

# THE LAW OFFICES OF BELLO & MORTON, LLC

*184 Main Street Wareham, Massachusetts 02571 • 508-295-2522*

December 3, 2020

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

*Re: Application for Special Permit/Variance Assessors Map 15, Lot 1030, 5 Tyler Ave,  
Wareham, MA 02571*

1. Petitioner

Stephen Webby  
Swebco LLC  
20 North Park Avenue  
Plymouth, MA 02360

2. Recorded Owner:

Donald J & Anne I. Campbell  
PO Box 1509, Onset, MA 02558

3. Certified Abutters List:

Copy Attached as Exhibit A

4. Current Deed and Trust Documents:

Plymouth County Registry of Deeds Book 20181, Page 216 (Deed). Exhibit B.

5. Building Inspector's Notice of Violation Letter:

Violation Letter 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. Please note our Parcel is in the MR-30 District.

7. Photographs:

See the attached Photographs as Exhibit E as accompanying evidence for the allowance this petition.

8. Letter of Intent

Dear Mr. Chairman,

I represent the applicant Mr. Stephen Webby of Swebco LLC re the above application for a Variances on his proposed three family build on 5 Tyler Avenue here in Wareham. Mr. Webby is a seasoned developer who has worked on many projects in Town and the surrounding areas. He is working to develop this abandoned and boarded up property here in town.

**Background:**

My client has entered into an agreement to purchase from the owner the property and is looking for relief from the Zoning Board as well as Planning Board to make his project come to fruition. The property has been on the market since August 2019 and abandoned for quite sometime. It was originally a 5 bedroom residential home that was turned into a sober home for recovering women. If you recall in 2014 this was a sober home was set fire by an arsonist. Since the fire – the property has been condemned and been a hazard for years. The Lot ( Map 15, Lot 1030) contains 18,476 square feet in area with 163.52 ft of frontage on Tyler Avenue and is located in the MR-30 zoning district. It is preexisting nonconforming lot being undersized for a single family and while the zoning district allows for multifamily dwellings, the current Zoning By Law would require 250 ft of frontage and 75,000 square feet in area for a three family dwelling, the need for a variance is needed for Mr. Webby to carry out his plans.

Mr. Webby's intention are to build a connected three family structure in approximately the same location as the original 5-bedroom home and pave a proposed parking area for his tenants. These would be affordable rented units. All set back requirements will be met. The units will be serviced by their own state of the art sewage system.

**The By-Laws:**

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

1. Lot Size Variance: Article 6, Table 621 Residential Districts: A three family dwelling requires 75,000 square feet ....
2. Frontage Variance: Article 6, Table 621 Residential Districts: A three family requires 250 lineal feet of frontage...

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

As for the statutory requirements, this lot is unique in that it is situated next to Cranberry Highway and on the corner of Tyler Avenue, both of which are public ways. It has actually 163.52 in frontage on Tyler Ave and an additional 96.53 feet on Cranberry Hwy. This property is unique in that it was a 5-bedroom home which had multiple families in it prior to becoming a sober home. Therefore, this lot has a unique history that would constitute another multi-family residence build there. Its location near Cranberry Highway makes is easy to gain access to supermarket, schools, and childcare.

The hardship affecting the property clearly has been pointed out. It has been burned and abandoned and frankly been a hazard for the town. Because of its condition the dwelling poses a danger to the neighborhood and is an attractive nuisance to homeless persons and children. There is no detriment to the neighborhood as close by there are multiple family dwelling lots of even smaller size including but not limited too:

1. 19 Depot Street- which was approved last year for Variance which has three rental units
2. 23 Depot Street (2 Family- 15000 square feet)
3. 140 Minot Ave (4 family- 9400 square feet)

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 multiple family residential use. There is an extreme need for affordable housing in Wareham – renters are pleading for units that safe for families and well kept. This property would only assist to aid the rental void here in Wareham, at the same time fixing a hazard for the town. The neighborhood property values would increase, a lack of housing is being addressed.

