
THE LAW OFFICES OF BELLO & MORTON, LLC

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

July 6, 2022

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, MA 02571

*Re: Application for Variance Assessors Map 38, Lot 512, Lot 513 12 Larch Street,
Wareham MA 02571*

1. Petitioners

DOS AMIGOS REALTY, LLC
12 Fellowship Circle
West Wareham, MA 02576

2. Recorded Owner:

DCS REALTY LLC
19 SQUIRREL RD
PLYMOUTH, MA 02360

3. Certified Abutters List:

Copy Attached as Exhibit A.

4. Current Deed:

2. **Minimum Lot Area:** R-30 has a minimum lot area of 30,000 square feet, our property is 8,400 square feet. *Variance from 621 RESIDENTIAL DISTRICTS Minimum Lot Area in R-30 District*

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.

Variance Argument to Break Merger Doctrine:

The Board has the deference to consider a Variance in these circumstances as they follow the statutory law above. This parcel is specifically in need of Variance for several reasons. The Merger Doctrine was created to make lots more conforming to the zoning laws. In this instance, there were several conveyances before this Zoning Merger was caught. The current owners are looking to sell this parcel and we ask the Board to consider the following:

1. **Soil conditions, lot shape, or topography of such land;** This parcel is unique as it has frontage on both Larch Street and Hemlock Street. The proposed build meets all other zoning requirements for side set back, F.A.R. etc. The lot itself is a double lot from the 1932 plan and is larger than other lots in the area. It is unique in that it also has sewer hookup to it already therefore sewer connection has been approved and the moratorium does not apply per the Sewer Commissioner.
2. **Literal Enforcement will create Hardship;** Hardship to the petitioner and property owners are clear in this case. The parcel is currently owned by DCS Realty LLC who bought this parcel (38-512) with another parcel 26 Kingwood (38-508). They have since conveyed 26 Kingwood to a third party. 12 Larch Street is the remaining parcel. They are under contract with Dos Amigos LLC to purchase the land to develop into this three bedroom cape style home as noted on the Site Plan attached. If the Board does not grant these Variances essentially it will deem the property unbuildable, and the applicants will not be able to purchase, and the property owners will be left with the property.
3. **Granting can be granted without substantial detriment to public good;** Wareham is in desperate need for single family homes for our residents. The lot would keep in the nature of the neighborhood and add to home values and increase the taxable income to the town

as a single-family home. The public is in no way harmed by this build, and it only increases the abutters value in their own properties.

4. **Granting will not derogate from the Intent of the Zoning By-Law:** The intent of the by-law was to create and preserve neighborhoods. This lot as it stands it not adding to the neighborhood. As nicely built 3 family house, a family can move in to a quiet home and raise their children.

Variance Argument for Minimum Lot Area:

As for the statutory requirements, this lot is unique for reasons above – it is a double lot with frontage on two streets, meeting all other zoning requirements but lot size. Also as noted above this Parkwood Beach has an average of 0.2 acres per lot well below the R30 requirements of 0.68 acres. There are many lots which are less that 0.2 acres in this part of town. This lot is 0.18 acres and we ask the Board to consider the need for a Variance here.

The literal enforcement of the bylaw would deem my client's property unbuildable and create financial hardship for the petitioner and the owner. Again, the landowner would be left with a lot unbuildable- the petitioners would not be able to move forward with their project.

It is our hope that the Board views the granting of these Variances as keeping with the nature of the neighborhood and other waterfront homes in this area. Most of these homes were similar to this 1950s cottage and were latter developed for owners who were looking to have full time residence down in this majestic area. This 3-bedroom cape fits in nicely with surrounding homes.

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 while respecting the protection afforded to the waterways through conservation and no touch zones.

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.

