Management Offices and Training spaces. This site has an additional 3 curb cuts, includes two drive-up service lanes, and existing driveway layouts require one way traffic around the building that requires additional signs for safety reasons.

Together the sites we are talking about provide 1,063 linear feet of frontage on Iyannough Road (RT 132), and 1,694 linear feet of frontage on Attucks Lane. With a combined ~95,000 gross square feet of space and over 2,500 linear feet of road frontage we would argue that what we are proposing is well below what might be allowed if the sites were redeveloped differently.

One could imagine how many signs this area might have seen if the properties involved were further subdivided and/or redeveloped differently. Perhaps with more distinct buildings and/or tenants each allowed the minimum number of signs allowed.

For example –

- The multiple sites we have assembled most recently were the home to not less than 4 businesses, and prior to that a few more. According to the current regulations this would allow for, at a minimum, 4 to 7 freestanding signs and at least 4 building signs. It is easy to see how such a scenario would total 400 SF before counting any additional directional or other signs that may be allowed.
- Shopping Center allowances may have allowed for even more signage (by numbers and Sq. Ft.)

The good news is we are proposing just under this amount - inclusive of all our sign types.

Design Considerations:

Our design team took great care to follow industry standards and best practices in designing all signs so they could be read from a distance and while traveling on roadways at speed. We feel the designs are appropriate for both the size and complexity of these sites, and buildings thereon.



This includes careful calculations for all text sizes used based on USSC standards for legibility. Crafting the designs to balance the size, color and layouts to ensure maximum visibility and legibility, with properly sized background sizes and contrasts.

(Here we have provided a link to the standards referenced above)

<https://usscfoundation.org/wp-content/uploads/2018/03/USSC-Guideline-Standards-for-On-Premise-Signs-2018.pdf>

For Example: Using the standard for parallel signs offset from the roadway, the two proposed wall signs at HQ5 would be have letters ranging from 39” to 44” tall (with 175-220 offsets like we have). The current proposal includes letters at 29” tall in the “Cape Cod” on each side of the building, with only the “5” being larger.

It is also important to point out that all of the Freestanding signage designs utilize rectangular shapes that are ground mounted in lieu of perhaps more typical post mounted sign panels that may indeed have measured smaller in overall square footage. These designs are purposely a modern expression meant to complement the modern design of the new buildings and spaces within. This was an intentional decision which represents the future-looking mission and technology the facilities represent.

## **Specific Arguments for Variances Requested:**

**Below is a lengthier outline/explanation of where we see issues related specific portions the signage regulations, and where we are requesting relief, or explaining how we believe we comply.**

§ 240-65

*Signs in B, UB, HB, HO, S&D, SD-1 and GM Districts.*

*[Amended 8-15-1991; 7-15-1999; 6-20-2013 by Order No. 2013-133; 4-27-2017 by Order No. 2017-100]*

*A. Each business may be allowed a total of two signs.*

### **Request:**

**At the HQ5 Office Building site we feel a second facade mounted and a freestanding sign are both warranted as we have two important frontages. Added freestanding signs are more important at the branch bank to direct traffic to the correct entry and exit points. Due to RT 132 being a divided highway, our Attucks Lane frontage on both sites is extremely important, and some may argue an equally important approach or means of entering the site.**

*B. The maximum height of any freestanding sign will be 10 feet, except that a height of up to 12 feet may be allowed by the Building Commissioner if it is determined that the additional height will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.*

*Note: While we are not asking for additional height relief, we would like to note here that we feel strongly that both the wall and freestanding signs are appropriate for the RT 132 corridor and to the size and scale for the CC5 Campus.*

- C. *The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount. In instances where multiple business establishments share a customer entrance on the same facade, the total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount. [Amended 4-17-2014 by Order No. 2014-047]*

**NOTE:** *Additionally it is critical that we direct traffic to the Bank Branch and the Office Building separately as they each have different functions and meaning to customers, visitors and employees.*

- D. *Only one freestanding sign is allowed per business, which may not exceed half the allowable size as permitted in this section.*
- E. *When a business property is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.*

**Request:**

**Because we have two important frontages running along both Iyannough Rd. and Attucks Lane. Additionally because RT 132 is a divided highway, it is critical that we direct traffic to each the Bank Branch and the HQ5 Office Building separately as they have very different functions and meanings to customers, visitors and employees.**

**For these reasons we feel a second freestanding sign is warranted at the larger HQ5 (1500) site. Additionally as we intend the Bank Branch (1550) site to be more frequented by customers, we have included three larger freestanding signs to appropriately direct people to this site with multiple curb cuts and a one-way flow for the drive-thru.**

**While we feel each additional freestanding signs are warranted – it is also critical that additional Square Footage be allowed in order for each sign to be functional. The tables provided detail that we are requesting an additional 98 SF at 1500 Iyannough Rd. and 13,208 SF at 1550 Iyannough rd.**

§ 240-75

*Directional or safety signs.*

*In addition to other allowable signs, directional, warning or traffic signs necessary for the safety and direction of residents, employees, customers and visitors may be allowed as follows:*

**Request:**

**The Bank is asking for approval of our proposed signage designs including “Directional” or vehicular wayfinding signs and several additional “Regulatory” signs.**

- **These regulatory signs include posting of LEED required “Tobacco Free Campus” signs, as well as occupancy and signs directing people to the correct entry doors. (See examples below)**

*A. Such signs shall not exceed one square foot in area, nor be more than three feet high.*

**We feel strongly that these signs cannot be limited to 1 SF each. As we have noted elsewhere, all signs have been designed for proper visibility. Height and width of signs are therefore larger by necessity.**

**In addition to visibility the ground mounted directional signs have been designed for viewing by both pedestrians and those in vehicles, and as such the limitation of 3 feet in height is not sufficient where they might be temporarily obscured. This might be another passing vehicle or might occur during winter months where signs can easily be obscured by snowbanks.**

*B. No more than four such signs will be allowed per site.*

*C. The Building Commissioner may grant exceptions from the provisions of this subsection on a case-by-case basis if he finds that the site requires more or larger or higher directional or safety signs, and that such signs will not conflict with the visual quality and character of the area nor lead to clutter or confusion*

**Depending on how the signs are counted we may be slightly over the allowed number of 4. However due to the overall scope of the project across both sites we are asking the ZBA to approve the current design.**

- **We would suggest that the number and size of all signs are appropriate for the context and size of each site – both 1500 and 1550 Iyannough Rd.**
- **We also feel the designs are appropriate and necessary for safety reasons.**

# Law Office of Singer & Singer, LLC

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Barnstable Board of Appeals

1500 and 1550 Iyannough Road, Hyannis

## SUMMARY OF REASONING

Introduction/Proposal. The Cape Cod Five Cents Savings Bank [“Applicant”], owns the adjacent properties located at 1500 Iyannough Road and 1550 Iyannough Road, both in Hyannis [collectively “Property” and individually “1500 Iyannough” and “1550 Iyannough”]. 1500 Iyannough is improved with the new Cape Cod Five Headquarters Building with two curb cuts on Route 132 and two curb cuts on Attucks Lane. 1550 Iyannough is improved with a remodeled Cape Cod Five Banking Center Building with one curb cut on Route 132 and two curb cuts on Attucks Lane. The total campus is 11± acres (1500 Iyannough is approximately 9 acres, and 1550 Iyannough is approximately 2.25 acres). The Property, which is located in the Highway Business (HB) Zoning District, is shown as Assessor’s Map 253 as Parcels 253-020-B00 and 253-020-T00 (1500 Iyannough) and as Assessor’s Map 254, Parcel 014 (1550 Iyannough).

The Applicant has completed construction of the 82,000± sq. ft., two-and-half story office building and detached two-level parking structure on 1500 Iyannough and of the 13,000± sq. ft., two-story office building on 1550 Iyannough. The Applicant is now at the final stage of permitting freestanding and building signage for the campus. These two applications have been filed as companion cases. The overall redevelopment of the Property did not go through a Regulatory Agreement process with the Town and has been before the Board once before for certain dimensional relief for each parcel.

Relief Requested. The Applicant is requesting variance relief in accordance with Sections 240-125 and 240-126 of the Barnstable Zoning Ordinance and M.G.L. Chapter 40A, Section 10, from the following provisions of the Zoning Ordinance:

1500 Iyannough

1. § 240-65 (A) – Number of signs. Requesting total of (4) Building and Freestanding signs
  - Two (2) each on building with frontage on two streets and at property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this code section
  - 198.00 SF of Building/Freestanding signage -- 98 SF relief requested, exclusive of 41.96 SF of proposed Directional/Incidental signage (see below)
3. § 240-65 (D), (G) – A second freestanding sign
  - This is allowed by exception where a property has frontage on two public ways, and requires additional square footage be allowed.
4. § 240-75 (A), (B) – Allowance of larger than allowed Directional signs, in terms of both square footage and height as well as number and square footage of “regulatory” (Incidental) signs

1550 Iyannough

1. § 240-65 (A) – Number of signs. Requesting total of (4) Building and Freestanding signs
  - One (1) building sign and one (1) freestanding sign on the Route 132 frontage and two (2) freestanding signs on the Attucks Lane frontage at property entrances
2. § 240-65 (C) – Additional Square Footage of Signage allowed per this section of the code
  - 113.28 SF of Building/Freestanding signage -- 13.28 SF relief requested, exclusive of 42.75 SF of Directional signage proposed (see below)
3. § 240-65 (D), (G) – Number of signs. Requesting total of (4) building and freestanding signs

- A second freestanding sign is allowed by exception where a property has frontage on two public ways. This requires additional square footage relief.
4. § 240-75 (A), (B) – Allowance/approval of (4) larger than allowed Directional signs, in terms SF in one case, and in terms of both square footage and height for three others.

