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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/C 16 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 16 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. You are proposing a 40' setback which requires a Variance from the Zoning Board of Appeals in order to proceed.
- **Article 6, Section 621, Residential Districts:** You are proposing a 17' side yard setback from the left boundary line where 20' is required. A Variance from the Zoning Board of Appeals must be secured in order to proceed with your proposal.

### 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 144.45 feet of frontage (short 35.55') and has approximately 27077.2 square feet (short 32,992.8). 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. 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 406 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.

The last variance for the side yard setback is again due to the proximity of the locus near the coastal bank and the proposed location of the erosion control barrier. The soil conditions on this parcel are in danger of erosion and therefore this would be needed for the build. We are seeking a small deviation from the 20' here again due specifically to the topography of the land.

There would be a substantial hardship to my client if these Variances where 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:

- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- 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: 16 Over Jordan Rd MAP: 20 LOT: 1017C  
ZONING DISTRICT: R-60  
USE REQUESTED: Single family home  
OWNER OF LAND & BUILDING: TJP Realty LLC TEL.# \_\_\_\_\_  
ADDRESS OF OWNER: 19 Over Jordan Road  
PERSON(S) WHO WILL UTILIZE PERMIT: TJP Realty LLC  
ADDRESS: 19 Over Jordan Rd, Wareham, MA 02571  
DATE: 3/8/2021 SIGNATURE: [Signature]  
This application was received on the date stamped here:

C/O  
Attorney  
Julian  
A. Moran,  
ESQ

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 Moran

Email Address: \_\_\_\_\_

Address of Property/Project: 16 Over Jordan Road, Wareham,  
MA 02571

Landowner's Name: Thomas Parenteau

Owner's Address: same as applicant

Telephone Number: 508-295-2522

Contact Person: Jillian A. Moran, Telephone Number: 508-295-2522

Map 20 Lot 1017C <sup>ESQ</sup> Zone R-60

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

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

# EXHIBIT A







# EXHIBIT B

MASSACHUSETTS EXCISE TAX  
Syracuse Office RFD #11 001  
Date: 06/10/2010 08:52 PM  
Chk: 125701 2010 Date: 06/04/10  
Fee: \$125.00 Code: 52-100-REG-00

**CANCELLED**

**FIDUCIARY DEED**

2010 003957405  
Bk: 51249 Pg: 227 Page: 1 of 18  
Recorded: 06/10/2010 09:52 PM  
ATTEST: JERRY H. OUELLET, Jr. Register  
Suffolk County Registry of Deeds

10 over Jordan Rd & other Parcels  
Address: Multiple Parcels in Wareham, Massachusetts

Robert G. Peck, Jr., as Personal Representative under the will of Paul Volpe, Plymouth County Probate Court Docket No. 10-1701806EA, with an address of c/o Haskney Allen, 28 State Street, Boston, Massachusetts 02109, Grantor, for consideration paid of Two Million Four Hundred Nine Thousand Six Hundred Sixty and 00/100 Dollars (\$2,409,666.66) grants to TJP REALTY, LLC, a Massachusetts limited liability corporation, with principal place of business at 316 Kenneth Welch Drive, Acushnet, Massachusetts 01927, ("Grantee"), with **WITHOUT COVENANTS**.

Multiple parcels of land with any buildings thereon located in 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 1, 1830 in the premises conveyed by this Deed.

Paul Volpe died July 3, 2017 (Plymouth County Probate Docket Number PL17P1806EA) Esq. E. Volpe died December 8, 1983 (Norfolk County Probate Docket Number N083F0378E1) and Sebastiano Volpe died on August 8, 1975 (Norfolk County Probate Number 75P-2431-1E).

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

*[Handwritten Signature]*

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

State of Massachusetts  
County of Worcester

On this 24<sup>th</sup> day of May, 2019, before me, the undersigned notary public,  
personally appeared Robert G. Peix, Jr., as Personal Representative of the Estate of Paul Volpe,  
known to me through satisfactory evidence of identification, which was  
Given: Live in the presence of 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  
its stated purpose in his various capacities as noted above.