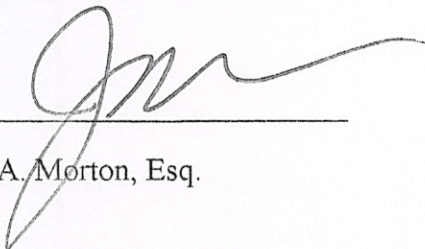


EXHIBIT A



TOWN OF WAREHAM
54 MARION ROAD
WAREHAM, MASSACHUSETTS 02571

INSPECTIONAL SERVICES
(508) 291-3100, Ext. 3194

Dos Amigos Realty, I.L.C.
12 Fellowship Circle
West Wareham, MA 02576

June 6, 2022

RE: 12 Larch Street

Map 38. Lots 512, 513

I have reviewed your buildable lot inquiry for Lots 512 and 513 of Assessors Map 38.

Based on the information provided to me, it is my opinion that these lots do not meet the requirements of M.G.L. Chapter 40A, Sec. 6. Due to the following:

In 1952 lots 513, 514, and 515 came into common ownership. In 1979 all three lots were conveyed to Benjamin Schifino when the Wareham lot requirement was 30,000 square feet. At that point all three lots would have combined under the merger doctrine due to inadequate lot area. The three lots were again conveyed in 1980 to Thomas & Donna C. Balas who then sold lot number 513 to Alice Tocci on the same day. Lot number 513 should have never been conveyed as it was previously merged with lot numbers 514 and 515.

Please feel free to contact me with any questions you may have.

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.

