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# THE LAW OFFICES OF BELLO & MORTON, LLC

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184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

Zoning Board of Appeals of Wareham  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

**FILE COPY**

*Re: Application for Special Permit/Variance Assessors Map 20, Lot 1017/A 12 Over  
Jordan Road, Wareham, MA 02571*

1. Petitioners

Thomas Parenteau, Owner of  
TJP Realty LLC  
19 Over Jordan Road  
Wareham, MA 02571

2. Recorded Owner:

TJP Realty LLC  
19 Over Jordan Road  
Wareham, MA 02571

3. Certified Abutters List:

Copy Attached as Exhibit A

4. Current Deed and Trust Documents:

Plymouth County Registry of Deeds Book 51249, Page 227 (Deed). Exhibit B.

5. Building Inspector's Notice of Violation Letter:

Violation Letter dated February 11, 2021 attached here as Exhibit C from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.

6. Proposed Site Plan:

Attached as Exhibit D is a copy of the Relevant Plan and architectural renderings for the project. Please note our Parcel is in the R-60 District.

7. Letter of Intent

Dear Mr. Chairman,

I represent the applicant Mr. Thomas Parenteau of TJP Realty LLC re the above application for a Variance on their proposed new construction on 12 Over Jordan Road.

**Background:**

As noted in the Commissioner's denial letter, the applicant razed an existing one family structure on the property and "*this activated the Mass Merger Doctrine and created a land merger with the adjacent parcel in common ownership.*"

The applicant intends to seek relief from the Board in the form of this petition in order to build the new construction he is proposing in the attached plans and renderings.

**Relevant By Law for Relief: Variances**

*1470 VARIANCES*

*The Board of Appeals shall have the power to hear and decide applications for Variances from the provisions of the Zoning By-Laws, including the power to grant a Variance authorizing a Use or activity not otherwise permitted in the district in which the land or structure is located. A Variance may be granted when factors relating to soil conditions, lot shape, or topography of such land creates an impracticality or limits the location or positioning of a new structure or addition on a site or location that previously conformed to zoning requirements. An applicant must demonstrate that a literal enforcement of the By-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

### **Commissioners Denial Letter:**

Per the Commissioners Letter, we are seeking two Variances under MGL, chapter 40 A Section 15:

- **Article 6, Table 621, Residential Districts:** Lots in the R-60 zoning district require a minimum of 60,000 square feet and 180' of frontage. A Variance from the Zoning Board of Appeals is required in order to break the land merger and to allow construction on the parcel.
- **Article 6, Section 621, Residential Districts:** New structures in the R-60 Zoning District are required to maintain a minimum 60' front yard setback. Your proposed structure details a 31.2' front yard setback to the face of the structure but there is a new staircase proposed which is not detailed in the drawing. A Variance from the Zoning Board of Appeals must be granted in order to proceed with the proposed front yard setback.

### **Legal Standard as Applied to our case:**

Our lot was preexisting and non-conforming, but since the demolition of the existing structure (footprint as noted on the plan) now we are before you seeking relief to build a one family new construction on the smaller lot.

Looking at this lot – it has 150 feet of frontage (short 30') and has approximately 42,688 square feet (short 17,312). This Board has the authority to grant a variance on this project if they see it meets the requirements set out by the Variance statute. We shall review here:

Now to the statutory requirements, this lot is certainly unique in its topography. The land is surrounded by wetlands and no touch conservation zones. Coastal properties are unique and certainly have their own challenges. Secondly there is an extreme hardship to the petitioner here if the board deems these properties unbuildable- the lots have been occupied by a single-family home since 1957. The old building was falling in disrepair and a hazard to the area. The petitioner is seeking to reduce the footprint and improve the property tremendously. To have the property be deemed unusable for development is surely not the intent of our Zoning by-law. Case law shows that the local Zoning board do have the authority to break the merger of lots if is applicable – in this instance it surely is. There are three lots with single family homes from the 50s which are were in need of development and reconstruction.

As for the statutory requirements for the front yard setback variance, this lot is unique in that flanked on one side by Over Jordan Road and then on the other side by coastal wetlands and bordering vegetated wetlands. The topography of the land is an issue as well to as the homes being built here need to be put on stilts as they are in the FEMA flood zone. The front yard setback as the Commissioner said is 31.2' in a district where 60' is required. The reasoning for this setback is due to the proximity of the builds to the wetlands and protected conservation area.

There would be a substantial hardship to my client if these Variances were not granted in the way that he would not be able to build on the sites that previously had single family homes on them. The loss of the grandfathering through this doctrine would be extreme detrimental to Mr. Parenteau warranting these lots unbuildable. We in Town are looking to encourage thoughtful development. After reviewing the plans, my hope would be that the Board sees the value that Mr. Parenteau is bringing to the area here, which is difficult to develop considering the challenges with the wetlands and coast.

It is our hope that the Board views the granting of these variances as keeping with the nature of the neighborhood and helping the value of the properties increase, therefore increasing tax revenue for the town.

Lastly, granting the Petitioner the relief being requests in no way derogates from the intent of the zoning by-laws as the lot is zoned for single family residences. The build keeps with the nature of the neighborhood.

All things considered allowing these Variances would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Respectfully submitted,

By

  
\_\_\_\_\_  
Jilian A. Morton, Esq.