The Board of Appeals is authorized to grant variances upon a finding that owing to circumstances relating to the soil conditions, shape or topography of such land or due to circumstances relating to the structure and especially affecting such land or structure but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the Petitioner, 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 the Zoning By-Law.

The Applicant submits that a literal enforcement of the Zoning By-Law in connection with the campus at 1500 Iyannough and 1550 Iyannough will result in a substantial practical (safety) and economic hardship to the Applicant and the community and that this hardship is owing to unique circumstances relating to the shapes, sizes, and orientations of the buildings; the parking layout and design, including the parking structure; and the overall shape and topography of the land as it relates to the site redevelopment, including various grade changes and wetlands that impact site visibility from both Route 132 and Attucks Lane.

As Martin Healy and Franklin Stearns, Esqs., discuss in the Massachusetts Zoning Manual, “the conditions that establish hardship are diverse” (Massachusetts Zoning Manual, Martin R. Healy, Esq. and Franklin G. Stearns, Esq., Supp. 2002, Chapter 9, Section 9.3.2, Page 9-10). Citing a number of court cases, the Zoning Manual discusses further that “[d]espite the stringency of the hardship requirement generally, where only dimensional variances are involved, even relatively minor ‘hardship’ can justify a variance” (*Id.* at 9-15).

In *Furlong V. Zoning Board of Appeals of Salem*, the Massachusetts Appeals Court affirmed the grant of variances to a marina where the peculiar shape of the property resulted in a “‘hardship’ in the form of safety hazards to people and property...” if a new building was located in a conforming location on the land (*Furlong V. Zoning Board of Appeals of Salem*, 64 N.E.2d 268, 271 (Mass.App.Ct. 2016)). The Court also held that “[w]e agree with the judge that ‘[w]here a variance diminishes the risk of an existing harm or where it prevents a greater risk of harm that would result from compliance with a zoning ordinance, such a hardship may merit a variance’” (*Id.* At 272). In this case, given the unique site conditions detailed above, safety and efficiency can be enhanced and danger mitigated with the proposed sign package submitted by the Applicant.

In addition, for the reasons set forth in the attached Exterior Signage Proposal Narrative and below, the Applicant submits that desirable relief may be granted in this instance without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law because:

1. The Property is centrally located with direct access from main roads into and out of Hyannis with frontage on both the divided Route 132 and Attucks Lane and is zoned for the existing uses;
2. The proposed signage is in keeping with a campus containing seven curb cuts on two different roads, one of them a divided highway, and will also be keeping with and compatible with the character of the neighborhood;
3. The proposed signage will enhance the public safety, welfare, and convenience of the community;
4. No new activity is proposed within the 100 ft. buffer to any wetlands;
5. Lighting will comply with the Town of Barnstable lighting regulations, and there will be no negative change in artificial light, noise, litter, and odor; and

6. The proposal will not create any nuisance, hazard or congestion or any harm to the neighborhood or neighboring properties and, to the contrary, will be a benefit.

For all of the above reasons, the Applicant respectfully requests that the Board of Appeals make a finding that the statutory criteria for the requested relief are met and grant Variances to allow the signage as shown on the submitted plans.





# Town of Barnstable

## Planning and Development Department

Elizabeth Jenkins  
Director

### Staff Report

#### Appeal No. 2020-030 – Cape Cod Five Cents Savings Bank

#### Variance to Sections 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs

Variance to allow additional signage: one building sign, three freestanding signs and five directional signs for 1550 Iyannough Rd

**Date:** August 31, 2020  
**To:** Zoning Board of Appeals  
**From:** Anna Brigham, Principal Planner  
**Petitioner/Owner:** **The Cape Cod Five Cents Savings Bank**  
**1500 Iyannough Rd, Hyannis, MA**

**Property Address:** **1550 Iyannough Road, Hyannis**  
**Assessor's Map/Parcel:** Map 253 Parcels 020-B00 and 020-T00  
**Zoning:** Highway Business (HB) District

Filed: August 12, 2020

Hearing: September 9, 2020

Decision Due: November 10, 2020

### Copy of Public Notice

The Cape Cod Five Cents Savings Bank has petitioned for relief in accordance to Section 125 and Section 240-126 of the Zoning Ordinance and M.G.L. Chapter 40A Section 10 from the following provisions: 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs. The Petitioner is seeking additional signage at the Cape Cod Five Cents Savings Bank Headquarters. The subject property is located at 1500 Iyannough Road, Hyannis MA as shown on Assessors Map 253 as Parcels 020-B00 and 020-T00. It is located in the Highway Business (HB) Zoning District.

### Background

The property is located within the Highway Business District and is improved with the Cape Cod Five Corporate Offices and a parking garage which fronts on both Attucks Lane and Iyannough Rd (Rte 132). The Banking Center project was approved as a Development of Regional Impact (DRI) by the Cape Cod Commission in July, 2017. The project was granted a Special Permit as a Conditional Use by the Zoning Board of Appeals (No. 2017-060) to demolish existing buildings and construct a 78,220 banking center with a 99,733 parking garage. The Applicant returned to the Zoning Board of Appeals for Special Permit No. 2018-011 for site alterations.

The sign regulations pertaining to number of signs, as they apply to the Highway Business zoning district and this request, is as follows:

**§ 240-65 Signs in B, UB, HB, HO, S&D, SD-1 and GM Districts.**

A. Each business may be allowed a total of two signs.

B. The maximum height of any freestanding sign will be 10 feet, except that a height of up to 12 feet may be allowed by the Building Commissioner if it is determined that the additional height will be in keeping with the scale of the building and will not detract from the appearance or safety of the area and will not obscure existing signs that conform to these regulations and have a Town permit.

C. The area of all signs for each individual business establishment shall not exceed 10% of the area of the building facade associated with the business establishment that contains the establishment's primary customer entrance or 100 square feet, whichever is the lesser amount. In instances where multiple business establishments share a customer entrance on the same facade, the total square footage for all signs of all business establishments attached to each facade shall not exceed 10% of the total area of the facade associated with the business establishments that contains the establishments' shared customer entrance or 100 square feet, whichever is the lesser amount.

D. Only one freestanding sign is allowed per business, which may not exceed half the allowable size as permitted in this section. .

F. Incidental business signs indicating the business, hours of operation, credit cards accepted, business affiliations, "sale" signs and other temporary signs shall be permitted so long as the total area of all such signs does not exceed four square feet and is within the allowable maximum square footage permitted for each business.

G. When a business property is located on two or more public ways, the Building Commissioner may allow a second freestanding sign, so long as the total square footage of all signs for a single business does not exceed the provisions of this section.

**§ 240-75 Directional or safety signs.**

In addition to other allowable signs, directional, warning or traffic signs necessary for the safety and direction of residents, employees, customers and visitors may be allowed as follows:

A. Such signs shall not exceed one square foot in area, nor be more than three feet high.

B. No more than four such signs will be allowed per site.

**Proposal & Relief Requested**

The Cape Cod Five Cents Savings Bank has petitioned for relief in accordance to Section 125 and Section 240-126 of the Zoning Ordinance and M.G.L. Chapter 40A Section 10 from the following provisions: 240-65 (A) Number of Signs, 240-65 (C) Additional Square Footage, 240-65 (D) (G) Number of Signs, 240-75 (A) (B) Allowance/approval of (4) larger Directional Signs.

1550 Iyannough Road CC5 RT 132 Branch Bank		Freestanding and Building Signs				
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Building Sign	L.1 / 101	Building	5.21	2.17	11.28	Route 132 façade - 62.25" (w) x 28" (h) CC5 Logo on gable end
Roadway Monument	L2 /101	Freestanding	4.25	8.00	34.00	See layout for text.
Roadway Monument	L2A / 101	Freestanding	4.25	8.00	34.00	"
Roadway Monument	L2A /102	Freestanding	4.25	8.00	34.00	"
<b>TOTALS</b>					<b>113.28</b>	

1550 Iyannough Road CC5 RT 132 Branch Bank		Directional / Information Signs				
Sign Type as drawn	Sign ID / #	Type per Town	Width (ft)	Height (ft)	Sq Ft	Notes
Vehicular Wayfinding	V.1 /101	Directional/Information	2.00	5.00	10.00	"Customer Parking ..."
Vehicular Wayfinding	V.1 / 102	Directional/Information	2.00	5.00	10.00	" ATM and Drive-up..."
Vehicular Wayfinding	V.3 / 101	Directional/Information	2.00	5.00	10.00	"One Way Do Not Enter"
Vehicular Wayfinding	V.3 / 101	Directional/Information	2.00	5.00	10.00	"Employee Parking only" at entry to garage
Wall mounted sign at secondary entry	L.3	Directional/Information	1.00	2.75	2.75	Small wall mounted directional type sign at employee only lower level entry, to read "TRAINING & DEVELOPMENT CENTER"
<b>TOTALS</b>					<b>42.75</b>	

### Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

- owing to circumstances related to 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 zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
- desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

An application for a variance that has met all three requirements “does not confer ... any legal right to a variance.” The Board still has the discretionary power to grant or not to grant the variance.