Sincerely,

Paul E. Turner
Director of Inspectional Services
Zoning Enforcement Officer

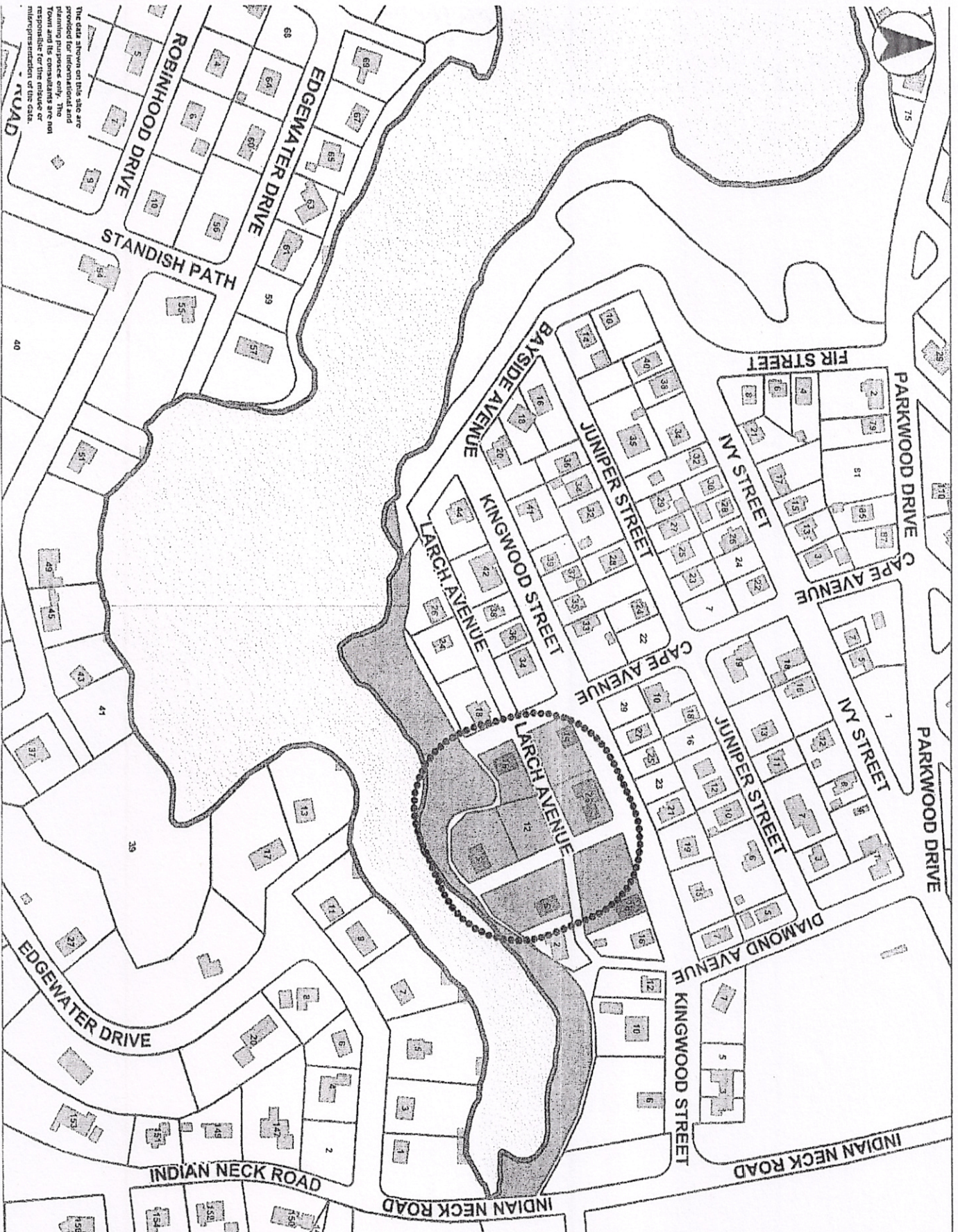
cc: Assessors Department

TOWN OF WAREHAM ABUTTERS

MAP 38 LOT 512

OWNER DCS REALTY LLC

MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE
38-1005	PARKWOOD BCH IMPROVEMENT ASSOCIATION	C/O WILLIAM P CANNON	2 ASH ST	WAREHAM	MA	02571
38-506	CHRISTOPHER GINA MARIE		14 CAPE AVE	WAREHAM	MA	02571
38-510	PHILLIPS DIANNE O		16 CAPE AVE	WAREHAM	MA	02571
38-508	MROGAN DAVID TROY	MORGAN SUNDAY STRONG	40 BRYANT DR	SUDBURY	MA	01776
38-512	DCS REALTY LLC		19 SQUIRREL RD	PLYMOUTH	MA	02360
38-514	LOVEALL JENNIFER H		5 HEMLOCK ST	WAREHAM	MA	02571
38-523/A	MEROLLA MICHELE E		PO BOX 67	FAIRHAVEN	MA	02719
38-516	MATHER GEORGE E & ELAINE R LIFE EST	C/O THOMAS N COTTER	12 ANTHONY J MORINA DR	STONY PT	NY	10980
CERTIFIED ABUTTERS AS THEY APPEAR						
ON OUR TAX ROLLS AS OF 6/27/2022						
<i>By Renee Adams</i>						
ASSESSORS OFFICE						
REQUESTED BY						
JILLIAN MORTON						
508 295-2522						
JAM@MORTONLAWLLC.COM						



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

- MA Police
- MA Fire Station
- Police Station
- Town Hall
- Public Library
- School
- Buildings
- Parcels
- Town Boundary
- MA Highways
- Interstate
- US Highway
- Numbered Road
- Streets
- Bathymetry
- 5-10 ft
- 10-15 ft
- 15-20 ft
- 20-25 ft
- 25-30 ft
- 30-40 ft
- 40-50 ft
- 50-60 ft
- 60-70 ft
- 70+ ft
- Abutting Town Labels

EXHIBIT B

47757
Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
04 MAY 2006 09:32AM
JOHN R. BUCKLEY, JR.
REGISTER
Bk 32629 Pg 125-126

QUITCLAIM DEED

Property Address: 26 Kingwood Street, Wareham, MA

We, Robert P. Savary, of 3 Arlington Road, Wareham, Plymouth County, Massachusetts, Peter J. Savary, of 143 Great Neck Road, Wareham, Plymouth County, Massachusetts and Kevin C. Savary, of 19 Squirrel Road, Plymouth, Plymouth County, Massachusetts, for consideration paid and in full consideration of One and 00/100 (\$1.00) dollar grant to D.C.S. Realty LLC, a Massachusetts limited liability company with principal offices at 19 Squirrel Road, Plymouth, Plymouth County, Massachusetts, with quitclaim covenants

