

SPECIAL PERMIT & VARIANCE APPLICATION

TOWN OF WAREHAM ZONING BOARD OF APPEALS

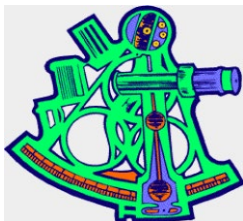
16 Widow's Cove lane
Wareham, MA 02571

December 6, 2023

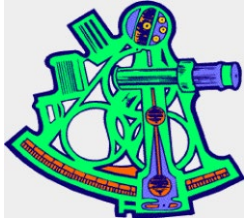
PREPARED FOR:

Jeffrey Johnson
& Amanda Kut
881 East Second Street, Unit 16
Boston, MA 02127

PREPARED BY:



JC ENGINEERING, Inc.
Civil & Environmental Engineering
2854 Cranberry Highway
East Wareham, Massachusetts 02538
Ph. 508-273-0377 – Fax 508-273-0377



JC ENGINEERING, Inc.

Civil & Environmental Engineering

2854 Cranberry Highway

East Wareham, Massachusetts 02538

Ph. 508-273-0377 – Fax 508-273-0367

December 4, 2023

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

RE: Special Permit and Variance Application for
16 Widow's Cove Lane, Wareham, MA

Dear Board Members,

On behalf of the applicants and property owners, Jeffrey Johnson and Amanda Kut, please find enclosed a Special Permit and Variance Application accompanied by supporting design drawing entitled "Proposed Site Plan located at 16 Widow's Cove Lane, Wareham, MA" revised through December 6, 2023 (Plan) for your review and approval. This property is shown as Lot D8 on Assessor's Map 22. The existing property contains a 2-story, single-family dwelling with attached garage built around 1990 according to the Wareham Assessor's records. The applicant would like to expand the second story over a portion of the existing dwelling as well as construct small additions and a new front porch to the front of the dwelling and a few second floor balconies across the rear of the dwelling. A detached shed is also planned to be constructed within the front yard of the property. In accordance with the determination issued by the Building Commissioner, a Special Permit would be required for the construction of the additions and second floor expansion and a Variance would be required to construct the shed.

Zoning Requirements

The property is located in the R60 Zoning District, therefore the current setback requirements are 60 feet front, 20 feet side, and 20 feet rear for a primary structure. The existing dwelling has a front setback that is less than 60 feet and a side setback that is less than 20 feet, therefore, the existing dwelling is considered non-conforming. The proposed additions will be located on the property that are no closer to the front property line than the existing dwelling, but will be within the 60' front setback requirement of this zoning district. Also, the second floor expansion will occur over existing house footprint that is within 20 feet of the side setback, but no closer to the side property line than the existing dwelling. Below is a list of the various zoning requirements that are applicable to this project.

- In accordance with Article 6, Table 621, the minimum front setback in the R60 Zoning District is 60 feet and the minimum side setback is 20 feet. The existing front setback is 36.6 feet and the proposed front setback for the nearest work to the front property line is 50.1 feet. Also, the proposed second floor expansion will maintain a minimum setback

of 10.7 feet from the side property line, which matches the setback for the existing structure. For these reasons, a Special Permit is required.

- In accordance with Article 13, Section 1352, a Special Permit will be required to increase the height of a non-conforming structure on the same footprint. An expanded second story is proposed over the existing footprint that currently lacks an adequate side setback.

As outlined in Section 1355 of the Wareham Zoning Bylaws, the Board of Appeals shall find that the altered structure will not be substantially more detrimental to the neighborhood than the existing structure, will not cause undue nuisance or congestion to the neighborhood, nor create any new non-conformities. For the following reasons, we feel that the construction of these additions will neither substantially increase the nonconforming nature of the structure, nor be substantially more detrimental to the neighborhood.

- The expansion of the second floor will occur over a portion of the existing footprint and will match the building height of the existing structure.
- The proposed expansions to the dwelling will be no closer to the street, nor the side property lines, than the existing structure.
- There will be no increase in traffic or noise to the neighborhood, as this dwelling is currently a single-family dwelling and will remain a single-family dwelling. The typical traffic from a single-family dwelling will remain the same.

For the reasons stated above, we would appreciate your favorable vote on a Special Permit for the construction of the additions and second floor expansion proposed with this application, which is under the purview of this board.

Variance Request

As part of this Variance Application, the applicant would like to construct a 14' x 14' shed adjacent to a wooded area between the house and the front property line. Accessory structures must maintain a minimum 10' side setback and 15' rear setback. The front setback of an accessory structure must not be closer to the front property line than the primary structure. The placement of the proposed shed is 11 feet from the front property line, while the primary structure is situated 36.6 feet from the front property line.