### **Suggested Conditions**

Should the Board find to grant Variance No. 2020-030 it may wish to consider the following conditions:

1. Variance No. 2020-030 is granted to The Cape Cod Five Cents Savings Bank at 1550 Hyannough Road, Hyannis for one building sign 11.28 square feet, three freestanding signs 34.00 square feet each, and five directional/informational signs not to exceed 10 square feet each.
2. The signs shall be in substantial conformance with the sign specifications by Gensler DI.3, DI.32, DI.33, and sign specifications by DCL Sheets 12-22.
3. The Applicant is required to obtain sign permits from the Building Division prior to installation.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

CC: Applicant (c/o Attorney Andrew Singer)

Attachments: Application  
Sign Specifications  
Site Plan  
Assessor's Record  
Summary of Reasoning from Attorney Singer  
CC5Exterior Signage Proposal Narrative

**TOWN OF BARNSTABLE**  
**Zoning Board of Appeals**  
**Application for a Special Permit**

Date Received:  
Town clerk office

For office use only  
Appeal # \_\_\_\_\_  
Hearing Date: \_\_\_\_\_  
Decision Date: \_\_\_\_\_

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons hereinafter set forth:

Petitioner's Name<sup>1</sup>: Joshua Garvey Phone: 727-543-2116

Petitioner's Address: 10 Dairy Drive, Upton, MA 01568

Property Location: 111 George Street, Barnstable, MA 02668

Property Owner: Same Phone: Same

Address of Owner: Same  
*If applicant differs from owner, state nature of interest.<sup>2</sup>*

Registry of Deeds/Land Court References: Deed Book 32354, Page 1 Plan: Plan Book 75, Page 155

Assessor's Map / Parcel Number: 319/052 Zoning District: Residence B

Number of Years Owned: 6 Months Groundwater Overlay District: AP

Special Permit Requested: Section 240-91H(3) - Nonconforming Lot – Developed Lot Protection  
*Cite Section & Title from the Zoning Ordinance*

Description of Activity / Reason for Request: Applicant is seeking a Special Permit to allow him to tear down the existing house located at 111 George Street and construct a new house with a Gross Floor Area of 2,503 sq. ft. The lot contains 8,392 sq. ft. of upland, and the proposed structure will encroach into the front yard setback from Harborview Drive triggering the need for a special permit.

*Attach additional sheet if necessary*

Is this property subject to an existing Variance or Special Permit.....No  Yes  - \_\_\_\_\_  
Permit # \_\_\_\_\_

<sup>1</sup> The Petitioner's Name will be the entity to whom the special permit will be issued to.

<sup>2</sup> If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase and sale agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit – Page 2

Description of Construction Activity (if Applicable): Tear down existing house containing approximately 1,668 ± square feet and construct a new house containing 2,503 sq. ft. +/- of Gross Floor Area.  
*Attach additional sheet if necessary*

Existing level of Development of the Property – Number of Buildings: One (1)  
Present Use(s): Single Family Residence

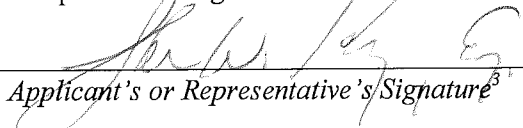
Existing Gross Floor Area: 2,408 +/- sq. ft. Proposed New Gross Floor Area: 2,503 +/- sq. ft.

Site Plan Review Number: N/A Date Approved: \_\_\_\_\_ *(not required for Single or Two Family use)*

Is the property located in a designated Historic District?.....	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Is this proposal subject to the jurisdiction of the Conservation Commission.....	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Is this proposal subject to approval by the Board of Health?.....	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is the building a designated Historic Landmark?.....	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have you applied for a building permit?.....	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Have you been refused a building permit?.....	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

The following information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request:

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a ‘wet sealed’ certified property survey (plot plan) and (1) reduced copy (8 ½” x 11” or 11” x 17”) showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), building elevations and layout as may be required plus one (1) reduced copy (8 ½” x 11” or 11” x 17”) of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature:  Date: 8/18/2020  
*Applicant's or Representative's Signature<sup>3</sup>*

Print Name John W. Kenney, Esq.

Address: 1550 Falmouth Road, Suite 12 Phone: 508-771-9300  
Centerville, MA 02632 Fax No.: 508-775-6029

E-mail Address: john@jwkesq.com

<sup>3</sup> All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

**NEW RESIDENCE FOR**  
**MR. JOSHUA GARVEY**  
**111 GEORGE STREET**  
**BARNSTABLE, MA**

PROJECT # 280919

© 2019 ERT ARCHITECTS, INC. THE DRAWINGS AND ALL OF THE IDEAS, ARRANGEMENTS, DESIGNS, AND PLANS INDICATED THEREON OR REPRESENTED THEREBY, ARE OWNED BY AND REMAIN THE PROPERTY OF ERT ARCHITECTS, INC. NO PART THEREOF SHALL BE UTILIZED BY ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE, EXCEPT WITH SPECIFIC WRITTEN PERMISSION OF THE FIRM ERT ARCHITECTS, INC.

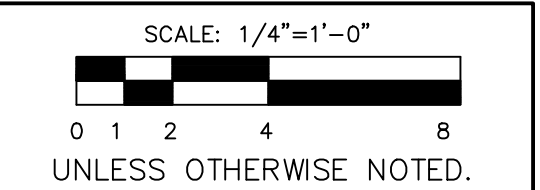
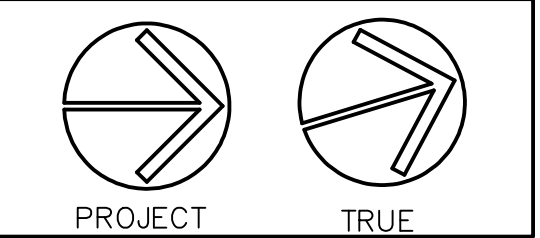
THESE PLANS ARE NOT TO BE USED FOR PERMITTING OR CONSTRUCTION PURPOSES UNLESS STAMPED & SIGNED WITH AN ORIGINAL ARCHITECT'S STAMP AND SIGNATURE & MARKED AS "PERMIT SET" OR "CONSTRUCTION SET".

REGISTRATION

REVISIONS

DATE:	REVISIONS:
07.01.20	OKH

ISSUED FOR: OKH  
DATE: 07.01.20



SHEET NO.  
**A.2**

TOTAL NUMBER OF SHEETS IN SET:  
**X**

THIS SHEET INVALID UNLESS ACCOMPANIED BY A COMPLETE SET OF WORKING DRAWINGS

REGULATORY FILING SET 07.01.2020



**PROPOSED FRONT/EAST ELEVATION**



**PROPOSED RIGHT/NORTH ELEVATION**

MARK	MANUFACTURER	SERIES	SIZE	ROUGH OPENING
1	MARVIN	ELEVATE	ELDH3060	2'-6 1/2" X 5'-0 1/4"
2	MARVIN	ELEVATE	ELDH3444	2'-10 1/2" X 3'-8 1/4"
3	MARVIN	ELEVATE	ELAWN2523	2'-1" X 1'-11 5/8"
4	MARVIN	ELEVATE	ELDH3472	2'-10 1/2" X 3'-8 1/4"
5	MARVIN	ELEVATE	ELDH3472	2'-10 1/2" X 6'-0 1/4"
6	MARVIN	ELEVATE	ELSF010080 OXO	9'-10" X 8'-0"
7	MARVIN	ELEVATE	ELDH3044	2'-6 1/2" X 3'-8 1/4"
8	MARVIN	ELEVATE	ELDH2244	1'-10 1/2" X 3'-8 1/4"
9	MARVIN	ELEVATE	ELDH3056	2'-6 1/2" X 4'-8 1/4"
10	MARVIN	ELEVATE	ELDH3064	2'-6 1/2" X 5'-4 1/4"
11	MARVIN	ELEVATE	ELDH3048	2'-6 1/2" X 4'-0 1/4"

**MEMORANDUM**

TO: Zoning Board of Appeals

FROM: John W. Kenney, Esq.

APPEAL NO.: 2020-031

HEARING DATE: September 9, 2020

APPLICANT: Joshua Garvey

PROPERTY: 111 George Street, Barnstable, MA 02630

ASSESSOR'S MAP: Map 319, Parcel 052

LOT SIZE: 10,348 Sq. Ft. ± (8,392 Sq. Ft. ± of Upland)

ZONING DISTRICT: Residence B Residential District

GROUNDWATER  
OVERLAY  
DISTRICT: AP - Aquifer Protection Overlay District

RELIEF REQUESTED: Applicant is seeking a Special Permit pursuant to Section 240-91 H(3) - Non-Conforming Lot – Developed Lot Protection.



## **BACKGROUND**

The subject property is located at 111 George Street, Barnstable, Massachusetts. The property is shown as Parcel 052 on Town of Barnstable Assessor's Map 319, a copy of which is attached hereto as **Exhibit A** for your review.