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

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check Applicable:  Variance  Special Permit  Site Plan  Appeal

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

Applicant's Name: Stephen Webby

Applicant's Address: 20 North Park Ave, Suite #1100, Plymouth MA

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

Cell Phone Number: 781-626-0700

Email Address: stephenwebby@yahoo.com

Address of Property/Project: 5 Tyler Ave, Wareham, MA

Landowner's Name: Donald Campbell

Owner's Address: PO Box 1509, Onset MA 02538

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

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

Map 15/1030 Lot \_\_\_\_\_ Zone MR30

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney for Applicant - please send all correspondences to jam@matenlawllc.com

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

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

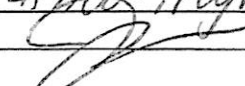
- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees\*\* to the Zoning Board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

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

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

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

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

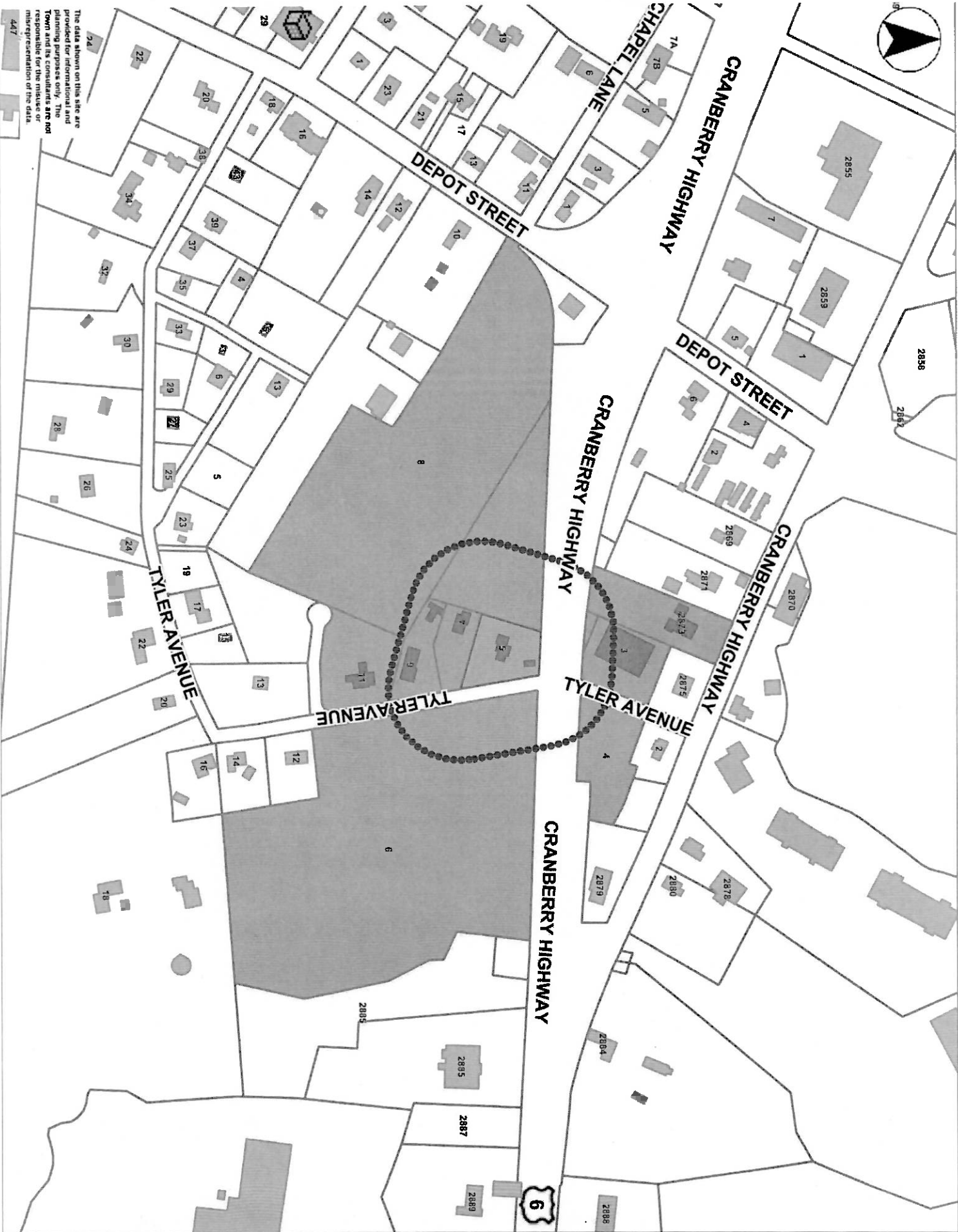
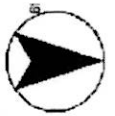
STREET & NUMBER: 5 Tyler Ave MAP: 15 LOT: 1030  
ZONING DISTRICT: MR 30  
USE REQUESTED: Residential - Multi-Family  
OWNER OF LAND & BUILDING: Donald Campbell TEL.# \_\_\_\_\_  
ADDRESS OF OWNER: PO Box 1509, Onset MA  
PERSON(S) WHO WILL UTILIZE PERMIT: Stephen Webby  
ADDRESS: 20 North Park Ave, Suite #100, Plymouth MA  
DATE: 12/3/2020 SIGNATURE:   
This application was received on the date stamped here:

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: \_\_\_\_\_

# EXHIBIT A

TOWN OF WAREHAM ABUTTERS						
MAP 15 LOT 1030						
OWNER DONALD J & ANNE I CAMPBELL						
<b>MAP &amp; LOT</b>	<b>OWNER</b>	<b>CO-OWNER</b>	<b>STREET ADDRESS</b>	<b>TOWN</b>	<b>STATE</b>	<b>ZIP CODE</b>
15-1022/A	PATEL BHARTI B		7 DEPOT ST	E WAREHAM	MA	02538
15-1039	CURRIER TERRI A		2873 CRANBERRY HWY	E WAREHAM	MA	02538
15-1032	JOHNSON WILLIAM I		PO BOX 1208	SARASOTA	FL	34230
15-1029/B	MARSHALL JONATHAN	MARSHALL CAITLYN	7 TYLER AVE	E WAREHAM	MA	02538
15-1029/A	BACHANT WILLIAM P		9 TYLER AVE	E WAREHAM	MA	02538
15-1040/B	POWERS BROS LLC		3 TYLER AVE	E WAREHAM	MA	02538
15-1027/C1	VIEIRA-CARDOZA YVONNE		PO BOX 822	ONSET	MA	02558
15-1042	UNITED GOVERNMENT SECURITY	OFFICERS OF AMERICA INTL UNION	2879 CRANBERRY HWY	E WAREHAM	MA	02538
15-1046	STROSCIO CARMEN		88 LONGMEADOW RD	NORWOOD	MA	02062
CERTIFIED ABUTTERS AS THEY						
APPEAR ON OUR TAX ROLLS						
AS OF 10/30/2020						
<i>W. Ronnie Morton</i>						
ASSESSORS OFFICE						
REQUESTED BY						
JILIAN 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.

360 720 ft

Printed on 11/30/2020 at 09:01 AM

- MA Places
  - Fire Station
  - Police Station
  - Town Hall
  - Public Library
  - School
- Buildings
- Parcels
- Town Boundary
- MA Highways
- Interstate
- US Highway
- Numbered Route
- Streets
- Bathymetry
  - 0-5 ft
  - 5-10 ft
  - 10-15 ft
  - 15-20 ft
  - 20-30 ft
  - 30-40 ft
  - 40-50 ft
  - 50-60 ft
  - 60-70 ft
  - 70+ ft
- Abutting Town Labels
- Abutting Towns

