
THE LAW OFFICES OF BELLO & MORTON, LLC

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

February 7, 2024

Wareham Zoning Board of Appeals
54 Maron Road
Wareham, MA 02571

Re: Application for Angeliki Decas; Property Located at 5 Tower Terrace, Wareham, MA; Assessor's Map 61, Lot LC-10

Dear Members of the Board of Appeals:

Please find enclosed the following information and exhibits:

1. Petitioner:

Angeliki Decas
5 Tower Terrace
Wareham, MA 02571

2. Record Owner:

Angeliki Decas
5 Tower Terrace
Wareham, MA 02571

3. Current Deed:

Plymouth Registry District of Land Court, Certificate of Title No. 128384, Deed attached as Exhibit A.

4. Building Inspector's Denial Letter:

Notice of Violation Letter attached here as Exhibit B from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.



5. Certified Abutters List:

Copy Attached as Exhibit C.

This application is a sister application to the 11 Tower Terrace Application and I respectfully request the Board to review that application as it pertains to the merger and infectious invalidity issue at hand here.

I would be happy to provide further information regarding the history of the property if the Board so wishes as well.

Respectfully submitted,

JILIAN A. MORTON, ESQ.

508-295-2522

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 \$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: 5 Tower Terrace LOT: 61 MAP: LC-10

ZONING DISTRICT: MR-30

USE REQUESTED: _____

OWNER OF LAND & BUILDING: Angeliki Decas TEL.# _____

ADDRESS OF OWNER: 5 Tower Terrace, Wareham, MA 02571

PERSON(S) WHO WILL UTILIZE PERMIT: Angeliki Decas

ADDRESS: 5 Tower Terrace, Wareham MA 02571

DATE: 2/8/2024 SIGNATURE: _____

This application was received on the date stamped here:

WAREHAM TOWN CLERK
2024 FEB 12 PM 4:04

Town Clerk: _____ Date: _____

Tax Collector: _____ Date: 2-8-24

Planning/Zoning Dept.: Sonia Raposo Date: 2-12-24

Application fee paid: 300.00 Check #: 5365 Receipt: _____

Advertising fee paid: 150.00 Check #: 5366 Receipt: _____

Abutters fee paid: 39.00 Check #: 5364 Receipt: _____

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One: Variance Special Permit Site Plan Appeal

Date stamped in: _____ Date decision is due _____

Applicant's Name: Angeliki Decas

Applicant's Address: Attorney Jillian Morton, 184 Main St.

Telephone Number: Wareham, MA 508-295-2522

Cell Phone Number: _____

Email Address: jdm@mortonlawllc.com

Address of Property/Project: 5 Tower Terrace

Landowner's Name: Angeliki Decas

Owner's Address: 5 Tower Terrace

Telephone Number: _____

Contact Person: Jillian Morton Telephone Number: 508-295-2522

Map 61 Lot LC-10 Zone MR-30

Date Approved _____ Date Denied _____

Comments: _____

EXHIBIT A



2019 00783352

Bk: 641 Pg: 184 Cert: 128384
Doc: DEED 04/19/2019 10:47 AM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

REGISTERED LAND

We, JOHN A. DECAS and ANGELIKI DECAS, husband and wife, of Wareham, Plymouth County, Massachusetts,

for consideration paid, and in full consideration of One (1.00) Dollar

grant to ANGELIKI DECAS, with a mailing address of 5 Tower Terrace, Wareham, MA 02571,

the land, together with the buildings thereon, situated in Wareham, Plymouth County, Massachusetts, bounded and described as follows:

- EASTERLY by Tower Terrace, one hundred two and 89/100 (102.89) feet;
- SOUTHERLY by Lot 9, as shown on plan hereinafter referred to, one hundred fourteen and 99/100 (114.99) feet;
- SOUTHWESTERLY by Lot 17, as shown on said plan, one hundred five and 69/100 (105.69) feet; and
- NORTHERLY by Lot 11, as shown on said plan, one hundred thirty-nine and 07/100 (139.07) feet.

Containing 16,800 square feet, more or less, and being shown as Lot 10 on subdivision plan #18302G drawn by Walter E. Rowley & Associates, dated April 11, 1961, on file with the Plymouth County District of the Land Court on Certificate of Title No. 8420.

Together with the right to pass and repass over the streets and ways as shown on the above mentioned plan.