*[Handwritten Signature]*

Notary Public  
My commission expires: November 1, 2024



**UNRECORDED COPY**

EXHIBIT A

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

**PARCEL 1:**

**A-19 Over Jordan Road**

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

Beginning at a concrete bound on the westerly side of Over Jordan Road, at the northerly corner of Subdivision and 1 foot of width, thence

SOUTH 19° 17' 30" WEST 120 and 2.0410 (110.23) feet by Over Jordan Road to an angle point, thence

SOUTH 82° 52' 48" WEST 160.16 (160.23) feet by Over Jordan Road to an angle point, thence

SOUTH 11° 52' 13" WEST 130.90 feet to a concrete bound, thence Jordan Road to a concrete bound, thence

NORTH 65° 12' 10" WEST Five hundred fifteen and 59/100 (515.59) feet by remaining land of Ethel H. Burgess to a concrete bound, thence

NORTH 61° 03' 20" EAST Two hundred seventy-five and 85/100 (275.85) feet by land of Amelia J. Doherty to a concrete bound, thence

NORTH 08° 45' 40" WEST Two hundred fifty-three and 80/100 (253.80) feet by and land of Daley to a concrete bound, and thence

SOUTH 111° 20' 52" EAST Five hundred ninety-seven and 88/100 (597.88) feet by remaining land of Ethel H. Burgess to the point of beginning.

1. A comparison of all notes, more or less, of said bounds, courses, and distances are shown on Plan of 1 and surveyed for Ethel H. Burgess, Great Neck, Wareham, Mass., Aug. 16, 1977, Walter F. Burgess & Associates, Incorporated, and thereon duly filed in the Registry of Deeds for the Town of Wareham, Massachusetts, on August 16, 1977.



Remains of a portion of a corner which is located S 17° 18' E, one hundred and thirty-two feet (132 ft.) from the southwesterly corner of Over Jordan Road marking the northerly corner of land of Lorne Burgess Harwin, said corner being located S 17° 18' E, thirty-two feet (32 ft.) from a concrete mound marking the westerly corner of a 15 ft. well in Shell Point Bay;

Thence running S 17° 18' E two hundred thirty-two feet (232 ft.) to a concrete mound for a corner;

Thence running and turning N. E. 72° 52' one hundred and fifty feet (150 ft.) by land of said Volpe to an iron pipe;

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

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

Thence running and turning S. W. 42° 34' one hundred (100 ft.) more or less by and of Ethel H. Burgess to an iron pipe;

Thence continuing in same course to and of Ethel H. Burgess, one hundred fifty feet (150 ft.) to a concrete mound;

Thence continuing in same course by land of Ethel H. Burgess two hundred feet (200 ft.) to a corner for a corner;

Thence running and turning S. W. 17° 18' two hundred seventy-one feet (271 ft.) more or less by and of Ethel H. Burgess to a point for a corner, and part being located S E. 77° 18' one hundred fifty feet (150 ft.) from a stone mound in the southeasterly side line of Over Jordan Road;

Thence running and turning N. E. 72° 54' two hundred nine feet (209 ft.) more or less by remaining land of Lorne Burgess Harwin, said line being parallel to the Jordan Road, to the point first mentioned and point of beginning;

Containing 61,410 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 2391, Page 44.

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 Granter, said right of way extending South 17° 18' East one hundred fifty feet (150 ft.) from a corner found in the southeasterly side line of Over Jordan Road which marks the most westerly corner of remaining land, said right of way extending five feet (5 ft.) from the Jordan Road to the point of beginning, and five feet (5 ft.) from the Jordan Road to the point of beginning, said right of way extending five feet (5 ft.) from the Jordan Road to the point of beginning, and five feet (5 ft.) from the Jordan Road to the point of beginning.

The 2100 feet, Eugene S. 72° 19' W. for 211 feet, at mean low water mark and  
part of beginning.