The Applicant, Joshua Garvey, acquired title to locus by a deed dated September 19, 2019 and recorded on October 4, 2019 with the Barnstable Registry of Deeds in Book 32354, Page 1. A copy of the Deed is attached hereto as **Exhibit B** for your review.

The subject property is located in a Residence B zoning district. It is served by municipal water and will be connected to municipal sewer.

The project has been reviewed and approved by the Town of Barnstable Conservation Commission and the Old King's Highway Historic District Committee.

## **DESCRIPTION OF PROPOSED PROJECT**

Applicant is seeking a Special Permit pursuant to Section 240-91H(3) of the Town of Barnstable Zoning Ordinance to allow the Applicant to tear down the existing home on the lot, and approval to construct a two-story, 4 bedroom, 2 bath, single-family residence with a covered porch totaling 2,503 square feet ± and a patio. The lot contains 8,392 sq. ft. of upland, and the proposed structure will encroach into the front yard setback from Harborview Drive triggering the need for a special permit.

## **ZONING BACKGROUND**

Based upon research of the Town of Barnstable Zoning Ordinance, zoning in Barnstable was first adopted in 1929. At that time, existing businesses were deemed to be commercial property and all other land was zoned residential. There were no dimensional requirements.

Dimensional requirements for this area of town seem to have first been imposed in 1953. That year, the area was zoned Residence – A with a minimum lot size of 7,500 square feet and a 20-foot front yard setback.

In 1956, the area was zoned Residence A-1. A requirement of 7 ½ foot side and rear yard setbacks were added to the previous dimensional requirements.

The area was again re-zoned in 1974 to Residence B. The minimum lot size was increased to 10,000 square feet with a 20-foot front yard setback. The side and rear yard setbacks were increased to 10 feet.

In 1985, the minimum lot size was increased to 43,560 square feet. The front, side and rear yard setbacks remained unchanged.

According to the Town of Barnstable Assessor's records, the existing house located on the premises was built in 1930. Per the deed into the Applicant, the parcel at 111 George Street was created by a 1946 subdivision plan (see **Exhibit B**). In summary, the lot was created and the house was located on the property prior to the adoption in dimensional requirements being imposed. The house and lot are legally nonconforming.

### **SPECIAL PERMIT CONDITIONS AND ARGUMENT**

Section 240-125C requires this Board find that the application for a Special Permit falls within a category of the Zoning Ordinance which specifically authorizes the Zoning Board to grant a Special Permit. Further, the Board must find that the proposed project, based upon the evidence presented, does not derogate from the spirit and intent of the Zoning Ordinance and that it is not substantially more detrimental to the public good or neighborhood affected.

Section 240-91(H) contains two separate sections which allow for demolition and rebuilding on non-conforming lots. Section 1 allows for as-of-right demolition and rebuilding on non-conforming lots which contain a minimum of 10,000 square feet of contiguous upland provided certain criteria are met. If the project cannot be done as of right, Section 3 authorizes the ZBA to grant a Special Permit provided certain criteria are met. Locus contains less than the minimum requirement of 10,000 square feet of contiguous upland to meet the requirements of Section 240-91H(1) and therefore requires a Special Permit as authorized by Section 240-91 H(3) of the Zoning Ordinance.

Section 240-91(H)(3) sets forth the criteria that must be met to allow for demolition and rebuilding on a non-conforming lot if the lot contains less than 10,000 square feet. The criteria for granting the Special Permit is set out in subsections (a), (b), and (c) and are as follows:

1. Section 240-91H(3)(a) provides that the if the proposed new dwelling does not comply with subsection H(1)(a) of Section 240-91H which requires conformity with all current use and setback requirements, then "the proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building". The Residence B Zoning District currently requires a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet. The proposed new dwelling does not comply with all current setback

requirements, but the proposed yard setbacks are greater than the existing building.

The only nonconforming setback for the proposed building is caused by the fact that the property fronts on two streets. The proposed dwelling meets the front yard setback from George Street but it does not meet the front yard setback from Harborview Drive. Although it is possible to locate the new dwelling on the property so that it complies with both front yard setbacks, the new dwelling is proposed in a location similar to the old dwelling to protect the view of the property to the south of locus. (See Site Plan attached hereto as **Exhibit C**).

The proposed use as a single-family residence is an allowed use in the zoning District.

2. Section 240-91H(3)(b) requires that all the criteria in Subsection H(1)(b)[1], [2] and [3] be met. Subsection H(1)(b)[1] deals with lot coverage and provides that all buildings and structures “do not exceed 20% or the existing lot coverage, whichever is greater”. The proposed lot coverage is 19.8%.

Section H(1)(b)[2] deals with the floor area ratio. It provides that the floor area ratio shall “not exceed .30 or the existing floor area ratio of the structure being demolished and rebuilt, whichever is greater”. The proposed structure has 29.8% Gross Floor Area.

Subsection H(1)(B)[3] requires that the building height “not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories.” The existing house is a two-story structure. We are proposing a two-story structure which is 19 feet 10 ¾ inches to the highest plate, well below the allowed height. (See **Exhibit D**).

3. Section 240-91H(2)(c) requires that the proposed new dwelling “would not be substantially more detrimental to the neighborhood than the existing dwelling.”

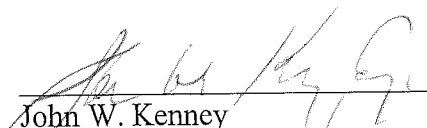
The new structure will be more in compliance with the setbacks set forth in the Zoning Ordinance than the current structure. Architecturally the home will fit with the neighborhood. It will comply with today’s building code requirements. The lot is similar in size to lots in the surrounding neighborhood.

Since the Applicant’s proposed new home is more in compliance with the setback requirements, meets the lot coverage requirement; and meets the gross floor area requirement of the Zoning Ordinance, the Board can find that the project does not derogate from the spirit and intent of the ordinance. Further, the Board can find that the new home is not substantially more detrimental to the public good or the neighborhood

## CONCLUSION

Based on the foregoing, I submit to this Board that the Applicant meets the requirements for a Special Permit pursuant to Section 240-92H(3) of the zoning ordinance. We ask that you vote in favor of the Special Permit relief requested to allow the Applicant to remove the existing home on the property and construct a two-story, 4-bedroom, single-family residence with a Gross Floor Area of 2,503 square feet ± per the plans submitted.

Respectfully submitted,

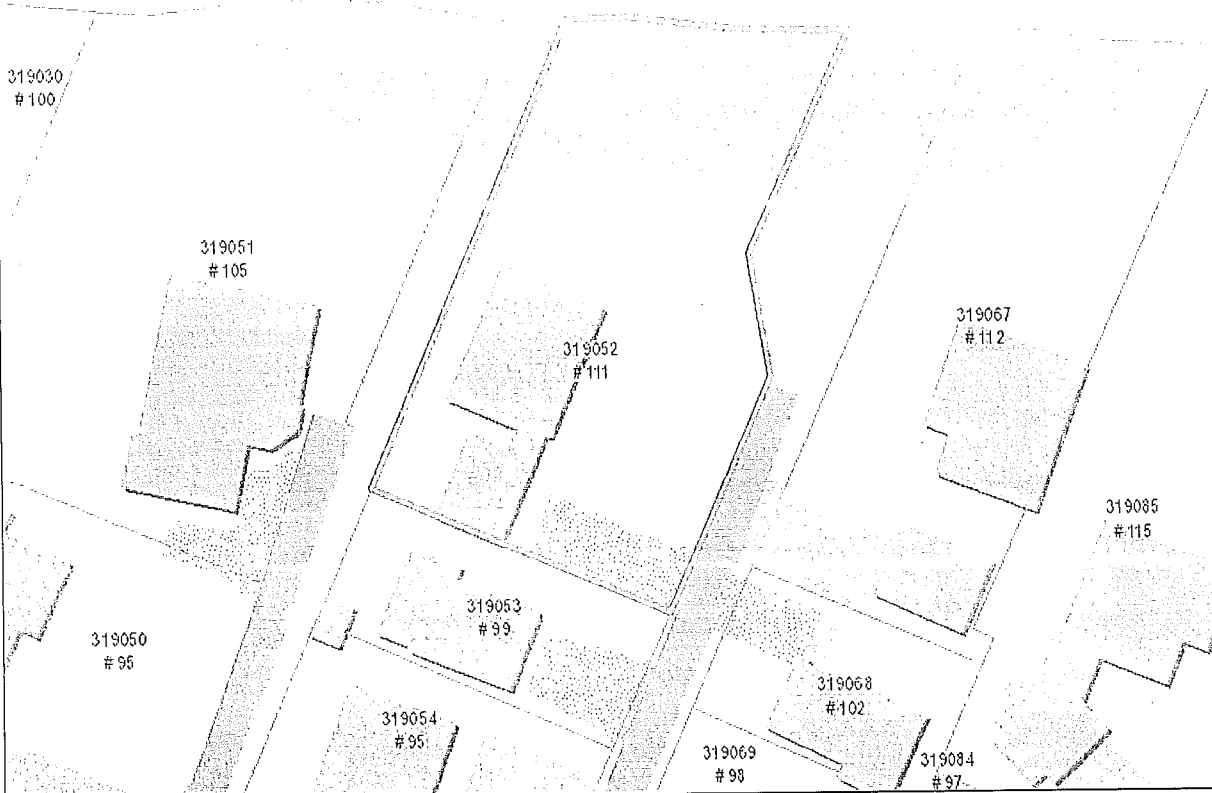
  
John W. Kenney  
Attorney for Joshua Garvey, Applicant  
1550 Falmouth Road, Suite 12  
Centerville, MA 02632  
508-771-9300  
E-mail: [john@jwkesq.com](mailto:john@jwkesq.com)



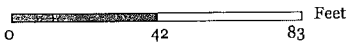
Legend

- Parcels
- Town Boundary
- Railroad Tracks
- Buildings
  - Approx. Building
  - Buildings
- Painted Lines
- Parking Lots
  - Paved
  - Unpaved
- Driveways
  - Paved
  - Unpaved
- Roads
  - Paved Road
  - Unpaved Road
  - Bridge
  - Paved Median
- Streams
- Marsh
- Water Bodies

Exhibit A



Map printed on: 12/20/2019



Approx. Scale: 1 inch = 42 feet



This map is for illustration purposes only. It is not adequate for legal boundary determination or regulatory interpretation. This map does not represent an on-the-ground survey. It may be generalized, may not reflect current conditions, and may contain cartographic errors or omissions.