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$80.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.73 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 12 Over Jordan Rd MAP: 20 LOT: 1017A  
 ZONING DISTRICT: R-60  
 USE REQUESTED: Single Family home (residential)  
 OWNER OF LAND & BUILDING: TJP Realty LLC TEL.# \_\_\_\_\_  
 ADDRESS OF OWNER: 19 Over Jordan Rd, Wareham, MA  
 PERSON(S) WHO WILL UTILIZE PERMIT: TJP Realty LLC 025.  
 ADDRESS: 19 Over Jordan Rd, Wareham, MA  
 DATE: 3/8/2021 SIGNATURE: [Signature]  
This application was received on the date stamped here:

*c/o  
Attorney  
Morton*

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_  
 Tax Collector: \_\_\_\_\_ Date: \_\_\_\_\_  
 Planning/Zoning Dept.: \_\_\_\_\_ Date: \_\_\_\_\_  
 Application fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
 Advertising fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_  
 Abutters fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check Applicable:  Variance  Special Permit  Site Plan  Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: TJP Realty LLC

Applicant's Address: 19 Over Jordan Road, Wareham, MA 02571

Telephone Number: \_\_\_\_\_

Cell Phone Number: c/o attorney

Email Address: Jillian Matar

Address of Property/Project: 12 Over Jordan Road, Wareham, MA 02571

Landowner's Name: Thomas Parenteau

Owner's Address: 19 Over Jordan Road

Telephone Number: \_\_\_\_\_

Contact Person: Attorney Jillian Matar Telephone Number: 508-295-252

Map 20 Lot 1017A Zone R-60

Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT A

TOWN OF WAREHAM ABUTTERS

MAP 20 LOT 1017/A

OWNER TJP REALTY LLC

MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE
20-1019/A	SASS JOSEPH A		5 JAMES DR	WAREHAM	MA	02571
20-1017/A	TJP REALTY LLC		310 KENNETH WELCH DR	LAKEVILLE	MA	02347
20-1012	CURRY-MCKEON BRENDA R		23 SALT MARSH LN	WAREHAM	MA	02571
20-C3	DECAS DEAN J		5 CHURCHILL RD	WAREHAM	MA	02571
1019-G2	ENGLAND RICHARD H JR	CHRISTAL J TRUSTEES	4 OVER JORDAN RD	WAREHAM	MA	02571
20-1020	RENNA DAVID J	WILSON DONALD J	168 GREAT NECK RD	WAREHAM	MA	02571
20-1019/D	EVANS ROBERT L	SANANIKONE KHAMILA	162 GREAT NECK RD	WAREHAM	MA	02571

CERTIFIED ABUTTERS AS THEY

APPEAR ON OUR TAX ROLLS

AS OF 1/15/2020

*CP*  
*79. Renee Adams*

ASSESSORS OFFICE

REQUESTED BY

JULIAN MORTON

JAM@MORTONLAWLLC.COM





**CANCELLED**



MASSACHUSETTS EXCISE TAX  
Olympia Record ROD #11 001  
Date: 08/10/2018 09:52 PM  
City: 12852 2422 TASP 0000-000  
Fee: 918.88839 Comp 82.400.86400

**FIDUCIARY DEED**

Blk: 51249 Pg: 227 Page: 1 of 18  
Recorded: 08/10/2018 02:57 PM  
ATTEST: JESSA H. DODDNEY, Jr. Register  
Suffolk County Registry of Deeds

*10 Over Jordan Rd & other Parcels*

Address: Multiple Parcels in Wareham, Massachusetts

Robert G. Peix, Jr., as Personal Representative under the will of Paul Volpe, Plymouth County Probate Court Docket No. PL 17P18016EA, with an address of c/o Hinchey, Allen, 28 State Street, Duxbury, Massachusetts 01946, for consideration paid of Ten (10) One Hundred Nine Thousand Six Hundred Sixty and 00/100 Dollars (\$12,409,660.00) grants to TRP REALTY, L.L.C., a Massachusetts limited liability company, with principal place of business at 310 Kenneth Welch Drive, Marlboro, Massachusetts 01754 ("Grantor") with **WITHOUT COVENANTS.**

Multiple parcels of land with any buildings thereon located within the town of Wareham, County of Plymouth, Commonwealth of Massachusetts, described as follows:

See Exhibit A attached hereto

Grantor hereby warrants, and all rights of Homestead in and to the premises conveyed hereby and warrants and represents that there are no other persons entitled to any rights under Article c. 188 of the premises conveyed by this Deed.

Paul Volpe died July 3, 2017 (Plymouth County Probate Docket Number PL 17P1806EA) and E. Volpe died December 8, 1983 (Norfolk County Probate Docket Number NOR317178E1) and Sebastiao Volpe died on August 8, 1975 (Norfolk County Probate Number 751-2431-41).

EXECUTED as a sealed instrument this 24<sup>th</sup> day of Nov, 2019.

[Signature]  
Robert G. Peix, Jr. as Personal Representative  
of the Estate of Paul Volpe, and not individually

State: Commonwealth of Massachusetts  
County of Tewksbury

On this 24<sup>th</sup> day of Nov, 2019, before me the undersigned notary public,  
personally appeared Robert G. Peix, Jr. as Personal Representative of the Estate of Paul Volpe,  
Volpe's Estate being the person whose name is signed on the preceding  
document, and acknowledged to me that he signed it as his free act and deed, and voluntarily for  
the stated purpose in his various capacities aforesaid above.