Parcel 2, beginning at the southeasterly 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 bound and 150 feet distant therefrom. Thence N. 17° 18' W. 160  
feet by line of Clarence N. Hensh to a stake for a corner, thence N. 72° 42' E. by  
line of Ethel H. Burgess 210 feet to a stake at or near mean low water line of  
Shell Front Bay, 100 feet, more or less, to a stake for a bound, thence S. 72° 42'  
W. 66 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 to Sebastian  
Volpe and Ethel E. Volpe by deed dated June 14, 1915 and recorded in the  
Plymouth County Registry of Deeds at Book 1918 page 571.

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

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

Beginning at the Northerly corner of the lot to be described at a stake, bearing  
to or near the mean high water mark of Onset Bay, and the southeasterly corner of  
land now or formerly of Edward W. Jordan,

thence South 28 degrees 6 minutes West two hundred forty-two and  
no/100 242 7/100 feet by and now or formerly of said Jordan and land now or  
formerly of Joseph H. Burgess to a stake;

thence South 16 1/2 degrees 41 minutes West sixty-one and 20/100 611 20/100  
feet by land now or formerly of Joseph H. Burgess, to a stake;

thence North 78 degrees 6 minutes East two hundred nine and 50/100  
(200 50/100) feet by land 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 no/100 (50/0) feet by  
mean high water of said Onset Bay to the second first mentioned and to said lot  
from mean high water here 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 Sebastian  
Volpe and Ethel E. Volpe by deed dated September 30, 1924 and recorded in the  
Plymouth County Registry of Deeds at Book 2412 page 159.

**PARCEL 5 - 19 Shell Lane**

A certain tract of and in the Wareham, Plymouth County, Massachusetts,  
in the Shell Lane section, bounded and described as follows:



Plymouth County Registry of Deeds Book 2675 Page 59

PARCEL 7 - 17 Shell Lane

A certain parcel of land in Westham, Plymouth County, Massachusetts, containing 6500 square feet more or less and shown on "Plan of Land Surveyed for Ethel E. Burgess, Great Neck, Wiscasset, Mass. May 23, 1964, Walter E. Rowley & Associates, West Warrham, Mass, revised June 13, 1964", filed with Plymouth County Registry of Deeds July 5, 1964, as Plan No. 434 of 1951, in Book 2867, Page 471.

Said parcel is more particularly bounded and described as follows:

Beginning at a concrete bound at the most southerly corner of said parcel at land of Plan 5 thereof in the westerly endline of an existing right of way; thence running

North 73° 01' 50" West, 50.61 feet or said endline and of said land of Plan 5, thence to a concrete bound thence;

North 73° 01' 50" West, 73.75 feet to the land of Substina and Ethel E. Volpe in the westerly endline of said right of way to a pipe; thence

South 17° 47' 00" West, 18 feet by land of Substina and Ethel E. Volpe, thence to a well and thence to a drill hole in a well and thence running in the same course to the waters of Shell Pond Bay; thence southerly, by Shell Pond Bay to other land of Substina and Ethel E. Volpe; thence;

South, 37° 02' 50" West, by land of Substina and Ethel E. Volpe to a stone bound standing near the street and thence;

South, 37° 05' 50" West, 110.14 feet by land of Substina 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 portion below the high water mark and easements described in deed from Joseph H. Burgess recorded in Book 1697 Page 537.

Meaning and reference to describe and convey the parcel conveyed to Substina and Ethel E. Volpe shall also refer to the deed from Joseph H. Burgess recorded in Book 1697 Page 537.

Meeting and signing is the said conveyance parcel, conveyed to Sabatino Volpe et ux, by deed dated December 26, 1994 and recorded in the Plymouth County Registry of Deeds at Book 4921 page 65.

**PARCEL B - 23 Over Jordan Road**

Two certain parcels of land with the buildings thereon situated at that part of the estate known as Burgess Point being more particularly described and described as follows:

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

thence running in line of land of Sabatino Volpe et ux, South 17° 18' 00" East 150.00 feet to a point for a corner;

thence turning and running in line of other land of Sabatino Volpe et ux, North 53° 34' 00" East 269 feet more or less to a point for a corner;

thence turning and running in line of other land of Sabatino Volpe et ux, North 17° 18' 00" West 150.00 feet to a stone bound in the southerly side line of Over Jordan Road,

thence turning and running in the southerly side line of Over Jordan Road, North 60° 11' 00" East 270 feet more or less to the stone bound first mentioned and a point of beginning. The above described lot contains 30,000 square feet more or less and is a portion of the premises described in deed of Burgess to Howell recorded in the Plymouth County Registry of Deeds, Book 1745, Page 301.