Parcel 1

The land in Wareham, Plymouth County, Massachusetts with all the buildings, structures and improvements thereon being shown as Lots 508 and 509 on a plan entitled, "Plan No. 2 of Lots at Parkwood Beach, Wareham, Mass., owned by Henry A. Brown Corporation, 153 Main Street, Brockton, Mass May 1, 1923", said plan is recorded with the Plymouth County Registry of Deeds in Book 3, Page 555. Referenced may be made to said plan for a more particular description of the premises.

Lots 508 and 509 contain 8,000 square feet of land, more or less, according to said plan.

Easement to Henry A. Brown Corporated as stated in a deed recorded with said Deeds in Book 1738, Page 453.

Subject to any other easements, restrictions, covenants, conditions and agreement of record, if any, insofar as they may be in force and applicable.

Parcel 2

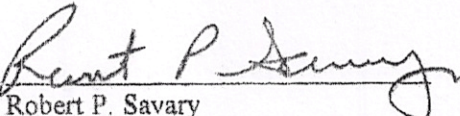
The land thereon being shown as Lots 512 and 513 on a plan entitled, "Plan No. 2 of Lots 15 Parkwood Beach - Wareham, Mass. owned by Henry A. Brown Corporation 153 Main Street, Brockton, Mass. May 1, 1923." Said plan is recorded with the Plymouth County Registry of Deeds in Book 3, Page 555. Reference may be made to said plan for a more particular description of the premises.

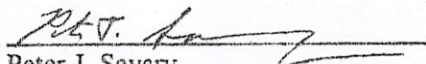
Lots 512 and 513 contain 8,400 square feet of land, more or less, according to said plan.

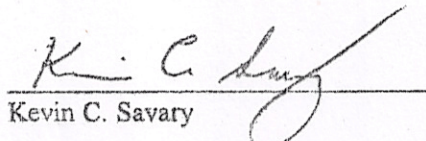
WOLVERTON & HIMMELFARB, P.C.
P.O. BOX 387
WAREHAM, MA 02571

For our title see deed recorded with the Plymouth County Registry of Deeds in Book 32452, Page 275.

Witness our hands and seals this 2nd day of May, 2006.


Robert P. Savary

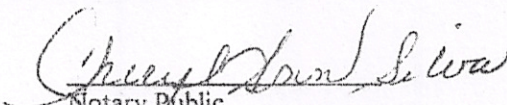

Peter J. Savary


Kevin C. Savary

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss

On this 2nd day of May, 2006, before me, the undersigned notary public, personally appeared Robert P. Savary, Peter J. Savary and Kevin C. Savary, proved to me through satisfactory evidence of identification, which were Massachusetts Drivers Licenses to be the persons whose names are signed on this document, and acknowledged to me that they signed it voluntarily for its stated purpose.


Notary Public
My Commission Expires:

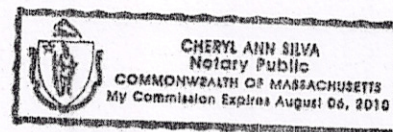


EXHIBIT C

12 LARCH ST

Location 12 LARCH ST

Mblu 38//512//

Acct#

Owner DCS REALTY LLC

Assessment \$9,500

Appraisal \$9,500

PID 5065

Building Count 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$700	\$8,800	\$9,500

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$700	\$8,800	\$9,500

Owner of Record

Owner DCS REALTY LLC

Sale Price \$1

Co-Owner

Certificate

Address 19 SQUIRREL RD

Book & Page 32629/0125

PLYMOUTH, MA 02360

Sale Date 05/04/2006

Instrument 1B

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
DCS REALTY LLC	\$1		32629/0125	1B	05/04/2006
SAVARY ROBERT P, PETER J, KEVIN C	\$260,000		32452/0275	1G	03/31/2006
MADAN WILLIAM C	\$1		8445/0289		01/01/1901