[Signature]  
Notary public  
My commission expires: November 1, 2021



**DUPLICATE COPY**

EXHIBIT A

All of the real property in the Town of Wareham, County of Plymouth, Commonwealth of Massachusetts, described as follows:

PARCEL A:

A-10 Over Jordan Road

The land in Wareham, Plymouth County, Massachusetts, bounded and described as follows:

Beginning at a concrete board on the westerly side of Over Jordan Road, at the southerly corner of Section and Land T. V. West, thence

SOUTH 39° 17' 30" WEST Ten and 2/100 (10.2) feet by Over Jordan Road to an angle point, thence

SOUTH 88° 52' 40" WEST Three hundred and 9/100 (300.9) feet by Over Jordan Road by an angle point, thence

SOUTH 52° 17' 30" WEST One hundred eighty and 8/100 (180.8) feet to Over Jordan Road to a concrete board, thence

NORTH 63° 12' 10" WEST Five hundred fifteen and 5/100 (515.5) feet by remaining land of Ethel H. Burgess to a concrete board, thence

NORTH 61° 03' 20" EAST Two hundred seventy-two and 8/100 (272.8) feet by land of Annetta L. Dubucq to a concrete board, thence

NORTH 08° 43' 40" WEST Two hundred fifty-three and 80/100 (253.8) feet by said land of Dubucq to a concrete board, and thence

SOUTH 111° 30' 24" EAST Five hundred ninety-seven and 88/100 (597.88) feet by remaining land of Ethel H. Burgess to the point of beginning.

Containing 3.0 acres more or less. A set of said board, courses, and distances are shown on a plan of and surveyed for Ethel H. Burgess, Green Neck, Wareham, Mass., Aug. 16, 1922, Walter F. Rogers & Associates, Surveyors.

And the holder of said plan is the undersigned, of the County of Plymouth, State of Massachusetts.

Parcel 17 Over Ocean Road

The triangular lot of land shown as Lot "B" containing 1,450 square feet more or less on "Plan of Lots at Ocean Avenue, Wareham, Massachusetts, surveyed for Benjamin L. Yaffee, et al," Walter E. Rowley, Surveyor, dated March 21, 1951, recorded with Plymouth County Registry of Deeds in Plan Book 8, Page 184, and transferred and described as follows:

NORTHWESTERLY by the Private Way shown on said plan 138.65 feet.

EASTERLY by Lot 7 on said plan, 33 feet more or less; and

SOUTHERLY by the mean high water mark of Silver Bay.

Meaning and intending to describe and convey that parcel conveyed to Paul Yaffee by deed dated November 29, 1987 and recorded in the Plymouth County Registry of Deeds at Book 887 page 165

PARCEL 2 - 172 Great Neck Road

The land at Great Neck Road, Wareham, Plymouth County, Massachusetts, being Lots 190, 191 and 192 of a "Plan of Lot 1 and Property of Wareham Construction Co. of Buzzards Bay, Inc. and Great Neck Road, Wareham, Mass." dated November 12, 1982, by Herman Engineering Co., Inc., L.L. Langerman and Surveyor, recorded with Plymouth County Registry of Deeds as Plan No. 117 of 1986, Page Book 885, Page 267

Subject to easement and restrictions of record insofar as they are in force and effect.

Meaning and intending to describe and convey that parcel conveyed to Paul Yaffee by deed dated December 8, 1988 and recorded in the Plymouth County Registry of Deeds at Book 888 page 256.

PARCEL 3 - 011 Over Jonathan Road

The land and the buildings thereon situated in Wareham, Massachusetts, in the part of Wareham called Burgess Point consisting of two tracts of land more particularly bounded and described as follows:

Parcel 1, Beginning at a stake in mean high water, standing N. 5° 35' W. and 292.56 feet distance from the northeast corner of a lot of land owned by Captain Judson, and being the easterly corner of the described lot, thence S. 17° 47' W. 158 feet to a stake thence N. 13° 18' W. 190 feet to a stake thence N. 79° 47' E. 150 feet to a stake at which the distance thence to a stake 60 feet in length is the distance of the Private Way shown on said plan at Great Bay

Remains of a portion of a corner which is located S 17° 18' E of the intersection of the  
 fifty feet (50.00 ft) from a point located on the centerline of the Over  
 Jordan Road marking the easterly corner of land of Lottie Burgess Herein,  
 and point also located S 17° 18' E thirty-two feet (32.00 feet) (32.35 ft.) from  
 a concrete bound marking the westerly corner of a 15 ft way to Shell Point  
 Bay;

Thence running S 17° 18' E two hundred thirty-two and 45/100 feet  
 (232.45 ft.) by land of Sebastiao and Ethel E. Volpe to a concrete  
 bound for a corner;

Thence running and running N.E. 72° 42' one hundred and fifty feet (150.00 ft.)  
 by land of said Volpe to an iron pipe;

Thence continuing in same course sixty feet (60 ft.) more or less to the ocean  
 low water line of Shell Point Bay;

Thence running and running in a southerly direction by said ocean low water line  
 of Shell Point Bay one hundred feet (100 ft.) more or less to a point hereinafter  
 and land of Ethel E. Burgess;

Thence running and running S.W. 72° 42' 30" (72.70 ft.) more or less by  
 land of Ethel E. Burgess to an iron pipe;

Thence continuing in same course to corner of Field H. Burgess one hundred  
 fifty feet (150.00 ft.) to a concrete bound;

Thence continuing in same course by land of Ethel E. Burgess two hundred  
 feet (200 ft.) more or less to a corner;

Thence running and running S.W. 17° 18' two hundred seventy-one and 59/100  
 feet (271.59 ft.) more or less by land of Ethel E. Burgess to a point for a corner,  
 said point being located S.E. 72° 18' one hundred fifty feet (150 ft.) from a stone  
 bound on the southeasterly side line of Over Jordan Road;

Thence running and running N.E. 55° 54' two hundred nine feet (209 ft.) more or  
 less by remaining land of Lottie Burgess Herein, said line being parallel to Over  
 Jordan Road, to the point first mentioned and point of beginning;

Containing 81,489 square feet more or less.