Part of the beginning at a corner bound at the westerly corner of the lot to be described and concrete bound being situated South 1° 18' 00" East 117.65 feet from the stone bound first mentioned in Parcel A of this conveyance.

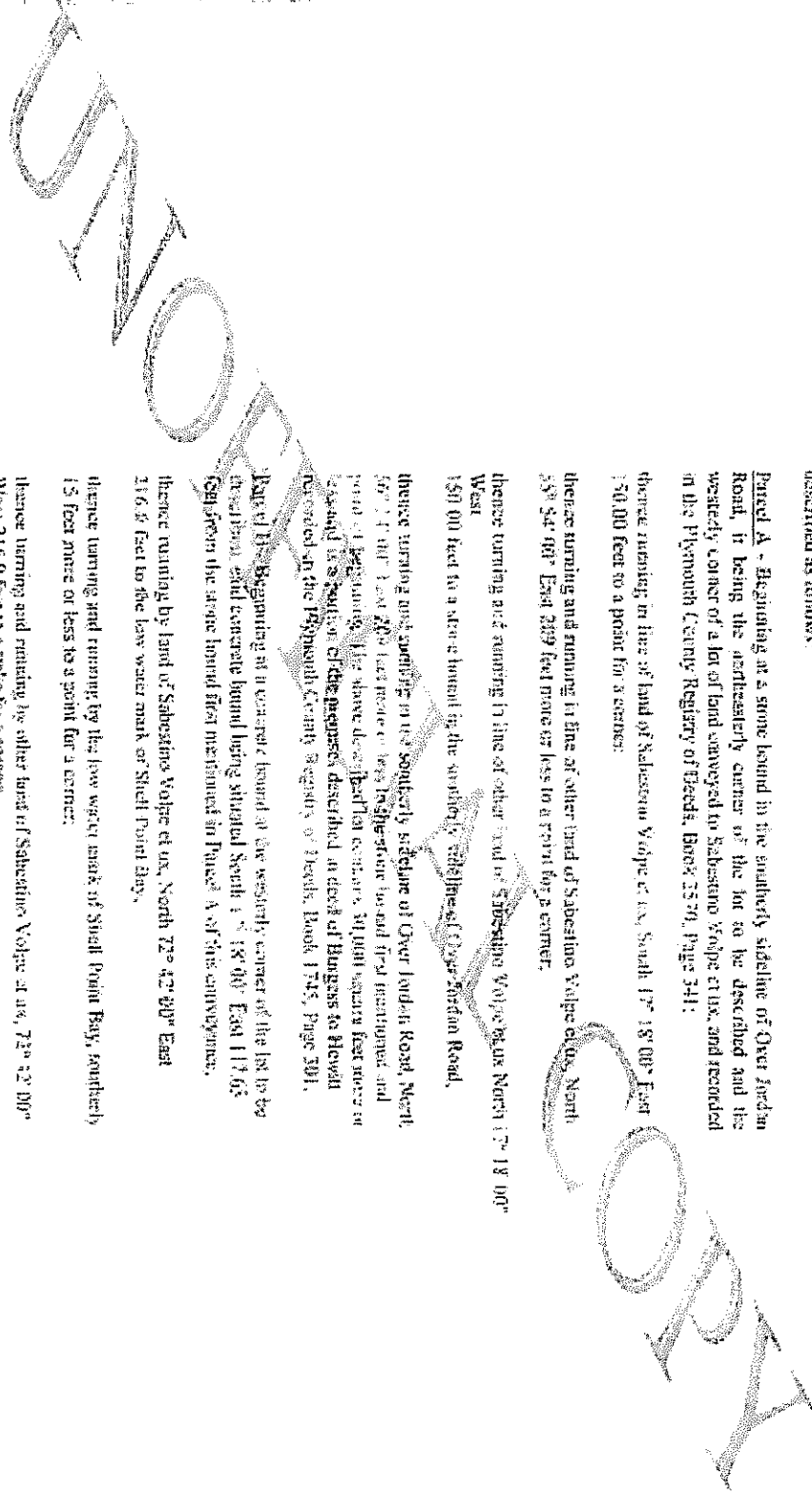
thence running by land of Sabatino Volpe et ux, North 72° 42' 00" East 216.0 feet to the low water mark of Still Point Bay,