As outlined in Section 1470 of the Wareham Zoning Bylaws, the applicant shall demonstrate that the literal enforcement of the by-law would involve substantial hardship and that desirable relief may be granted without substantial detriment to the public good and without substantial derogating from the intent of the bylaw.

- *A Variance may be granted when factors relating to soil conditions, shape, or topography of such land creates an impracticality or limits the location or positioning of a new structure or addition, and that a literal enforcement of the By-law would involve a substantial hardship, financial or otherwise, to the petitioner.*

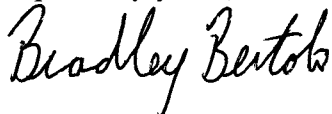
A literal enforcement of the Wareham Zoning Bylaws would create a hardship to the property owners. Due to the uniqueness of this property, there are a number of restrictions that would create a hardship to the property owners if the current Bylaws are enforced. With the existing dwelling being within the 20' side setback from the western property line, and the property being subject to a 20' wide easement along the eastern property line, the only available locations to construct an accessory structure is within the front yard or rear yard. Further, the northern portion of the property is adjacent to Onset Bay where coastal resource areas and their 100' buffer zones, such as a coastal bank and flood zone, would require additional conservation permitting and structural requirements for construction within a flood plain. Almost the entire lot area to the north of the dwelling is mapped within a Coastal Flood Zone and within 100 feet of a coastal bank. Also, the existing septic system location to the north of the dwelling further restricts the available land area to construct an accessory structure. Due to the restrictions stated above on the eastern, western, and northern portions of the property, the most logical location to construct a shed would be between the house and the street on the southern portion of the property. The proposed shed will be residentially used, and will store typical yard furniture, tools, and lawn equipment.

- *A Variance 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 bylaw.*

The proposed detached garage will not be detrimental to the public good and will not derogate from the intent of the bylaw. The locus property is situated at the end of a roadway cul-de-sac with minimal neighboring properties. The proposed location of the shed will provide adequate separations from both the existing street line and the existing dwelling as to not interfere with emergency access around the cul-de-sac or dwelling. Additionally, the construction of a shed between the dwelling and the street line would be similar to features that exist on the abutting property to the west. The applicants and remaining abutting properties have already been subject to a property within the neighborhood that contains an accessory structure near the street, so an additional accessory structure on the street side of the dwelling on the applicant's property would not be a detriment to the neighborhood.

For the reasons stated above, we would appreciate your favorable vote on a Variance for the construction of a shed, which is under the purview of this board.

Respectfully yours,



Bradley M. Bertolo, EIT, CSE
Project Engineer

Cc: Jeffrey Johnson & Amanda Kut





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:

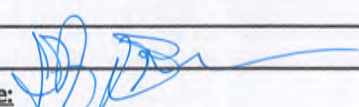
- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

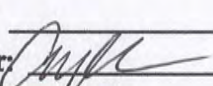
**Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family 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 \$100.00.

**The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 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 WIDOW'S COVE LANE **LOT:** D8 **MAP:** 22
ZONING DISTRICT: R60
USE REQUESTED: SINGLE FAMILY DWELLING
OWNER OF LAND & BUILDING: JEFFREY JOHNSON & AMANDA KUT **TEL.#** _____
ADDRESS OF OWNER: 881 EAST SECOND STREET, UNIT 16, BOSTON, MA 02127
PERSON(S) WHO WILL UTILIZE PERMIT: SAME
ADDRESS: SAME
DATE: 12/1/23 **SIGNATURE:** 
This application was received on the date stamped here:

Town Clerk: _____ **Date:** _____
Tax Collector:  _____ **Date:** 12/4/23
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: Jeffrey Johnson and Amanda Kut

Applicant's Address: 881 East Second Street, Unit 16, Boston, MA 02127

Telephone Number: _____

Cell Phone Number: 774-272-0713

Email Address: jeffrey.johnson45@yahoo.com

Address of Property/Project: 16 Widow's Cove Lane

Landowner's Name: Same

Owner's Address: Same

Telephone Number: _____

Contact Person: Bradley Bertolo, JC Engineering Inc Telephone Number: 508-273-0377

Map 22 Lot D8 Zone R60

Date Approved _____ Date Denied _____

Comments: _____



TOWN of WAREHAM

Massachusetts

BUILDING DEPARTMENT

Paul Turner
Director of Inspectional Services

November 1, 2023

Mr. Bradley Bertolo
2854 Cranberry Highway
East Wareham, Massachusetts 02538

RE: 16 Widow's Cove/ Map 22, Lot D8

Mr. Bertolo,

I have reviewed your Building Permit application B-23-658, submitted October 23, 2023 proposing a complete renovation of the structure including a proposed 5' x 26' front porch, proposed 1.5' x 13' first floor addition (beneath existing second floor overhang) and proposed roof lines for second floor expansion that are being constructed on a pre-existing nonconforming structure in the side and front setbacks. Also proposed is a 12' x 16' shed located in front of the principle structure located at 16 Widow's Cove, Wareham, Massachusetts.