For our title, see deed dated March 5, 2007, registered with the Plymouth County District of the Land Court in Book 554, Page 21, and noted as Document No. 625443 on Certificate of Title No. 110821.

Title Not Examined.

Return Documents To:
Lantz Law Inc.
P.O. Box 70100
Dartmouth, MA 02747

Property Address: 5 Tower Terrace, Wareham, MA

WITNESS our hands and seals this 22ND day of March, 2019.

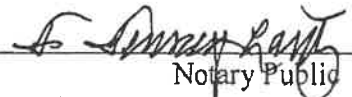

John A. Decas


Angeliki Decas

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF PLYMOUTH

On MAR 22 2019, before me, the undersigned notary public, personally appeared John A. Decas and Angeliki Decas, who proved to me through satisfactory evidence of identification, which were their driver's licenses / passports / senior identification cards, to be the persons whose names are signed on the foregoing document, and acknowledged to me that they signed it voluntarily for its stated purpose.


Notary Public
My commission expires



NOTARY PUBLIC
F. Tenney Lantz
Commonwealth of Massachusetts
My Commission Expires: April 6, 2023

4-6-23

Doc 00783352

Plymouth County LAND COURT
Registry District

RECEIVED FOR REGISTRATION

On: Apr 19, 2019 at 10:47A

Document Fee 125.00

Receipt Total: \$127.00

NOTED ON: CERT 128384 BK 00641 PG 18

ALSO NOTED ON: CERT 110821 BK 554 PG 21

110821

3995

OK 127

1552

Angelik, Decas

125

EXHIBIT B



TOWN of WAREHAM

Massachusetts

BUILDING DEPARTMENT

Paul Turner
Director of Inspectional Services

January 9, 2024

Angeliki Decas
5 Tower Terrace
Wareham, Massachusetts 02571

RE: 5 Tower Terrace / Map 61, Lot LC-10

NOTICE OF VIOLATION-REVISED

Ms. Decas,

It has come to the attention of the Building Department that your property, 5 Tower Terrace was improperly divided.

The house lot known as 11 Tower Terrace was created by "Approval Not Required" plan of land, prepared by G.A.F. Engineering, Inc., dated August 10, 2020. The plan depicted the combination of lots 16, 17, 33 and parcel 15-B with a combined total area of 30,028 square feet with ample frontage to create a house lot that meets the current MR-30 zoning district dimensional requirements. Lot 17 was obtained by deed, dated March 6, 2020 for consideration of \$1.00 from you, owner of 5 Tower Terrace, which was comprised of lot 10 and lot 17. Your house lot, 5 Tower Terrace, was not eligible to sever land area and transfer it to aid in the creation of another buildable house lot. Your lot in fact was a preexisting non-conforming lot due to area, therefore you have intensified this nonconformity, resulting in **an illegal nonconforming house lot**. This transaction evoked infectious invalidity on both properties, 5 and 11 Tower Terrace.

VIOLATION:

In zoning law, infectious invalidity is a principle where a parcel of land that itself complies with zoning requirements is considered to be in violation of zoning laws because of the circumstances of its creation. The situation arises when a parcel of land is improperly divided into two lots, resulting in one of the lots conforming (11 Tower Terrace) to the applicable zoning standards and one lot not conforming (5 Tower Terrace). **The legal principle is applied resulting in the conforming lot being deemed to be infected because of the illegal condition created on the other lot and the creation of the two lots is deemed invalid.** Infectious invalidity affects both zoning and property ownership rights.

POTENTIAL REMEDIES:

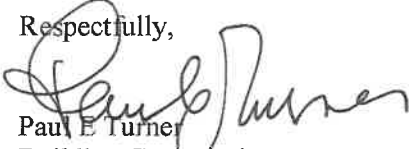
Reunite lot 17 with lot 10, therefore returning 5 Tower Terrace to its previous physical condition. This action would not revert 5 Tower Terrace back to a pre-existing, nonconforming lot due to area and frontage. 5 Tower Terrace would need to seek relief from the Zoning Board of Appeals for lacking both frontage and area to be considered a pre-existing nonconforming lot. Zoning protection was forfeited when the owner severed land area making 5 Tower Terrace an illegal lot.

Appeal to the Zoning Board of Appeals without the reunification of lot 17 with lot 10 and ask for relief from required lot area and frontage, in order for the improper division of the lot to be nullified and return the status of 5 Tower Terrace to a pre-existing nonconforming lot. This action would allow lot 17 to remain with 11 Tower Terrace.