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

thence turning and running by other land of Sabatino Volpe et ux, 72° 42' 00" West 216.0 feet to a stake for a corner;

thence turning and running in line of Parcel 1, North 17° 18' 00" West 150 feet to the concrete bound first mentioned and point of beginning. The above described lot contains 1,240 square feet more or less and is shown on a plan recorded on Plat Book 7, Page 596.

Witness my hand and affixing of my seal and sign this 14th day of September, 1994, at the City of Portland, Maine.



PARCEL B - 4 Small Lots

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

Beginning at a concrete bound on 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 Sebastian Volpe and Ethel E. Volpe, thence running:

**NORTHWEST 1/4** 145.80 feet more or less by said land now or formerly of said Volpe to a stake, thence

**NORTHWEST 1/4**

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**

80° 05' 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**

87° 23' 10" WEST 150 feet by said private way to the point of beginning

Containing 14,200 square feet, more or less.

Together with any right to pass and regress to and over any portion of land of said Ethel E. Volpe, be it seen the land hereby conveyed and Great Neck Bay, over such portion of said Great Neck Bay, as shall be determined by said Ethel E. Volpe, from time to time, in accordance with orders having a like right, recitations and stipulations.

Right to pass and regress over said private way between the land hereby conveyed and Great Neck Road, as set forth in Deed recorded in Book 3615, Page 417.

The courses and distances herein set forth are substantially as shown on "Plan of portion of land of Ethel E. Volpe, as Grant Neck, Wareham, July 5, 1935, Maxwell B. Snow, Engineer, (not found of record).

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

Meaning and intending to describe and convey that parcel conveyed to Sebastian Volpe and Rita C. Volpe by deed dated June 7, 1938 and recorded in the Plymouth County Registry of Deeds at Book 3616 page 431.

**PARCEL 9 - 6 Shell Lane**

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

Beginning at a concrete bound in the westerly side of a private way leading easterly and northerly from Great Neck Road, at the southeasterly corner of land now or formerly of Frank J. and Frances Eernody, thence running

**SOUTH** 62° 47' 30" EAST 150 feet by said private way to a concrete bound, thence  
**NORTH** 89° 05' 30" WEST 145 feet by land now or formerly of Ethel H. Burgess to a concrete bound

at land now or formerly of Sebastiao Volpe and Ethel E. Volpe, thence  
**NORTH-EASTERLY** 83 feet by said road now or formerly of Volpe to a concrete bound, thence  
**EASTERLY** 79.95 feet by said road now or formerly of said Volpe to a concrete bound at the southeasterly corner of said land now or formerly of Sebastiao Volpe and Ethel E. Volpe, thence

**NORTH** 67° 22' 26" EAST 105.40 feet by said road now or formerly of Harbuck to the point of beginning.

Containing 1.2000 square feet more or less.

Said land is hereby conveyed together with the right to pass and repass in and over the same along land of said Ethel H. Burgess, between the line hereby conveyed and Great Neck Bay, over such portion of said remaining land as shall be designated by said Ethel H. Burgess from time to time, in common with owners having a like right, for recreational purposes only.

Said land is hereby conveyed with the right to pass and repass over a private way between the land hereby conveyed and Great Neck Road, as set forth in the Deed recorded in Book 2030, Page 438.

The courses and distances herein set forth are substantially as set forth on "Plan of portion of land of Ethel H. Burgess on Great Neck, Wareham, July 3, 1955, Maxwell B. Snow, Esq., "Joint Grant 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 not 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.