Your application is being denied under the following sections of the Wareham Zoning By-Law:

Article 6: Density and Dimensional Regulations,

Section 621 Residential Districts, R-60,

**Front Setback; 60 feet
Side Setback; 20 feet**

Section 625 Accessory Buildings, Residential Districts;

Note 2. Front Setbacks of Accessory Buildings shall be equal to or greater than the existing principal building's Front Setback.

Article 13: Zoning Protection,

Section 1352

If the Building Official determines that a proposed addition, alteration, or extension to a lawfully non-conforming single or two family residential structure increases the non-conformity nature of the structure, a denial letter will be issued and the applicant must make application to the Board of Appeals for a new determination in order to proceed. If the Board of Appeals affirms the Building Official's decision, no such alteration or extension may occur unless the Board of Appeals issues a **Special Permit** for alteration or extension after finding that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing non-conformity. An addition, alteration, or extension that increases the non-conformity nature would include but not be limited to:

1. **A non-conforming structure built in the same footprint to an increased building height.**

Section 1353

An addition, alteration, extension, or structural change that is found to increase the non-conforming nature of the structure and is found by the Zoning Board of Appeals to be substantially more detrimental to the neighborhood will require a **Variance**.

The proposed shed will require a **Variance**.

Therefore, a **Special Permit** and or a **Variance** must be secured from the Zoning Board of Appeals in order to proceed with your application.

The subject dwelling is located in **R-30** zoning district.

Respectfully,



Paul E Turner
Building Commissioner
Zoning Enforcement Officer

It is the owners' responsibility to check with other departments 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.

16 WIDOW'S COVE LN

Location 16 WIDOW'S COVE LN

Mblu 22 / / D8 / /

Acct#

Owner JOHNSON JEFFREY

Assessment \$1,987,500

Appraisal \$1,987,500

PID 4044

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$1,185,900	\$801,600	\$1,987,500

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$1,185,900	\$801,600	\$1,987,500

Owner of Record

Owner JOHNSON JEFFREY
Co-Owner KUT AMANDA
Address 881 EAST SECOND ST UNIT 16
BOSTON, MA 02127

Sale Price \$2,025,000
Certificate
Book & Page 55301/185
Sale Date 07/13/2021
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
JOHNSON JEFFREY	\$2,025,000		55301/185	00	07/13/2021
FOSTER DONALD S	\$1		9599/0049		02/08/1990

Building Information

Building 1 : Section 1

Year Built: 1990
Living Area: 5,042
Replacement Cost: \$1,221,588
Building Percent Good: 92
Replacement Cost
Less Depreciation: \$1,123,900

Building Attributes

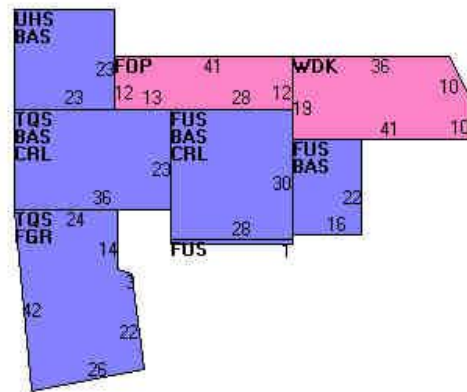
Field	Description
Style:	Colonial
Model	Residential
Grade:	VG/Exc
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asphalt Shing
Interior Wall 1	Drywall
Interior Wall 2	
Interior Flr 1	Carpet
Interior Flr 2	Hardwood
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	Central
Total Bedrooms:	6 Bedrooms
Total Bthrms:	4
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	10 Rooms
Bath Style:	Average
Kitchen Style:	Average
# of Fireplaces	1
Fireplace Type	Wood
Finish Bsmt SF	
Fin Bsmt Qual	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

Building Photo



(<https://images.vgsi.com/photos2/WarehamMAPhotos/\00\05\59\60.jpg>)