Together with any and all right or rights of way of passing and repassing  
 between the premises hereby conveyed and the main road, known as Great  
 Neck Road, as set forth in Deed recorded in Book 2301, Page 24.

And more particularly including a right of way ten feet (10 ft.) in width, adjacent  
 to and easterly of the westerly line of remaining land of Groner, said right of  
 way extending South 17° 18' East one hundred fifty feet (150 ft.) from a stone  
 bound on the southeasterly side line of Over Jordan Road which marks the most  
 westerly corner of remaining land, and right of way extending eight feet (8 ft.) from  
 a point located on the centerline of the Over Jordan Road to a point located on the  
 centerline of said road, as in and to Book 2301, Page 24.

the said 150 feet thence S 72° 42' W to a point (the same as the first) where the line of said parcel of beginning.

Parcel 2, beginning at the southwesterly corner of said tract at a stake, said point also being the northwesterly corner of Tract 1, said stake bearing N 17° 18' W from a concrete mound and 150 feet distant therefrom thence N 17° 18' W 150 feet by land of Clarence N. Hewitt to a stake at a corner thence N. 72° 42' E by land of Label H. Burgess 216 feet to a stake at or near a low water line of Shell Point Bay 100 feet more or less, to a stake for a mound, thence S. 72° 42' W 64 feet to a stake, thence in the same course 150 feet to the point of beginning. Containing 21,600 square feet more or less.

Meaning and intending to describe and convey that parcel conveyed in Salesline Volpe and Ethel E. Volpe by deed dated June 14, 1945 and recorded in the Plymouth County Registry at Deeds in Book 1918 page 571.

**PARCEL 4 - 14 and 15 Shell Lane**

The land in Weymouth, Plymouth County, Massachusetts in that part called Burgess Point, bounded and described as follows:

Beginning at the Northern corner of the lot to be described at a single standing in or near the mean high water mark of Onset Bay and the Western corner of land now or formerly of Ethel E. Volpe;

thence South 72 degrees 6 minutes West two hundred forty-two and 1/2 feet by and now or formerly of said Volpe and land now or formerly of Joseph H. Burgess to a stake;

thence South 16 degrees 11 minutes West sixty-one and 200/100 feet 200 feet by land now or formerly of Joseph H. Burgess, to a stake;

thence North 78 degrees 6 minutes East, two hundred nine and 500/100 (209 500 feet) feet and now or formerly of Joseph H. Burgess, to a stake near mean high water mark of Onset Bay;

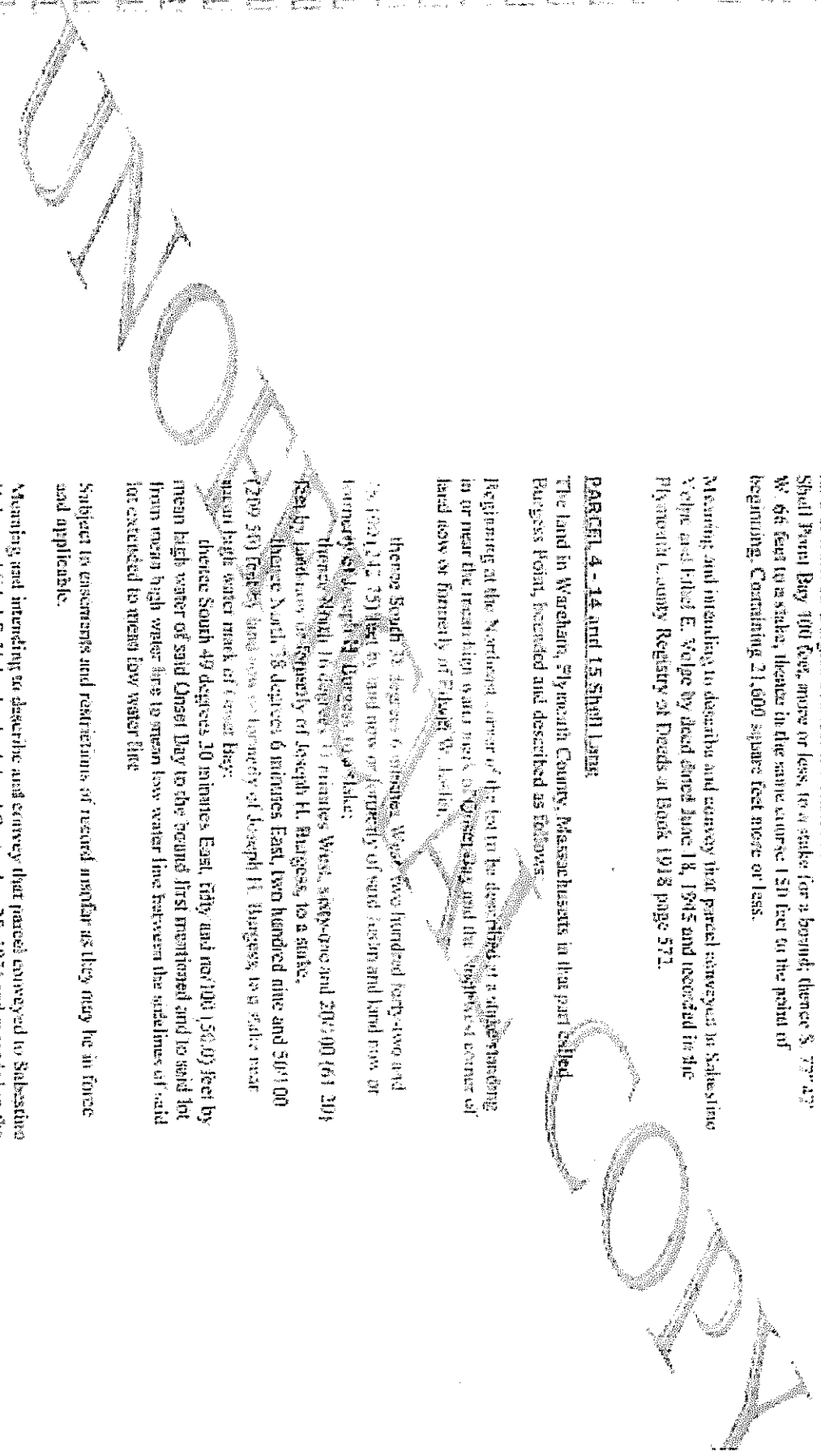
thence South 49 degrees 30 minutes East, fifty and one/100 (50 01) feet by mean high water of said Onset Bay to the point first mentioned and to said lot from mean high water line to mean low water line between the sidelines of said lot extended to mean low water line