Witness my hand and seal of office this 10th day of June, 1956, at Wareham, Massachusetts.

The land is shown on a plan entitled "Division of Parcel 12 of the Town of Wareham, Massachusetts, known as Green Neck, with the buildings thereon, described as follows:

Parcel #1 - 12, 13 & 15 Over Jordan Road

**PARCEL 12**

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

Parcel #1 - 12, 13 & 15 Over Jordan Road

Lot A, Lot B and Lot C as shown on a plan entitled "Division of Parcel 12 of the Town of Wareham, Massachusetts, known as Green Neck, with the buildings thereon, described as follows: Parcel #1 - 12, 13 & 15 Over Jordan Road, recorded with the Plymouth County Registry of Deeds in Plan Book 11, Page 244

Lot A contains 42,720 square feet more or less, Lot B contains 24,892 square feet more or less and Lot C contains 28,437 square feet more or less, all according to said plan

Parcel #2 - 15 Over Jordan Road

Parcel C as shown on "Plan of Land Surveyed for Ethel H. Burgess, Over Jordan Road, Green Neck, Wareham, Massachusetts, September 1, 1958, Walter E. Rowley, Surveyor," recorded with Plymouth County Registry of Deeds in Book 2526, Page 236

Parcel #3 contains 1.21 acres more or less according to said plan

With 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 Green 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 Green Neck, with the buildings thereon, improved and described as follows:

Parcel #1 - 12, 13 & 15 Over Jordan Road

Beginning at a concrete bearing in the northerly line of Over Jordan Road at the westerly corner of and now or formerly of Anna E. Hale,

thence easterly South 47° 47' 00" West one hundred forty three and 43/100 (47.42) feet to Over Jordan Road; thence easterly South 62° 30' 00" West two hundred seventy six and 600/100

Parcel #2 - 15 Over Jordan Road  
 Beginning at a stake found in the southerly line of Over Jordan Road at the  
 northwesterly corner of land now or formerly of Lottie B. Hewitt  
 thence to the North 56° 30' 10" East, eighty and 78' 10" (134.50) feet  
 by Over Jordan Road to a stake  
 thence North 14° 17' 10" East, two hundred eighty and 60' (340.00)  
 (240.86) feet by Over Jordan Road to a stake for a concrete house  
 formerly of Lottie B. Hewitt  
 thence South 28° 45' 00" East, eighty and 72' (152.00) feet  
 by said land of Lottie B. Hewitt to a stake  
 thence South 72° 32' 10" East, twenty nine and 100' (129.00) feet, more  
 or less, to near by center line of Spill-Edin Bay  
 thence southeasterly, two hundred seventy and 00' (170.00) feet, more  
 or less, by the waters of Spill-Edin Bay to said land now or formerly of Lottie B.  
 Hewitt  
 thence South 87° 38' 30" West, seventy-five and 160' (235.00) feet more or less, to a  
 stake  
 thence South 87° 38' 30" West, eighty-two and 78' (160.82) feet by said land of  
 Hewitt to a stake  
 thence South 87° 38' 30" West, fifty-nine and 57' (116.29) feet by  
 said land of Hewitt to a concrete house, and  
 thence North 72° 03' 30" West, one hundred seventeen and 62' (169.00)  
 (117.65) feet by said land of Hewitt to the point of beginning.  
 Containing 1.21 acres, more or less.

Parcel #2 - 15 Over Jordan Road

Containing 2.17 acres, more or less.

Both said parcels are hereby conveyed together with the right to pass and  
 egress 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 parcel 2 is subject to any and all public rights existing in and over  
 the same to or near high water mark.