Parcel lines shown on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical objects on the map such as building locations.



Town of Barnstable GIS Unit

367 Main Street, Hyannis, MA 02601  
508-862-4624

gis@town.barnstable.ma.us

MASSACHUSETTS STATE EXCISE TAX  
BARNSTABLE COUNTY REGISTRY OF DEEDS  
Date: 10-04-2019 @ 11:28am  
Ctl#: 547 Doc#: 48720  
Fee: \$4,986.36 Cons: \$1,457,822.00

BARNSTABLE COUNTY EXCISE TAX  
BARNSTABLE COUNTY REGISTRY OF DEEDS  
Date: 10-04-2019 @ 11:28am  
Ctl#: 547 Doc#: 48720  
Fee: \$4,461.48 Cons: \$1,457,822.00

**Quitclaim Deed**

We, Richard G. Smith and Shirley L. Smith, being married to each other, of 111 George Street, Barnstable, MA 02630,

In consideration of One Million Four Hundred Fifty-Seven Thousand Eight Hundred Twenty-Two Dollars and 00/100 (\$1,457,822.00)

**GRANT TO** Joshua Garvey, of 10 Dairy Drive, Upton, MA 01568

With **QUITCLAIM COVENANTS**

The land, together with the buildings thereon, situated in Barnstable, Barnstable County, Massachusetts, bounded and described as follows:

EASTERLY by George Street (so called), sixty-five (65) feet;

SOUTHERLY by Lot 19 on a plan of land hereinafter mentioned, eighty-six and 78/100 (86.78) feet;

WESTERLY by Harbor View Road, one hundred ten (110) feet, more or less;

NORTHERLY by mean high water of Barnstable Harbor, seventy (70) feet, more or less;

EASTERLY again by Common Landing, twenty-eight (28) feet, more or less; and

NORTHEASTERLY by Common Landing, forty-five and 70/100 (45.70) feet.

The above described premises are shown as **LOT 20** on a plan entitled "Revised Subdivision of Land in Barnstable, Mass., being a section of land shown on a plan recorded at Barnstable Registry of Deeds B 11, P11, Scale 1 in. = 40 ft. Nov. 1946, Schofield Bros., Civil Engineers, Orleans & Framingham, Mass" said being recorded with the Barnstable County Registry of Deeds in **Plan Book 75, Page 155.**

Subject to a reservation in Louis A. Byron, his heirs, successors and assigns and the other lot owners in "Cobb Village", so-called, of the right to use the beach adjoining the above described premises on the North in the area between the water of Barnstable Harbor and "Top of Bank" as shown on said plan.

111 George Street, Barnstable

Together with the fee in said George Street to the center line of said George Street adjoining the above described premises on the East and Northeast.

Together with the right and easement to pass and repass over George Street from the County Road known as Commerce Road to Barnstable Harbor, in common with all others lawfully entitled thereto.

Together with the right to use the beach for bathing purposes in the area shown on said land between mean high water of Barnstable Harbor and "Top of Bank" as shown on said plan and adjoining Lot 1 and 20 on the North as shown on said plan, and the area shown as "Common Landing" on said plan, in common with all others lawfully entitled thereto.

Said premises are conveyed subject to and have the benefit of all gas, water mains and pipes and electric conduits and wires, which extend over, across, upon and under the above granted premises.

Subject to a specific reservation in said Louis A. Byrne, successors and assigns, of the right to renew, relay and replace all wires, conduits and pipes as they now exist over, across, above, upon and beneath the above granted premises.

Subject also to a reservation in said Louis A. Byrne, his heirs, successors and assigns of the right to install and maintain all public utilities in, over, across and upon said George Street as shown on said plan, and to a reservation in said Louis A. Byrne, his heirs, successors and assigns, in common with all others lawfully entitled thereto, of a right of way and easement in said George Street, as shown on said plan, from Commerce Road to Barnstable Harbor.

The above described premises are conveyed subject to the following restrictions which are imposed for the benefit of said Byrne, his heirs, successors and assigns and his other land:

No overnight cabins or camps, so-called, shall be erected or maintained.

No trailers or trailer camp shall be maintained.

No more than one single family detached dwelling and garage adapted for the storage of not more than two (2) motor vehicles (private) shall be erected, placed or maintained.

No trade or manufacturing shall be conducted or maintained.

No outside privies shall be erected or maintained.

No animals except domestic household pets shall be kept upon the above described premises.

**For Grantor's Title, see deed dated 10/06/2000 and recorded in the Barnstable County Registry of Deeds at Book 13308, Page 63.**

We, the Grantors named herein, do hereby voluntarily release all of our rights of Homestead as set forth in M.G.L. Chapter 188, if any, and further state that there are no other persons entitled to any such rights.

Property Address: 111 George Street, Barnstable, MA 02630

Executed as a sealed instrument on the 19th day of September, 2019.

Richard G. Smith  
Richard G. Smith

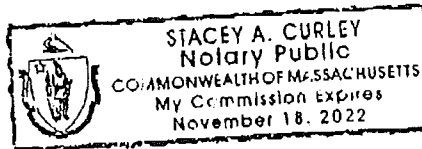
Shirley L. Smith  
Shirley L. Smith

Commonwealth of Massachusetts

Barnstable, ss.

On 19th day of September, 2019, before me, the undersigned notary public, personally appeared Richard G. Smith and Shirley L. Smith, the above-named and proved to me through satisfactory evidence of identification being drivers license, to be the person whose name is signed on this document, and acknowledged to me that he/she signed it voluntarily for its stated purpose and that the foregoing instrument is his/her free act and deed.

Stacey A. Curley  
Notary Public:  
My Commission Expires:







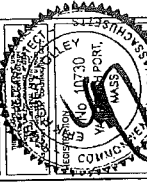




221 WEST 124th  
 SOUTH WINDSOR  
 WASHINGTON, D.C. 20004  
 (202) 331-0222  
 (202) 331-3300  
 (202) 331-3300  
 WWW.ANDDESIGN.COM

RESERVANCE FOR  
 MR. JULIA GARVEY  
 101 OFFICE STREET  
 BARNSTABLE, MA

PROJECT # 200019  
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REVISIONS	DATE	REVISIONS

PROJECT	DATE

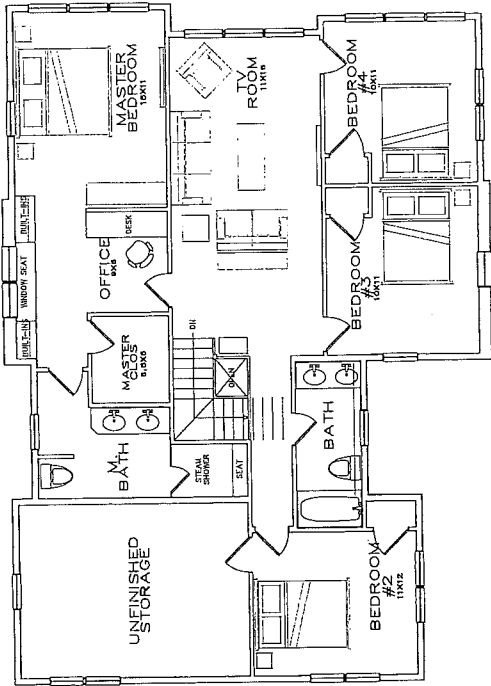
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 1/4" = 3'-0"  
 1/2" = 6'-0"  
 3/4" = 9'-0"  
 1" = 12'-0"

SHEET NO.  
 A.1

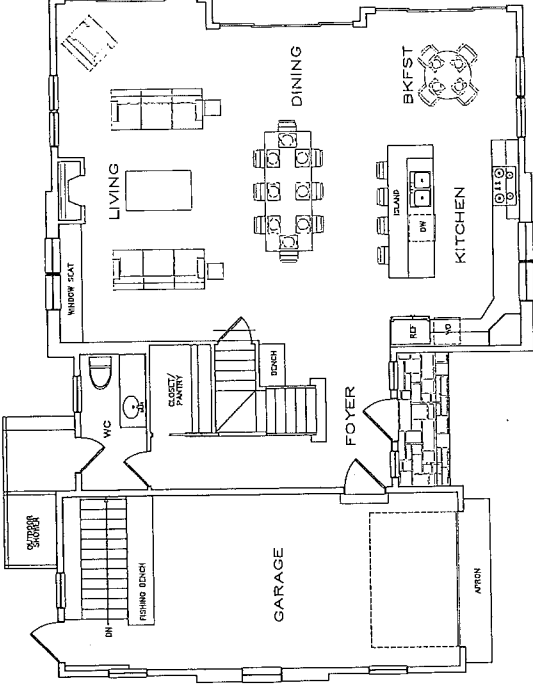
TOTAL NUMBER OF SHEETS  
 IN SET:  
 X

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REGULATORY FILING SET 07.01.2020



SECOND FLOOR PLAN  
 1,343 SF LIVING AREA/F.A.R.