Subject to easements and restrictions of record insofar as they may be in force and applicable.

Meaning and intending to describe and convey that parcel conveyed to Subastine Volpe and Ethel E. Volpe by deed dated September 30, 1954 and recorded in the Plymouth County Registry of Deeds in Book 2412 page 159

**PARCEL 5 - 19 Shell Lane**

A certain part of land in said Weymouth, Plymouth County, Massachusetts, owned by Ethel E. Volpe and Subastine Volpe, as follows:



Plymouth Towns Record of Deeds Book 2671 page 537

PARCEL 7 - 17 Shell Lane

A certain parcel of land in Wareham, Plymouth County, Massachusetts, containing 5500 square feet more or less and shown on plan of Land Surveyed for Ethel H. Burgess, Great Neck, Wareham, Mass. May 23, 1964, Walter F. Rowley & Associates, West Wareham, Mass., revised June 13, 1964, filed with Plymouth County Registry of Deeds July 5, 1964, as Plan No. 434 of 1954, in Book 2667, Page 471.

Said parcel is more particularly bounded and described as follows:

Beginning at a concrete found at the most southerly corner of said parcel at land of Parcel 5. Thence in the westerly and line of an existing right of way, then a bearing.

North 77° 01' 50" West, 50.01 feet to a stake  
to the center of said land of RAIN S. DICKERSON  
a corner found there;

North 77° 01' 50" West, 71.75 feet to the  
Submarine and Ethel H. Volpe, known to the  
southerly of said right of way to a stake, thence

North 17° 02' 50" West, 18 feet by land of  
Ethel H. Volpe, known to the  
to a drill hole in a wall, and  
continuing in the same course to the waters of Shell  
before they, thence southerly, by Small Pond Bay  
to other land of Sebastian and Ethel E. Volpe,  
thence;

North, 17° 02' 50" West, by land of Sebastian and  
Ethel E. Volpe to a stone found stand up near the  
shore, and thence;

South, 77° 05' 50" West, 116.15 feet by land of  
Sebastian and Ethel E. Volpe to the point of  
beginning.

Subject to existing rights of way and easements of record, rights of the public in the portions below the high water mark and easements described in deed from Joseph H. Burgess recorded in Book 1697 Page 537

Measuring and otherwise to describe and convey that parcel conveyed to Sebastian and Ethel E. Volpe by deed dated June 13, 1964, recorded in the  
Plymouth County Registry of Deeds at Book 2671 page 537



Yearling and offspring to describe and convey that parcel known to Sebastião Volpe and Family to Volpe by deed dated November 26, 1994 and recorded in the Plymouth County Registry of Deeds in Book 2391 page 64.

**PARCEL 6 - 43 Over Jordan Road**

Two certain parcels of land with the buildings thereon located in that part of Wareham known as Burgess Point being more particularly described and described as follows:

Parcel A - Beginning at a stone found in the southerly side line of Over Jordan Road, it being the northeasterly corner of the lot so be described and the westerly corner of a lot of land conveyed to Sebastião Volpe et al, and recorded in the Plymouth County Registry of Deeds, Book 2579, Page 341;

thence running in line of land of Sebastião Volpe et al, South 17° 18' 00" East 130.00 Feet to a post for a corner;

thence turning and running in line of other land of Sebastião Volpe et al, South 55° 34' 00" East 289 Feet more or less in a curve for a corner;

thence turning and running in line of other land of Sebastião Volpe et al, North 17° 18' 00" West 130.00 Feet to a stone found in the southerly side line of Burgess Point Road;

thence turning and running in the southerly side line of Over Jordan Road, North 50° 14' 00" East 280 Feet more or less to the stone found in the northeasterly and northerly corners of that lot containing 4000 square feet more or less and so a portion of the premises described in deed of Burgess to Blavett recorded in the Plymouth County Registry of Deeds, Book 1743, Page 391.