Building Layout



(https://images.vgsi.com/photos2/WarehamMAPhotos/Sketches/4044_404)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	2,549	2,549
TQS	3/4 Story Fin	1,818	1,273
FUS	Upper Story	1,220	1,220
CRL	Crawl Space	1,668	0
FGR	Garage	990	0
FOP	Open Porch	492	0
UHS	.50 Story Unfin	529	0
WDK	Deck, Wood	757	0
		10,023	5,042

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 1010
Description SINGLE FAMILY
Zone R60
Neighborhood 0091
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.69
Frontage 0
Depth 0
Assessed Value \$801,600
Appraised Value \$801,600

Outbuildings

Outbuildings						<u>Legend</u>
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
DCK2	DOCK-RES GD			600.00 S.F.	\$40,500	1
DCK1	DOCKS-RES AV-F			90.00 S.F.	\$2,700	1
DCK1	DOCKS-RES AV-F			300.00 S.F.	\$9,000	1
DCK1	DOCKS-RES AV-F			328.00 S.F.	\$9,800	1

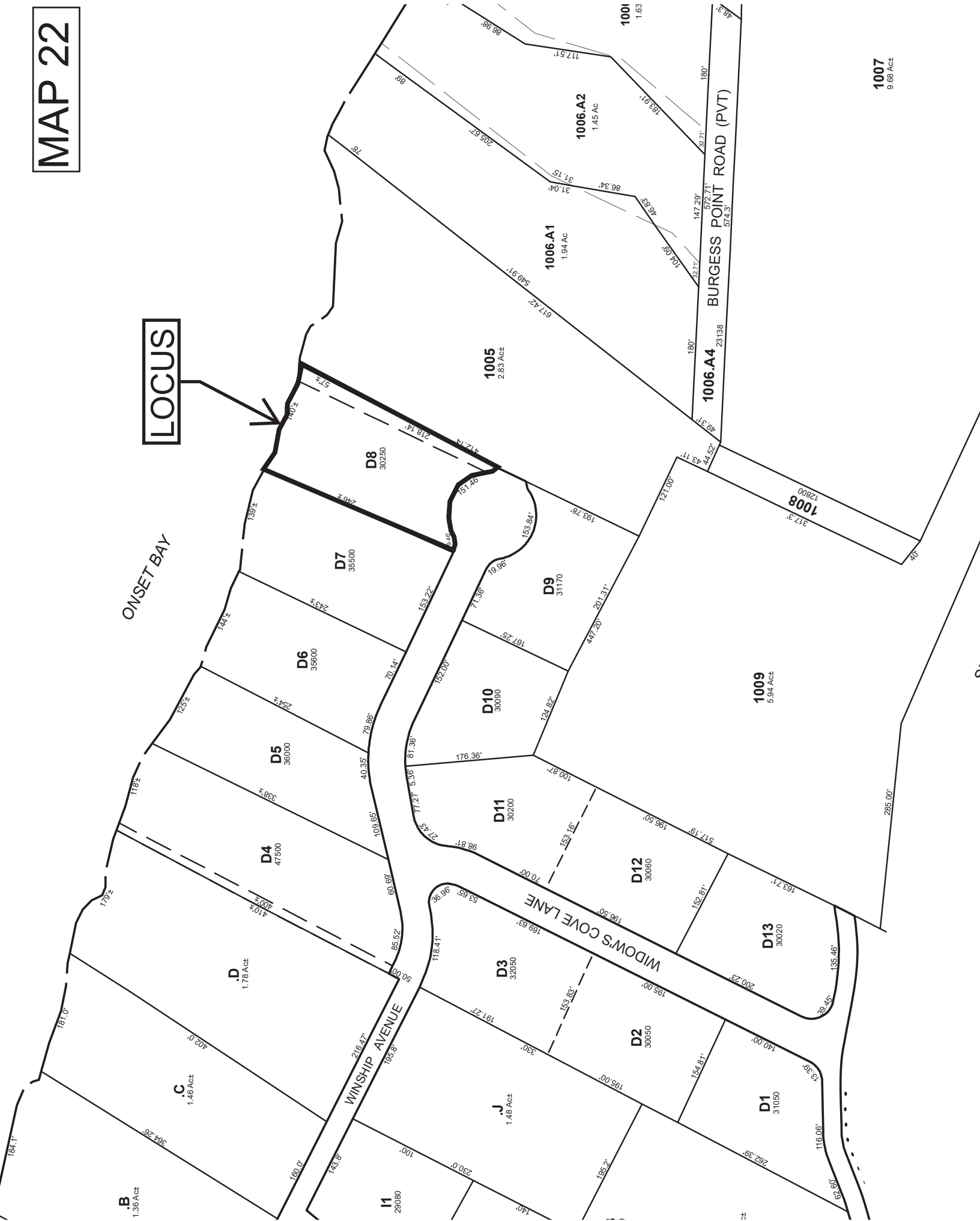
Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$1,185,900	\$801,600	\$1,987,500
2022	\$682,100	\$728,400	\$1,410,500
2021	\$650,800	\$728,400	\$1,379,200