If you are unable to complete either of the tasks listed above, 5 Tower Terrace is considered **an illegal lot**; therefore, the structure located on the lot must be decommissioned.

The subject dwelling is located in **MR-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.

EXHIBIT C

TOWN OF WAREHA ABUTTERS

MAP 61 LOT LC10

OWNER ANGELIKI DECAS

MAP & LOT	OWNERS	STREET ADDRESS	TOWN & STATE	ZIP CODE
61-0-1	MCKAY DANIEL J, MCKAY MARY E	2 TOWER TERR,	WAREHAM, MA	02571
61-0-1171	DECAS MALLORY	3 TOWER TER,	WAREHAM, MA	02571
61-0-1172.A	LAWSON REALTY TRUST LLC	722 PLYMOUTH ST	RANDOLPH, MA	02368
61-0-1172.B	MCKENNA KESEY, DALLMEYER JONATHAN C	504 MAIN ST	WAREHAM, MA	02571
61-0-1174.A	FIRST CONGREGATIONAL CHURCH,	11 GIBBS AVE,	WAREHAM, MA	02571
61-0-1175	15 GIBBS AVE LLC	PO BOX 231	WAREHAM, MA	02571
61-0-1176	PETERS MATTHEW	25 GIBBS AVE,	WAREHAM, MA	02571
61-0-1177	FARIA ADAM, FARIA LEAH	31 GIBBS AVE,	WAREHAM, MA	02571
61-0-1181	SOUTH SHORE APARTMENTS LLC	8 ALTON PLACE	BROOKLINE, MA	02446
61-0-1182	HOPKINS BRYON, HOPKINS JUNUS	3 BODFISH AVE,	WAREHAM, MA	02571
61-0-1183	TAMAGINI EDWARD J, TAMAGINI KAREN M TRUSTEES	5 BODFISH AVE,	WAREHAM, MA	02571
61-0-1206.C	STAPLES FREMONT C	9 BODFISH AVE,	WAREHAM, MA	02571
61-0-19	ELKALLASSI NAZH B,	20 TOWER TER,	WAREHAM, MA	02571
61-0-2	HENNESSEY MARK A TRUSTEE, PATRICIA J HENNESSEY SUP NEEDS	4 TOWER TER,	WAREHAM, MA	02571
61-0-23	AMARAL SCOTT F, AMARAL NORINE A	28 TOWER TER,	WAREHAM, MA	02571
61-0-24	TOWN OF WAREHAM,	TOWN HALL,	WAREHAM, MA	02571
61-0-3	SAMUELS ANNALISE L	16 TOWER TERR,	WAREHAM, MA	02571
61-0-4	SEQUEIRA SUSAN E GOVONI TRUSTEE,	500 HEAD OF THE BAY RD,	BUZZARDS BAY, MA	02532
61-0-5	PALING RICHARD J,	10 TOWER TERRACE,	WAREHAM, MA	02571
61-0-6	GREENE JAMES F,	12 TOWER TER,	WAREHAM, MA	02571
61-0-8	BIEDUGNIS MATTHEW J, BIEDUGNIS KIM A	16 TOWER TERR,	WAREHAM, MA	02571
61-0-LC1	RIVERA GEORGE, RIVERA KIMBERLY A	520 MAIN ST,	WAREHAM, MA	02571
61-0-LC10	DECAS ANGELIKI,	5 TOWER TER,	WAREHAM, MA	02571
61-0-LC11	DECAS DEAN J, DECAS MELISSA A R	3 TOWER TERR,	WAREHAM, MA	02571
61-0-LC12	GRAHAM ROBERT FRANCIS, GRAHAM GERALDINE ANNE	1 TOWER TER,	WAREHAM, MA	02571
61-0-LC18	DONOVAN CAROL	9 TOWER TER,	WAREHAM, MA	02571
61-0-LC9	GIASSON MICHELLE D LIFE ESTATE,	7 TOWER TER,	WAREHAM, MA	02571