Parcel B - Beginning at a corner found at the westerly corner of the lot in the West River, said concrete being situated South 1° 18' 00" East 111.65 Feet from the stone found first mentioned in Parcel A of this conveyance;

thence running by land of Sebastião Volpe et al, North 72° 42' 00" East 216.6 Feet to the low water mark of Shell Point Bay;

thence turning and running by the low water mark of Shell Point Bay, southerly 15 feet more or less to a point for a corner;

thence turning and running by other land of Sebastião Volpe et al, 72° 42' 00" West 216.6 Feet to a stake for a corner;

thence turning and running in line of Parcel L, North 17° 48' 00" West 38.8 Feet to the concrete found first mentioned and point of beginning. The above described lot contains 3,240 square feet more or less and is shown on a plan recorded in Plan Book 7, Page 596.

Viewing and intending to describe and convey that parcel conveyed to Sebastião Volpe and Family by deed dated November 26, 1994 and recorded in the

PARCEL B - 4 Shell Lane

The land in Wareham, Plymouth County, Massachusetts is undivided and described as follows:

Beginning at a concrete bound in the westerly sideline of a state way leading easterly and northerly from Great Neck Road, at the southeasterly corner of land now or formerly of Sabesino Volpe and Ethel E. Volpe; thence running

NOR 11° WESTERLY N 145.80 feet more or less to said land now or formerly of said Volpe to a stake; thence

NORTH 71° E 85 feet by said land now or formerly of Volpe to a concrete bound in the westerly corner of land now or formerly of John J. and Rita C. Kelley; thence

SOUTH 89° 03' 30" EAST 145 feet by said land now or formerly of John J. and Rita C. Kelley; to a concrete bound in the westerly sideline of said private way; and thence

SOUTH 27° 23' 10" WEST 150 feet by said private way to the point of beginning

Containing 12,260 square feet more or less

Together with any right to pass and repass or and/or any property land of said Ethel E. Burgess, hereafter the land heretofore conveyed and Great Neck, where such a concrete bound on adjoining land or shall be determined by said Ethel E. Burgess from time to time, in connection with others having a like right, recreational strip as set forth.

Under the provisions of said private way between the land heretofore conveyed and Great Neck Road, as set forth in Deed recorded in Book 26316, Page 417

The bearings and distances herein set forth are substantially as shown on "Plan of portion of land of Ethel E. Burgess on Great Neck, Wareham, July 5, 1923, Newell B. Snow, Esq. v. John Board of record."

Subject to the conditions and restrictions that it shall be used only for residential purposes that it shall not be used for business or commercial purposes, and that no more than one dwelling shall be erected or maintained thereon. No other building shall be erected or maintained except a garage housing not more than two cars.

Measuring and intending to describe and convey that parcel set apart to Sabesino Volpe and Ethel E. Volpe by deed dated June 7, 1926 and recorded in the Plymouth County Registry of Deeds at Book 26316 page 437

**PARCEL 9 - 6 Shell Lane**

The land in Wareham, Plymouth County, Massachusetts, bounded and described as follows.

Beginning at a concrete house in the westerly side of a private way leading easterly and northeasterly from Great Neck Road, at the southeastly corner of land now or formerly of Frank J. and Frances Tremble, thence running

**SOUTH** 62°47' 31" **EAST** 150 feet by said private way to a concrete house thence

**NORTH** 89° 03' 30" **WEST** 145 feet by land now or

formerly of Ethel H. Burgess to a concrete house at land now or formerly of Sebastian Volpe and Robert E. Volpe thence

**NORTHEASTERLY** 87 feet by said road now or formerly of Volpe to a concrete house, thence

**EASTERLY** 39.95 feet by said land now or formerly of said

Volpe to a concrete house at the southeastly corner of said land now or formerly of Sebastian Volpe and Robert E. Volpe thence

**NORTH** 61° 23' 46" **EAST** 108.45 feet by said land now or formerly of Burgess to the point of beginning.

Containing 13,830 square feet more or less.

Said land is hereby conveyed together with the right to pass and regress in and over the adjoining land of said Ethel H. Burgess, between the land hereby conveyed and Great Neck Road, as set forth in the deed recorded in Book 7076, Page 43R, as designated by said Ethel H. Burgess in or time to time, in connection with or having in the right, for residential purposes only.

Said land is hereby conveyed with the right to pass and regress over a private way between the land hereby conveyed and Great Neck Road, as set forth in the deed recorded in Book 7076, Page 43R.

The covenants and easements herein set forth are substantially as set forth on "Plan of portion of land of Ethel H. Burgess on Great Neck, Wareham, July 5, 1953, Newell B. Snow, Eng'r." (not found at record)

Subject to the conditions and restrictions that it shall be used only for residential purposes that it shall not be used for business or commercial purposes, and that not more than one dwelling shall be erected or maintained thereon. No other building shall be erected or maintained except a garage, swimming pool or other features.

Any person and anything pertaining thereto, whether past or present, shall be bound by the terms of this deed.

The land is physically shown as Great Neck Road as follows in Book 2468, Page 100

Meaning and intending to describe and convey that parcel conveyed to Sebastian Volpe and Ethel H. Volpe by deed dated November 19, 1953 and recorded in the Plymouth County Registry of Deeds at Book 2468 page 100.