All of the courses, distances and bearings mentioned in the foregoing  
 descriptions of said parcels 1 and 2 are to be run by day or land  
 survey under the title of Great Neck Road, in the State of Michigan,  
 September 17, 1929, under R. Rowley, senior, "recorded and

land of DeWitt; thence  
North 15° 30' East 100 feet to a point on  
the line between the  
land of DeWitt; thence

Northerly,  
50 feet in a straight line by land of  
DeWitt to a bound at land of Murray;  
thence

South 45° 15' 00" West 70 feet by land of Murray to a bound; thence  
North 32° 14' 30" West 173.00 feet by land of Murray to a bound; thence

North 36° 00' 25" East 122.00 feet by land of Murray to a stone bound at the  
southerly corner of land of Ruth S. Butcher; thence

North 18° 35' 30" West 61.21 feet by said Butcher land to a corner bound; thence  
North 41° 53' 30" East 94.70 feet by said Butcher land to a corner bound; thence  
Northerly,  
75.00 feet more or less by said private way  
in land of Volpe; thence

South 71° 49' 50" West 393.80 feet more or less by said land of Volpe  
to a bound at the corner of a security corner  
thence of the line

North 18° 10' 12" West 121.37 feet by said land of Volpe and by  
land of Volpe to the corner of a security corner  
the southerly side of a private way  
called First Avenue; thence

South 54° 32' 50" West 296.95 feet by said land of Volpe to a  
bound; thence

South 50° 52' 30" West 107.98 feet by said land of Volpe to a  
bound; thence

South 45° 40' 30" East 100 feet by remaining land of Ethel H.  
Burgess to a bound; thence

South 61° 51' 30" East 81.57 feet by remaining land of Ethel H. Burgess to a  
bound; thence

South 77° 45' 30" East 376.95 feet by remaining land of Ethel H. Burgess to a  
bound; thence

South 70° 02' 50" East 123.02 feet by remaining land of Ethel H. Burgess to a  
bound at said land of Haskable; thence

North 31° 46' 00" East 33.15 feet by said land of Haskable to a  
stone bound; and thence

South 56° 36' 55" East 359.10 feet by said land of Haskable to the point of beginning  
Containing 16.61 acres more or less.

Containing 16.61 acres more or less.

All of said requirements, courses and distances, are as shown on "Plan of Land to  
be Conveyed by Ethel H. Burgess to Valentine & Ethel E. Volpe on Grant Neck,  
Wareham, August 1, 1955, Newell H. Snow, Register" last found of record.

Meaning and intending to describe and convey that parcel conveyed to Sirection  
Volpe and Ethel E. Volpe by deed dated August 1, 1955 and recorded in the  
Plymouth County Registry of Deeds at Book 2538 page 29

WITTING HEREBY that certain parcel of land conveyed by Paul

With the boundaries of the lot shown on the plan attached hereto, dated December 10, 1902, recorded in Book 11 of Page 177, and shown as "Parcel A" containing 4,755 square feet of land, more or less, as shown on a plan entitled "Approval Not Required Plan" drawn for Frank M. & Margaret A. Demady Waltham, Mass. State No. 20 July 11, 1902. Prepared by Overseas Development Co. 1 and Surveying Services 750 Boston North Road North Weymouth, R.I. 02887, recorded as Plan 9732 of 1902, as Plan Book 15, Page 673, and bounded and described as follows:

The land situated in Waltham, Plymouth County, Massachusetts, described as follows:  
Beginning at a concrete boundary line on the northwesterly corner of the premises herein surveyed, and thence running

N 45° 18' 00" E by the land of Charles F. & Winifred O. Murray as shown on and plan for 70.00 feet to a concrete boundary line, thence running and joining

S 13° 00' 00" E by the land of Frank H. & Margaret A. Demady as shown on and plan for 50.00 feet to a point thence southerly S 41° 30' E a distance of 9.65 feet by the same to a concrete boundary line, thence running and joining

S 65° 50' 00" W by one parcel of Katherine A. Demady as shown on and plan a distance of 9.95 feet, thence running and running

N 40° 33' 10" W by the land of Katherine A. Demady as shown on said plan a distance of 26.75 feet as the point of beginning

UNRECORDED



Valid and lawful. Voted by deed dated June 2, 1958 and recorded in the Plymouth County Register of Deeds at Book 2676 page 578.