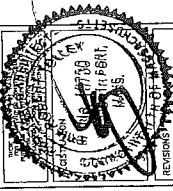
FIRST FLOOR PLAN  
 1,432 SF LOT COVERAGE < 1,478 ALLOWABLE  
 2,865 TOTAL FLOOR AREA < 2,917 F.A.R. ALLOWABLE

**RT architects**  
*life + architecture*

ROBERTO TORRES ARCHITECTS  
 277 WASHINGTON STREET  
 SOUTH WINDSOR, MA 01880  
 TEL: 978.334.7800  
 FAX: 978.334.7800  
 WWW.RTARCHITECTS.COM

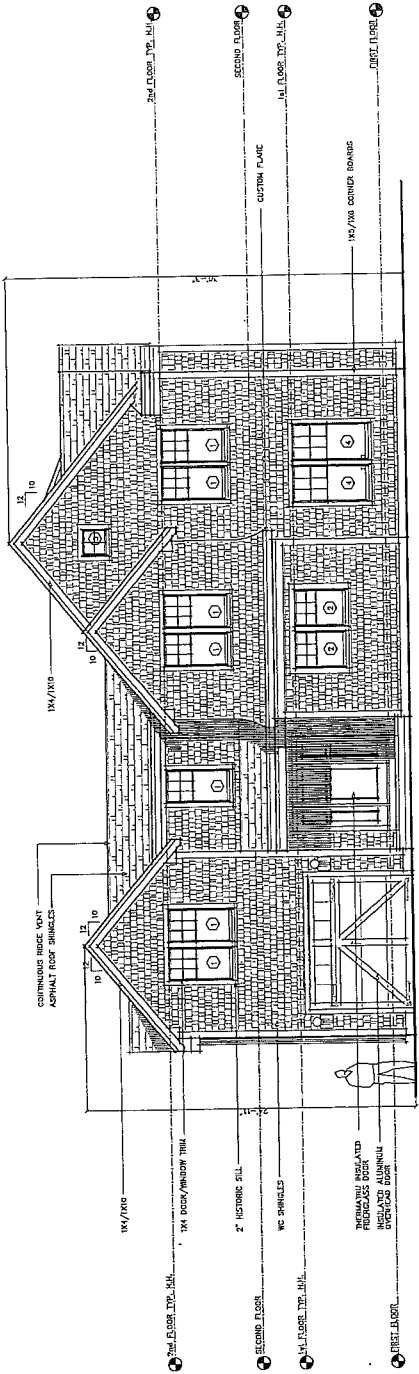
RESERVE FOR  
**JORJIA GARVEY**  
 561111  
 STREET  
 BARNSTABLE, MA

PROJECT # 210919  
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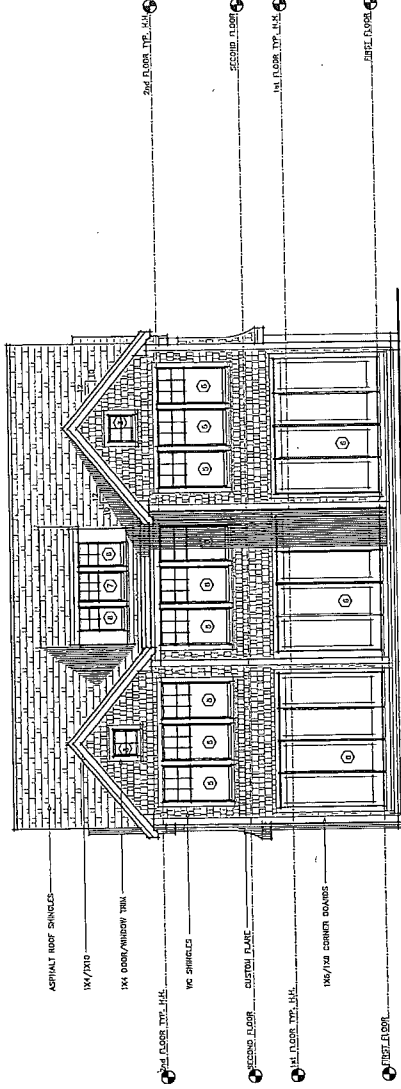


DATE:	REVISED:	DATE:	REVISED:
ISSUED FOR:	DATE:	ISSUED FOR:	DATE:
PROCESS:	DATE:	PROCESS:	DATE:
UNLESS OTHERWISE NOTED.			
SHEET NO.		A.2	
TOTAL NUMBER OF SHEETS		X	
IN SET:			

REGULATORY FILING SET 07.01.2020



PROPOSED FRONT/EAST ELEVATION



PROPOSED RIGHT/NORTH ELEVATION

MARK	MANUFACTURER	SERIES	SIZE	ROOF OPENING
1	MARKON	ELR00000	2'-8 1/2" X 8'-0 1/4"	
2	MARKON	ELR0244	2'-10 1/2" X 3'-0 1/4"	
3	MARKON	ELR0323	2'-7" X 11'-0 1/8"	
4	MARKON	ELR0372	2'-10 1/2" X 3'-0 1/4"	
5	MARKON	ELR0372	2'-10 1/2" X 8'-0 1/4"	
6	MARKON	ELR03000 0000	9'-10" X 8'-0"	
7	MARKON	ELR0344	2'-8 1/2" X 3'-0 1/4"	
8	MARKON	ELR0244	1'-10 1/2" X 3'-0 1/4"	
9	MARKON	ELR0300	2'-8 1/2" X 8'-0 1/4"	
10	MARKON	ELR0384	2'-5 1/2" X 8'-0 1/4"	
11	MARKON	ELR0000	2'-8 1/2" X 8'-0 1/4"	

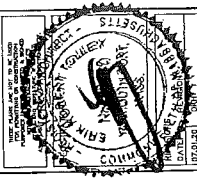
**architects**  
*life well designed*

277 WINDMILL PARK  
SACONNET, MASSACHUSETTS 01914  
PH: 508.548.2000  
FAX: 508.548.2001  
WWW.ARCHITECTS.COM

NEW RESIDENCE FOR  
**MR. JOSHUA GARVEY**  
**111 GEORGE STREET**  
**BARNSTABLE, MA**

PROJECT # 20091P

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ISSUED FOR: RMH  
DATE: 07/01/20