# EXHIBIT B

OFFICE OF THE TREASURER



I, DALE ZACCANY, Treasurer of the Town of Wareham, pursuant and subject to the provisions of General Laws, Chapter 60, Section 77B, in consideration of Seventy Four Thousand and 00/100 (\$74,000.00) Dollars paid, hereby grant to DONALD J. CAMPBELL and ANNE I. CAMPBELL as husband and wife of the town of Wareham, the following

residing at ~~the address~~ *5A Tyler Avenue, Wareham, Massachusetts 02571* the following  
de ~~scribed~~ *land* in ~~Massachusetts~~ *Massachusetts 02571*  
All that certain parcel of land containing 1,736 sq ft more or less, being Lot 1031, Sheet 15, located at 5A Tyler Avenue, East Wareham, Plymouth County, Massachusetts. For the Town's title, see Instrument of Taking recorded with Plymouth County Registry of Deeds in Book 13251, Page 239

All that certain parcel of land with the buildings and improvements thereon containing 17,255 sq ft, being Lot 1030, Sheet 15 located at 5 Tyler Avenue, East Wareham, Plymouth County, Massachusetts. For the Town's title, see Instrument of Taking recorded with Plymouth County Registry of Deeds in Book 11845, Page 71

This deed is given with the warranty that there has been full compliance with the provisions of G.L. c. 44 Section 63A

An Arson/Tax Delinquency Statement has been received from each grantee named herein in accordance with G.L. c. 60 Section 77B, paragraph 3.

Executed as a sealed instrument this 22<sup>nd</sup> day of June, 2001

*Dale Zaccany*  
Date June 22, 2001 Treasurer

PROPERTY ADDRESS

*5A Tyler Avenue, Wareham, MA*

COPY

NO. 1

Return to  
Kathleen M. O'Donnell, Esq.  
Kopelman and Paige P.C.  
31 St. James Avenue  
Dorset, MA 02116



# EXHIBIT C



# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

David L. Riquinha  
Director of Inspectional Services

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Stephen A. Webby  
20 North Park Ave. Suite #1100  
Plymouth, MA 02360

November 3, 2020

**RE:** 5 Tyler Ave.

I have reviewed your application to raze your existing dwelling, and reconstruct a larger residential structure at 5 Tyler Ave, in Wareham, MA. Your proposal does not comply with a number of the Towns' zoning regulations and must be denied at this time.

You have applied for a building permit to raze an existing, abandoned, single family structure and are proposing to replace it with a new three family residential structure on the same site. The new use is not permitted as of right in the MR-30 zoning district; however, it is permitted by Special Permit after review and approval from the Wareham Planning Board.

The change of Use from a single family dwelling to a three family structure requires compliance with current dimensional standards in place for that use. A three family structure in the MR-30 zoning district would require that the parcel contain a minimum of 75,000 square feet, and 250' of frontage. The parcel in question consists of 18,476 square feet and 163.52 lineal feet of frontage which are both deficient under current standards. A Variance would be required for the land area deficiency as well as an additional Variance for the lack of adequate frontage. Both requirements for relief fall under the jurisdiction of the Wareham Zoning Board of Appeals.

The application consisting of the submitted permit application documents together with the site plan by Webby Engineering labeled "5 Tyler Ave" comprised of one page dated August 4, 2020 is being denied under the following sections of the Wareham Zoning By-law:

- **Article 6, Table 621, Residential Districts:** A three family dwelling requires 75,000 square feet and you are proposing 18,476 square feet. You must apply for and secure a Variance from the Zoning Board of Appeals.
- **Article 6, Table 621, Residential Districts:** A three family dwelling requires 250 lineal feet of frontage where you are proposing 163.52 lineal feet. You must apply for and secure a Variance from the Zoning Board of Appeals.
- **Article 3, Section 320, Table of Principal Use Regulations:** A three family dwelling in a new structure requires a Special Permit from the Planning Board.