**PARCEL 12**

Four certain parcels of land situated in that part of Wareham, Plymouth County, Massachusetts, known as Great Neck, with the buildings thereon, described as follows:

Parcel #1 - 12, 13 & 14 Over Jordan Road

Lot A, Lot B and Lot C as shown on a plan entitled "Division of Parcel of Great Neck" by Sebastian Volpe and Ethel Volpe, Great Neck, Wareham, Mass. November 19, 1953. Walter E. Rowley, Surveyor, West Wareham, Mass. recorded with Plymouth County Registry of Deeds in Plan Book 11, Page 244.

Lot A contains 27,720 square feet more or less, Lot B contains 24,402 square feet more or less and Lot C contains 27,922 square feet more or less, all according to said plan.

Parcel #2 - 15 Over Jordan Road

Parcel 2 is as shown on "Plan of Land Situated by Ethel H. Burgess, Over Jordan Road, Great Neck, Wareham, Mass. 1956" by Walter E. Rowley, Surveyor, recorded with Plymouth County Registry of Deeds in Book 2526, Page 246.

Parcel #2 contains 1.21 acres more or less according to said plan.

Said parcels are hereby conveyed together with the right to pass and repass in and over said Over Jordan Road between said parcels and the public road known as Great Neck Road in common with others having a like right.

Said parcels further described in the vesting deed as follows:

Two parcels of land situated in that part of Wareham, Plymouth County, Massachusetts, known as Great Neck, with the buildings thereon, bounded and described as follows:

Parcel #1 - 12, 13 & 14 Over Jordan Road

Beginning at a concrete barrier in the northerly line of Over Jordan Road at the westerly corner of said road now or formerly of Anna E. Hale; thence running South 47° 43' 30" West, one hundred forty three and one half (143 1/2) feet to Over Jordan Road to Center of said road; thence South 62° 50' 10" West, two hundred seventy six and 60/100



South 45° 15' 10" West 70 feet by land of Murray to a bound; thence North 12° 14' 30" West 173.00 feet by land of Murray to a bound; thence North 36° 08' 25" East 122.00 feet by land of Murray to a stone bound at the southerly corner of land of South S. Bullock; thence North 18° 38' 30" West 61.21 feet by said Bullock land to a cement bound; thence North 41° 53' 30" East 94.70 feet by said Bullock land to a cement bound; thence North 71° 29' 50" West 301.00 feet more or less by said land of Volpe to a bound at the southerly corner thereof; thence North 19° 40' 10" West 421.57 feet by said land of Volpe and by and of John A. Heavit to a stone bound in the southerly angle of a parcel known as the land of John A. Heavit; thence North 54° 34' 00" West 206.25 feet by said land to a bound; thence South 50° 54' 30" West 101.98 feet by said Bullock to a bound; thence South 45° 49' 50" East 70 feet by remaining land of Ethel H. Burgess to a bound; thence South 61° 51' 00" East 81.57 feet by remaining land of Ethel H. Burgess to a bound; thence South 72° 04' 30" East 176.94 feet by remaining land of Ethel H. Burgess to a bound; thence South 70° 03' 50" East 127.02 feet by remaining land of Ethel H. Burgess to a bound at said land of Hoxshley; thence North 11° 46' 00" East 33.15 feet by said land of Hoxshley to a stone bound; and thence South 56° 36' 55" East 350.00 feet by said land of Hoxshley to the point of beginning.

Containing 16.61 acres more or less.

All of said boundaries, courses and distances are as shown on "Plan of Land to be Conveyed by Ethel H. Burgess to Sebastian & Ethel E. Volpe on Great Neck, Wardsham, August 1, 1955, Newell 13, Snow, Page" last found of record.

Meaning and intending to describe and convey that parcel conveyed to Sebastian Volpe and Ethel E. Volpe by deed dated August 3, 1955 and recorded in the Plymouth County Registry of Deeds at Book 2458 page 29

INTENDING THEREFROM that certain parcel of land conveyed by Paul

View of the building under the will of Charles F. & Winifred G. Murray as shown on a plan entitled "Approval Map Required Plan, Drawn for Frank M. & Margaret A. Bernick, Warrenton, Mass. Scale 1"=20' July 11, 1992 Prepared by Overseas Development Co. Land Surveying Services 750 Beacon Street Boston, Massachusetts 02116" recorded as Plan # 232 of 1992, in Page 673, and amended and described as follows:

The land situated in Warrenton, Plymouth County, Massachusetts, described as follows:

Beginning at a concrete boundary bore on the easterly corner of the premises herein conveyed, and thence running

N 43° 13' 00" E by the land of Charles F. & Winifred G. Murray as shown on and paid for 70.00 feet to a concrete boundary bore, thence running and running

S 19° 40' 00" E by the land of Frank H. & Margaret A. Bernick as shown on and paid for 50.00 feet to a point thence southerly S 71° 50' E a distance of 10.00 feet by the same to a concrete boundary bore, thence running and running

S 67° 47' 00" W by the land of Salvatore A. Bernick as shown on said plan a distance of 19.95 feet thence running and running

N 10° 53' 00" W by the land of Salvatore A. Bernick as shown on said plan a distance of 26.15 feet to the point of beginning.