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$1,185,900	\$801,600	\$1,987,500
2022	\$682,100	\$728,400	\$1,410,500
2021	\$650,800	\$728,400	\$1,379,200

MAP 22

LOCUS



*** Electronic Recording ***
Doc#: 00079613
Bk: 55301 Pg: 185 Page: 1 of 3
Recorded: 07/13/2021 02:19 PM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

MASSACHUSETTS EXCISE TAX
Plymouth District ROD #11 001
Date: 07/13/2021 02:19 PM
Ctrl# 147886 22352
Fee: \$9,234.00 Cons: \$2,025,000.00

QUITCLAIM DEED

We, Donald S. Foster and Elizabeth M. Foster, being married to each other, both of 34 Battles Road, Westminster, MA 01473, for consideration of two million twenty-five thousand and no/100 dollars (\$2,025,000.00), grant to Jeffrey Johnson and Amanda Kut, husband and wife, as tenants by the entirety, both of 881 East Second Street, Unit 2, South Boston, MA 02127, with **quitclaim covenants**,

the widows Cove Lane, Wareham

the land, with the buildings thereon, situated in Wareham, Plymouth County, Massachusetts, on the Southerly side of Onset Bay, Massachusetts, shown as Lot No. 8 on plan of land entitled, "Subdivision of Land on Great Neck, Wareham, Massachusetts, owned by Dinan Realty Trust", dated March 20, 1967, which plan is recorded with the Plymouth County Registry of Deeds in Plan Book 14, Page 536, and which premises are more particularly bounded and described as follows:

Northerly 246 feet, more or less, on the Southerly side of Lot No. 7, as shown on said plan;

Northeasterly 140 feet, more or less by Onset Bay, as shown on said plan;

Southeasterly 275 feet, more or less, by land of Vera W. Stubbs, as shown on said plan; and

Southwesterly 170.92 feet more or less, by and along an arc which is on the northerly line of Widow's Cove Lane, as shown on said plan.

Meaning and intending to convey Lot No. 8 containing 30,250 square feet, more or less, as shown on said plan.

Said premises are conveyed subject to the rights of others over a 20' wide drainage easement and access to the beach situated on the easterly side of the premises and subject to the rights of others to use the beach located in front and below the wall located on the southerly side of Onset Bay on the northerly side of the lots, all as shown on said plan.

The above-described premises are conveyed together with the benefit of and subject to all rights, rights of way, restrictions, easements and reservations of record if the same are in force and applicable.

Being the same premises conveyed to us by deed recorded with said Registry of Deeds in Book 9599, Page 49.

We hereby release any homestead rights that we may have in the premises.

Witness my hand and seal this 3rd day of July, 2021.

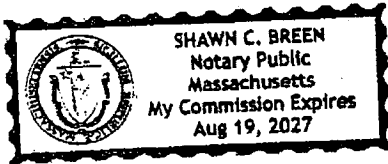
Elizabeth M. Foster
Elizabeth M. Foster

COMMONWEALTH OF MASSACHUSETTS

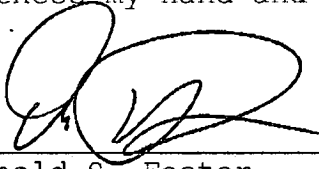
Worcester, ss.

On this 3rd day of July, 2021, before me, the undersigned notary public, personally appeared Elizabeth M. Foster, proved to me through satisfactory evidence of identification, which was MA STATE ID, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Shawn Breen Shawn Breen
, Notary Public
My Commission Expires: 8/19/27



Witness my hand and seal this 13th day of July, 2021.

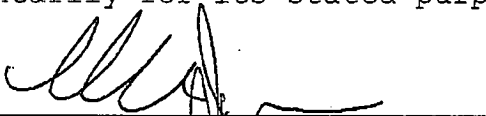


Donald S. Foster

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 13th day of July, 2021, before me, the undersigned notary public, personally appeared Donald S. Foster, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