Building Information

Building 1 : Section 1

Year Built:

Living Area: 0

Replacement Cost: \$0

Building Percent Good:

Replacement Cost

Less Depreciation: \$0

Building Attributes	
Field	Description
Style:	Outbuildings
Model	
Grade:	
Stories:	
Occupancy	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure:	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Flr 1	
Interior Flr 2	
Heat Fuel	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bthrms:	
Total Half Baths:	
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	
# of Fireplaces	
Fireplace Type	
Finish Bsmt SF	
Fin Bsmt Qual	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

Building Photo



(<https://images.vgsi.com/photos2/WarehamMAPhotos/\00\04\26\02.jp>)

Building Layout



(<https://images.vgsi.com/photos2/WarehamMAPhotos//Sketches/5065>)

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend

No Data for Extra Features

Land

Land Use

Use Code 106V
Description AC LND IMP MDL-00
Zone R30
Neighborhood 0070
Alt Land Appr No
Category

Land Line Valuation

Size (Acres) 0.19
Frontage 0
Depth 0
Assessed Value \$8,800
Appraised Value \$8,800

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED/FRAME			96.00 S.F.	\$700	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$700	\$8,800	\$9,500
2021	\$700	\$8,800	\$9,500
2020	\$700	\$8,800	\$9,500

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$700	\$8,800	\$9,500
2021	\$700	\$8,800	\$9,500
2020	\$700	\$8,800	\$9,500

EXHIBIT D

NOTES:

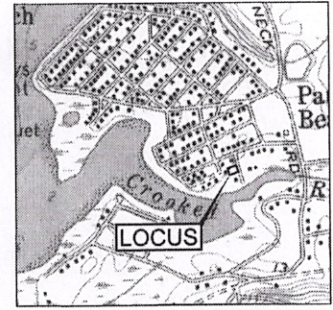
- LOCUS IS SHOWN AS LOTS 512 & 513 ON WAREHAM ASSESSOR'S MAP 38.
- OWNER OF RECORD:
DCS REALTY, LLC
19 SQUIRREL ROAD
PLYMOUTH, MA 02360
- DEED REFERENCE:
DEED BOOK 32629, PAGE 125
- PLAN REFERENCE:
PLAN BOOK 3, PAGE 555
- FLOOD ZONE:
ZONE VE(EL. 17) AND VE(EL. 19)
ON PANEL 25023C057J, DATED
- LIDAR TOPOGRAPHY IS BASED UPON N.A.V.D. 88 DATUM.
- UTILITIES DEPICTED HEREON ARE APPROXIMATE ONLY AND ARE FROM AVAILABLE PLANS OR VISIBLE DIGSAFE MARKERS.

ZONING DISTRICT: R-30 (SMALL LOT) - TABLE 62B

MIN. LOT SIZE = 30,000 S.F.
MIN. FRONTAGE = 150'
MIN. FRONT YARD = 20'
MIN. SIDE YARD = 10'
MIN. REAR YARD = 10'
MAX F.A.R.* = 25% (2,100 S.F.)
MAX. BUILDING COV. = 25% (2,100 S.F.)