The subject dwelling is located in the MR-30 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





# EXHIBIT E





90037  
RECEIVED & RECORDED  
PLYMOUTH COUNTY  
REGISTRY OF DEEDS  
13 JUL 2001 11:08AM  
JOHN R. BUCKLEY, JR.  
REGISTER

COMMONWEALTH OF MASSACHUSETTS

TOWN OF PLYMOUTH

OFFICE OF THE TREASURER

I, DALE ZACAMY, Treasurer of the Town of Wareham, pursuant and subject to the provisions of General Laws, Chapter 61B, Section 77B, in consideration of Seventy Four Thousand and 00/100 (\$74,000.00) Dollars paid, hereby grant to DONALD J. CAMPBELL and ANNE L. CAMPBELL, as husband and wife as in the entirety resulting at the date of sale 1005, 1400 in Massachusetts, the following described land:

All that certain parcel of land containing 1,720 sq. ft. more or less, being Lot 1031, Sheet 15, located at 5A Tyler Avenue, East Wareham, Plymouth County, Massachusetts. For the Town's title, see instrument of taking recorded with Plymouth County Registry of Deeds in Book 13251, Page 239.

All that certain parcel of land with the buildings and improvements thereon containing 17,255 s. ft., being Lot 1020, Sheet 15, located at 5 Tyler Avenue, East Wareham, Plymouth County, Massachusetts. For the Town's title, see instrument of taking recorded with Plymouth County Registry of Deeds in Book 13845, Page 71.

This deed is given with the warranty that there has been full compliance with the provisions of G.L. c. 44 Section 63A.

An Absent/Tax Delinquency Statement has been received from each grantee named herein in accordance with G.L. c. 69 Section 77B, Paragraph 3.

Executed as a sealed instrument this 23<sup>rd</sup> day of June, 2001

Dale Zacamy  
Date Zacamy Treasurer

*5A Tyler Avenue, Wareham, MA*  
PROPERTY ADDRESS

<b>CURRENT ASSESSMENT</b>		<b>LOCATION</b>	
Code	Description	Code	Description
1010	RES BLDG	1010	4 Bus. District
1010	RES LAND		
Assessed Value	21,400	Assessed Value	21,400
Appraised Value	82,400	Appraised Value	82,400
<b>SUPPLEMENTAL DATA</b>		<b>Other ID:</b>	
TOPO	UTILITIES	STRT./ROAD	Plan #
1 Level	2 Public Water	1 Paved	1031
	4 Gas		Assoc. Parcels
<b>RECORD OF OWNERSHIP</b>			
CURRENT OWNER	BK-VOL/PAGE	SALE DATE	SALE PRICE V.C.
CAMPBELL DONALD J	20181/216	07/13/2001 U	74,000 IE
CAMPBELL ANNE I	11845/071	05/10/1993 Q	1
PO BOX 1509			
<b>Additional Owners:</b>			
ONSET, MA 02558	GIS ID: M_268902_834711	ASSOC PID#	
Total Ac 0.44		Total 103,800	

<b>PREVIOUS ASSESSMENTS (HISTORY)</b>			
Yr.	Code	Assessed Value	Yr.
2019	1010	17,500	2017
2019	1010	83,200	2017
Total:		100,700	Total:

This signature acknowledges a visit by a Data Collector or Assessor

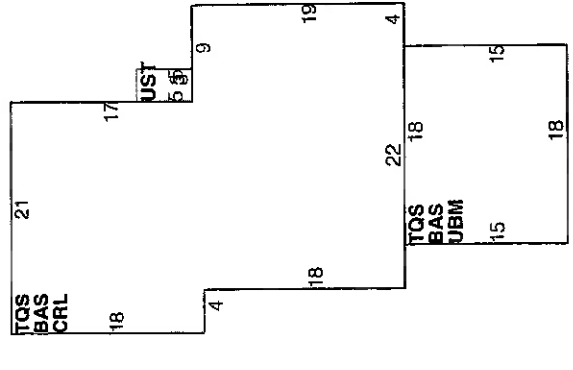
<b>EXEMPTIONS</b>			
Year	Type	Description	Amount
<b>OTHER ASSESSMENTS</b>			
Year	Description	Number	Amount
<b>APPRAISED VALUE SUMMARY</b>			
Appraised Bldg. Value (Card)	21,400		
Appraised XF (B) Value (Bidg)	0		
Appraised OB (L) Value (Bidg)	0		
Appraised Land Value (Bidg)	82,400		
Special Land Value	0		
Total Appraised Parcel Value	103,800		
Valuation Method:	C		
Adjustment:	0		
Net Total Appraised Parcel Value	103,800		

<b>BUILDING PERMIT RECORD</b>			
Permit ID	Issue Date	Description	Amount
R08133	08/14/2007	Roofing	2,000
021097	06/04/2002	Interior Renov	15,000
92017	07/03/1991		1,200
		Insp. Date	% Comp.
		07/01/2008	100
		07/01/2003	100
			100
		Date Comp.	Comments
			20

<b>VISIT/ CHANGE HISTORY</b>			
Permit ID	Type	Date	Purpose/Result
MT	50	08/05/2019	Vision Review
KJ	04	09/04/2018	Measur/Vacant
SB	50	06/12/2014	Vision Review
PH	00	05/10/2014	Measur+Listed
SS	25	09/02/2008	Field Review Increase

<b>LAND LINE VALUATION SECTION</b>			
Zone ID	Front Depth	Units	Unit Price
MR30 I		18,981 SF	4.34
Factor SA	Factor I	Factor ST	Factor Adj.
1.00000	1.00000	1.00000	1.00
Notes-Adj		Spec. Calc	Spec. Use
		1.00	
Total Card Land Units: 0.44 AC		Parcel Total Land Area: 0.44 AC	Total Land Value: 82,400

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd.	Ch.	Element	Cd.	Ch.
Style	06				
Model	01				
Grade	03				
Stories	1.75				
Occupancy	1				
Exterior Wall 1	25				
Exterior Wall 2					
Roof Structure	03				
Roof Cover	03				
Interior Wall 1	05				
Interior Wall 2					
Interior Flr 1	06				
Interior Flr 2	12				
Heat Fuel	06				
Heat Type	04				
AC Type	01				
Total Bedrooms	05				
Total Bthrms	1				
Total Half Baths	1				
Total Xtra Fixtrs					
Total Rooms	9				
Bath Style	02				
Kitchen Style	02				
# of Fireplaces					
Fireplace Type					
Finish Bsmt SF					
Fin Bsmt Qual					



COST/MARKET VALUATION			
Adj. Base Rate:	108.81		
Replace Cost	214,473		
AYB	1935		
EYB	1978		
Dep Code	F		
Remodel Rating			
Year Remodeled			
Dep %	40		
Functional ObsInc			
External ObsInc			
Cost Trend Factor	1		
Condition	PD		
% Complete	10		
Overall % Cond	10		
Apprais Val	21,400		
Dep % Ovr	0		
Dep Ovr Comment			
Misc Imp Ovr	0		
Misc Imp Ovr Comment			
Cost to Cure Ovr	0		
Cost to Cure Ovr Comment			

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)						
Code	Description	Sub	Unit Price	Yr	%Cnd	Apr Value

BUILDING SUB-AREA SUMMARY SECTION					
Code	Description	Living Area	Gross Area	Unit Cost	Undeprcc. Value
BAS	First Floor	1,125	1,125		122,416
CRL	Crawl Space	0	855		0
TOS	3/4 Story Fin	788	1,125		85,746
UBM	Basement Unfin	0	270		5,876
UST	Utility/Storage	0	15		435
	<b>Ttl. Gross Liv/Lease Area:</b>	<b>1,913</b>	<b>3,390</b>		<b>214,473</b>