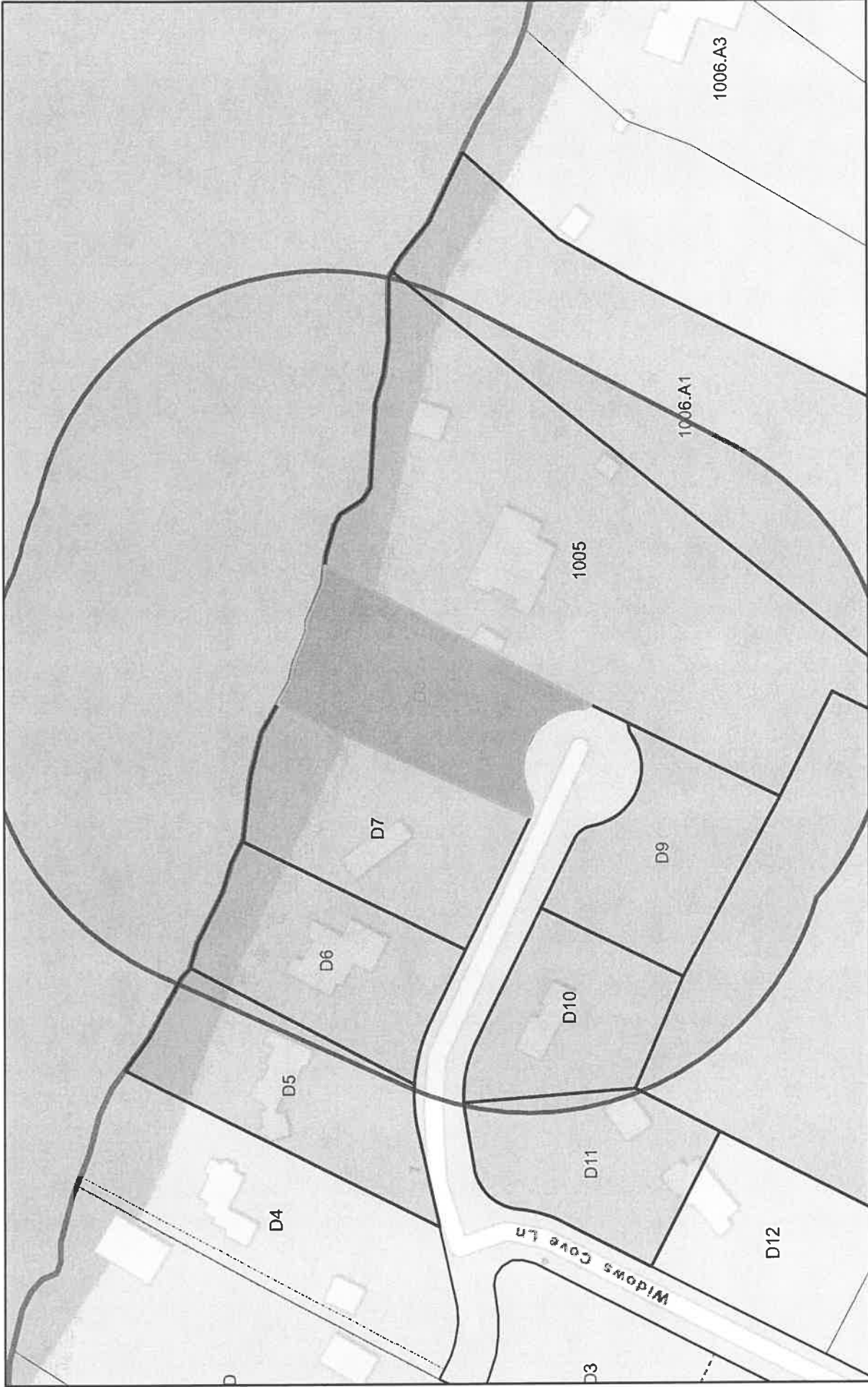


Mark J. Lanza, Notary Public
My Commission Expires: January 20, 2028



TOWN OF WAREHAM ABUTTERS			
MAP 22 LOT D8			
OWNERS JEFFREY JOHNSON + AMANDA KUT			
MAP & LOT	OWNERS	STREET ADDRESS	TOWN & STATE ZIP CODE
22-0-1005	DEJESUS HENRY V JR, DEJESUS JUDITH	PO BOX 1135	MARION, MA 02738
22-0-1006.A1	RHODES MATTHEW N, RHODES CINDY C	PO BOX 578	E WAREHAM, MA 02538
22-0-1009	KWON SONIA J TRUSTEE, TRILOBITE TRUST	PO BOX 78,	NORWELL, MA 02061
22-0-D10	BRIGGI STEPHEN J, BRIGGI LORI L	5 BOATHOUSE DR,	WAREHAM, MA 02571
22-0-D11	CAMPBELL MICHAEL C	PO BOX 230	ONSET, MA 02558
22-0-D5	ADAMS CAROL A TRUSTEE, ADAMS REALTY TRUST	9 ABIGAIL WAY UNIT 4007,	READING, MA 01867
22-0-D6	HOUSER JOHN J, HOUSER LISA M	12 WIDOW'S COVE LN	WAREHAM, MA 02571
22-0-D7	BRODERICK DAVID, BRODERICK SUSAN	569 RODANTE WAY,	SACRAMENTO, CA 95864
22-0-D8	JOHNSON JEFFREY, KUT AMANDA	881 EAST SECOND ST UNIT 16	BOSTON, MA 02127
CERTIFIED ABUTTERS AS THEY APPEAR ON			
OUR TAX ROLLS AS OF 11/7/2023			
<i>H. Renee Olin</i>			
ASSESSORS OFFICE			
REQUESTED BY			
BRADLEY BERTOLO			
508 273-0377			
BBERTOLO@JCENG.ORG			