UNRECORDED

Parcel 10 - 16 Shell Lane  
The land in Weymouth, Plymouth County, Massachusetts, situated on the southerly shore of Shell Point Cove, bounded and described as follows:

Beginning at a cement bound in the westerly sideline of a private way of land now or formerly of Joseph J and Marguerite B Hunt;

thence running South 38° 00' West, ninety-one and 63/100 (99.63) feet; by said Hunt land to a stone bound;

thence North 16° 31' West, sixty-one and 15/100 (61.15) feet by land formerly of Joseph H Burgess to a cement bound;

thence North 41° 53' East, ninety-four and 29/100 (94.29) feet by other land formerly of Joseph H Burgess to a cement bound in the westerly sideline of said private way; and

**PARCEL 11 - 9 Shell Lane**

The land in Weymouth, Plymouth County, Massachusetts, bounded and described as follows:

Beginning at a concrete bound in the westerly sideline of a private way known as Shore Road on or near Burgess Point at the southerly corner of land recently conveyed to said Sebastião Volpe and Ethel E. Volpe by deed from Mitchell Pean Ryan, said concrete bound being distant about 50 feet southerly from land of Winifred Murray measured along said private way; thence running

North 41° 06' 20" East 24.7 feet more or less by said land formerly of Mildred Pean Ryan to a mean low water mark of Shell Point Cove; thence

Southerly 25 feet more or less by Shell Point Cove to a point for a corner; thence South 41° 06' 30" West 260 feet more or less by remaining land of Ethel H Burgess to said private way; and thence North 23° 40' 10" West 27.63 feet by said private way to the point of beginning;



Plan 640 Equity Registry of Deeds Map No. 52 of 1934 in Book 2526, Page 341

Mention and intending to describe and convey that parcel conveyed to Sabotina Volpe and Ethel E. Volpe by deed dated September 26, 1928 and recorded in the Plymouth County Registry of Deeds at Book 2500 page 341.

**PARCEL 13 - 11 Shell Lane**

The land, together with the buildings thereon, situated in Weymouth, Plymouth County, Massachusetts, in that part known as Burgess Point bounded and described as follows:

Beginning at a stake and stones in the northern sideline of Shore Road, it being the southeasterly corner of the portion described premises;

thence running North 26 degrees West in the northerly line of Shore Road, fifty and no/100 (50.04) feet, to a point for a corner;

thence running and running by land of Margaret Murray, North 18 degrees 30 minutes East, one hundred seventy one (170.11) feet to mean high water mark;

thence beginning in the same corner, South 13 degrees 30 minutes East to mean low water mark;

thence running and running by land of Margaret Murray, North on Street 340, fifty and no/100 (50.04) feet, to a point for the westerly line of said lot; thence 170 feet and water mark;

thence running and running South 25 degrees 15 minutes West to a stake and stones at mean high water mark;

thence beginning in the same corner, South 45 degrees 15 minutes West, one hundred eighty-four and no/100 (184.04) feet to the first mentioned corner and point of beginning.

Meaning and intending to describe and convey that parcel conveyed to Sabotina Volpe and Ethel E. Volpe by deed dated October 12, 1925 and recorded in the Plymouth County Registry of Deeds at Book 2455 page 250.

**PARCEL 14 - E Over Jordan Road**

The land on Weymouth, Plymouth County, Massachusetts, bounded and described as follows:

Beginning at a stone bound in the westerly sideline of a private way at the easterly corner of land of Ralph W. and Virginia B. Hustable; thence running

Northerly, 177.00 feet more or less by said private way to a stake; thence

Northerly, 145.80 feet to a straight line to a stake; thence

Southeasterly, 100.00 feet to a stake; thence North 64° 15' 00" East, 30.95 feet to a bound in the southeasterly corner of

# EXHIBIT C



# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

David L Riquinha  
Director of Inspectional Services

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TJP Realty LLC  
19 Over Jordan Rd  
Wareham, MA 02571

February 11, 2021

RE: 12 Over Jordan Rd

Map 20, Lot 1017/A

I have reviewed your permit application to construct a new single family dwelling on the parcel of land known as 12 Over Jordan Road, in Wareham Massachusetts. The proposal is not in compliance with current zoning regulations and must be denied at this time.

You are proposing to construct a new single family dwelling where a single family structure recently existed. The dwelling was situated on the nonconforming parcel and was razed prematurely without the proper approvals in place. This activated the Mass Merger Doctrine, and created a land merger with the adjacent parcel in common ownership. A variance will have to be secured from the Zoning Board of Appeals in order to fracture the merger, and to allow construction to continue on the undersized parcel. If you are successful in acquiring the variance to release the merger, you will then need to secure an additional variance for the non-conforming front yard setback.

The submitted permit application documents which include a site plan by G.A.F. Engineering labeled "Job no 19-9295" comprised of two pages dated February 6, 2020, are being denied under the following sections of the Wareham Zoning By-law:

- **Article 6, Table 621, Residential Districts:** Lots in the R-60 zoning district require a minimum of 60,000 square feet and 180' of frontage. A Variance from the Zoning Board of Appeals is required in order to break the land merger and to allow construction on the parcel.
- **Article 6, Section 621, Residential Districts:** New structures in the R-60 Zoning District are required to maintain a minimum 60' front yard setback. Your proposed structure details a 31.2' front yard setback to the face of the structure but there is a new staircase proposed which is not detailed in the drawing. A Variance from the Zoning Board of Appeals must be granted in order to proceed with the proposed front yard setback.

The subject property is located in R-60 Zoning District.

Respectfully,

David Riquinha  
Building Commissioner  
Zoning Enforcement Officer

It is the owners' responsibility to check with other departments, i.e. Health, and conservation, etc. to ensure full compliance.

In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.

# EXHIBIT D