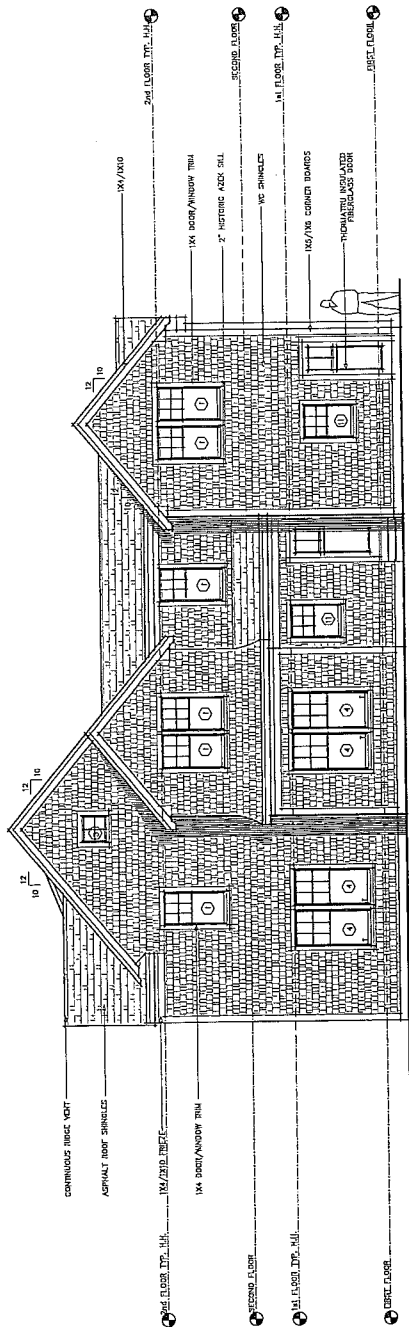
PROJECT: TRUFF

SCALE: 1/4" = 1'-0"  
UNLESS OTHERWISE NOTED

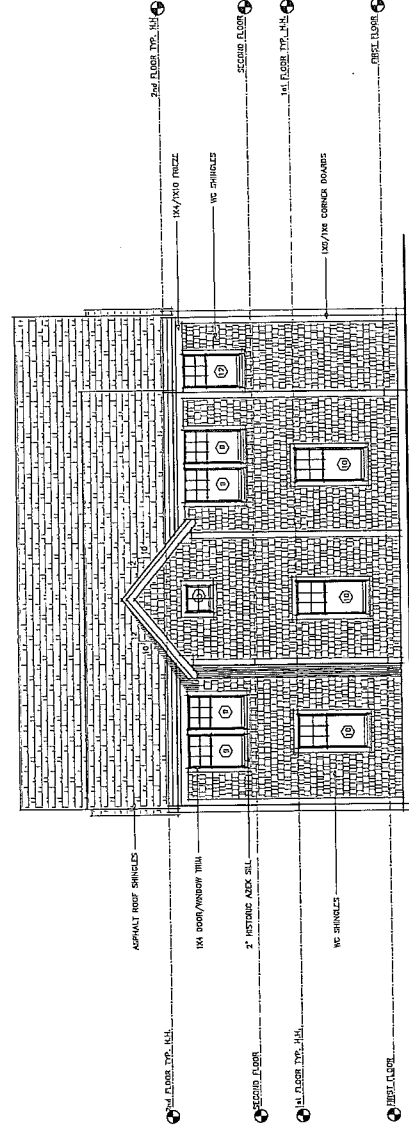
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TOTAL NUMBER OF SHEETS IN SET: **X**

REGULATORY FILING SET 07.01.2020

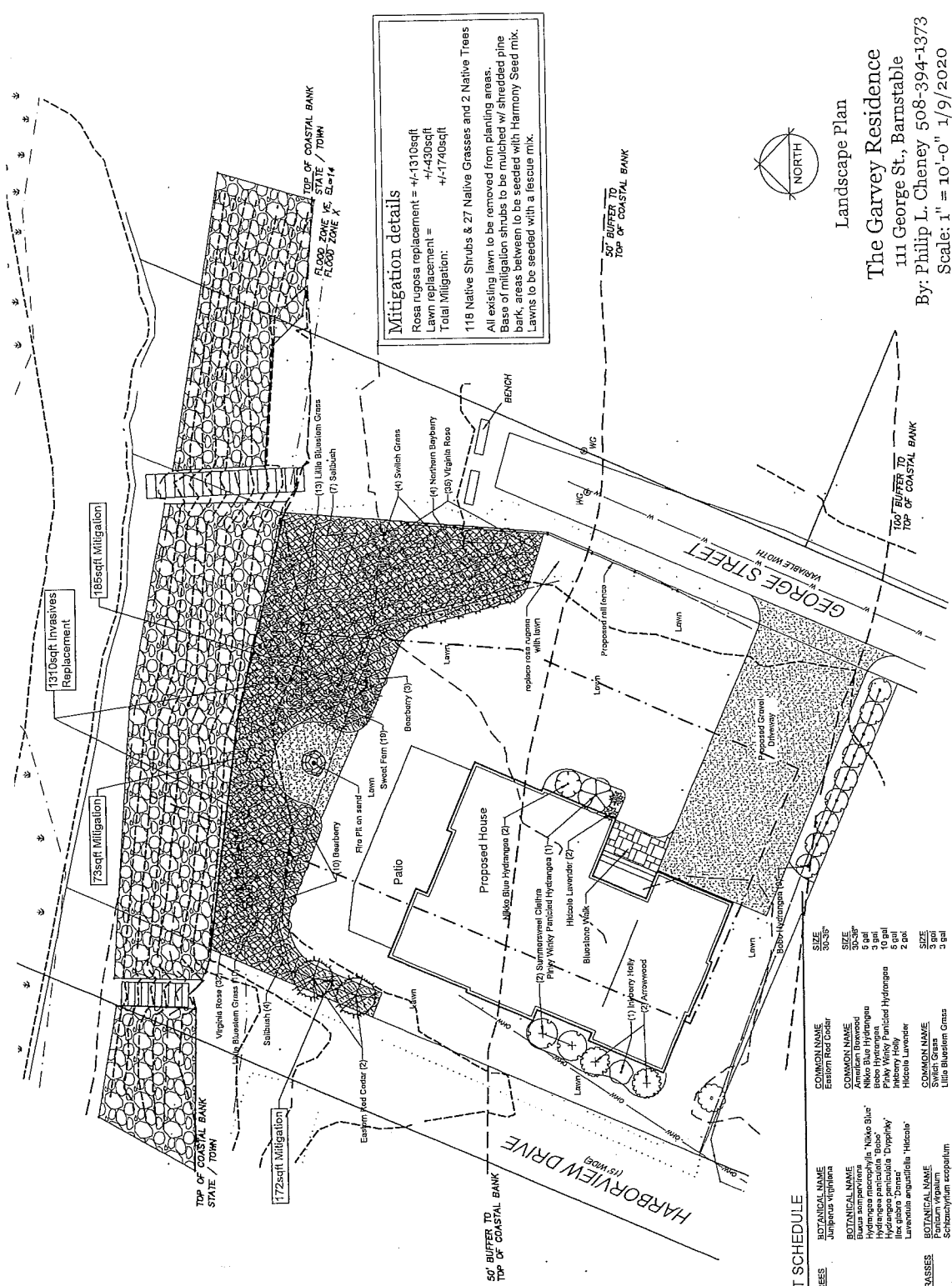


PROPOSED REAR/WEST ELEVATION



PROPOSED LEFT/SOUTH ELEVATION

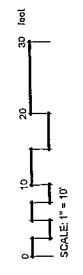
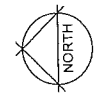
MARK	MANUFACTURER	SERIES	SIZE	ROUGH OPENING
1	HARVEY	ELEVATE	ED10369	2'-8 1/2" X 2'-5 1/4"
2	HARVEY	ELEVATE	ED10344	2'-10 1/2" X 2'-5 1/4"
3	HARVEY	ELEVATE	CL40253	2'-4" X 2'-11 3/8"
4	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
5	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
6	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
7	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
8	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
9	HARVEY	ELEVATE	ED10372	2'-10 1/2" X 2'-5 1/4"
10	HARVEY	ELEVATE	ED10344	2'-8 1/2" X 2'-5 1/4"
11	HARVEY	ELEVATE	ED10344	2'-8 1/2" X 2'-5 1/4"



**Mitigation details**  
 Rosa rugosa replacement = +/-1310sqft  
 Lawn replacement = +/-4300sqft  
 Total Mitigation: +/-1740sqft

118 Native Shrubs & 27 Native Grasses and 2 Native Trees  
 All existing lawn to be removed from planting areas.  
 Base of mitigation shrubs to be mulched w/ shredded pine bark, areas between to be seeded with Harmony Seed mix.  
 Lawns to be seeded with a fescue mix.

Landscape Plan  
**The Garvey Residence**  
 111 George St., Barnstable  
 By: Philip L. Cheney 508-394-1373  
 Scale: 1" = 10'-0" 1/9/2020  
 Rev. 3/4/20 fire pit and cedars  
 Rev. 4/9/20 House re-positioned  
 Rev. 6/25/2020