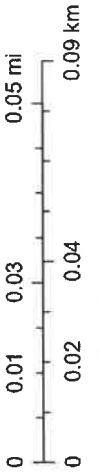
ArcGIS Web Map



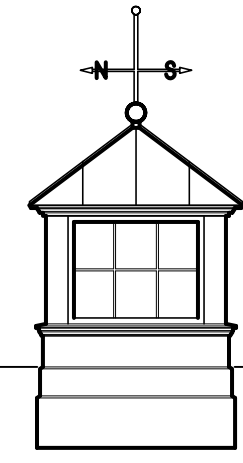
11/7/2023, 10:15:13 AM

- Parcels with CAMA Data
- Parcel Lines
- Public Road
- Common Line MiscPolys
- Property Line
- Right of Way
- Town Line

1:2,257



Esri, HERE, Garmin, INCREMENT P, NGA, USGS



Front Elevation Scale: 1/4" = 1'- 0"

1



Right Side Elevation Scale: 1/4" = 1'- 0"

2



Project

JOHNSON RESIDENCE RENOVATION

16 WIDOWS COVE LANE,
WAREHAM, MA 02571

NOTES:

All notes on this drawing are typical and apply equally to all comparable conditions. Dimensions shall take precedence. Errors or discrepancies on details are to be brought to the attention of the GSDesign Group Inc. before the work or materials have either been commenced, and/or purchased

These drawings are the property of the GSDesign Group, Inc. & specifically prepared for the owner of this project at this site and are not to be duplicated or used in part or whole for any other purpose, project location or owner without the express written consent of the GSDesign Group, Inc.



GS Design Group Inc.

215 Onset Ave.
P.O. Box 1200
Onset, MA 02532
Tel 508 .295 .2952

Issued For

REV.	ISSUE	DATE

ELEVATIONS

Drawing Title:

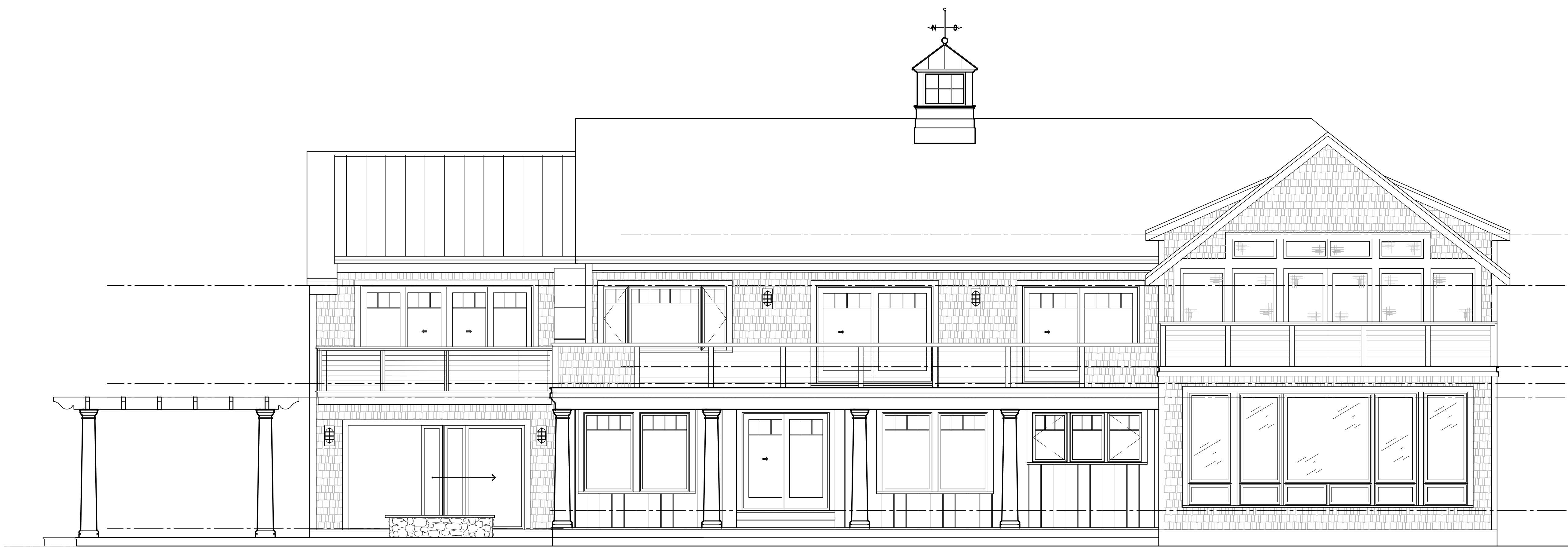
Drawn By: CT Checked By: GG

A2.0

Drawing Number:

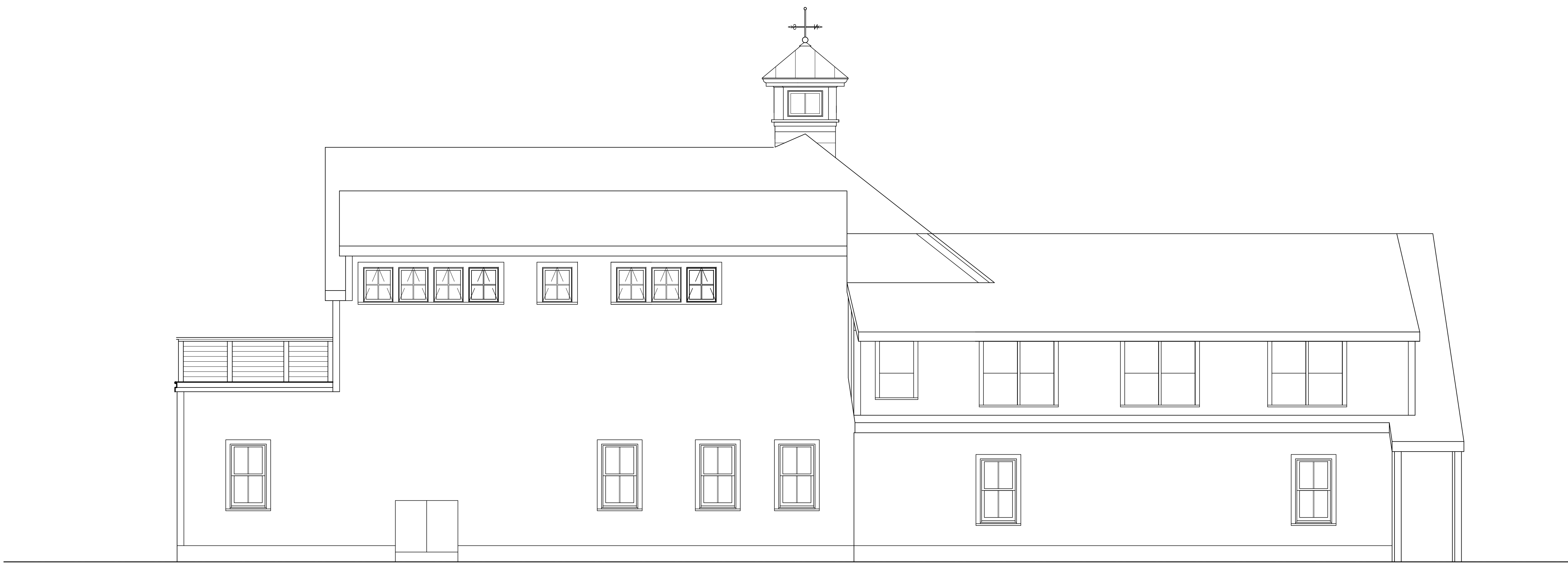
File Name: Scale:

Date: 11/29/2023



Rear Elevation Scale: 1/4" = 1'- 0"

1



Left Side Elevation Scale: 1/4" = 1'- 0"

2



Project
**JOHNSON
RESIDENCE
RENOVATION**
16 WIDOWS COVE LANE,
WAREHAM, MA 02571

NOTES:
All notes on this drawing are typical and apply equally to all comparable conditions. Dimensions shall take precedence. Errors or discrepancies on details are to be brought to the attention of the GSDesign Group Inc. before the work or materials have either been commenced, and/or purchased

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ELEVATIONS

Drawing Title:
Drawn By: CT Checked By: GG

A2.1
Drawing Number:

File Name: Scale:
Date: 11/29/2023