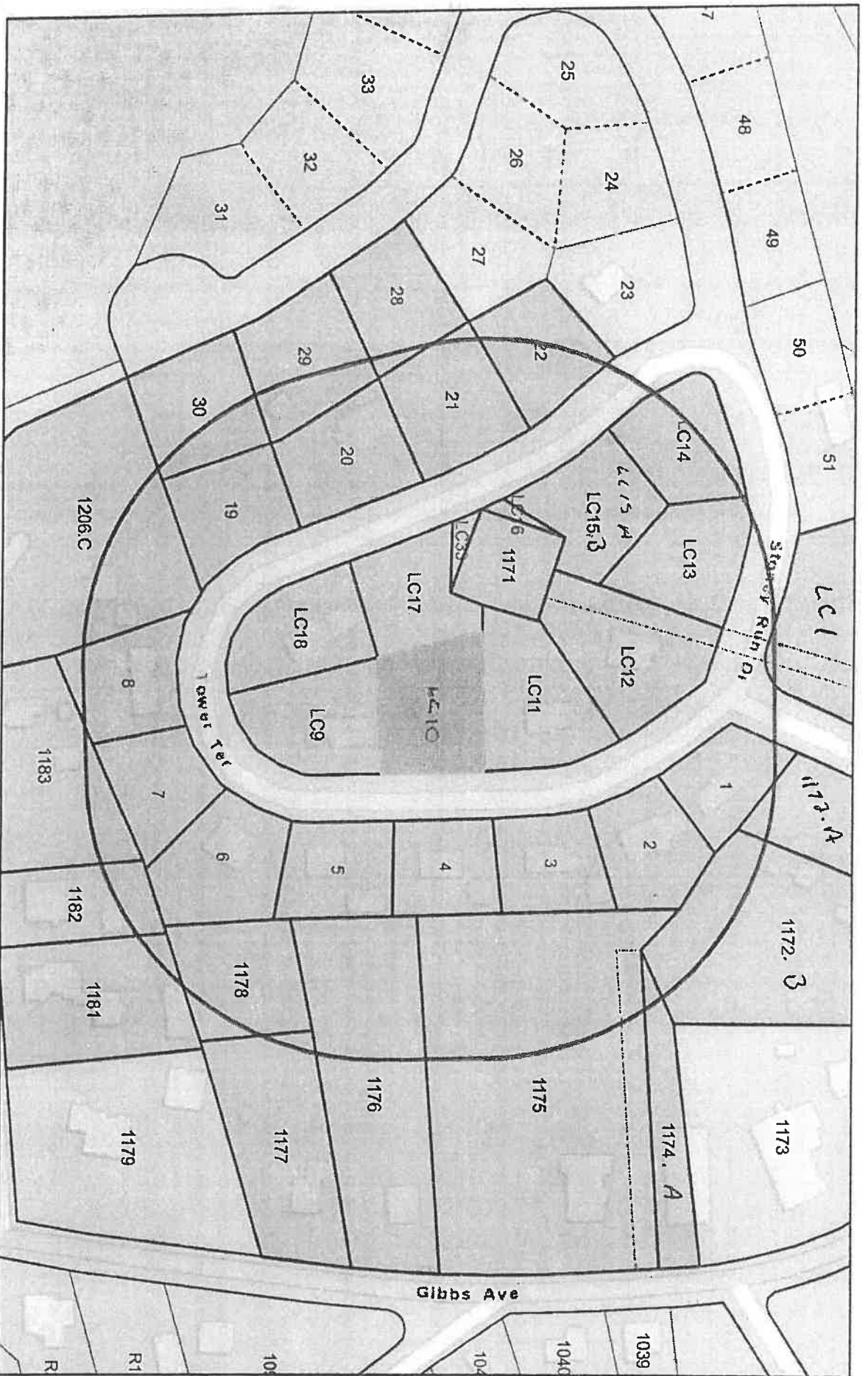
CERTIFIED ABUTTERS AS THEY APPEAR
ON OUR TAX ROLLS AS OF 1/23/2024

Cheryl Silva

ASSESSORS OFFICE

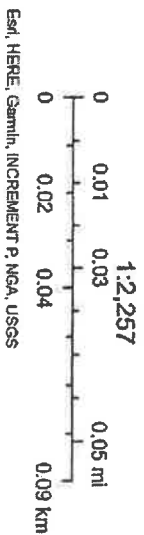
REQUESTED BY CHERYL SILVA
508 295-2522 CHERYL@MORTONLAWLLC.COM

ArcGIS Web Map



1/23/2024, 1:01:37 PM

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



Esri, HERE, Garmin, INCREMENT P, NGA, USGS | FEMA, MassGIS | MassDEP | Web AppBuilder for ArcGIS