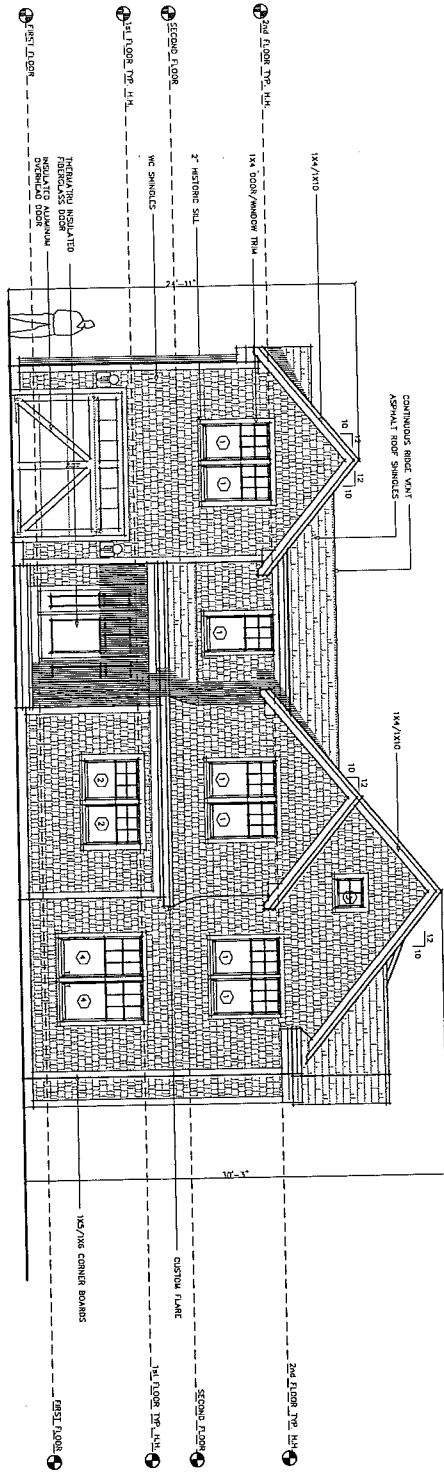


**PLANT SCHEDULE**

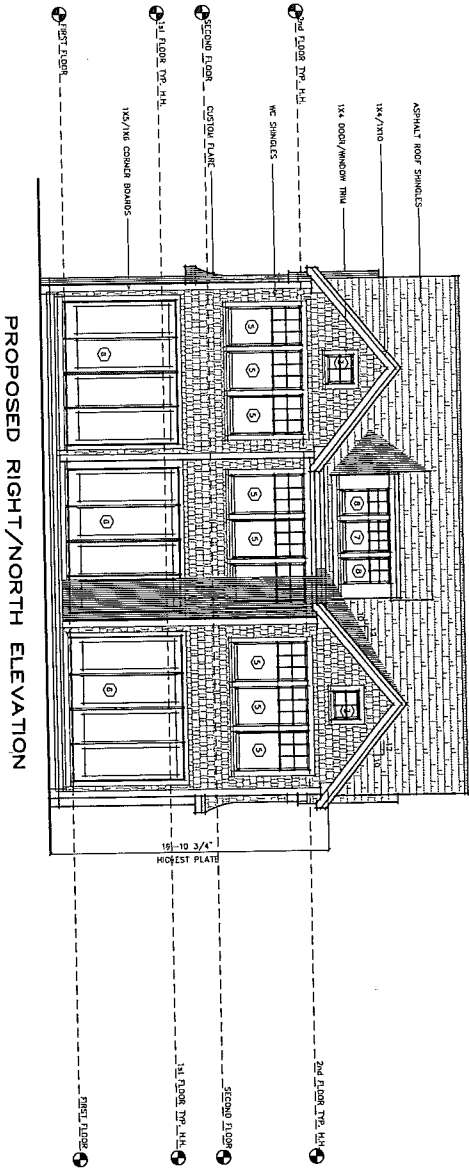
NATIVE TREES	BOTANICAL NAME	COMMON NAME	SIZE
2	<i>Juncus virginiana</i>	Eastern Red Cedar	30-35'
<b>SHRUBS</b>			
1	<i>Baccharis virginiana</i>	American Broomrape	30-35'
2	<i>Baccharis scopulorum</i>	American Broomrape	5 gal
9	<i>Hydrangea macrophylla 'Nikko Blue'</i>	Nikko Blue Hydrangea	5 gal
2	<i>Hydrangea paniculata 'Dappled'</i>	Pink Waxy Panicle Hydrangea	10 gal
1	<i>Ilex glabra 'Dense'</i>	Holly	5 gal
2	<i>Lavandula angustifolia 'Hiscole'</i>	Hiscole Lavender	4 gal
<b>NATIVE GRASSES</b>			
4	<i>Panicum virginicum</i>	Switch Grass	3 gal
23	<i>Schizanthus scopulorum</i>	Little Bluestem Grass	2 gal
<b>NATIVE SHRUBS</b>			
10	<i>Arctostaphylos uva-ursi</i>	Bearberry	3 gal
11	<i>Baccharis tinctoria</i>	Broomrape	5 gal
19	<i>Summarosa califlora</i>	Summarosa Califlora	3 gal
4	<i>Myrica pensylvanica</i>	Northern Bayberry	3 gal
67	<i>Viburnum dentatum</i>	Aronwood	3 gal

Exhibit D

MARK	MANUFACTURER	SIZES	ROOF OPENING
①	WABRO	CLMNT	2'-6 1/2" X 5'-0 1/4"
②	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
③	WABRO	CLMNT	2'-1" X 1'-11 5/8"
④	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑤	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑥	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑦	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑧	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑨	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑩	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑪	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑫	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑬	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑭	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
⑮	WABRO	CLMNT	2'-0 1/2" X 3'-8 1/4"
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PROPOSED FRONT/EAST ELEVATION



PROPOSED RIGHT/NORTH ELEVATION

REGULATORY FILING SET 07.01.2020

<p>200 WABRO PARK SOUTH WABRO PARK, MILWAUKEE, WI 53227 TEL: (414) 224-1833 FAX: (414) 224-2000 WWW.RTARCHITECTS.COM</p>		<p>NEW RESIDENCE MR. &amp; MRS. JOSHUA GARVER 111 GEORGE STREET BARNSTABLE, MA</p> <p>PROJECT # 280919</p>	
<p>DATE: 06/11/20 REVISIONS: ISSUED FOR: 04/11/20 DATE: 07/01/20</p>		<p>REGISTRATION NO.</p>	
<p>SCALE: 1/4" = 1'-0"</p> <p>UNLESS OTHERWISE NOTED</p> <p>SHEET NO. A.2</p> <p>TOTAL NUMBER OF SHEETS: X</p>		<p>THIS PLAN SET IS THE PROPERTY OF RT ARCHITECTS AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF RT ARCHITECTS.</p>	



**Town of Barnstable**  
Planning and Development Department  
Elizabeth Jenkins, Director  
Staff Report

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**Special Permit No. 2020-031 – Garvey**  
**Section 240-91(H)3 – Nonconforming Lot-Developed Lot Protection**

To allow the demolition of an existing dwelling and construction of a new dwelling on a lot less than 10,000 square feet

**Date:** August 31, 2020  
**To:** Zoning Board of Appeals  
**From:** Anna Brigham, Principal Planner

**Applicant:** **Joshua Garvey**  
**Property Address:** 111 George Street, Barnstable, MA  
**Assessor's Map/Parcel:** 319/052  
**Zoning:** Residence B (RB)

Filed: August 18, 2020

Hearing: September 9, 2020

Decision Due: December 8, 2020

### **Copy of Public Notice**

Joshua Garvey has have applied for a Special Permit in accordance with Section 240-91.H – Nonconforming Lot. The Applicant is proposing to demolish an existing single-family dwelling and construct a new, 2,503 square foot, single-family dwelling on a lot consisting of 8,392 square feet, less than the required 10,000 square feet. The subject property is located at 111 George Street, Barnstable, MA as shown on Assessor's Map 319 as Parcel 052. It is located in the Residence B (RB) Zoning District.

### **Background**

Joshua Garvey is seeking a Special Permit to allow the demolition of an existing 2,408 gross floor area single family dwelling and the construction of a 2,503 gross floor area single family dwelling at 111 George Street, Barnstable.

The subject lot is 10,348 square feet but contains only 8,392 square feet of upland. It is developed with a 2,408 gross square foot dwelling constructed in 1930. The lot has frontage on George Street and Harborview Drive and overlooks Barnstable Harbor. Undersized lots appear typical for the area.

The existing dwelling has a front setback (George Street) of 43.4 feet, a side setback of 4.5 feet, a front setback (Harborview Drive) of 9.3 feet, and a setback from the ocean of 18.5 feet. The proposed dwelling will have a conforming front setback (George Street) of 39.8 feet, a conforming side setback of 10.5 feet, a nonconforming front setback (Harborview) of 10 feet, and a conforming setback from the ocean of 30.4 feet. The lot size is 10,348 square feet but only contains 8,392 of upland where one acre is required. Under Section 240-91 (H)(3) Special Permit is required for demolition and rebuilding because the lot is under 10,000 square feet and cannot meet the criteria in H(1).

### **Proposal & Relief Requested**

The Applicants are seeking a Special Permit in order to demolish an existing single-family dwelling and construct a 2,503 square foot, single-family dwelling with a patio and garage on a lot containing 8,392 square feet of upland.



The existing lot coverage is 19.9% and the proposed lot coverage is 19.8%, under the threshold of 20%. The existing FAR is 28.6% and the proposed FAR is 29.8%, under the 30% threshold allowed. The proposed dwelling will comply with all but 1 required setback.

Section 240-91(H)(3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91(H)(1) "As of Right", but the following criteria must be met:

- J Lot Coverage: 19.8% (20% maximum) – 1,562 square feet (1,678 square feet allowed)
- J Floor-Area Ratio: 29.8% (30% maximum) – 2,503 square feet (2,517 square feet allowed)
- J Building Height: 20 feet to top of plate (30 feet maximum)

### Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- J **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a lot under 10,000 square feet.
- J **Site Plan Review is not required for single-family residential dwellings.**
- J **After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- J **The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building.** The proposed setbacks will comply with the requirements of the Residence B Zoning District except the front setback from Harborview Drive is becoming more conforming.
- J **The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater.** The proposed lot coverage is 19.8%.
- J **The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater.** The proposed FAR is 29.8%.
- J **The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories.** The proposed height is 20 feet to the top of the plate and the proposed dwelling is 2 stories.

The Board is also asked to find that:

- J **The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.**

### Suggested Conditions

Should the Board find to grant Special Permit No. 2020-031, it may wish to consider the following conditions:

1. Special Permit No. 2020-031 is granted to Joshua Garvey for the demolition of an existing dwelling and construction of a 2,503 gross floor area dwelling at 111 George Street, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled “Plan of Land 111 George Street in Barnstable Massachusetts (Barnstable County) Proposed Dwelling” prepared by BSC Group, dated February 5, 2020, and design plans by ERT Architects
3. The total lot coverage of all structures on the lot shall not exceed 19.8% and the floor-area ratio shall not exceed 29.8%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds/Land Court and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicants (c/o Attorney John Kenney)

Attachments: Application  
Site Plans  
Building plans  
Assessor’s Record & Aerial Photo