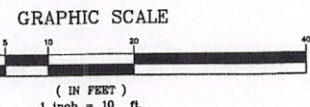
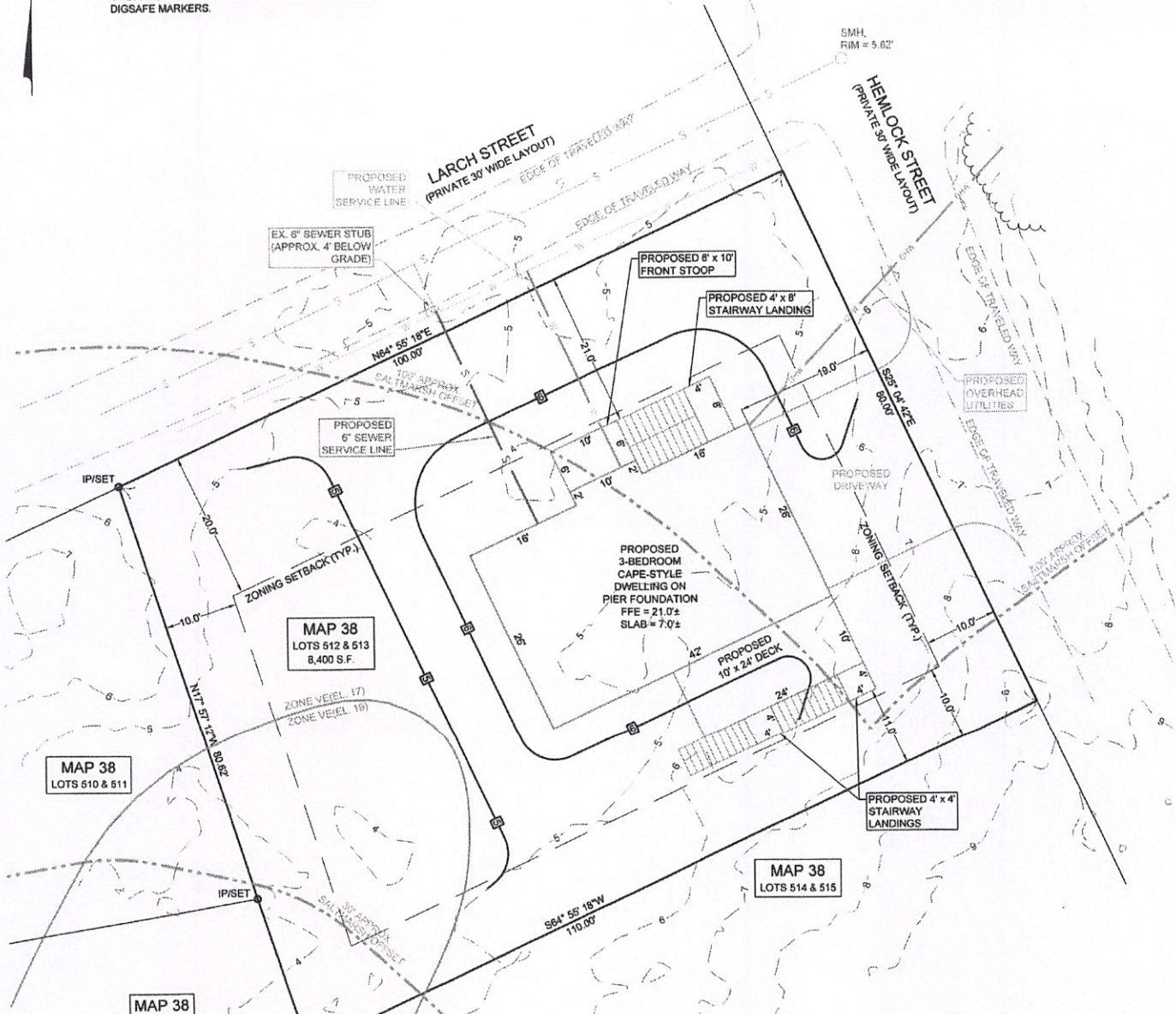
PROVIDED = 8,400 S.F.
PROVIDED = 180.00'
PROVIDED = 21.0'
PROVIDED = 19.0'
PROVIDED = 11.0'
PROVIDED = 24.8% (2,084 S.F.)
PROVIDED = 19.6% (1,636 S.F.)

*FLOOR AREA RATIO



LOCUS PLAN

SCALE: 1" = 100'



PROPOSED SITE PLAN
AT
12 LARCH STREET
WAREHAM, MA

PREPARED FOR:
DOS AMIGOS REALTY, LLC

PREPARED BY:
JC ENGINEERING, INC.
2854 CRANBERRY HIGHWAY
EAST WAREHAM, MA 02538

SCALE: 1" = 10' JULY 6, 2022