**PARCEL 10 - 16 Shell Lane**

The land of Wacoham, Plymouth County, Massachusetts, situated on the easterly shore of Shell Point Cove, bounded and described as follows:

Beginning at a cement bound to the westerly sideline of a private way or land now or formerly of Joseph J. and Blanche E. Hunt;

thence running South 38° 06' West, ninety-nine and 65/100 (99.65) feet by said Hunt land to a stone bound;

thence North 56° 13' West, sixty-two and 1/2 (62.5) feet by land formerly of Joseph H. Burgess in a cement bound;

thence North 43° 35' East, ninety-four and 29/100 (94.29) feet by other land formerly of Joseph H. Burgess to a cement bound and to the westerly sideline of said private way; and

thence South 13° 50' East by said private way, in the form of a right-of-way.

Together with the right to use the boat landing for other than property of Joseph H. Burgess on the West 11 corner with 179 feet and 1/2 (179.5) feet of said Joseph H. Burgess so far as the same is in force and effect, as shown on the plan in Deed recorded in Book 2575, Page 36.

Measuring and originating the above and foregoing parcel conveyed to Sabatino Volpe and Ethel E. Volpe by deed dated June 11, 1957 and recorded in the Plymouth County Register of Deeds at Book 2575, page 36.

**PARCEL 21 - 9 Shell Lane**

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

Beginning at a concrete bound in the easterly sideline of a private way known as Shore Road on or near Burgess Point at the southerly corner of land recently conveyed to said Sabatino Volpe and Ethel E. Volpe by deed from Mildred Pratt Ryan, said concrete bound being about 50 feet southerly from land of Winifred Mary measured along said private way; thence running:

North 41° 06' 30" East 257 feet more or less by said land

formerly of Mildred Pratt Ryan to mean low water mark of Shell Point Cove; thence

Southerly 25 feet more or less by Shell Point Cove to a point for a quarter-thence South 41° 06' 30" West 260 feet more or less by remaining land of Ethel E. Burgess to said private way; and thence

North 23° 40' 00" West 216 1/2 feet by said private

way to the point of beginning.

Together with the right to pass and repass (and over said) private way between

Plymouth County Registry of Deeds at Dan No. 572 of 1959 in Book 2555 page 341.

Meaning and intending to describe and reserve that parcel reserved to Subetina Volpe and Ethel E. Volpe by deed dated September 26, 1956 and recorded in the Plymouth County Registry of Deeds at Book 2550 page 341.

**PARCEL 13 - 11 Shell Lane**

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

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

thence running North 28 degrees West in the northerly line of Shore Road, 115 and no 150 (50.0) feet, to a point for a corner;

thence running and running by land of Wareham Farms, North 35 degrees 30 minutes East, one hundred seventy feet to (170.0) feet to a corner high water mark;

thence containing in the same course, North 15 degrees 30 minutes East to mean low water mark;

thence running and running, South 15 degrees 30 minutes East on a corner 205.115 and no 100 (50.0) feet, to a corner, to the westerly line of said premises;

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

thence containing in the same course, South 45 degrees 15 minutes West, one hundred eighty-four and no 100 (100.0) feet to the first mentioned corner and point of beginning;

Meaning and intending to describe and reserve that parcel reserved to Subetina Volpe and Ethel E. Volpe by deed dated October 13, 1955 and recorded in the Plymouth County Registry of Deeds at Book 2455 page 259

**PARCEL 14 - 5 Over Jordan Road**

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

Beginning at a stone buried in the westerly sideline of a private way at the easterly corner of land of Ralph W and Virginia B. Hawthorne, thence running

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

Northeasterly, 145.50 feet to a straight line to a stake, thence

Northeasterly, 100.00 feet to a corner, thence running North 74 degrees 15 minutes East 19.95 feet to a corner at 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: 16 Over Jordan Rd

Map 20, Lot 1017/C

I have reviewed your permit application to construct a new single family dwelling on the parcel of land known as 16 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 and one for the left side non-conforming setback as well.

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. You are proposing a 40' setback which requires a Variance from the Zoning Board of Appeals in order to proceed.
- **Article 6, Section 621, Residential Districts:** You are proposing a 17' side yard setback from the left boundary line where 20' is required. A Variance from the Zoning Board of Appeals must be secured in order to proceed with your proposal.

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